

UNITED STATES COPYRIGHT OFFICE



**Long Comment Regarding a Proposed
Exemption Under 17 U.S.C. § 1201**

[] Check here if multimedia evidence is being provided in connection with this comment

ITEM A. COMMENTER INFORMATION

DVD Copy Control Association

The DVD Copy Control Association (“DVD CCA”), a not-for-profit corporation with its principal office in Morgan Hill, California, licenses the Content Scramble System (“CSS”) for use to protect against unauthorized access to or use of prerecorded video content contained on DVD discs. Its licensees include the owners of such content and the related authoring and disc replicating companies; producers of encryption engines, hardware and software decrypters; and manufacturers of DVD players and DVD-ROM drives

Advanced Access Content System Licensing Administrator, LLC

The Advanced Access Content System Licensing Administrator, LLC (“AACCS LA”), is a cross-industry limited liability company with its principal offices in Beaverton, Oregon. The Founders of AACCS LA are Warner Bros., Disney, Microsoft, Intel, Toshiba, Panasonic, Sony, and IBM. AACCS LA licenses the Advanced Access Content System (“AACCS”) technology that it developed for the protection of high definition audiovisual content distributed on optical media. That technology is associated with Blu-ray Discs (“BDs”).

As ultra-high definition products are entering the marketplace, AACCS LA has developed a separate technology for the distribution of audiovisual content. This technology is identified as AACCS2 and not AACCS 2.0. This distinction in nomenclature is significant as the latter would suggest that it replaced AACCS distributed on Blu-ray. It has not. AACCS2 serves only audiovisual content distributed on Ultra HD Blu-ray discs, which will not play on non-Ultra HD Blu-ray players.

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Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office Web site and use by Copyright Office staff for purposes of the rulemaking proceeding conducted under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

ITEM B. PROPOSED CLASS ADDRESSED

Class 4 – HDCP over HDMI

ITEM C. OVERVIEW

Granting the request in this Class 4 will eviscerate the limitations placed on other exemptions for audio-visual content protected using CSS or AACS. This is the case because all DVD and Blu-ray players in the U.S. market permit content previously protected using CSS or AACS, respectively, to be output using HDCP over HDMI.

ITEM D. TECHNOLOGICAL PROTECTION MEASURE(S) AND METHOD(S) OF CIRCUMVENTION

The TPMs of concern to DVD CCA and AACS LA are the Content Scramble System (“CSS”) used to protect copyright motion picture content on DVDs and the Advanced Access Content System (“AACS”) used to protect copyrighted motion picture content on Blu-ray Discs.

ITEM E. ASSERTED ADVERSE EFFECTS ON NONINFRINGING USES

The Requested Exemption for High-bandwidth Digital Content Protection (“HDCP”) over High-Definition Multimedia Interface (“HDMI”) Would Eviscerate the Limitations on All Other Exemptions Affecting CSS and AACS Technologies

The requested exemption would allow circumvention of HDCP for any “fair use” purpose. Since HDMI protected by HDCP is used as a digital output for every stand-alone DVD and Blu-ray player in the U.S. market, granting the requested exemption would effectively authorize circumvention of the CSS and AACS protections applied to all content contained on all DVDs and Blu-ray Discs.

This would eviscerate the limitations the Librarian has placed on exemptions to circumvent CSS and AACS protections in prior proceedings, as well as on the renewals of circumvention exemptions in the earlier stage of this proceeding. The requested exemption would even eliminate the limitations requesting parties in this proceeding have included in the requests specific to CSS and AACS protections. Without reiterating the myriad reasons why the limitations were incorporated in the exemptions that are being renewed in this proceeding, and must be included in any other exemptions that may be granted in this proceeding, the point is that all those limitations will be effectively eliminated if this exemption request is granted.

It is important to understand why the effect of granting this exemption request would be to eviscerate all of the limitations on exemptions for CSS and AACS. Playback of motion picture content from DVD or Blu-ray Discs involves playback software retrieving the encrypted data constituting the motion picture from the disc, decrypting that data in a secure environment, and then handing that data off to another application that reencrypts the data for transmission from the DVD or Blu-ray Player output to a television set.

There other content protection technologies (aka digital rights management technologies or technological protection measures) DVD CCA and AACS LA have each authorized to be used for such output transmissions. However, in the United States, all High Definition and Ultra High Definition digital televisions have inputs for HDMI transmissions. HDMI transmissions of movies encrypted using CSS or AACS technology are reencrypted using HDCP to prevent unauthorized copying.

This “chain of protection” technique is how modern household consumer electronics networks operate to safeguard high-value video protected by CSS and AACS. Therefore, circumventing the HDMI/HDCP downstream link in this chain necessarily means that the original protection of the data on the disc has been rendered moot.

DVD CCA and AACS LA also support the filing of Digital Content Protection, LLC (“DCP”) in opposition to this request for all of the reasons stated in DCP’s filing as well as the reasons stated above.

DOCUMENTARY EVIDENCE

Commenters are encouraged to submit documentary evidence to support their arguments or illustrate pertinent points concerning the proposed exemption. Any such documentary evidence should be attached to this form and uploaded as one document through regulations.gov.