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June 23, 2000

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P.O. Box 70400
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Washington, D.C. 20024

Re: Section 1201(a)(1) of the Copyright Act
Rulemaking Proceeding (Docket #RM 99-7)

Dear Mr. Carson:

The undersigned, on behalf of Sony Pictures Entertainment Inc. appreciates this opportunity to supplement the submissions made by Steven J. Metalitz on behalf of the Motion Picture Association of America and others, and Dean Marks on behalf of Time-Warner, Inc. The submissions by Steve Metalitz and Dean Marks more than adequately address all the issues raised at the rulemaking proceeding. This submission is concerned with only one issue: the claim made at the hearing at Stanford California on May 19, 2000 that an exemption from the prohibition on circumvention of technological measures that control access to copyrighted works is necessary for film archival and preservation purposes. The facts do not support this claim. I offer the following information that may be of assistance to the Copyright Office to evaluate this claim.

For the past seven to ten years, Sony Pictures and certain public and private film archives, namely, the Library of Congress, UCLA Film and Television Archives, Museum of Modern Art, George Eastman House and the Academy of Motion Picture Arts and Sciences, have been engaged in a joint cooperative film preservation effort. Previously, the archives, particularly the Library of Congress did carry this burden. Now, however, it is a joint effort. Nothing in the Digital Millennium Copyright Act or any changes, or anticipated changes, in the methods of film production and distribution has changed this equation.

Sony Pictures spends \$10 to \$12 million each year for film archival purposes. To the best of my knowledge, the other members of the Motion Picture Association all have film preservation programs.

Sony Picture's film preservation program consists of the following:

1. Sony Pictures has a pro-active program to preserve, and, if necessary, restore all of the films in its library and to make these films accessible through theatrical, television and home video markets. As to those produced in color between 1950 and 1990, a period during which separation masters (Yellow – Cyan – Magenta [“YCMs”]) were not created for all films, new separation masters are manufactured as necessary. Separation masters are the primary protection against color fading. During the period in question interpositives (struck from the original picture negative) and internegatives (struck from the interpositive) was the customary method of film preservation. Thus, our 1950 to 1990 film library is under constant review to ensure that the quality of our motion pictures is maintained.
2. All pre 1950 motion pictures (including the original picture negatives) are stored with the Library of Congress in appropriate nitrate storage facilities at Wright- Patterson Air Force Base, Dayton Ohio. Sony Pictures funds the salaries of two employees of the Library who are responsible for maintaining this film material. The film materials are owned by the Library; the copyrights and/or distribution rights continue to be retained by Sony Pictures or its affiliates.
3. Commencing in 1991 for all new films produced by Sony Pictures (or its affiliates), Separation Masters, and the production of Internegatives therefrom, have become a standard feature of the overall asset protection and preservation program for Sony Pictures.
4. As part of Sony Picture's comprehensive film preservation policy, its archives are maintained as follows:
 - a) The original picture negative (i.e., the film that the director shot) is maintained in ANSI and SMPTE specified cold storage facilities located in the Midwest. As mentioned pre-1950 nitrate films are stored in Dayton Ohio.
 - b) The Separation Masters(YCMs) are maintained in Kodak operated cold storage vaults on the West Coast.
 - c) Interpositives and internegatives (the preprint elements from which the theatrical release prints are struck and those elements necessary to manufacture DVDs and High Definition prints) for all Sony Pictures are stored in New York.

As is obvious, film maintenance and storage is an expensive process, one that is undertaken primarily by those who have the economic interest in the exploitation of the

film, i.e., copyright owners. The elements needed for a film preservation program will not be gained by circumventing any technological protection measures instituted by Sony Pictures or any motion picture studio. Accordingly, the issue of film preservation is wholly irrelevant to this proceeding, and no exception to the applicability of Section 1201(a) should be recognized for this purpose.

Again, the argument that circumvention is necessary for film production is one of those arguments that sound nice, but fades and disappears in the cold light of reality.

Respectfully submitted,

Jared Jussim