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June 30, 2003

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Madison Building LM-403
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Re: Docket No. RM 2002-4: Exemption to Prohibition
on Circumvention Of Copyright Protection Systems
for Access Control Technologies

Dear Mr. Carson:

This is in response to your letter of June 5, 2003, in which you requested my response to questions relating to my previous testimony in the above-referenced proceeding.

My responses are as follows:

What is the estimated failure rate of DVDs? What is the average life span of a DVD? What is DVD "rot"? What are the specific marketing claims for works distributed on DVDs in terms of life span and are these claims different from the reality, if at all?

These same questions were directed to witnesses Shira Perlmutter and Dean Marks of AOL Time Warner, and I would like to incorporate by reference their joint response also submitted today.

In addition, I call your attention to the web site of Nashua Media <http://www.nashuamedia.com/faqdvd.html#seven> which contains the following question and answer:

7. How long will DVDs last?

Pre-recorded DVD movies can last anywhere from 50 to 300 years. Blank write once discs, DVD-R, will last anywhere from 40-250 years after being recorded. The blank rewritable formats, DVD-RAM, DVD-RW, DVD+RW, DVD+R, can last anywhere from 25-100 years after recording.

It is interesting to note that, according to Nashua Media, pre-recorded DVD movies will last longer than the media on which it is asserted "back-up" copies should be allowed.

I was unable to locate reliable statistical information on the failure rate of DVDs. This lack of information could be due to the fact that DVDs are relatively new in the marketplace and there just has not been enough time to accumulate and analyze failure rate data.

What are the differences between region coding and the newer "enhanced" region coding? How many DVDs embodying audiovisual works are currently using enhanced region coding? To what extent will the enhanced version be applied to DVDs embodying audiovisual works in the next three years? (Please provide any evidence you have to support that prediction.)

Again, Ms. Perlmutter and Mr. Marks were asked these same questions and I would like to incorporate their response by reference.

Consultation with the seven major motion picture studio members of MPAA revealed that, like AOL Time Warner, several studios have experimented with "enhanced" regional coding, but only one studio is currently using this process. That studio is Sony Pictures Entertainment Inc., which includes the Columbia TriStar operating unit.

Region Coding Enhanced (RCE) used by Columbia TriStar is a relatively simple technological method that attempts to detect DVD players that have had their region code settings modified and to stop the playback of a North American disc on these players. It is aimed exclusively at DVD players sold outside North America where the region code settings are routinely modified. DVD players sold within North America are not modified with extremely rare exceptions. Columbia TriStar reports only a handful of consumer complaints from within North America after using this method for several years.

The "enhanced" method used by Columbia TriStar is to have the DVD movie disc query the machine more than once about what region the player can read. In a standard machine that has not been modified, the region code setting can only be set to one region. Thus, on a DVD software disc without RCE, for example manufactured for North America, the disc communicates with the player and effectively asks the player if it is a Region 1 machine. If the player responds "yes," then the disc plays. A DVD software disc with RCE does the same thing except it repeats the question, but for a different region. Thus, after asking if the player is a Region 1 player, it subsequently asks again if the Player is, for example, a Region 2 player. If the answer again is "yes," the disc does not play. Instead, a notice comes up telling the consumer that nothing is wrong with the disc itself and explaining briefly why the disc did not play and directing the user

to a website for more information.


This process does not work on all players and there is no way of knowing how many players internationally are affected by the enhancement.

The enhancement to region coding is only placed on Columbia TriStar DVD releases in North America and only on new releases. It is meant to help protect the theatrical windows around the world by preventing DVDs intended for the North American market from being played in countries where the movie may not have been released in theaters or have only recently begun their local theatrical release. It can only affect multi-zone, modified players, almost none of which exist inside North America.

The enhancement is used on most, but not all new theatrical releases. This could number anywhere, assuming the number of releases remain consistent, from between 20 to 40 in a year, or between 60 to 120 over the next 3 years, which is approximately the anticipated number of titles that would receive any kind of significant theatrical release in North America to which Columbia TriStar has the video rights.

I trust the foregoing is responsive to your inquiry. I appreciate the opportunity to participate in this proceeding and will make every effort to respond promptly and thoroughly to any additional questions you might have.

Sincerely,

A handwritten signature in blue ink, reading "Greg E. Allaway". The signature is fluid and cursive, with a long horizontal line extending from the top of the "G" across the top of the page.