

Re: Transgressing the Boundaries: Towards a Transformative Hermeneutics of Copyright and Patent Law?

Source: <http://coding.derkeiler.com/Archive/Java/comp.lang.java.programmer/2007-07/msg02539.html>

- *From:* "Oliver Wong" <owong@xxxxxxxxxxxxxx>
 - *Date:* Fri, 27 Jul 2007 14:12:23 -0400
-

<nebulous99@xxxxxxxxxx> wrote in message
news:1185422968.736766.45970@xx
On Jul 25, 1:44 pm, "Oliver Wong" <ow...@xxxxxxxxxxxxxx> wrote:

Exactly my point. IN PRACTISE the only alternative a user
has is to
"buy from the company store".

Factually false.

Factually true. Can you get a perfectly Windows-compatible OS from any
source other than Microsoft legally? Not here or in most countries.
The closest you can come that isn't from the "company store" is Linux
+ X + Wine, which is a fairly poor substitute with all kinds of
compatibility issues.

Here's an alternative: Don't use Windows, nor a "perfect
Windows-compatible OS". Use a different OS. Like Linux, or MacOSX.

Consider Firefox vs Internet Explorer, for example. I prefer
Firefox.

And you no doubt sometimes run into IE-only sites. Again no perfect
substitute.

Once, 2 years ago. And it was for a site I wasn't really all that
interested in visiting anyway (something like 7up.com)

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For some things (including access to Windows Update) again you must go to the Microsoft "company store". On the other hand, IE is not a substitute for Firefox either, especially if you value your computer's security from spyware and other intrusions!

You are actually furnishing examples that SUPPORT my point — that right now there is no alternative, if you don't want to break compatibility, to buying from the "company store" lots of the time.

I guess you don't consider Firefox to be an alternative to IE, then.

My point is that the ratio of crappy games to good games is much worse for free games than for commercial games.

No, because the bias is still there. You play a) free games, and b) commercial games that went through extra filtering steps in 1) the company deciding whether to release or abandon (companies will more quickly abandon something that looks likely to be a money-loser than freebie-making hobbyists a project that looks likely to simply be a loser) and

EXACTLY! This is why there is value to having commercial games. There is a minimum quality barrier that most game companies adhere to when making games which actually cost money. This is why I believe the vast majority of the time, commercial games will be better than free games, and why forcing all games to be free is a bad thing.

[...]

If there's anything you're paying for with commercial games that boosts quality, it's simply extra filtering that could as easily come by way of organic community review processes that, on a crowdsourced model (ala user book ratings on amazon.com) with no central reviewers (and especially if fully p2p-architected to avoid central servers too), could easily have a price tag of zero.

Well, noticed that the "crowdsource" tends to go crazy over commercial games (look how many fan sites are drooling over Halo 3, Assassin's Creed, the next Final Fantasy, the next Metal Gear Solid, etc.)

What was the last free game that the crowdsource went crazy for? Counterstrike, in 1999? And what was the one before that? Nothing?

"Filtering" is not the only thing which makes commercial games better

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than free games. If it were, there should be a free game around with the same quality as the greatest commercial games. Where are they?

Perhaps 90% of all games are crap, but that would be because 99% of free games are crap and 70% of commercial games are crap, and it averages out to 90% (since there are more free games than commercial games).

Even if this were true it wouldn't mean much. It means getting rid of copyright and patent increases the number of crap games out there. So what?

If there were no more games of the same quality as commercial games, and all games were of the quality of free games, then the world would suck very much, my friend.

You can still avoid the crap games, and at worst a crap game will cost you a bit of time and bandwidth finding out it's crap, but never serious money. Sounds like an improvement to me.

You forgot about the part of Quake 3 never getting made (I chose Quake 3, since you seem to be a fan of that game). Counterstrike would never have gotten made, because HalfLife would not have gotten made.

Also if a few people actually like one of the "crap" games that would have landed on the commercial side of the fence before, and then been filtered out at some point before they ever got to see them, they get games they like that would otherwise have never been available to anyone!

Such a low probability that it's not worth considering.

In other words, there's something about commercial games that make them less likely to be crappy. I suspect it's the fact that money is involved and that you can hire talented people using money.

I think it's just filtering.

Well, I think you're wrong, otherwise we should see, in addition to all the crappy free games, some free games which rival the quality of commercial games. But we don't.

