

Technology Companies Threatened Over DRM

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Friday, May 11, 2007 --- A developer of a copyright protection program has threatened to sue Microsoft Corp., Apple Inc., Adobe Systems Inc. and Real Networks for allegedly violating the Digital Millenium Copyright Act by not using its technology, raising questions over whether a third-party vendor can bring lawsuits under the Act.

Media Rights Technologies issued cease-and-desist letters to the technology giants Friday, ordering them to stop producing allegedly illegal products such as Vista OS, Adobe Flash Player, Real Player, Apple iTunes and iPod.

MRT claims the companies have not done everything in their power to protect the rights of intellectual property owners. The companies have 10 days to comply, otherwise MRT said it will file a lawsuit, and potentially seek an injunction to cease sales of the products or statutory damages of at least \$200 to \$2,500 for each product distributed or sold.

MRT said the companies have actively avoided the use of its product, the X1 SeCure Recording Control, which has been found to be effective against recording streaming audio and video by the Recording Industry Association of America and International Federation of the Phonographic Industry.

"Together these four companies are responsible for 98% of the media players in the marketplace; CNN, NPR, Clear Channel, MySpace, Yahoo and YouTube all use these infringing devices to distribute copyrighted works," MRT CEO Hank Risan said. "We will hold the responsible parties accountable. The time of suing John Doe is over."

A Microsoft spokesperson said the company had not yet received the letter. Spokespeople for the other companies did not return requests for comment on Friday.

Risan said other companies may also be hit with cease-and-desist orders after the current matter is concluded.

MRT claims the Metro-Goldwyn-Mayer Studios v. Grokster Ltd. Supreme Court decision in 2005 clearly stated that technology companies must employ filtering technology to protect copyrighted works.

MRT said the "mere avoidance of an effective copyright protection solution" violates the Digital Millenium Copyright Act, which prohibits products used to circumvent measures that control access to copyrighted works.

“The intent of the Act is to protect copyrighted work. It was written in a way that third-party vendors can bring actions against manufacturers,” MRT Chief Executive Officer Hank Risan said. “The fact that it’s a third-party vendor filing under the Act makes little or no difference.”

MRT, a content management company, said that during licensing discussions, the four companies “loved” the technology but gave various reasons to avoid its implementation. For instance, one company said it may reverse engineer the technology to avoid a licensing fee, while others said they didn’t want to lose their competitive edges by using the technology first.

Risan said the technology was developed after the company received a \$150 million cease-and-desist letter from the RIAA in 2000 after the company’s hidden files were mistakenly made available for download. The company employs the technology on its BlueBeat.com digital radio service.

Risan said the intent of the technology is to protect academic institutions and Internet start-ups that are being sued for copyright infringement.

“The intent of the Act is to disseminate and create new inventions. This type of litigation is putting a real damper on that. It’s time to immunize companies with technology like this,” Risan said.