

Content Protection As A Business Imperative

*The Convergence of Legal, Business,
Technology and Policy Issues in the
Age of Digital Content Distribution*

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VIACOM

What is DRM?

Digital Rights Management is:

- A. Technology that allows for the application of business rules for the use of content**
- B. Technology that creates mechanisms for licensing and payment for the use of content**
- C. Technology that decreases misuse of content and net pollution**
- D. Technology critical to new and emerging business models**
- E. Technology that enhances consumer choice**

DRM Criticisms

A. Overly Restrictive; Lack of Fair Use Accommodations

B. Competing Standards

C. Lack of Interoperability

D. “Piracy Surveillance”

E. Privacy; Inadequate Disclosures

F. Futility; Analog Hole

Types of DRM

A. Content Scramble System

- Encryption scheme unveiled in 1996 and used on almost all commercially produced DVDs
- CSS key sets are licensed to manufacturers, who incorporate them into products such as DVD players, DVD drives and movie releases
- CSS can limit copying and geographic playback

B. Advanced Access Content System

- Standard for content distribution and rights management intended for the next generation of optical discs and DVDs, including HD DVD and Blu-Ray discs
- Announced in 2005 and operated by a consortium that includes Disney, Warner Bros., Sony, Intel, Microsoft, IBM, Matsushita and Toshiba
- Permits “managed copy” of purchased disc; mandates watermarking detection

Types of DRM (con'd)

C. Fair Play

- **Technology created by Apple and built into the QuickTime multimedia software. Used to encode content for use on the iPod, iPhone, iTunes and the iTunes Store**
- **Technology is used exclusively by Apple and is not licensed to third parties, raising concerns about interoperability**

D. Watermarking

- **Message embedded into digital content (e.g., audio, video, images or text) that can be detected for the application of business rules**

Types of DRM (cont'd)

E. Fingerprinting Technologies

- **Audio Fingerprinting:** Unique code generated from audio sound waves that can be used to automatically identify audio content; typically used to identify music played in broadcasts and ads, to identify soundtracks, and to monitor (and block) use of unauthorized content online.
- **Video Fingerprinting:** Unique code generated by software that identifies, extracts and compresses characteristic components of video content, enabling that video to be automatically identified. Uses including tracking, monetizing or blocking content online.

DRM Players

Audio Fingerprinting

- Audible Magic
- Auditude (*has added video*)
- GraceNote
- SnoCap
- Macrovision

Watermarking

- Verance
- Philips
- Thomson
- Nielson/Digimarc

ISP Network Management Tools

- Deep Packet Inspection
- Bandwidth Shaping

Video Fingerprinting

- Advestigo
- Contributor
- Audible Magic
- Google
- GraceNote
- NTT
- Philips
- St. Andrews
- Thomson
- VideoID
- Vidyatel
- Visual Search
- Vobile
- YouTube

DRM Legal Framework

A. Audio Home Recording Act (17 U.S.C. § 1001 *et seq.*)

- **“Noncommercial” copies limited to specified devices and media; PCs excluded from coverage**
- **Royalty assessed on specified devices and media**
- **Serial Copy Management System required on devices**

B. Digital Millennium Copyright Act (17 U.S.C. § 1201 *et seq.*)

- **Access and Copy Control Provisions**
- **Anti-Circumvention and Anti-Trafficking Provisions**
- **Limited Anti-Circumvention Exceptions**

C. ISP “Tax” Concept

- **Proposed levy assessments to recover lost content sales due to unauthorized downloads and CD copying**
- **European concept, where levies are commonplace**

DRM Cases

A. Audio Home Recording Act

- RIAA v. Diamond Multimedia (Rio MP3 Player)

B. Digital Millennium Copyright Act

- Universal City Studios v. Corley (CSS Decryption)
- Universal City Studios v. Real Networks (RealDVD)

C. Recent DRM Infringement Claims

- 20th Century Fox v. Cablevision (Remote Service DVR)

D. Recent DRM Licensing Claims

- DVD CCA v. Kaleidescape (CSS License)

DRM and UGC Sites

UGC Principles:

- **Non-binding “best practices” for addressing liability issues surrounding unauthorized user-submitted videos**
- **UGC sites commit to monitor sites using automated tools**
- **Copyright owners commit to creating reference databases**
- **Commitment by owners not to sue bona fide actors**
- **Balancing of Interests of copyright owners, UGC sites**

- **Initial Signers: CBS Corp., DailyMotion, Fox Entertainment Group, Microsoft Corp., MySpace, NBC Universal, Veoh Networks Inc., Viacom Inc. and The Walt Disney Company**

- **Announced: October 18, 2007**
- ***www.ugcprinciples.com***

DRM in Digital Distribution Platforms

Today's Models . . .

- **Download-to-Own Models**
- **Rental Models**
- **Streaming and Embedding Models**
- **Superdistribution Models**

Tomorrow's Models . . . ?

- **“TV Everywhere”**
- **Micropayments à la News Corp.**