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There are free levels for Quake 3: Arena that rival in quality the ones that came with the game. Nay, some are actually superior in visuals and other respects, because experienced players made them, and they were made with higher polygon budgets due to Moore's Law having increased gamers' processing beef since the initial game release, and they were made with wholly new techniques (e.g. fancy terrain blending) enabled by community development of upgraded game-editing tools and new assets (textures etc.). This wouldn't have happened if "making something for free means there's zero talent" as you so forcefully keep asserting.

Level design is not sufficient to make a good game. You need art asset, music, voice acting, script writing, story design, 3D modelling, engine programming, and so on.

As you've shown with your examples, "free" can get you some additional levels for an existing commercial game... But you need the commercial game in the first place.

There are high quality free games of all kinds -- entire games, not just addon levels for commercial games -- so you can't claim that somehow magically the money-costing talent of the commercial game "leaked into" the community-made levels and get away with that "explanation".

Can you name some of them? And I want you to use the same metric for "high quality" as you do for commercial games. So when you mention "Nethack" or "Sokoban" or "Frozen Penguin" or "Bejeweled", etc., while they may be "high quality" compared to other free games, they suck compared to commercial games.

Community-made levels that use little of the commercial game save its engine are bad enough for your argument. Community-made entire games, engine included, blow it out of the water. So do source ports like Tenebrae that pretty much reimplement a commercial game from scratch. Tenebrae + custom Quake 1 level (e.g. any one of Iikka's blue themed levels) with all-custom assets = barely anything originated by the commercial source remains save the QuakeC telling the game monsters how to move and determining what damage their weapons do.

Oh, great. A fan made clone of Quake 1 which was *BASED ON THE QUAKE 1 SOURCE CODE*. Hooray for free games. I'm sure Quake 1 would be a great

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commercial success by today's standards, right? I mean, if they released Quake 1 today, it could seriously compete for gamer's attention, pulling them away from their XBox360 and PS3 games, right?

Oh wait... No, it can't. Because our expectations as gamers have moved on since 1996, when Quake 1 was first released, over ten years ago.

And there's a wholly-original community-made popular RTS game with Linux ports.

Really? Popular, you say? Is it as popular as Warcraft 3? Does it have the visuals of Supreme Commander? Or is this another free game which is decidedly less impressive than its commercial counterparts?

There's the fact that Tenebrae pulls off most of the same new visual features Doom 3 does, and was developed wholly independently of Doom 3, based on an older Quake engine (1 vs. 3), and does as well, and is free.

Tenebrae looks as good as Doom 3, you say?

<http://images.google.ca/images?q=tenebrae>
http://www.tenebrae2.com/tb2_screenshots.html

<http://images.google.ca/images?q=doom%203>
<http://www.the-nextlevel.com/reviews/pc/doom-3/>
<http://happypenguin.org/show?Doom%203>
<http://forums.biorust.com/3d-modelling/3374-doom-3-skin-shading.html>

Hmm...

I think you need to get your eyesight checked.

Argue all you want. There is plenty of talented work product available for the low, low price of \$0.00, and there always has been and always will be. Them's the bald facts.

I don't disagree with that. I'm saying that people are drawn to money, and that companies prefer to higher people who are more talented as opposed to people who are less talented.

Therefore as a natural process, commercial games get more talent poured into them than free games.

I'm not saying there's zero talent in free games. I'm saying if you're

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really talented, you'll probably be able to get a job using those talents. And given that most people prefer to do something and get paid for it, rather than do the same exact thing for free, those talented people will tend to get jobs. From companies. Who make games. Which cost money.

[...]

Strawman argument. Windows is emphatically indispensable for certain things or under certain circumstances.

I think you don't know what "Strawman argument" means. A Strawman argument would be an argument in which I had misrepresented your arguments. It seems clear to me that you actually did claim that Windows is indispensable (and in fact, that you are claiming it again now), so when I portray your arguments as if you were claiming that Windows is indispensable, this is a very accurate portrayal.

The strawman misrepresentation is that I never claimed people can't "get through life" without Windows — lots of people do it all the time.

I guess you have a different definition of "indispensable" than I do, then.

I claimed that there is no 100% compatible substitute for Windows.

I don't dispute that there is no 100% compatible substitute for Windows. I DO dispute that Windows is indispensable.

I said Windows is not optional if you want to do certain things, that logically should be possible without paying Microsoft because those things are not themselves run by Microsoft. Your response was to mischaracterize my argument as being that "But you can't live without Windows!", which is classic strawman fallacy.

