

# Re: GPL V3 and Linux – Dead Copyright Holders

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- *From:* Helge Hafting <[helge.hafting@xxxxxxxxxxxxxx](mailto:helge.hafting@xxxxxxxxxxxxxx)>
  - *Date:* Thu, 02 Feb 2006 13:31:11 +0100
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Emilio Jesús Gallego Arias wrote:

James Bruce <[bruce@xxxxxxxxxxxxxx](mailto:bruce@xxxxxxxxxxxxxx)> writes:

Emilio Jesús Gallego Arias wrote:

... 1.- Distribute a kernel with some DRM built-in under the GPL.  
2.- Claim that such kernel is an effective technological measure to protect copyright.

You forgot:

2.5- Due to the DMCA, the code now has an additional restriction on top of what is already in its license, the GPL v2. The GPL v2 forbids additional restrictions, and thus the resulting work cannot be distributed.

Ok, so to add DRM to GPLed software, the copyright holder has to state that the DMCA does not apply to such software? Or does the GPL state that?

## Re: GPL V3 and Linux – Dead Copyright Holders

This isn't only about DRM protecting your distributed kernel. Lets say you want to make a linux-driven home entertainment device. And you add DRM - not to protect the kernel you don't really care about, but in order to use protected content in a restricted fashion. Perhaps your business also sell DVDs.

Saying that the DRM doesn't apply to the kernel itself won't help. Users may, in this case, want to alter the DRM so it doesn't restrict their use of Cds, DVDs etc. That however breaks with the DMCA - even if you allow unrestricted source code modifications. So you cannot legally distribute a kernel with DRM - because DRM comes with a "no tampering" law which don't work with the GPL. Businesses can still add DRM stuff in a proprietary userland app though.

The fact that DMCA law is a restriction imposed by government rather than the distributor makes no difference. The distributor implicitly imposes restrictions by linking in DRM sw, just as the distributor would implicitly impose some restrictions by linking a proprietary-licenced object into the kernel.

Helge Hafting

Quoting the GPL:

6.- [...] You may not impose any further restrictions on the recipients' exercise of the rights granted herein. [...]

The point is that it is not the copyright holder who is imposing the restrictions, is the law. For example, the law may impose some export restrictions, would that void the GPL?

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3.- You are no longer free to modify that kernel, (removing the DRM

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I meant modify and distribute, sorry.

[...]

If the DRM author(s) are the ones claiming the DRM is an "effective technological measure", then they are the ones imposing an additional

They are only a claiming, not restricting. The restriction would come from the law when a judge decides that the code in question is an "effective technological measure".

restriction. Those authors are the ones who can be sued, not the end users of the kernel+DRM. If someone else makes the claim, it carries

Ok, I mean a user who tries to exercise all the rights stated in the GPL, including distribution of the modified code.

no weight at all, because they are not the author or copyright owner.

Regards,

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Emilio

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