

Comments:

Validation Laboratory

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William Stevens, President

I own and operate three businesses:

- 1) I am a consulting engineer involved with new product design and intellectually property (patents, trademarks and copyrights);**
- 2) Validation labs test office products including laser toner cartridges per the ASTM test methods; and**
- 3) I am a remanufacturer of laser toner cartridges (Newwave Technologies, Inc.)**

Summary of Arguments

The Digital Millennium Copyright Act as interrupted by Lexmark has implications that extend far beyond the field of laser toner remanufacturing.

If Lexmark's position prevails, virtually all-legitimate reverse engineering practices involving embedded software will be adversely affected.

The Digital Millennium Copyright Act, (DMCA) was not intended to prevent the use of repaired toner cartridges in laser printers.

I join Static Control in urging the Copyright Office to clearly state that this is the case. However, in an abundance of caution I would also request the Copyright Office exempt from the DMCA the three classes requested by Static Control. These classes are:

1. Computer programs embedded in computer printers and toner cartridges and that control the interoperation and functions of the printer and toner cartridge.
2. Computer programs embedded in a machine or product and which cannot be copied during the ordinary operation or use of the machine or product.
3. Computer programs embedded in a machine or product and that control the operation of a machine or product connected thereto, but that do not otherwise control the performance, display or reproduction of copyrighted works that have an independent economic significance.

These three exemptions will not affect the DMCA's primary goal of preventing people from circumventing encryption for the purpose of copying protected works. It will make clear that the DMCA was not intended to prevent the repair and reuse of hardware nor was it intended to prevent the interoperability of physical devices.

William Stevens