Like I said, I think you have a different definition of "indispensable" than I do.

Try doing high-end CAD stuff with Linux or FreeBSD.

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http://en.wikipedia.org/wiki/Category:Free_computer-aided_design_software

Or just about anything requiring color management and matching when printed out. Or playing certain (non-Microsoft) games.

Why should Microsoft have to be paid for me to do these things? I see no public-benefit rationale in society enforcing such a thing by law.

I'm not aware of a law that forces you to pay Microsoft to play certain non-Microsoft games. On the other hand, you may need to pay Microsoft in order to acquire a valid license for Windows. If the game *requires* Windows, that was a decision that the game makers made, and is not really Microsoft's fault. If you can figure out a way to play the game without using Windows (perhaps, e.g., because it was a game written in Java, or perhaps via emulation software), then you won't need to pay Microsoft at all. This shows that there is no such law.

Hell, I should be able to do whatever I like without depending on any specific vendor.

I think there exist certain things you should not be allowed to do.

I should be able to have local and long distance service by a choice of providers, separately. I should be able to use any of several operating systems, including various unices (got them, Linux, FreeBSD...) and windowses (so far there's only Microsoft there). I should be able to use any application level software I like on any of these. And I should be able to get any given application software from a choice of vendors providing perfectly interchangeable versions.

[...]

This is where I would normally say "So what?" because I'm not really interested in how you think the world should be. This would normally be a starting point where we start talking past each other, with me talking about how the world is. But now that I'm more aware about this kind of miscommunication, I'm avoiding it, and notifying you of the potential pitfall here too.

Again, Windows is not indispensable. Go to comp.os.linux.advocacy if you don't believe me.

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Tell me how to do exactly what I can do with Corel Draw + Windows, including color management, without using any Microsoft or Corel software, and I might change my mind. Until then ...

Well, first of all, you're not using the same definition of "indispensable" as I am. Second of all, if you want to find out how, I already told you what to do: Go to comp.os.linux.advocacy. If you don't want to find out how (perhaps because finding out how would threaten your current belief system), then it doesn't matter what I tell you.

Nice try. No, you're not merely telling me what it's like right now, you're defending that state of affairs as somehow being right or just.

I disagree that I'm defending the state of affairs as it is now.

So you're just attacking my suggested reform then? Why?

The term "attacking" has too strong of a negative connotation. I am pointing out what I perceive to be logical inconsistencies in your reasoning so that you may better explain them to me. I've said this in my previous post already.

Because it won't leave you any loopholes to wriggle a hand through to stick it in someone's pocket without them being able to tell you to cheerfully bugger off and get the exact same thing elsewhere for a lower price?

Nope.

No loopholes by which you can charge a fat percentage above marginal cost for a good and not have to worry about being undercut by a competitor?

Nope.

Even if you make less money consider what the consequences would be. You'd spend far far less than you do now on all sorts of

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things.

Yes, I know, and these are arguments I've cited to other people as well towards the benefit of your reform. This is why I'm generally supportive of your reform. It's just the details that I disagree with.

The only people who will lose more money than they save from such a change will be the very fatcat executives, lawyers, lobbyists, and legislators that will fight this change with their dying breaths.

This is a big claim, and one I would not repeat without more evidence backing it up.

Show them a world without boundaries -- a world without copyright.

Stylistic criticism here: you're sounding like a hippy, and I think that makes your argument less persuasive to the mainstream. I'm telling you this so that you can make your arguments more persuasive, and not as an attempt to counter your arguments.

When they see it coming to pass anyway they won't be able to claim "but it's unworkable" anymore because the counterexample will be staring them in the face. They can dismiss a seemingly niche thing like current free software and free culture movements. They won't be able to dismiss it when the majority of stuff is free-as-in-speech rather than a minority. They won't be able to say "Oh, well a FEW companies can find a niche with such a WACKO business model, but it proves nothing" anymore once free culture and free software are mainstream.

Nice. So what have you released into the public domain so far?

[...]

Can you produce a screencast demonstrating the problem? I can't reproduce your bug on my WinXP SP2 machine.

That's impossible, since you're using the same software I am, and

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there's no logical reason for this behavior to depend on the hardware or things like the MAC address or the user's name or anything.

The software can be configured in multiple ways. For example, whether or not you had eye-candy enabled might affect the bug. As a software developer, you should be aware of this.

