

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)
)
Digital Output Protection Technology)
and Recording Method Certifications)
)
Digital Transmission Content Protection) MB Docket No. 04-64

**PETITION OF
DIGITAL TRANSMISSION LICENSING ADMINISTRATOR LLC
FOR RECONSIDERATION OR CLARIFICATION**

Digital Transmission Licensing Administrator, LLC (“DTLA”), pursuant to 47 C.F.R. §1.106 (2003), respectfully petitions the Commission for reconsideration and/or clarification of one aspect of its Order on certification, released August 12, 2004, in the above-captioned proceeding. Specifically, DTLA requests that paragraph 74 of the Order be clarified so as to permit source devices subject to the Order that implement DTCP over Internet Protocol (“DTCP-IP”) to output Marked Content to sink devices that are manufactured before the effective date (*i.e.*, 18 months after final adoption by DTLA) of a revised DTCP-IP Specification that includes Round Trip Time (“RTT”) testing. Such revised DTCP-IP Specification will require that where the source of Marked Content and the sink device both have the capability to perform DTCP-IP with RTT testing, they shall do so.

Background

In January 2004, DTLA adopted a Specification Version 1.0 for implementing DTCP over Internet Protocol (“DTCP-IP”). As part of the process that led to the approval of the DTCP-IP Specification, DTLA and its two Content Participants, Sony Pictures and Warner Bros.,

engaged in efforts pursuant to a Work Plan to develop additional means to “localize” DTCP-IP by testing for a to-be-specified RTT value.¹ Pursuant to the DTCP Adopter Agreement, the obligation to follow the DTCP-IP Specification Version 1.0 commenced immediately for those Adopters that wished to apply DTCP over Internet Protocol. (No 18-month implementation period was necessary inasmuch as this was the first mapping of DTCP to interfaces that use IP.)

Such Adopters also undertook the obligation to implement additional localization means, such as RTT testing, no later than 18 months after finalization of updated specifications for DTCP-IP. DTLA’s Content Participants understood there would be an interim period in which DTCP-IP without additional localization would be implemented in products. However, they believed, as did DTLA, that it was better to begin implementing digital protection methods over IP than to delay introducing protection for IP devices awaiting development and finalization of RTT localization methods pursuant to the Work Plan. Moreover, it was the judgment of DTLA, accepted by the Content Participants, that it was better to enable interoperability between DTCP-IP devices with and without the additional RTT testing capability, so that implementation of DTCP content protection would not cause any incompatibilities between DTCP-IP source and sink devices with RTT testing and Version 1.0 devices.

In paragraph 74 of the Order, the Commission approved certification as a digital output protection technology of DTCP-IP with the additional RTT testing requirement, as described in the *ex parte* letter from DTLA and the Motion Picture Association of America dated July 20, 2004, and a subsequent *ex parte* submission from DTLA dated July 22, 2004. The Order thus contemplated that DTCP-IP would be required to be implemented in such devices beginning with the effective date of the Commission’s Order, July 1, 2005. However, that paragraph also

¹ That Work Plan, dated September 9, 2003, was submitted by DTLA to the Commission in this Certification proceeding on June 1, 2004.

recognized that the obligation imposed by the DTCP Adopter Agreement for all devices to utilize DTCP-IP with added RTT localization would commence 18 months after adoption of the final updated DTCP-IP Specification, which is denominated by DTLA as Version 1.1.

Thus, also implicit in the Commission's Order was recognition that, for some period of time prior to July 1, 2005, source devices using DTCP-IP under Specification Version 1.0 might be sold in the United States; and that, until 18 months after finalization of Specification Version 1.1, sink devices using DTCP-IP Specification Version 1.0 would continue to be sold in the United States. The Order did not address, however, whether source devices that use the certified Specification Version 1.1 of DTCP-IP could interoperate with sink devices that use the Specification Version 1.0 of DTCP-IP. That issue is the subject of this Petition.

Discussion

DTLA respectfully requests that the Commission clarify its Order so as to permit DTCP-IP source devices that have RTT localization capability to output Marked Content without performing RTT testing to DTCP-IP sink devices that do not have RTT localization capability. (As noted above, DTCP-IP Specification Version 1.1 will require source and sink devices that are capable of performing the additional RTT testing to do so when protected content is transmitted between them.) The reasons justifying this clarification are as follows:

1. Prior to July 1, 2005, devices that have no ability whatsoever to protect Marked Content against mass indiscriminate redistribution will continue to be sold in the market. These legacy devices will persist in the marketplace for years to come, but ultimately will be replaced by devices that implement the Commission regulations relating to retransmission protection of digital broadcast content.

