

# **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

- 20<sup>th</sup> 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](http://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.**