

I must direct your attention to the comments made by Karen Coyle at the May 18 hearing at Stanford University. Specifically, when she talks about a document she downloaded that had access controls place on it, even though there was no mention of these controls in the license agreement:

And it took me a few tries, but after a while I basically deduced that this document can only be opened on the computer where it was downloaded. Well, I decided to go back and read the legal "I agree" agreement, which of course I hadn't read the first time. None of us ever do. And there was no mention in there of access controls at all. So I went back to the web page where I downloaded it, and there was no mention of access controls.

I have to say that if there is any case that requires an exemption from the anticircumvention measure, this is it. If a copyrighted work has a specific license, and the license has no mention of access controls, then the user MUST be allowed to circumvent them if he or she wishes. Anything not contained in the license must be allowed. If a publisher wants to have a legal restraint on the access controls, then they must either leave out the license entirely, or specifically explain the anti-circumvention rule in the license.

Sincerely,
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