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VIA U.S. MAIL AND E-MAIL

David O. Carson
General Counsel
U. S. Copyright Office
Library of Congress
Copyright GC/INR
P. O. Box 70400
Southwest Station
Washington, DC 20024

Re: Response to August 14, 2006 Letter Regarding DMCA Rulemaking

Dear Mr. Carson:

The Joint Reply Commenters appreciate this opportunity to respond to your letter of August 14, 2006 regarding the proposed exemption: “Computer programs that operate wireless communications handsets.” As you state in your letter, the Joint Reply Commenters whom I represent do not include handset manufacturers, wireless carriers, or other telecommunications service providers. Thus, we have little information to provide in response to the specific questions posed in the letter. We understand that a separate submission may be made on behalf of CTIA – The Wireless Association, and encourage you to consider the new information contained in that submission which may be more responsive to your questions.

With regard to question 2, which seeks information about the copyright works with respect to which access is controlled, we reiterate that in some circumstances these works would include not only the “mobile firmware” identified by the proponents of this exemption, but would also encompass many other works. These include music, sound recordings, audio-visual works, video games, literary works or photographs to which a user of the handset gains access in the form of ring tones, downloadable or streaming music, music videos or video clips, television series episodes, news/sports/weather reports, and a host of other content services that are increasingly integrated with subscriptions to wireless telecommunications services. See RC11 at 25-6 (raising concerns regarding the threat to content on wireless handsets that the exemption would create); see also Tr. at 15 (statement of Ms. Granick) (admitting that “some carriers may currently place DRM technology at the firmware level”) and Tr. at 25 (statement of Mr.

Metalitz) (explaining that in cases where the handset lock and the DRM are “tightly integrated” this proposed exemption could have a substantial adverse impact on copyright owners).¹

We appreciate your consideration of this response and look forward to reviewing the submission of the proponents, and of the CTIA, in response to your letter. Please let me know if you have any further questions after review of those submissions.

Respectfully submitted,



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Counsel to Joint Reply Commenters:

AAP: Association of American Publishers
AAUMP: Association of American University Presses
ASMP: American Society of Media Photographers
The Authors Guild, Inc.
BSA: Business Software Alliance
DGA: Directors Guild of America
ESA: Entertainment Software Association
IFTA: Independent Film & Television Alliance
MPAA: Motion Picture Association of America
NMPA: National Music Publishers' Association
PPA: Professional Photographers of America
RIAA: Recording Industry Association of America
SAG: Screen Actors Guild
SIIA: Software and Information Industry Association

cc: Jennifer Granick

¹ For the purposes of this letter we refer to the Joint Reply Comments, which are available at http://www.copyright.gov/1201/2006/reply/11metalitz_AAP.pdf, as RC11. We refer to the official transcript of the Palo Alto hearing on March 23, 2006, which is available at <http://www.copyright.gov/1201/2006/hearings/transcript-mar23.pdf>, as Tr.