

# Abbott Labs kills free tool that lets you own the blood-sugar data from your glucose monitor, saying it violates copyright law



Abbott Labs makes a continuous glucose monitor -- used by people with diabetes to monitor their blood-sugar levels -- called (ironically, as you'll see below) the Freestyle Libre.

Diabetech is a hub for helping people with diabetes manage their health, including by building "artificial pancreases," through which a glucose monitor is connected to an insulin pump, with software in between that measures out small insulin doses that respond in real time (or even predictively) to changes in blood sugar. These can be significantly better than manual interventions for managing blood-sugar for people with diabetes, and can avert life-endangering, life-shortening, and/or quality-of-life reducing blood-sugar spikes and troughs.

The admin of Diabetech posted [technical instructions and code for extracting your blood-sugar data from the Librelink](#) so that you could use a different "listener" app with your data, or even connect it to an insulin pump to create an ar-

tificial pancreas loop. In particular, it allowed [the free/open Xdrip diabetes-management tool](#) to access Freestyle Libre data.

In response, Abbott Labs used US copyright law to [have the project deleted from Github](#), censoring Diabettech's code and instructions. In its takedown notice, Abbot's lawfirm [Kirkland & Ellis LLP](#) (a huge corporate firm) advances several alarming arguments about projects like this.

First, they say that creating a tool that interoperates with the Freestyle Libre's data is a copyright infringement, because the new code is a derivative work of Abbott's existing product. But code that can operate on another program's data is not a derivative work of the first program -- just because Apple's Pages can read Word docs, it doesn't mean that Pages is a derivative of MS Office. In addition, as Diabettech points out, EU copyright law explicitly contains an exemption for reverse engineering in order to create interoperability between medical devices (EU Software Directive, Article 6).

More disturbing is Kirkland/Abbott's claim that the project violates Section 1201 of the Digital Millennium Copyright Act, which prohibits bypassing "access controls" for copyrighted works. Factual data (like your blood sugar levels) are not copyrightable -- and if they were, *you* would hold that copyright. It's *your* blood. What's more, DMCA 1201 also contains an interoperability exemption.

Finally the whole thing is obviously fair use: it's a highly transformative work for an obviously socially beneficial purpose.

Glucose monitors and insulin pumps are, effectively, prostheses: artificial organs that are basically parts of your body. Abbott's position is that *they own part of your body* and you can only use it in ways that don't upset their shareholders. This is an *outrageous* position. I mean, forget all the bullshit about whether your blood is copyrighted and if so, by whom -- they're saying that your *organs* are copyrighted works whose usage is subject to the whims of a white-shoe law firm that is prepared to delete your code and send you a bowel-looseningly terrifying legal threat any time you dare to assert your bodily autonomy.

Speaking in my capacity as a professional dystopian cyberpunk writer, I'm here to tell you that that shit is a *warning*, not a *suggestion*.

The Infringing Software violates Abbott's exclusive right to prepare derivative works of the LibreLink program under United States federal law. 17 U.S.C. § 106(2); *Dun & Bradstreet Software Servs. v. Grace Consulting, Inc.*, 307 F.3d 197, 208 (3rd Cir. 2002) (holding that alteration of a copy of the plaintiff's software constituted copyright infringement); *Micro Star v. Formgen Inc.*, 154 F.3d 1107, 1112 (9th Cir. 1998) (same); *Midway Manufacturing Co. v. Artic International, Inc.*, 704 F.2d 1009, 1013 (7th Cir. 1983) (af-

firming the enjoinder of a defendant that created a modified version of a program); *Take-Two Interactive Software, Inc. v. Zipperer*, No. 18 Civ. 2608, 2018 WL 4347796, at \*14, 19 (S.D.N.Y. Aug. 16, 2018) (enjoining distribution of modification). Moreover, the Infringing Software is provided with instructions on how to circumvent the technological protection measures that control access to Abbott’s LibreLink program in violation of the Digital Millennium Copyright Act. 17 U.S.C. § 1201(a)(1)(A). Thus, the Infringing Program’s creator is secondarily liable for these further acts of circumvention. See *In re Dealer Mgmt. Sys. Antitrust Litig.*, No. 18 Civ. 864, 2019 WL 4166864, at \*14 (N.D. Ill. Sept. 3, 2019) (recognizing secondary liability for violations of 17 U.S.C. § 1201(a)(1)(A)). The Infringing Software also violates GitHub’s Terms of Service, which state that users “must not violate any applicable laws, including copyright” and that users must “not under any circumstances upload, post, host, or transmit any content that . . . infringes on any proprietary right of any party, including patent, trademark, trade secret, copyright, right of publicity, or other rights.”

[Patching LibreLink for Libre2 – clearing the FUD](#) [Diabettech]

[Libre2-patched-App](#) [user987654321resu/Github]

[2019-11-08-abbott.md](#) [Kirkland & Ellis LLP/Github]

*(Thumbnail: Abbott Labs)*

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