If eye-candy setting variations can cause dropped files to go randomly to different places, then that is in itself a bug. An eye-candy option should only affect how data looks, not how it behaves semantically.

I argue that the pixel-position of filenames on the screen is "how the data looks" and not "how it behaves semantically".

Anyway are you claiming that there is an eye candy option that makes dropped files always appear near where the mouse pointer was, and under which if you drop near the top of a tall list of items in say Tiles mode, it never, ever, ever, ever puts it all the way at the bottom (actually scrolling down to display where it went — somewhere you therefore can't possibly have clicked anywhere near)?

I avoid making "never, ever, ever" claims. I claim that 100% of the time (which is like 5 or 6 times) in which I did it, the bug did not manifest itself.

If so, which option is it?

Under the performance settings, I've got everything unchecked except for "Show translucent selection rectangle", "Show Window content while dragging", "Smooth edges of screen font" and "Use common tasks in folders".

So in other words, "no". And you wonder why your bug (which I'm unable to reproduce) hasn't gotten fixed for over 10 years?

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Same reason almost none of the others have ---

I think you don't know what "almost none" means. Windows XP SP2 was released in 2004. In 1994, people were running Windows 3.1.

Ten years ago as of this writing is 1997, by which time Windows 95 had existed for a while and had a time to receive at least one service pack and develop some maturity. At that time Explorer was equally old (around 2 years old) and this particular bug existed. It remains unfixed now, a decade later. It's probably something stupid like a race condition that would take a couple of hours to find and five minutes to fix. Ten years is a span over forty thousand times that long. There is absolutely no excuse.

So you agree that several bugs have been fixed in the time span of 10 years?

[...]

There's the double-counter that "curing diseases is not harmful; curtailing peoples' freedom to do harmless things is".

And then there's the triple-counter of "Forcing all information to be free is not necessarily harmless". So there. =P

It does far more good than harm as long as it doesn't extend to permit (or require!) privacy invasions.

Yeah, that's the claim. Some people (myself included) are skeptical.

You have a different definition of "deal" than I have, for example. When I interact with a vending machine, I am not directly interacting with any human, and yet the terms of the deal are clear: I have to put \$1 into the slot, and I get a drink or candy or whatever it is that the vending machine is offering. The fact that you require a living sentient being present is unnecessarily restrictive.

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Are there any restrictions on what you can do with the can, or is it just a straight-up sale governed by default sale-regulating law?

Well, it depends on the vending machine, I suppose. It's conceivable that there may exist a vending machine out there which will display an EULA that you must agree to before accepting your beverage. If no such EULA is present, then I assume that I can do whatever I want with the can, taking into consideration any other laws that may apply (for example, using the can to smash someone's window is probably illegal). If there *IS* an EULA, then I will decide whether or not I agree with its term before buying the drink. If I do, then I'll buy it. If I don't, then I'll buy a drink somewhere else.

[more "should vs is" stuff that I have no comment on]

Clicking a button, unwitnessed, in a solo interaction with a piece of software and signing, with a witness, a document after negotiating with somebody are two very different things.

What about signing a document without a witness?

That should be the bare minimum cost to a company of having a restrictive agreement with a customer that goes beyond what the law provides via copyright and other applicable laws, either by further restricting the customer or by removing their affirmative rights under the law (e.g. to sue in small-claims court rather than go to binding arbitration, in an all-too-common example).

I must be stupid, because I don't understand your answer. Can you explain it in more simple terms? As I mentioned, I often sign documents with no witnesses present, citing my income tax return as one example. Do you think these zero-witness documents have no meaning at all? Or do you think that it may be possible to be bounded by the conditions of a document you signed and agreed to, even if there were not witnesses seeing you sign it?

[...]

I'm not from the UK.

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You keep behaving as if you are. You certainly behave as though you're not in North America, but are where English is the dominant language. That seems to mean if it's not the UK it's Australia, where the law is similar again.

I'm not from Australia either.

[...]

No, I think maybe you're in a certain frame of mind (we might call it "argumentative"), and your frame of mind forces tones onto the text you read which are not present.

It's **text**. If you're associating any kind of "tone" with it at all you're frankly hallucinating and should see a neurologist who will be far better qualified to help you than I am.

<http://www.google.ca/search?q=define%3A+tone>

<quote>

The writer's attitude toward his readers and his subject; his mood or moral view. A writer can be formal, informal, playful, ironic, and especially, optimistic or pessimistic.

