

Date: [Insert Date]

To:

[Client Name]

[Client Address]

[City, State, Zip Code]

Re: Legal Opinion Regarding Fair Use in Software Reverse Engineering of [Target Software Name]

Dear [Client Name],

You have requested a legal opinion regarding the permissibility of reverse engineering the software titled "[Target Software Name]" (the "Software") for the purpose of [Insert Purpose, e.g., achieving interoperability/security testing]. This letter analyzes your proposed activities under the Fair Use doctrine of the U.S. Copyright Act (17 U.S.C. § 107) and relevant judicial precedents.

1. Description of Proposed Activity

It is our understanding that your process involves [Insert Description of Method, e.g., decompilation, disassembly, or observation of data flow] to identify [Insert Target Information, e.g., functional interface specifications or API structures].

2. Statutory Fair Use Analysis

Purpose and Character of the Use: The use is intended to [Insert Reason]. Courts have held that reverse engineering for the purpose of extracting non-copyrightable functional elements to create a compatible, non-infringing product constitutes a transformative "productive use."

Nature of the Copyrighted Work: Software contains both creative expression and functional requirements. Because the Software contains "unprotected" functional elements necessary for compatibility, it receives a lower level of copyright protection in this context.

Amount and Substantiality of the Portion Used: While the entire code may be copied during the intermediate stage of disassembly, such copying is considered "intermediate infringement" and is permissible if it is the only way to access the underlying functional elements.

Effect on the Potential Market: Your proposed product [is/is not] intended to replace the Software in the market. Rather, it [complements it/serves a different purpose], meaning it does not act as a direct market substitute for the copyrighted expression.

3. Digital Millennium Copyright Act (DMCA) Considerations

Under 17 U.S.C. § 1201(f), circumvention of technological protection measures is permitted for the sole purpose of enabling interoperability between computer programs, provided the information has not been previously available.

4. Conclusion

Based on the facts provided, it is our professional opinion that your proposed reverse engineering activities constitute Fair Use and are legally defensible under current federal law, provided that the final output does not contain protected source code from the original Software.

Sincerely,

[Attorney Name]

[Law Firm Name]