

## **Back This Up Suckah!!!**

### **Andy Marken, Jon Peddie Trade Points, Counterpoints; Barbs, Jabs On the Proposed Disc/Content Backup Ban**

The issue of DRM seem to become more complicated daily. At the heart of the issue is the question is this: what do we buy when we buy a song or a movie? Is it ours to have, hold, carry around, play on our devices, play across our network? Or did we just buy one instance of that content. How about backing it up? Can we do that? How about sharing it? What are the limits. And so on and so on and so on Et cetera et cetera et cetera.

Apparently, the issue is relatively simple to our two experts Andy Marken and Jon Peddie. They each seem to think the other is an idiot and that the issue of copy protection is fairly obvious. See if it all becomes any clearer after you read it.

This point/counter point discussion came about as the result of a legal case between the CAA and Kaleidescape. Seems Kaleidescape has exposed a vulnerability in the CAA's copy protection agreements with its product that allows users to store all their content on a server to network around the house. The courts ruled in Kaleidescape's favor and now the CAA is trying to change the roles. Here's what Andy and Jon have to say about it all.

**ANDY --** We believe the amendment which proposes to ban all DVD backups, and prevent DVD playback without the DVD disk being present inside the drive is little more than a PR trial balloon. It certainly wasn't proposed just to kill itty-bitty Kaleidescape as the firm's president has claimed.

The company won its case in court and the judge ruled that the company had met the CCA's obligations.

The ruling certainly embarrassed the CCA because the judge said their licensing agreement was poorly written...that doesn't hurt the principals but it is certainly a slap in the face for the lawyers.

The movie industry has got to bury restrictive DRM on discs before it kills the industry.

The music industry has abandon the hope of returning to the "good old days" and has decided to focus on living in the 21st Century.

The television industry has decided that if you can't lick em...join em.

CCS was busted almost from the moment it was introduced yet DVD became the most

wildly successful consumer product...ever!

AACS keeps coming up with new solutions and Doom9ers keep busting it.

DRM didn't exist on videotapes...few folks bothered making/sharing copies.

People who wanted to make backup copies of their DVDs...did!

People who want to steal and sell knock-offs of the movies do it well before the content gets to disc and don't bother telling anyone but prospective customers on the streets of Shanghai, Guangzhou, Bhopal, Bondicherry, Manhattan.

We are entering a brave new world that Hollywood will either have to come to quickly learn, come to grips with or end up struggling as the music industry is today.

Consumers want multiroom entertainment. Not just TV but also their movies. That means they must be able to centrally store their content -- photos, music, TV, video, movies -- and be able to stream it anywhere in the house.

Consumers expect to be able to buy their movies once and then have copies:

- \* In the car to shut the kids up
- \* To take to the cabin and leave
- \* To smuggle thru airport security so they can watch them on the cramped flights

If we don't listen to the consumer, he/she will take matters in their own hands and no ill-conceived amendment will stop them.

Consumers -- contrary to what Jack and his followers have told Congress -- aren't thieves!

Managed copies represents the only logical approach for Hollywood, the PC/CE hardware/software industry and most importantly the movie buying marketplace.

**Andy you libertarian curmudgeon**



**JON** -- Don't you know there's a war going on? Every day our beloved film and movies studios get cheated out of billions of dollars by sneaky counterfeiting scoundrels denying the multi-billionaire actors and singers, their agents, distributors, and published untold wealth that could, should be rightfully added to their untold wealth.

How are the Bono's of the world ever going to save the world if they have to worry about where their next billion is coming from, how can they concentrate on doing good deeds if they can't be assured of being knighted, golden globed, Oscared, and invited to white house?

And what's the issue with you and copying DVDs and CDs? Do you copy the hot dog you bought at movies? Do you copy the movie you saw at the movies? NOoo, you consumed them and enjoyed them and were happy to eat and see them.

Where is it written in the constitution that you have the right to copy someone else's work and use it as you see fit?

This nonsense all got started because of people at Xerox who thought it was funny to make carbon dust stick to paper. And then look what happened, new industries sprung up, paper consumption went up, land fill increased, and for what, so you could pass around copies of naughty cartoons, lawyers could bill untold hours copying every document in the world five times and billing their clients 100 times what Kinko charges, is that what you want to happen with DVDs?

Thank goodness we've got the government we have and an intelligent and fair minded attorney general and honest politicians who represent the people when it comes to issues like this. Senators and congressmen, and heads of departments like the FCC to protect us

from special interest groups. Thank goodness they, unlike some old curmudgeons, are secretly communists and think everything should be free. And free is what we're talking about here, being free to get as much as you can as often as you can from as many people as you can for as long as you can for your intellectual property.