2. Prior to July 1, 2005, any devices that can output or record digital broadcast television content using DTCP-IP without additional RTT localization will provide substantial protection against mass, indiscriminate redistribution. (Such devices could include digital video recorders, digital television receivers, and digital cable ready devices manufactured pursuant to the PHILA.) Thus, availability of DTCP-IP under Specification Version 1.0 will reduce the scope of legacy unprotected devices in the marketplace and, hence, promote the DTV transition.

3. Beginning July 1, 2005, pursuant to the Commission's Order, devices subject to the Commission regulations that use DTCP-IP will implement Specification Version 1.1 of DTCP-IP. Notwithstanding, as noted above, sink devices that can receive content using DTCP-IP (that also can act as source devices using a multiplicity of protected interface protocols), and that do not implement additional RTT localization, likely will be available in the marketplace and, consequently, in consumers' homes. To the extent such devices are not subject to the Commission regulations, such devices can continue to be manufactured using Specification Version 1.0 of DTCP-IP until 18 months following adoption of DTCP-IP Specification Version 1.1.² DTLA believes that it is critically important to avoid creating interoperability and compatibility problems between Version 1.0 and 1.1 of DTCP-IP; and, more generally, to avoid compatibility issues between different specification versions of DTCP over any particular interface protocol. Such problems would deny consumers the right to engage in otherwise lawful conduct over protected interfaces, would add substantial confusion to the consumer marketplace, and would give consumers reasons to distrust and reject content protection technologies in general. Moreover, the Commission should strive to avoid interpretations and implementations

² DTLA anticipates finalization of the DTCP-IP Specification, following review by Content Participants and Adopters, by or before the end of November, 2004.

of its digital broadcast television retransmission protection regulations that would create irreconcilable incompatibilities for consumer devices.

4. Although DTLA does not know the potential number of devices that may come to market using Version 1.0 of DTCP-IP,³ DTLA believes that the interaction between devices using Versions 1.1 and 1.0 of DTCP-IP will be reasonably limited in scope and in duration, and will continually be reduced as devices using DTCP-IP Version 1.1 with additional RTT localization come to market.

5. Finally, DTLA notes that the desire for localization is a recent concept that is still under development for other existing interface protocols to which DTCP has been mapped.⁴ Consequently, additional localization protections will not be pervasive for several years to come. A device that receives Marked Content using DTCP-IP with RTT localization could still output that content over an interface such as DTCP over 1394 or USB that is inherently local, but does not yet have additional localization controls as contemplated under the Work Plan. Similarly, consumer-recorded media with Marked Content can freely be played back on devices that do not necessarily use transports with such additional localization protections. Inherent within the move toward localization is the reality that localization will progress and increase over time, but will not be uniformly available during the initial periods. As additional localization techniques are developed for each protocol, the interoperability issue presented here may arise and may require resolution. Therefore, it is essential that the Commission now should set precedents in

³ DTLA, its license administrator and its key generation facility do not obtain information from Adopters concerning the products or versions of DTCP in which such keys and certificates may be used.

⁴ Pursuant to the Work Plan, localization methods are continuing to be investigated for such other interfaces. Such methods will be adopted by DTLA in accordance with its license obligations to its Content Participants and Adopters, and will be submitted to the Commission in accordance with the Commission's Order.

support of device interoperability and lawful consumer uses of digital content enabled by protected digital interfaces.

Conclusion

Wherefore, and for such other reasons as the Commission may find just and proper, DTLA respectfully requests that the Commission revise and clarify its Order to enable communication of Marked Content between DTCP-IP source devices with RTT localization and DTCP-IP sink devices without RTT localization. DTLA proposes for Commission consideration the following language to be inserted in paragraph 74 after the third sentence:

“Recognizing that sink devices using the existing version of DTCP-IP may be acquired by consumers before the expiration of the 18-month period after the revised DTCP-IP specification becomes final, the Commission also will permit DTCP-IP source devices that have the existing TTL and proposed RTT limiting capabilities to output Marked Content to DTCP-IP sink devices that perform the existing TTL limits but not the RTT testing. This limited accommodation will promote adoption of protected digital interfaces on sink devices to the benefit of content owners, and the interoperability of such protected interfaces so that consumers can continue to display and record Marked Content over devices they lawfully have acquired.”

September 13, 2004

Respectfully submitted,

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Certificate of Service

I hereby certify that on September 13, 2004, a copy of the foregoing Petition of Digital Transmission Licensing Administrator LLC for Clarification or Reconsideration was served by first class mail, postage prepaid, upon the following persons:

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