#### The Law of Reversi

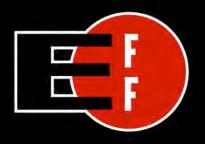
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#### Topics:

- 1. Legal Traps for Reverse Engine
- 2. Jailbreaking the iPhone
- 3. Online Gaming
- 4. Lessons and Strategies



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### Work We Do

Coders' Rights
DRM
Free Speech
Fair Use
Privacy



#### The Law of Reverse Engine

install & use software (license agreements) make copies of code created by others bypass avoid access control (DMCA) access networked computer (CFAA)

## The Law of Reverse Engine

[things we're not talking about t

patents

trade secrets

Example of Jailbreaking

#### app developers

jailbreak developers (iPhone Dev Team)

end users

#### Jailbreaking and Licenses

SDK License

**EULA** 

#### Jailbreaking and Licenses

What does it say about RE?

Are these enforceable contrac

Did you click "I agree"?

Is a ban on reversing enforceable what's your exposure for brea

#### Jailbreaking and Licenses

Reverse engineering terms uph
Bowers v. Bay State
Davidson & Associates v. Jung (B

But then there's Europe...

Why © is scarier than contr Statutory damages Injunctions Criminal penalties

Exclusive rights of © owner Reproduction Distribution Derivative Works Public Performance Public Display

Defenses for reverse engineer Section 107: Fair use Section 117

#### Fair Use

reverse engineering is required to gain inction and ideas, any intermediate copart of reverse engineering are fair use.

e sure that you are legitimately in poss oftware, and do not copy code in your f

#### Section 117

he owner of a copy of a computer progony or adapt that program as "an essent e utilization of the computer program achine."

Section 117

re you the "owner" of the software?

this an "adaptation" created as an "ess f using the software?

Section 1201 Prohibitions:

Acts of Circumvention

Trafficking in Circumvention T

No person shall circumvent a technolog that effectively controls access to a work by copyright.

No trafficking in tools that are primaril valuable or marketed for such circun

Remedies:

Statutory damages
Injunctions
Criminal penalties (if commerc

Technological measure?

DVD encryption
protocol encryption
authentication handshakes
"chain of trust" code signing?
code obfuscation?
undocumented protocols?

Statutory exceptions:

Reverse engineering for interoperal Security testing
Encryption research
Law enforcement

[also must be a nexus with infringer

1201(f): Reverse engineering for interog

person who has lawfully obtained the right of a computer program may circumvent ... urpose of identifying and analyzing those exprogram that are necessary to achieve interest an independently created computer program programs, and that have not previously be extent any such acts of identification and the extent any such acts of identification and the circumverse of identification and the extent any such acts of identification and the circumverse of identification and identification a

1201(f): Reverse engineering for interog

lawfully obtained for the sole purpose of identifying and analychieve interoperability for program-to-program interoperability information not previously been readily available infringing (i.e., fair use)

Application to Jailbreaking:

Jailbreaking tool developers

iPhone owners?

#### DMCA Triennial Rule-Ma

http://www.copyright.gov/12

#### Proposed Jailbreaking Exce

Computer programs that enable wire elephone handsets to execute lawfu btained software applications, whe ircumvention is accomplished for the ourpose of enabling interoperability applications with computer program elephone handset

## Special issues raised by networked applications

#### Online Gaming

nany of the same issues as jailbrea there's a network

## Applied to online game

- •Blizzard v. In Game Dollar
- Bragg v. Linden Labs
- Other examples

## CFAA

#### Unauthorized Access: 1030

- Thoever ... accesses without authorization exceeds authorized access...and thereby
- (A) information from a financial instit card issuer or consumer reporting a
- (B) information from any department of the United States; or
- (C) information from any protected co

## Causes Damage: 1030(a)

Whoever ... (A) knowingly causes ansmission of a program, inform ode, or command, and as a result onduct, intentionally causes dam ithout authorization, to a protect omputer

## Causes Damage: 1030(a)

- B) intentionally accesses a protecte without authorization, and as a resu conduct, recklessly causes damage.
- C) intentionally accesses a protecte without authorization, and as a resuccesses damage; at

#### Damage

means any impairment to the interaction availability of data, a program, a sinformation

## What You Can Do: Strategies & Lessons

## Avoid clicking through E

## Think before copy Copy no more than nec (clean room)

# f there's encryption or obfure-read 1201(f)

## Off-shoring and its limit

## The importance of "atmos

## Questions?