

*Before the*  
**Library of Congress**  
**Copyright Office**

**Notice of Inquiry**

***In re* Exemption to Prohibition on  
Circumvention of Copyright  
Protection Systems for Access  
Control Technologies**

Docket No. RM 2002-4

Further Post-Hearing comments of  
**The Electronic Frontier Foundation**

Gwen Hinze  
Staff Attorney  
The Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco CA 94110  
(415) 436-9333 x110  
fax (415) 436-9993

*Before the*  
Library of Congress  
Copyright Office

In re Exemption to Prohibition on )  
Circumvention of Copyright ) Docket No. RM 2002-4  
Protection Systems for Access )  
Control Technologies )

**Post-Hearing Comments of the Electronic Frontier Foundation**

Further to the comments submitted by the Electronic Frontier Foundation on June 20, 2003, EFF provides the following supplemental information in response to one of the questions posed by the Copyright Office in its letter of June 5, 2003.

*Questions 7.1 How many DVDs which are encrypted using CSS contain a compilation of works including both audiovisual works in the public domain and audiovisual works protected by copyright? (Please provide the specific titles in each such case).*

For the reasons outlined in EFF's previous post-hearing comments, EFF considers that it should not be necessary for EFF to identify the total number of DVDs which contain a compilation of works including audiovisual works in the public domain and audiovisual works protected by copyright in order to demonstrate the "substantial adverse impact" threshold for harm in this proceeding. EFF respectfully reiterates its position that the burden of production should shift to the motion picture and associated technology copyright owners in this proceeding, who are better placed to provide this information.

However, as a supplement to the information previously provided on June 20, EFF has identified that 8 of the 9 public domain motion pictures identified in its December 18, 2002 comments are available in DVD compilations comprising public domain motion pictures together with copyrighted materials. These titles are: "Along Came Auntie", "Any Bonds Today", "Bromo and Juliet", "Jungle Drums", "Our Gang Follies of 1938", "The River", "Roughest Africa", and "Should Sailors Marry?" Details of the name of the DVD compilations in which these public domain works feature, and the other copyrighted audiovisual works released on the DVD compilations are provided in the attached table.

Thank you for the opportunity to provide comments on these issues. EFF would welcome the opportunity to supplement this response if further information is provided by other parties on these issues.

Gwen Hinze, Esq.  
Staff Attorney  
Electronic Frontier Foundation

June 26, 2003