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JAN -4 2001

January 4, 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas
Office of the Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: Ex Parte Presentation by the Digital Transmission Licensing Administrator, LLC;
CS Docket No. 97-80

Dear Ms. Salas:

On January 3, 2001, Messrs. Jeffrey P. Cunard of the law firm of Debevoise & Plimpton representing Sony Corporation, Paul Schomburg of Panasonic/Matsushita Electric Corporation of America, and Seth Greenstein of the law firm of McDermott, Will & Emery representing Hitachi, Ltd., on behalf of the policy committee of the Digital Transmission Licensing Administrator, LLC ("DTLA"), met with Steven Broeckaert, William Johnson and Deborah Klein of the Cable Services Bureau, Jonathan Levy, Amy Nathan and Robert Pepper of the Office of Plans & Policy and Bruce Franca and Alan Stillwell of the Office of Engineering & Technology.

During the meeting, the representatives of DTLA reviewed their recent discussions with representatives of the motion picture industry to obtain licenses to the Digital Transmission Content Protection technology offered by DTLA for the protection of motion pictures transmitted using conditional access systems. The DTLA representatives noted that they had executed with Warner Brothers and Sony Pictures Enterprises, respectively, a Memorandum of Understanding setting forth certain terms to be incorporated into a license to use the DTCP technology. In addition, the DTLA representatives stated that the DTLA and the two motion picture companies had proposed jointly to CableLabs a set of Compliance Rules and Robustness Rules consistent with the Memorandum of Understanding, which said parties recommended for adoption in the POD-Host Interface License Agreement.

The DTLA representatives also provided a copy of a December 28, 2000, letter from DTLA to representatives of seven motion picture studios, responding to a December 13, 2000,

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letter that said studios had sent to DTLA and had filed with the Commission. A copy of the December 28, 2000, letter is submitted herewith.

In accordance with Section 1.1206 of the Federal Communications Commission rules, this letter is being provided to your office. A copy of this notice has been sent to the parties listed below.

Very truly yours,



Seth D. Greenstein
Chairman of the DTLA Policy Committee

cc: Steven Broeckaert
Bruce Franca
William Johnson
Deborah Klein
Jonathan Levy
Amy Nathan
Robert Pepper
Alan Stillwell

TO: Christopher J. Cookson, Warner Bros.
Gregory Gelfan, Fox Filmed Entertainment
Steve Madoff, Paramount Pictures
Preston Padden, The Walt Disney Company
Mitch Singer, Sony Pictures Entertainment, Inc.
Michael Smarinsky, Metro-Goldwyn-Mayer Studios, Inc.
Blair Westlake, Universal Television and Networks Group

FROM: DTLA Policy Committee

DATE: December 28, 2000

RE: Renewing Negotiations to Conclude Agreements for Use of DTCP

Thank you for your letter of December 13, 2000. We share the desire of all studios to conclude negotiations with DTLA. As we indicated to you in our November 1, 2000, email, we are pleased to engage with you in renewed discussions toward achieving that goal. In light of the holiday season in the U.S. and Japan, and preparations for the Consumer Electronics Show, a meeting in the afternoon following the January 11 CPTWG likely would be the earliest occasion for our groups to get together.

This letter outlines a number of initial questions and concerns that we would like to address with you at that meeting in greater detail, so that we can better understand the nature of your requests and the implications for our technology, our Adopters and consumers.

First, we appreciate your acknowledgement in the December 13 letter that the terms negotiated with Warner and SPE would form the basis of an agreement with the remaining studios and 5C. However, we recognize that this statement was based upon discussions that occurred prior to both our signing of the Memorandum of Understanding (“MOU”) with those studios and our preparation with those studios of Compliance Rules and Robustness Rules which we jointly submitted to CableLabs. Now that you have had a chance to review these documents, we would like your affirmation that the terms as presented in those documents are acceptable to you, subject to resolution of the two issues described in your December 13 letter.

Second, we share the interest of Warner Brothers and SPE in proceeding promptly toward a conclusion of license agreements with 5C. While that does not preclude discussions with other studios from proceeding concurrently on a separate track, the rapid conclusion of those agreements remains a priority for DTLA.

Third, we are in receipt of a December 15, 2000, letter from Mr. Eddie Fritts of the National Association of Broadcasters concerning the scope of content that may be subject to copy protection. Although 5C has not had a full opportunity to discuss this letter, it appears that

certain requests made in the letter would be contrary to the scope of the agreements described in the MOU, and likewise would exceed the scope of the proposals set forth in your December 13 letter. We would like to know whether, if DTLA and the studios reach mutually-acceptable terms, you nevertheless would support legislative or regulatory efforts that would impose additional requirements on the use of DTCP, including but not limited to the application of copy protection using DTCP to broadcast content. Conversely, we would appreciate your affirmation that, once we reach agreement, you would be willing to join with us in advocating adoption by other affected industries of the substance of our agreement with respect to the use of DTCP, including the limitations and compromises embodied therein.

Fourth, on the assumption that you will be able to affirm that the terms of the MOU as presented are acceptable to you, subject to resolution of the two issues described in your December 13 letter, we would like to address several key factors in our January 11 meeting:

- We would like to have a better understanding of the particular goals that you wish to achieve through your proposals, and how you would implement these proposals in content before it arrives at the DTCP-enabled output. As a few examples, we would appreciate your views as to what is a “broadcast watermark,” who would select such a mark, how and when would it be used, how would it be inserted into content, what licensing protections would exist against unauthorized stripping of such a mark in other devices, and so forth.
- We would like to know what specific types of devices would and would not be affected by these requests, e.g., which devices would be required to embed, detect and respond to, and not strip, obscure or interfere with, your proposed mark. This would help us to appreciate which Adopters would be affected, and whether and how these requests could be implemented in all affected devices and through our licenses.
- As you know, DTLA has always been concerned with any proposal that would make adoption of DTCP less desirable to manufacturers and consumers than other available technologies. Therefore, we will need to understand whether and how these same facilities are being implemented in comparable copy protection technologies, and in competing devices that do not use DTCP. Moreover, we will need to assess the extent of any legacy problem arising from the adoption of these new proposals.
- How might traditional consumer conduct and reasonable expectations be affected if DTLA were to accept your requests.
- What efforts, if any, you have made to discuss these requests with other parties that could be required to implement these technologies, such as CableLabs and manufacturers of MSO boxes, and what has been their reaction.

We would appreciate your consideration of these questions so that we can have a fruitful discussion at our next meeting.

Finally, inasmuch as you have provided copies of your December 13 letter to the FCC and all individual commissioners, we would like to know what role you envision for the FCC in our discussions going forward.

On behalf of the members of DTLA, may we extend to you again our sincere thanks for your willingness to move our negotiations toward conclusion, and to you and your families our best personal wishes for the holiday season and a prosperous and happy new year.

Very truly yours,

Seth D. Greenstein
On behalf of the 5C Policy Committee