

June 26, 2002

CONTENT PROTECTION STATUS REPORT II

Overview

This is to update the Content Protection Status Report dated April 25, 2002. In brief, significant progress has been made on the broadcast flag, work continues on the analog hole, and no progress whatsoever has been made toward stopping unauthorized Peer-to-Peer (P2P) file sharing.

Goal One: The Broadcast Flag

The Co-Chairmen of the Broadcast Protection Discussion Group (BPDG) issued a Report on June 3 presenting a broad, multi-industry consensus on technological means to prevent the unauthorized redistribution of digital broadcast programming, including over the Internet. Although the March 31 target date for completing the work of the BPDG was not met, the June 3 Report marks a significant step toward achieving the first of the three content protection goals set forth in MPAA's April 25 Status Report.

Goal Two: The Analog Hole

The DVD Copy Control Association (DVD CCA) board has extended its deadline for selecting a watermark for copy and playback control in DVD players and drives until August 1, 2002. Progress continues to be made (the most recent meetings were June 24-25, and additional meetings are scheduled for July 17-18). If the DVD CCA's effort is successful, it will represent the first step in protecting against

the unauthorized playback and recording of content that has "escaped" a digital content protection system (e.g., CSS encryption). This watermark may also be helpful in plugging the "analog hole," which is a term used to describe the conversion of protected digital content to analog form (resulting in a loss of its copy/transmission protection) and then back to an unprotected digital format.

Goal Three: Infringing Peer-to-Peer (P2P) Networks

There has been no progress toward establishing a dialog with the Information Technology industry aimed at developing technological means to stem the avalanche of movie theft on so-called "file-sharing" peer-to-peer networks. Neither an April 12 studio CEO letter nor a May 16 follow-up letter to nine technology company CEOs requesting a high-level working group have received a response.

1.1 The Broadcast Flag

On June 3 the Co-Chairmen (one each representing the content, consumer electronics and computer industries) of the Broadcast Protection Discussion Group (BPDG) issued their final report to the Copy Protection Technical Working Group (CPTWG).

The BPDG grew out of the longstanding MPAA/5C negotiations, and reflected longstanding studio and Congressional concerns that broadcasters be able to protect their valuable digital programming from wholesale redistribution after it is broadcast. The BPDG provided an open forum to review a specific technical proposal developed by MPAA and 5C companies in hopes of reaching multi-industry consensus on the technical proposal, as a prerequisite to getting it implemented.

Following more than six months of effort, broad consensus within the BPDG was in fact reached on the "broadcast flag" descriptor and most of the issues relating to compliance and

robustness requirements. There was near unanimous agreement on the broadcast flag descriptor itself. There was universal agreement that the broadcast flag would not prevent home copying of broadcast programming, and would not interfere with the ability of consumers to send authorized and secure copies of digital broadcast programming around home networks connecting digital set top boxes, recorders, servers and display devices.

There were dissenting views regarding some compliance and robustness requirements, but of some 70 organizations that participated in the BPDG, only 14 submitted dissenting comments on one or more issues. Of these 14 dissenters, six were self-styled consumer groups that appear to be opposed in principle to any restraints on the reproduction and redistribution of content.

There was also disagreement on a number of policy issues relating to implementation of the broadcast flag. These issues were left for further consideration and debate.

All participants realize that in establishing a government mandate of the broadcast flag all issues, including those agreed to by the BPDG, will be aired as part of legislative and/or regulatory proceedings affording all interested parties an opportunity to participate.

Status

Two technical issues relating to the potential use of the Broadcast Flag to circumvent copy protection on non-broadcast media still need to be resolved. In addition, a number of policy issues, including the appropriate framework for enforcement, must be addressed. Although these issues were initially assigned to a "parallel" Policy Group, at this writing it is unclear whether these issues

will actually be referred to this group or whether a new process with Congressional guidance will be put in place.

1.2 Plugging the Analog Hole

The specification of robust watermarks for all forms of audio-visual content is critical to beginning the process of closing the analog hole. In the area of DVDs, the DVD Copy Control Association (DVD CCA) recently postponed its deadline for selection of a watermark for copy and playback control in DVD players and drives. While the decision on a DVD watermark was originally scheduled for April 30, the DVD CCA board determined that more work and study by the DVD CCA board and the Content Protection Advisory Council (CPAC) - a cross-industry group of 27 companies representing the copyright, information technology and consumer electronics industries - was required. The board therefore passed a resolution extending the existing selection period and process to August 1, 2002.

Status

The DVD CCA continues to work on selecting an effective watermark by August 1, 2002 (the most recent meetings were June 24-25, and additional meetings are scheduled for July 17-18). If the DVD CCA is able to select an acceptable watermark for DVD players and drives, cross-industry groups will determine whether that same watermark might also be usable for additional purposes such as addressing the analog hole problem. In that particular case, a government mandate will be required to ensure that all analog to digital converters recognize and respond to the watermark, thus plugging the analog hole.

1.3 Unauthorized Peer-to-Peer (P2P)

The first cross-industry step to address the P2P problem – creating a forum to discuss technological means to control unauthorized P2P "file-sharing" – has yet to be taken. The April 12 studio CEO response to an earlier letter from CEOs of nine leading technology companies, in which the studio CEOs called for establishment of a high-level working group to find technical measures that limit unauthorized P2P trafficking in movies, music and other entertainment content, has not been answered. Jack Valenti sent a follow-up letter to these nine tech industry CEOs on May 16. There has been no response to his letter.

Status

No cross-industry meetings have been held and none are currently scheduled.