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U.S. Copyright Office

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To the Librarian of Congress and/or Registrar of Copyrights

As a consumer and U.S. citizen I have witnessed firsthand the expansion of copyright terms since passage of the 1998 Digital Millennium Copyright Act as well as abuses of the DMCA by copyright holders to prevent fair use of purchased products (case in point Lenz v. Universal a case by a mother against Universal Music for abusing DMCA to shut down fair use). I have also studied up on copyright issues and would like to share my thoughts on your Making Available Study.

I strongly believe more competition is needed in the entertainment industry and have called on the U.S. Justice Department to investigate the Motion Picture Association of America for bribing politicians to support draconian internet censorship legislation they deemed critical to combating online piracy and then threatening them when under pressure from tech companies and consumer groups these legislators chose not to pass the Stop Online Piracy Act or Protect IP Act through Congress.

As such, I was a strong critic of Universal Music Group's merger with EMI and was disappointed that the Federal Trade Commission, which approved the merger did not even put regulatory conditions on the deal to protect consumers even as the European Commission (EC) subjected UMG and EMI to conditional approval. I also feel that the entertainment industry often thwarts competition for digital delivery services distributing media via the Internet and consumer choice with unnecessary region locking.

Any time you purchase a movie on DVD in North America you'll often see a notice that this title is restricted to Region 1 for U.S. and Canada only. Some newer DVDs in the U.S. for more recent films like Warner Bros. Man of Steel are according to their terms and conditions limited to playback only in the U.S. Even when you head online and go to digital download stores like Apple's popular iTunes Store to purchase music, movies, applications, audiobooks, or e-books some content may not be available in their store for all users depending on the country they live in.

In order to shop the U.S. iTunes Store a user must have a valid mailing address in the U.S. and a valid U.S. credit or debit card to be billed for purchases. Similarly, the Canadian iTunes Store, U.K. iTunes Store, Australian iTunes Store etc all require a valid mailing address in each of those countries as well and a credit/debit card from one of those countries. For example, you cannot use the U.K. iTunes Store if you do not have a U.K. mailing address and a U.K. credit card. This makes shopping from international digital storefronts

harder for most consumers who only have a mailing address and credit card issued in the country they presently live in. If you want to purchase a movie from iTunes that is available in the U.S. iTunes Store but not the U.K. iTunes Store and you live in the U.K. and only have a U.K. valid credit card your out of luck. Your left waiting for the movie studio to release it on the U.K. iTunes Store hoping that they eventually make it available.

Another problem to consider is what if you move to another country then all the media you purchased from your former country of residence might be unplayable in your new country of residence due to region locks. Region 1 DVDs made for the U.S. and Canada won't play on European or Asian DVD players. Instead you will have to re-purchase your media in the region of the country you moved to which is just how they want it. This is why the entertainment industry is against fair use. Neither do they want consumers to be able to freely make a backup copy of a movie they purchased on DVD or Blu Ray to a new disc in

case the existing disc gets scratched nor do they want users to be able to protect their investment by time shifting their movie to a new format.

For example, I have purchased a number of movies over the years on VHS before DVDs replaced the VHS tape. Now thanks to copy protection on the VHS tapes (which according to the DMCA is illegal to break or circumvent even for fair use) I cannot use my VCR DVD Recorder to dub or convert the video on those tapes to a blank DVD I can then burn and use. Technically speaking it is possible to circumvent the VHS copy protection with the right equipment connected to the VCR DVD Recorder but legally speaking it is unacceptable. Thus, the user with a VHS film library is forced to re-purchase all their movies on DVD and then again on Blu Ray. While Blu Ray Disc players are backwards compatible with DVDs and may upscale picture quality of DVDs conventional wisdom is it's better when possible to re-purchase the movies on Blu Ray for the highest quality viewing experience.

During the Copyright Office's last review of which exemptions to offer under the DMCA for fair use Public Knowledge made a reasonable request for an exemption allowing users to legally rip or copy their commercial DVDs (and thus circumvent the copy protection system on a DVD) for use on the devices they also own.