That's called FREE enterprise you commie pinko and either you're for it or you're against it – decide now because we have a place on the tip of an island for people like you who don't support American values.

And while I found your diatribe mildly interesting considering I had nothing better to do on the bus to the airport, not everyone, including me, is as conversant with the acronyms and events as you, you'll have to explain a bit:

**Jon, you jet-lagged caffeine soaked fool.**



The music industry has abandoned the hope of returning to the "good old days" and has decided to focus on living in the 21st Century.

**JON** - Examples? When who where why?

**ANDY** -- According to eMarketer music sales hit \$60.7 billion last year and will rise to \$66.4 billion by 2010. That's an annual growth rate of about 2.2% per annum. That doesn't help the disc replicators or insert printers but as the volume of digital downloads rise the more money returns to the record labels and hopefully the artists.

EMI recently announced it would offer its complete catalog DRM (Digital Rights Management) free on Amazon.com.

Jobs has long promoted his DRM free iTunes even though it is on a proprietary platform and he was caught with his hand in the cookiejar!

Sony hasn't jumped on the bandwagon yet because they know their approach to content protection failed miserably last time -- and cost them a few bucks.

Right now Universal, Warner and Sony are anxiously wringing their hands hoping that EMI's "experiment" fails on its behind (so they can say...see we told you so!) while simultaneously hoping it will succeed because they need a solution that will keep their boat from sinking into a sea of red ink.

The television industry has decided that if you can't lick em...join em.

**JON** -- Whazzat mean, who how where when?

**ANDY** - Television stuck its toe in the water by offering episodes of Lost, Desperate Housewives and other shows 24 hours after the first airing. Apple was doing just fine with the new video sale/download catalog thank you very much.

The television industry has seen the numbers and knows that MySpace, Facebook and YouTube are getting lots of eyeballs. Recently the networks decided enough with sharing the revenue and they will shortly launch their own online TV service.

Where does the profit come from? Yes...selling ad space/ad time.

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**JON** -- point?

**ANDY** -- Copy protection doesn't matter, it will be busted and the product if good will be successful in spite of it! Isn't that an argument for 'them?'

The widespread distribution of deCSS (the stuff that unlocks the content) options online didn't have millions of people rushing out and signing up to NetFlix to take advantage of their handy rip-n-return service.

Cheap players and reasonably priced content pushed the DVD rocket into outer space. Still it took nearly five years for DVD solutions to surpass the installed base of VCRs. Honest people don't make copies because it requires too much time, effort. Even if you want to rip a copy of a movie without CCS DRM (assuming that disc was available) takes 15-30 minutes. Only our kids have the spare time to do that.

Us? We haven't seen a movie yet that we really wanted a copy of so we could watch ...again!

AACS keeps coming up with new solutions and Doom9ers keep busting it. The HD DVD playback protection was initially broken 48 hours after it was released. The updated version was cracked/posted in about the same amount of time.

Doom9ers did it for bragging rights...not as any public statement on behalf of Joe/Jane Consumer. They could care less about consumers. They could care less about content developers/owners. They care about showing/telling everyone how brilliant they are.

Do you see them now posting and bragging about new/different deCSS solutions?

Hell no!!! That is so yesterday...

DRM didn't exist on videotapes...few folks bothered making/sharing copies.

**JON** -- and didn't exist on Cassettes, or the first wave of CDs Most of us bought those old fashioned videotape movies, watched them a few times and filed them on the shelf until the coating peeled off the film base. We bought the music cassettes and played them until they were so scratchy you couldn't stand to listen anymore. IF we were smart enough we copied it to a second cassette to carry with us and play, hiding the original in the bottom drawer of our desk so brothers/sisters wouldn't steal it and play it for themselves. Same for CDs...

**ANDY** -- Jon ...You should be awarded an Oscar!

Your impassioned plea to enforce strong content protection would make Jack (Valenti) proud.

We'll give you a hint...

**Jack's dead!**

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**Editor's Note:** **Andy Marken** is president of Marken Communications. He is head of the 20-year-old marketing/communications consulting firm specializing in PC/CE hardware, software and content/storage products. **Dr. Jon Peddie** has been active in the graphics and multimedia fields for more than 30 years. Jon Peddie Research is a technically oriented multimedia and graphics research and consulting firm. Based in Tiburon, California, JPR – [www.jonpeddie.com](http://www.jonpeddie.com) -- provides consulting, research, and other specialized services to technology companies, including graphics development,

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