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BUSINESS/FINANCIAL DESK

Movie Studios Press Congress in Digital Copyright Dispute

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Published: July 29, 2002

The entertainment industry's campaign to rally Congressional support for new methods of copyright enforcement is yielding results. And it is raising alarm among some technology executives and consumer advocates who fear that proposed regulations would excessively limit how people consume information and entertainment in digital form.

The major movie studios, worried about how to protect their works in a digital age, have been pressing technology companies to voluntarily incorporate copy-protection mechanisms into hardware and software. But lately, Hollywood has had more luck in Congress than in private negotiations, where technology executives remain wary of the expense and skeptical that any technical solution can effectively eliminate the sort of digital piracy that is already common with music and is finding its way into movies and television.

"The debate about copy protection has clearly been joined in Washington," said Alan Davidson, associate director of the Center for Democracy and Technology, a consumer rights advocacy group. "But there are a lot of questions raised by the potential solutions that haven't been answered. Internet users should be very concerned about whether they will be able to do the things that today they reasonably expect to do in the future."

In a flurry of activity on digital copyright protection, several members of Congress urged the Federal Communications Commission last week to require that makers of computers, television sets and recording devices embed technology into their machines to prevent TV viewers from redistributing digital broadcasts over the Internet.

Consumer groups worry that the agency will act without examining how such a move would affect the kinds of machines people can buy and what they can do with them. Under the system proposed by the studios, a person would not be able to record a show in one place and retrieve it over the Internet to watch someplace else -- even in another room of his or her house.

In a separate action, Representatives Howard L. Berman, Democrat of California, and Howard Coble, Republican of North Carolina, introduced a bill that would immunize copyright holders from laws governing computer intrusion if they disabled or impaired a "publicly accessible peer-to-peer network" to prevent their works' being traded. In other words, movie studios could legally hack into computers that used file-trading software like Kazaa or flood the networks with large files to bring traffic to a halt, as long as this did not deliberately damage a user's computer.

Music and movie industry representatives applauded the measure. But providers of file-sharing software, who say their services are used for legitimate means like trading music with the copyright holder's permission, as well as piracy, assailed the bill for encouraging "vigilante justice" that places copyright holders above the law.

And a draft Senate bill, originally intended to update laws that outlaw the counterfeiting of holograms and other measures used by software producers to guarantee the authenticity of CD's, has quietly been expanded to cover movies, music and other consumer products. Should that bill become law, a consumer who removed a watermark from a DVD or electronic book to send it over the Internet could be liable for fines up to \$25,000. Internet providers are worried that they could be held responsible for material using their networks if someone had disabled the authentication mechanism.

The bill, which was offered by Senator Joseph R. Biden Jr., Democrat of Delaware, is being viewed by some technology companies as a back-door attempt by Hollywood to push through broad copy-protection legislation that was widely criticized when it was packaged in a bill by Senator Ernest F. Hollings of South Carolina earlier this year. The draft contains no provisions for removing a watermark for research or to use excerpts of protected material for satire or commentary, which has customarily been viewed as acceptable under copyright law.

"This started out as a pretty unexceptional anti-counterfeiting bill," said Stewart Baker, general counsel of an association of Internet service providers, "and with almost no notice or discussion has been turned into a digital-rights management protection bill."

The attention to digital copyright protection is fueled largely by the conviction among lawmakers that broadband Internet services and digital television would be more widely adopted if consumers knew that they could get movies digitally.

Jack Valenti, chairman of the Motion Picture Association of America, said the studios were eager to inaugurate a new delivery system -- and presumably new revenue -- for their products. But he says it makes no sense for them to provide their most valuable assets in digital form without assurance that consumers will not be able to make perfect copies and swap them over the Internet.

Still, some analysts say that the slower growth in the adoption of broadband, or high-speed, services this year has little to do with the lack of mainstream entertainment available on the Internet and more to do with overblown expectations.

Gigi Sohn, president of Public Knowledge, a public-interest group focused on intellectual property issues, suggested that the lack of copy protection was just one fairly minor reason why the entertainment industry had not provided its material over digital television. "Why aren't they doing it?" Ms. Sohn said. "It's expensive, and they haven't figured out a business model."

Ms. Sohn said she had told legislators that if they thought they must pass additional laws to protect Hollywood's copyrights, they should also insist on an agreement that the studios would actually deliver their material over the new channels. She noted that they had already promised to do so in 1998, after Congress gave major copyright holders additional protections in the Digital Millennium Copyright Act, but that so far there had been little to show for that agreement.

But as Congress prepares to leave town for the summer, Hollywood's best bet may be to return to private negotiations with technology representatives. To that end, Mr. Valenti is scheduled to meet today with Kenneth R. Kay, executive director of the Computer Systems Policy Project, an organization

of chief executives from 11 major technology firms, including I.B.M., Intel and Microsoft.

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