

Problem Set 3

Eupro is a newly independent state that has recently joined the European Union. The full name of Eupro is The Hackers' Republic of Euproandwhateveryoucall. To many, this name is too long to remember, so people usually refer to the country as Eupro (or sometimes as Eupro 500—in honor of the five hundred hackers that founded the country).

As a new member of the European Union, the Eupro legislature believes it is best for the country to adopt all EU Directives with minimal changes to their original wordings. Whenever the Directive refers to a member state, the law substitutes the wording with The Hackers' Republic of Euproandwhateveryoucall. *Whenever the Directive provides for an optional exception, the Directive includes the exception as if it were mandatory.* For example, Article 7(3) of Eupro's database statute reads: "The right referred to in paragraph 1 *must* be transferred, assigned or granted under contractual licence."

Texorcist was one of the founding members of Eupro, who emigrated to the country shortly after the collapse of the dot-com market. He is a well-known figure in the underground world and has written extensively for *2600: The Hacker Quarterly*. Before Texorcist relocated to Eupro, he had been widely known as the "Hacker Formerly Known as Cyberprince." He even substituted his name with the symbols >_< from 1997 to 1999. Yet, he believed it is important for him to start a new leaf in Eupro and adopted the current name. After all, there is no name more appropriate than one that combines text and exorcist.

1. Shortly after he had arrived at Eupro, he made a list of all Asian hackers in the country, with most of whom he had close relationships. He included their names and phone numbers and classified them based on their geographical address, national origin, and "profession" (e.g., crackers, phone freaks, data travelers, electrowizards, hardware freaks, technoanarchists, cypherpunks, system managers, Unix gurus, and pre-18 whiz kids). After chatting with his former neighbor in San Jose, he believes his phone book has some commercial value and considers selling it in the market. What type of protection would he get under Eupro law? How long would the protection last?
2. After a while, Texorcist noticed that he had only included Chinese, Japanese, and Koreans and had omitted a large portion of the Asian hacker population in Eupro, which includes Indians, Indonesians, Malaysians, Pakistanis, Singaporeans, and various minority races. Would he obtain additional protection if he revises his directory to include these people? Would it be significant that information of these people makes up 49% of the directory listing?
3. As a big fan of Shawn Fanning and a true believer in peer-to-peer file sharing, Texorcist reverse-engineered Napster to create a new engine, Textster, that allows "friends and buddies" to share sound recordings stored in hard drives while protecting the anonymity of the users. To maximize the efficiency of caching and to avoid the use of a central server, the new engine passes information continuously from one node to another until it reaches the ultimate user. Would Eupro law allow for such private peer-to-peer sharing of sound recordings?
4. While Texorcist was developing Textster, he pondered the need for the public availability of circumvention technologies. On the one hand, the encryption technology used by the recording and motion picture industries is so weak that virtually any hacker in Eupro can break them within days, if not hours. On the other hand, a significant nonhacker portion of the Eupro population would be subject to "tyranny" by these industries had those technologies been publicly unavailable. In the end, he decided to post a manual on how to break circumvention technologies on his website, from which

people download Textster. Would Eupro law prohibit Texorcist from posting this manual? Would the case be different if he posted the manual in his favorite *2600* magazine (<http://www.2600.com>)?

5. Two weeks ago, three people died mysteriously in Eupro, and twenty-seven others were hospitalized in critical conditions. Doctors traced the patients' symptoms to chemically-treated salmonella—a vicious form of salmonella that can attack human organs within days if not treated properly. Eupro is in a state of panic at the moment. Dr. Bernard Petrossian recently wrote an analysis of chemically-treated salmonella, which includes symptoms of attacks by the bacteria and how to treat these symptoms. Texorcist was wondering whether he could include this valuable analysis on his website and called Dr. Petrossian. To his surprise, the doctor, who was advertised in the Eupro yellow pages as “the most friendly doctor in the world,” slammed the phone on him after he yelled “No, I don't negotiate with hackers.” Could Texorcist post the analysis despite the doctor's objection?
6. Before Eupro passed the Law on Copyright and Related Rights in the Information Society, the Eupro residents had lobbied the legislature heavily for an exception for digital images. Eventually, the law includes an exception for all digital images provided that any person who takes advantage of this exception has to forgo copyright ownership in the larger work that contains the image, or images, in question. Would Eupro violate the EU Information Society Directive by passing this provision? What is the possible course of action if the United Kingdom wants to challenge this provision?