</quote>

You frequently think I'm disputing a lot of things which I'm not actually disputing, and you think people are insulting you, when they're not, and you think people are hacking you, when they are not, etc.

This doesn't make sense. If I post something and you don't agree with it, you're disputing even if you claim you're not.

Just because I reply to something doesn't mean I disagree with it.

If you call me a name or impugn my honor, intelligence, competence at <foo>, capabilities, mental health, or any other attribute or ability in public, then you are insulting me even if you claim you're not.

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<http://www.google.ca/search?q=define%3A+insult>

<quote>

abuse: a rude expression intended to offend or hurt;

[...]

a deliberately offensive act or something producing the effect of deliberate disrespect

</quote>

To insult someone is a deliberate action. I am not deliberately offending or hurting you. I am stating what I believe to be objective facts, or if they are merely my opinions, I explicitly state so.

You may be insulted by such statements, but that does not necessarily mean that I am insulting you.

And if

postings of mine selectively disappear/don't propagate in a content-sensitive manner and spam filtering is highly implausible as an explanation, then I am (almost certainly) being hacked even if you claim I'm not.

I disagree, but am too lazy to explain to you my reasons for believing otherwise.

Of course, you've made it fairly obvious that you have a vested interest here.

What do you think my interest is?

Extortion, obviously. Why else oppose copyright abolition than if you have something you sell at a 4000% mark-up over marginal cost and fear being undercut by competition?

Perhaps because I believe without copyright, computer games would be a lot crappier on average? At any rate, it's not a black and white issue. Just because I oppose copyright abolition doesn't mean that I think we should have lots and lots of copyright. Maybe I think we should have less copyright than we have now, but we should have more than zero copyright.

[...]

[snip one interpretation; the one which favors Twisted's arguments, of course]

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So if it happens to favor my arguments, it's ipso facto bogus?

I never claimed that. This is one of the things I'm talking about when I say you infer tones or insults or whatever which are not there.

What happens if, instead, Alice has a laptop and Bob buys parts and builds a clone of Alice's laptop with them, then sells this new laptop to Charlie? Is there any logical reason for the police to take Charlie's laptop and give it to Alice in this scenario?

Perhaps if the configuration or technology used the laptop itself is that which is valuable.

Not even then, since Alice still has this valuable technology and has not in any way been deprived of the use of it or of the physical possession of her laptop.

The value of the technology is not in having it, but in being the only person to have it.

Or perhaps, the laptop harddrive contains sensitive information, such as governmental records, and in the process of cloning the laptop, you've also cloned the contents of the harddrive.

I never objected to laws making truly sensitive information government-secret. I don't want the enemy to have timely knowledge of my side's battle plans for instance.

Okay, so we agree that not ALL information should be free. Good.

I don't want government-collected private information leaking and enabling identity theft either. So I would support having laws a) making certain information classified for a short time, with automatic expiry, during wartime, expiring after a time limit or if the war is officially ended; this should keep battle plans secure; b) making the details on how to make WMDs secret, but

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construction, preservation of an arsenal of, and use of the WMDs subject to legislature approval; and c) making private information (peoples' financial and health records, street address, names where they choose to be pseudonymous online, email addresses where they choose not to reveal them, credit card numbers, and the like) subject to nontransferable "copyright-like" control, each piece of such information about a particular person by that particular person. So a company wanting, say, my street address would require my explicit opt-in permission to tell each specific third party that address before they are permitted by law to do so, or to publish it (e.g. in the phone book).

Okay, so you agree that something which is "copyright-like" may be desirable in some situations. Good. We're in agreement then.

You're falsely assuming that it takes a competitor the same amount of effort to make the same product as the original company.

If it takes them less and they sell for less so much the better. That's called "efficiency". If someone can make something just as high quality for half the cost they deserve to be rewarded in the marketplace! That's the whole point of capitalism!

I'm talking about the situation in which it takes them more. Read the next paragraph:

For example, Microsoft makes Windows a certain way. They make some internal design decisions which ends up with Windows having a certain set of features, a certain specific behaviour, and so on. For a competitor to make an competing product of Windows which behaves identically is extremely difficult, unless they had access to the original internal design decisions. To make a fully-substitutable product, you'd have to not only duplicate all the features of Windows, but also duplicate all the bugs, including the ones that Microsoft themselves don't even know about.

