




## 一、文獻評析(50%)

### Court Upholds Ban on *World of Warcraft* Bot

- By [David Kravets](#) 
- December 14, 2010 | 4:57 pm |

A federal appeals panel on Tuesday upheld a lower court's 2009 injunction barring the distribution of a computer program that automatically plays the lower levels of *World of Warcraft*, sparing a gamer the tedium of their character's experience.

The 9th U.S. Circuit Court of Appeals said the Glider bot, which automatically kills enemies and performs other *Warcraft* functions while you're away from your computer, is a violation of the Digital Millennium Copyright Act provision banning the marketing of products that circumvent a technological measure that "effectively controls access to a copyrighted work."

Glider, in short, hides itself from the Warden software that scans the machines of *Warcraft*'s 10 million players for bots, thus allowing Glider license holders to play *Warcraft* while taking a shower in violation of *Warcraft*'s terms of service that prohibit bot use.

"Indeed, Glider has no function other than to facilitate the playing of *WoW*," (.pdf) the San Francisco-based 9th U.S. Circuit Court of Appeals wrote in a 3-0 decision.

The attorney for Glider's maker, Michael Donnelly, decried the decision, saying he may ask the Supreme Court to review it.

"It just opens the door to too much protection. This says if you circumvent detection you are violating the DMCA," attorney Joseph Meaney said in a telephone interview.

Under the DMCA of 1998, it is a crime or civil violation to offer a product or service that circumvents a technological measure designed to protect copyright material. That law was recently used to block RealNetworks from distributing DVD-copying software as well as to



criminally charge a Southern California man on allegations of running an Xbox-modding business.

At the same time, however, the law offers websites effective immunity from civil copyright liability for user content, provided they promptly remove infringing material at the request of a rights holder.

Blizzard Entertainment, the maker of *World of Warcraft*, maintained that it lost monthly subscription fees from Glider users who were able reach Warcraft's highest levels in fewer weeks than players manually playing.

Donnelly's company, MDY Industries, had gross revenues of \$3.5 million based on 120,000 Glider license sales as of 2008, the San Francisco-based appeals court said.

After a bench trial last year in Arizona, a federal judge ordered Donnelly and MDY Industries to pay \$6.5 million (.pdf), and barred distribution of the bot.

Donnelly appealed.

The appeals court Tuesday also reversed one of two DMCA violations and, among other things, ordered the lower court to reconsider how much MDY and Donnelly should pay.

Representatives for Blizzard did not immediately respond for comment.

<http://www.wired.com/threatlevel/2010/12/warcraft-bot-ban/>

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第 1 條 為保障著作人著作權益，調和社會公共利益，促進國家文化發展，特制定本法。本法未規定者，適用其他法律之規定。

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第 65 條 著作之合理使用，不構成著作財產權之侵害。  
著作之利用是否合於第四十四條至第六十三條規定或其他合理使用之情形，應審酌一切情狀，尤應注意下列事項，以為判斷之基準：  
一、利用之目的及性質，包括係為商業目的或非營利教育目的。  
二、著作之性質。  
三、所利用之質量及其在整個著作所占之比例。  
四、利用結果對著作潛在市場與現在價值之影響。  
著作權人團體與利用人團體就著作之合理使用範圍達成協議者，得為前項判斷之參考。  
前項協議過程中，得諮詢著作權專責機關之意見。

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第 80-2 條 著作權人所採取禁止或限制他人擅自進入著作之防盜拷措施，未經合法授權不得予以破解、破壞或以其他方式規避之。  
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一、為維護國家安全者。

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  - 八、為進行還原工程者。
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