Devices with screens include Apple's iPad and iPad Mini with Retina Display, on Retina display iPads, laptop computers with widescreen displays and all-in-one desktop computers in which the computer is built into the display like the Apple iMac. Unfortunately, the Copyright Office sided with Sony over PK and said even though users can freely copy music CDs to their computers and then sync music to their portable mp3 players legally they cannot do the same for their DVDs. The reason being that most album CDs don't have copy protection but DVDs do.

In regard to unlocking the region restrictions I recall an online petition urging the Recording Industry Association of America to restrict region locks on

music purchases so new digital services can come up that let users legally

stream the music of their choice no matter what country they live in.

Unfortunately, most companies don't take such petitions seriously no matter how

many signatures were collected and last I checked region locks still exist for the

music industry that in a positive development has dropped DRM though on

digital music downloads choosing to watermark files instead to discourage piracy

and illicit file sharing.

Furthermore, I have found that it used to be that companies were given for a brief term of four to five years exclusive ownership of copyrighted material after which period if they wanted to maintain copyright they had to re-apply and to provide valid justification for doing so. At the time when a copyrighted work's copyright expired it would often enter the public domain and be made freely available to the public.

These days, though copyright licenses are generally extended into perpetuity. I have also noticed companies using draconian Digital Restrictions

Management technologies (they call it Digital Rights Management) to restrict fair use of a product purchased by consumers. These companies have gone mad with power and not only want indefinite copyright terms to continue but to be able to dictate how we use their products or services.

The Motion Picture Association of America, which has increasingly become paranoid with illegitimate piracy has even gone so far as to use the government to aggressively police copyright to the detriment of consumers. The U.S. Department of Homeland Security, which was formed after 9/11 by merging some pre 9/11 agencies to combat terrorism, has become a tool of the MPAA in its overzealous fight in the war against piracy taken to an extreme. I do not advocate for piracy and am willing like most consumers to pay for my media whether music, movies, games etc but will not tolerate being treated like a criminal for wanting to exercise my fair use rights.

That being said outrageously the Department of Homeland Security or DHS recently interrogated an individual who went to a movie theater with

prescription Google Glasses. He had turned his Google Glasses off and was only using them as regular prescription glasses to see but this was unacceptable to the MPAA and by extension DHS. In fact the MPAA mad with power has begun proposing that movie theaters tighten security to prevent anyone from entering with possible recording devices to the detriment of consumers.

They are proposing to implement the same controversial and in some cases unnecessary and unlawful (well unconstitutional) searches in movie theaters of movie-goers, that the Transportation Security Administration or TSA since 9/11 has been subjecting air-line passengers to. Frankly, I go to a movie theater to relax and enjoy myself by watching a good movie. If they are going to treat all consumers with suspicion and treat me like a criminal then I won't go to their movies.

Like many consumers I am frustrated with the way these companies mistreat their customers by treating them with suspicion for choosing to exercise fair uses of purchased media that remain copyrighted. As a consumer I

understand and respect that when I purchase a film whether on DVD, Blu Ray Disc, or through a digital download store I am merely purchasing a licensed copy for noncommercial home use. The same applies to all copyrighted products I may purchase whether movies, music, video games, or computer applications and operating system software like Microsoft Windows Vista/7, 8, 8.1 and newer (or earlier Windows systems) etc.

Clearly the MPAA has become so greedy that even when they do well they attribute piracy to their not doing even better. For example, in 2012 there were plenty of great blockbuster films in theaters and they made hundreds of billions of dollars but suggested because of piracy they did not earn trillions of dollars from consumers. Furthermore, the economy has been in somewhat of a rut the last few years and had only just started recovering since 2009-2010. Even during the period when the economy soured these dinosaurs sought to maximize profit and reduce operating costs sticking consumers with high bills

and lower quality products. The thing is the film industry expects to earn high returns on all films even for commercial flops.