Only to the extent that third-party software actually depends on a buggy behavior of Windows to work properly, and to that extent, the buggy behavior is known and documented (at least by the third-party software's developer).

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Not by Microsoft, not by anyone else, and sometimes not even by the third party developer. Sometimes you play around with a poorly documented API until it just works, and then you swear never to touch this piece of code again. It happens in the real world of programming.

Anyway, you didn't address my point at all. Like I said, you're assuming it takes a competitor equal or less effort to make 100% substitutable product. In the case of Windows, it would likely take a much greater amount of effort.

Yes, I do. When they fab the processors, they don't all come out equal. For example, one processor from a batch might run fine at 3Ghz, while another processor from the same batch might only be able to manage 2Ghz. So although they all come from the same manufacturing process, some processors will be (correctly) marked as an inferior product, and sold at a lower price.

That's not a shenanigan, that's normal market forces. They're not deliberately degrading some of them; instead they simply have imperfect QA. There's an enormous difference there. The price differential reflects a difference in marginal cost: suppose one in two chips can run at the higher speed. Then the cost of the better chip is substantially higher than the cost of the mediocre one since to make one "better" chip requires making a two chips on average. Making a single "better" chip thus has twice the cost of making a single "can be mediocre" chip. On the other hand it also produces an average of one "free" mediocre chip as well as the "better" chip, so it can be discounted by the mediocre chip's price. The result is that instead of both chips being priced by the market at the marginal cost of one "can be mediocre" chip, the mediocre one is priced a bit lower and the better one is priced a bit higher.

Anyway, a competitive market will make the pricing rational, in theory. It will certainly not price the chip with the higher marginal cost lower! (Making a 486SX meant making a 486DX and then doing additional work on it, so its marginal cost was higher than the 486DX.)

Making a 486SX means making a 486DX without the additional step of ensuring that the FPU works. As in your example, making a 486DX might require four attempts on average (requiring the main CPU to work and the FPU to work), whereas making a 486SX might require only two attempts on average (requiring the main CPU to work, and not caring whether or not the

FPU works).

In the specific case of the 486SX, they may have found that in some of their batches, their FPU components were naturally failing as part of the manufacturing process, and they figured they could sell that processor at a lower price.

That would not be a shenanigan, if true. However I'm fairly sure I read somewhere that they intentionally crippled 486 chips destined to be 486SX chips to make them 486SX chips and left others alone to be 486DX chips.

Well, if Intel were as smart as me (and I suspect that they at least as smart as I am), they would test the FPU, and if it had a faulty FPU, they would market it as a 486SX. If it was a fully functioning FPU, they could either sell it as a 486DX or a 486SX, depending on market demands. This leads to greater profits than simply immediately breaking all FPUs for the SX series, and then hoping for the best for the DX series, and merely throwing away the DXes that don't work.

Then, as demand picked up for the cheaper processors, they had to actually disable the FPU component to meet that demand.

If they could sell deliberately damaged 486DXs at the SX price point to meet the demand and turn a profit, then they could have sold fully-functional 486DXs at the SX price point to meet the demand and still turned a profit. A competitive market would have forced them to, because if they didn't a competitor would.

Assuming a competitor could produce a 486 chip, yes. We're more or less in agreement.

The same thing happens with clockspeeds in processors. Sometimes, there's a lot of demand for a lower clockspeed (and cheaper) CPU, but it just so happens that the manufacturers were "lucky" this time around, and all of their batches produced very high-rated processors. So to meet the demand, they have to actually downclock some of their processors and cell

those.

And that is illegitimate. If we could have the higher speed for the same price why should it be held back from us?

You can. It's called overclocking.

It's exactly the same thing which happens when you buy "Extra extra virgin olive oil" instead of "extra virgin olive oil". By paying a premium, you increase the likelihood that you're getting the best from the batch. If you pay a lower price, you may still get the best from the batch (e.g. if all items in the batch were equally good), but you run the risk of getting something slightly worse.

The processor equivalent is to sell chips tested up to some speed for a low price, and others tested up to a higher speed for a higher price, but not deliberately cripple any chips.

You are crippling the "extra extra virgin olive oil" by mixing it with merely "extra virgin oil". Basically, when you buy "extra virgin oil", you may have some "extra extra virgin oil" in there, or you may not.

Similarly, when you buy a lower-rated CPU (e.g. 2GHZ), it *may* be capable of being clocked up to 3GHZ, or it may not.

