

Circumvention of Geoblocking

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(1) What is circumvention of geoblocking?

- ⦿ Circumvention is achieved by rerouting a user's internet connection through another **IP address** and/or by altering the **other indicators** of a user's physical location (e.g., GPS, WiFi signals).
- ⦿ Examples: VPNs, TOR
- ⦿ Circumvention is employed by a user so he can appear to be located (a) **somewhere** other than in his actual physical location, or (b) in a **particular location** other than in his actual physical location.
- ⦿ The relative ease of circumvention is often a major objection to the use of geoblocking.

(2) What are the legal implications of the circumvention of geoblocking for users and providers of circumvention tools?

User	Circumvention tool provider
<ul style="list-style-type: none">• Violation of local laws (depending on where user's acts are localized)• Contract violations• Violation of laws protecting technological protection measures (copyright law)• Violation of anti-hacking laws	<ul style="list-style-type: none">• Violation of local laws (depending on where provider's acts are localized)• Secondary liability• Violation of laws protecting technological protection measures (copyright law)• Violation of anti-hacking laws• Violation of laws protecting "conditional access"• Direct liability for secondary transmission

(3) What are the general legal implications of the circumvention of geoblocking for legal systems?

- ⦿ Is circumvention of geoblocking to be viewed as **negligible spillover**, or is it a widespread practice that will cause a significant **erosion of territoriality**?
- ⦿ Should we abandon efforts to achieve territoriality because technological means (geoblocking) have failed to facilitate territoriality? Or should we regulate the spillover?
- ⦿ In the European Union the proposal for the EU Regulation on **cross-border portability** is designed to de facto regulate the spillover.

- ◉ Marketa Trimble, *The Future of Cybertravel: Legal Implications of the Evasion of Geolocation*, 22 Fordham Intell. Prop. Media & Ent. L.J. 567 (2012)

<http://scholars.law.unlv.edu/rscholars/12/>

- ◉ Marketa Trimble, *The Territoriality Referendum*, 6 WIPO J. 89 (2015)

<http://scholars.law.unlv.edu/facpub/905/>

- ◉ Marketa Trimble, *Geoblocking and Evasion of Geoblocking – Technical Standards and the Law*, in GEOBLOCKING AND GLOBAL VIDEO CULTURE (Ramon Lobato & James Meese eds., Institute of Network Cultures, Amsterdam, 2016)

<http://networkcultures.org/blog/publication/no-18-geoblocking-and-global-video-culture/>