

DRAFT

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A. Introduction

1. The company is the leading developer of secure watermarking technology for use in copyright management systems and other applications that can create trust as a means of balancing the interests of copyright owners and information consumers.

2. The growth of the Internet and electronic commerce will not reach their full potential if technologies and laws are developed on the assumption that access restriction is the only credible approach to securing copyrighted works and protecting intellectual property.

B. Section 109 of the Copyright Act should be amended to include digital transmissions, as proposed by Congressmen Rick Boucher and Tom Campbell in section 4 of H.R. 3054.

1. With content migrating from paper to bits, the law--in particular the first sale doctrine--must keep pace with technology for electronic commerce to flourish.

2. Technology can be used to advance the core principle underlying the first sale doctrine.

3. If the law keeps pace with technology, content owners and information consumers will benefit to the greatest extent as new communications media and Internet technologies generate recognition and demand for artists' work.

C. Section 117 of the Copyright Act should be amended to provide that it is not an infringement to make a copy of a work in a digital format if such copying is incidental to the operation of a device in the course of an otherwise lawful use of a work and if it does not conflict with the normal exploitation of the work, as proposed in section 6 of H.R. 3054.

1. The law should recognize that the Internet cannot function without ephemeral copying.

2. It is important to reduce the risk of potential legal liability for ISPs and others to encourage greater use of the Internet to disseminate copyrighted works.

3. Smart use of technology rather than the threat of litigation will better promote the interests of content owners and society in general.