Furthermore, a big problem with the entertainment industry is their unwillingness, to adapt to new technologies. They cling to outdated business models, which they are determined to protect at all costs. Take the broadcast industry for example that is suing Aerero a startup that is revolutionizing TV and making it easier for consumers wanting to disconnect from pay TV services to save money by ditching expensive bundled TV for a la carte TV services online. Aerero represents the future of TV but the broadcasters unwilling to change are suing to shut down Aerero. These dinosaurs either need to adapt or be allowed to die. The government should not be protecting them yet the Obama Administration through the Justice Department is siding with the broadcasters as their appeal in the legal case involving Aerero heads to the U.S. Supreme Court.

In what way is retransmitting free over the air broadcast TV signals over the Internet theft of copyright? The entire legal argument against Aereo is ridiculous. Unfortunately, the big broadcast giants have forgotten that the airwaves, which they were given were provided by the government on the condition they serve the public interest. Originally, their TV stations were supposed to be free over the air for users with an antenna and last I checked still are but when Congress passed the 1992 Cable Act allowing retransmission consent in which pay TV providers have to pay broadcast networks to carry their channels it eventually resulted in broadcast companies double dipping. Originally they would make money just from advertising since their channels were free over the air but now can make money through retransmission consent.

Unfortunately, each year they are getting greedier and greedier demanding pay TV providers pay them more and more for retransmission consent resulting in the service providers having to charge users more for service. The broadcast companies are even threatening if Aereo wins at court to shut down their free

over the air TV signals to cripple Aerero. If they can't do it legally they'll deny the company access to content. So even if Aerero wins legally it and consumers could still lose out.

I would rather have a la carte TV and only pay for the channels I want than have to pay for stuff I don't watch but the pay TV providers have no choice. If a pay TV provider wants to carry the popular kids channel Nickelodeon and the channel E from Viacom they have to carry less popular channels like Oxygen. Also the content providers each year increase retransmission consent fees. Frankly, I would prefer to have an antenna for free over the air TV and Internet for everything else. Yet many cable TV providers are also Internet providers and to protect their bundled pay TV business, which unfortunately cannot compete with a la carte online in the absence of Net Neutrality they can discriminate against online video competitors.

The biggest fear of the entertainment industry is the public domain becoming a digital library for content. For years the entertainment industry and publishers

have been trying to stifle digital libraries from coming up. They hate the idea of sharing culture and shared content. Furthermore, they seem to want to force users to re-pay for their media over and over again. Sorry consumers but that movie you purchased on VHS needs re-purchasing on DVD to play on DVD Players you cannot convert it to DVD yourself. Want to upgrade to Blu Ray again you need to re-purchase your film collection in Blu Ray which locks down content and seeks to strip users of fair use rights. Want your movies to play on an Apple iPad, iPod (whether the click wheel models or iPod Touch), iPhone or via a TV with Apple TV (1st gen, 2nd gen or newer) you need to purchase them from iTunes Store. You should not be allowed according to them to rip your DVD into your computer to copy the movie from disc to a digital format that plays on your tablet and other mobile devices. If you want your movies to play on Microsoft's Xbox or Surface tablets and you've already purchased via iTunes your out of luck as you'll need to pay again. No time shifting or place shifting in their minds should be allowed. Also if your disc gets scratched you should be forced to buy a

new disc containing that movie again no backups allowed for personal noncommercial home use.

That being said I am willing to respect sane and reasonable copyright but think that copyright has become too powerful and something needs to be done.

Consumers fair use rights need to be respected. Increasingly, I have noticed when one wants to buy movies or TV shows the only way to acquire content without DRM locks or restrictions is to do so illegally by downloading pirated copies of movies and TV shows.

Like other consumers in support of fair use I am willing to pay a reasonable fee for media but without the restrictions. If I have to download a movie illegally to get a DRM free copy I will either not get the movie at all or get the pirated copy rather than pay for a crippled product. For these reasons I have refrained from even purchasing e-books and supported the Free Software Foundation's campaign against the Amazon Kindle which they maintain is a Swindle and against the Barnes & Noble Nook for being a Crook in its use of DRM. Until

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these companies start respecting their legitimate and honest customers I will
refrain from purchasing their products at all and instead boycott them. I ask the
Copyright Office to loosen restrictions on fair use and will urge Congress to also
pass copyright reform.

Sincerely,

Mr. Maneesh Pangasa

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