By paying a premium for the 3GHZ, you're paying for the fact that Intel asserts that yes, these CPUs are tested to function at 3GHZ. If you merely buy the 2GHZ CPU, you may actually have a chip which will run fine at 3GHZ, but Intel themselves are not making any promises about it.

People buying at the low price point may get errors running at clock rates people buying at the higher price have no problems at; or they may not. They aren't forced to use the lower speed though; it's merely a crapshoot whether they get a higher speed or not.

That is EXACTLY the situation as it is now.

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Anyway if they can sell the best chips at the lowest price point and still make a profit they have no right to charge more for them; doing so is a privilege. A competitive market should tend not to grant that privilege.

Intel cannot sell ALL their chips at the lowest price point. They need to sell some chips at a high price point, and others at a low price point. Here's some fictional numbers to help illustrate the point.

Let's say you can make 100 CPUs in a given batch, and it costs \$20'000 to make a batch. In theory, if they all came out equally, you could sell the CPUs for \$200 each to just break even. So you make such a batch, and it turns out that 50 of those CPUs can only run at 2Ghz, and 50 of them can run at 3Ghz. You sell the 3Ghz ones at \$300 each, making \$15;000. So far, you've lost \$5000. So you sell the 2Ghz CPUs at \$100 each, making another \$5'000. When you add these two together, you get \$20'000, thus just breaking even.

A naive person might see this and say "Hey, if you can afford to sell your 2GHz chips at \$100 each, and the 2GHz chips are just 3GHz chips that have been downclocked, why don't you sell ALL your chips at \$100?"

If they did that, they would no longer be making a profit, and instead be taking on a loss.

Name an "expert" (IYHO) who publicly claims Vista is a better choice for the average consumer than XP SP2. (Any SP2, including regular, pro, media center edition, 32-bit or 64, etc.)

First list what criteria you consider necessary to receive the title of "expert".

Just name someone! Someone YOU consider an expert.

Okay. A friend of mine named Patrick Wong (no relation).

I subscribe to the C# newsgroup

AHA! He admits it!

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Oops. You caught me. I guess I *double*–lose this argument.

He IS a Microsoft partisan! That explains every single bogus argument and seemingly–insane choice he's made, from favoring copyright law and lack of market competition to favoring Vista.

So ... how much is Microsoft paying you to endorse their party line in clj instead of having independent, honestly formed opinions of your own? Or do you actually have independent, honestly formed opinions that just happen to be 100% wrong, wrong, wrong out of some inability to recognize when you've been logically refuted or when something (e.g. Windows Vista) is utter shite?

The latter. ;)

[...]

I've started to do that, but often times, I suspect your "premises" are facetious. Things like "Vista objectively sucks", which I suspect no rational or honest person would actually believe.

You are insane. Vista does objectively suck. By the objective criteria of "can I do anything with Vista that I can't do with XP?" whose answer is "no". Oh, right, Halo 3. Big whup.

Right, so you've given a counter example to refute your own argument.

If you STILL claim that it is not objectively confirmed that XP is superior to Vista, then you need help that I am not qualified to provide; but I'll give you a referral to whichever specialist you choose if you look up "psychiatrists" in the Yellow Pages.

I don't understand what it is you are offering me. You're saying if I choose a psychiatrist, you'll give me a referral to that particular psychiatrist which I myself chose?

The problem here is that you assume I disagree with everything in your post. I don't. I agree with a lot of it. I only disagree with a narrow subset of paragraphs, and those are the ones which I sometimes respond

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to.

You respond to nearly every paragraph I write here so the "narrow subset" is apparently about 99% of them. Curious definition of "narrow".

No, I snip liberally. Maybe you don't realize how long your posts are.

So in other words, if I say I disagree with something, then I disagree with it. If I don't say whether or not I disagree with something, then you have no information as to whether or not I disagree with it.

If you argue instead of accepting the point then I assume (rightly) that you disagree with it.

You say "the point", as if there was only one. If you mention 4 points in a sentence, I may disagree with one of them, without disagreeing with the other 3.

Note that I'm working under the assumption that you're not open to alternatives to your beliefs

Muster some evidence and I might accept some alternative.

You say this as if you believe I want you to accept alternatives. I don't. I really don't care what you choose to believe in.

so I'm not trying to "convince" you that I am right or anything like that. I am very interested in your beliefs, however (in fact, I was speaking about the plausibility of a world without intellectual property with some friends of mine last night over dinner, and I repeated a couple of your arguments to defend the plausibility), and I'd like to hear more about it.

In other words you just argue for the sake of arguing, taking a position contrary to some position someone else espoused, and even

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when sometimes this means arguing in favor of IP, sometimes arguing against IP, etc.???

The problem is you seem to assume IP is all or nothing. I believe that some IP is good, but the world as it is now has too much IP. So when you say "Let's abolish IP", I disagree that this is a good idea, because that would be too little IP. When people say "We need more IP", I'll disagree with them, because I think we already have too much IP.

This is why when you say something which really doesn't make sense to me, I reply to it, explaining the problems I see. I tend to assume that most people are logical or rational in most aspects, and so if they say something irrational or illogical, I can only assume I must have misunderstood something. I'll state what I see to be a logical inconsistency, to give the other person (you, in this case) a chance to clarify what was meant.

Why does it often look like a wilful misunderstanding in these cases, then?

For example continuing to act as if I haven't sufficiently proven the case for using XP rather than Vista, when I'm fairly certain I have, short of citing chapter and verse. Lew's post (search for posts by Lew on the date on this post's timestamp and it will be one of only two or three), various entries at the Gripe Log (<http://www.gripe2ed.com>), and a lot of stuff easily found by googling "Windows Vista" will support my hypothesis over yours.

Having lots of people say "Vista sucks" is not evidence that Vista objectively sucks; only evidence that it subjectively sucks. The fact that I like Vista is proof enough for me that Vista does not objectively suck. I realize that it may not be proof enough for you, but again, I'm not concerned with proving this to you.

[...]

So when I do that handwaving "I don't agree" thing, it means I believe that I fully understand this portion of your belief, but I don't choose to believe in it.

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Well that's just plain silly, if I've given evidence showing that my belief is the more accurate one.

I am aware of your evidence, and I am aware of my evidence, and I feel my evidence is stronger.

When I give a rebuttal, it means I suspect I don't understand your belief, and I wish for you to explain it to me in greater detail.

So everything is "a matter of opinion" to you?

Not everything.

Vista can do very little XP can't do and nothing that XP can do as well as XP can do it, and "better" remains in the eye of the beholder?

I agree with some portions of that sentence, and disagree with others.

2+2 is 4 as a matter of nearly universal opinion but not of objective fact?

There exists numbering systems where 2+2 is not 4 (consider trinary integers or the ring of integers modulus 3, for example). Whether or not 2+2=4 depends on the axioms you take to form the basis of your numbering system. The most popular numbering system happens to have chosen axioms such that 2+2=4, but it is not the only possible numbering system.

Copyright law is bad or good as a matter of opinion and not as a matter of constitutional law, public policy, and the founding principles of the nation (including the principle that the law should serve public benefit ends only, and the principle that competitive markets are good things)?

Good and bad themselves are a matter of opinion, so yes. You are assuming, for example, that "public benefit" itself is good. That's one axiom you might adopt for your belief system (and incidentally, as a

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utilitarian, I too believe that public benefit is good), but there exists systems of belief in which public benefit is not necessarily good. Solipsism, for example, believes that there is no "public" at all, so it that public benefit is neither good nor bad.

For that matter, competitive markets being good things providing more stuff more cheaply and efficiently than all known alternatives is a matter of opinion and not a proven-by-economists fact?

That they are "good things" is opinion. That they provide more stuff than all known alternatives may be fact (I don't know what all the known alternatives are, so I can't say whether or not it's true or not).

You're making that up out of whole cloth. You claimed that Apache was not superior to IIS, which I am rebutting.

I disagree that that was my claim (and I'm leaving it at that, because I don't really care whether you believe me or not).

Reviewing, I think I see where you got confused.

I said MS provably can't compete in a competitive market place — witness Linux and Apache eating Windows and IIS on the server side. Your response was to suggest that you disbelieved me, but I now suspect you misunderstood "can't compete" to mean literally "can't compete — not even and come in dead last",

Yes, I tend to assume you mean what you wrote.

rather than "can't hack it, can't win, can't even place or show, simply can't compete". I just meant they are unable to do at all well versus genuine competition so they try to outlaw competing with MS rather than try to improve their ability to play the game as it was meant to be played against real live opponents. Which I don't think you even disagree with.

Right.

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What a mess. And you criticized ME for supposedly "not expressing myself clearly"?

Yes. If you mean some

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