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Don

Computer & Communications Industry Association

August 1, 2007

By Facsimile (202) 326-2496 and U.S. Mail

Mr. Donald S. Clark
Secretary of the Commission
Office of the Secretary
Federal Trade Commission
Room 172
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: In the Matter of Misrepresentation of Consumer Fair Use and Related Rights by Certain
Copyright Holding Corporations

Dear Sir:

Enclosed for filing please find a complaint by the Computer & Communications Industry Association regarding certain copyright-related misrepresentations.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Matthew Schruers".

/s/ Matthew Schruers
Senior Counsel for Litigation & Legislative Affairs
Computer & Communications Industry Association

Cc: Chairman Deborah Platt Majoras
Commissioner Pamela Jones Harbour
Commissioner Jon Leibowitz
Commissioner William E. Kovacic
Commissioner J. Thomas Rosch
Bureau of Consumer Protection

Before the
Federal Trade Commission
Washington, D.C.

In the Matter of

Misrepresentation of Consumer Fair Use and
Related Rights

by

National Football League, NFL Properties,
Inc., NFL Enterprises LLC

and

Major League Baseball, Major League
Baseball Properties, Inc., Major League
Baseball Advanced Media, LP

and

NBC Universal, Inc., Universal Studios, Inc.,
and Morgan Creek Productions, Inc.

and

DreamWorks Animation SKG, Inc.,
DreamWorks LLC, a Viacom property

and

Harcourt Inc.

and

Penguin Group (USA), Inc.

Docket No. _____

**REQUEST FOR INVESTIGATION AND
COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

1. This complaint concerns the systematic misrepresentation of consumers' rights to use legally acquired content by certain copyright-holding corporations. These corporations have engaged, and continue to engage in, a nationwide pattern of unfair and deceptive trade practices by misrepresenting consumer rights under copyright law, and in some cases threatening criminal and civil penalties against consumers who choose to exercise statutorily or Constitutionally guaranteed rights. These false representations violate the letter and spirit of the Federal Trade Commission Act's prohibition against unfair or deceptive acts or practices in or affecting commerce.
2. As described further herein, pursuant to 16 C.F.R. § 2.2(a) the Computer & Communications Industry Association requests that the Federal Trade Commission ("FTC" or "Commission") investigate these practices and order all relief that it deems appropriate.

PARTIES

3. The Computer & Communications Industry Association (CCIA) is an international, nonprofit association of computer, information, and communications technology firms. CCIA is dedicated to preserving full, fair and open competition throughout our industry. To that end, CCIA promotes balanced intellectual property policy that creates incentives for authors and creators without discouraging innovation, threatening competition, or undermining public welfare. CCIA members employ more than 600,000 workers and generate annual revenues in excess of \$200 billion.
4. The unfair and deceptive practices alleged herein affect the information and communications technology industry, including CCIA members, by reducing demand for new and innovative products and services that involve digital media. Evidence suggests that consumers are confused about their rights to use legally acquired media and forego the use of legitimate products and services out of confusion or fear.¹ The misleading statements by the following entities contribute to that confusion.
5. The National Football League is an unincorporated association of the collective member football clubs. The National Football League's intellectual property rights are exploited through entities including NFL Properties, Inc., a California corporation, and NFL Enterprises, LLC (collectively, hereinafter "National Football League" or "NFL"). The NFL does business at 280 Park Avenue, New York, New York, USA.
6. Major League Baseball is an unincorporated association that controls and coordinates the activities of all organized professional major league baseball clubs in the United States. Major League Baseball's intellectual property rights are exploited through entities including Major League Baseball Properties, Inc., and Major League Baseball Advanced Media, L.P. (collectively, hereinafter "Major League Baseball" or "MLB").² The MLB does business at 245 Park Avenue, 31st Floor, and 75 Ninth Avenue, New York City, New York, USA.
7. Universal Studios, Inc. produces and distributes to the public film and video entertainment for theatrical, home entertainment, and television markets and is a wholly owned subsidiary of NBC Universal, Inc. (collectively, hereinafter "Universal"). Through a unit designated as Universal Studios Home Entertainment, Universal distributes a library of motion pictures and television entertainment programs owned by Universal and its subsidiaries, as well as content acquired from third parties. Universal does business at 100 Universal City Plaza, Universal City, CA, USA.
8. Morgan Creek Productions, Inc. ("Morgan Creek") is an independent film production company that manages and coordinates the creation of motion pictures. Morgan Creek

¹ See, e.g., Center for Social Media, "The Good, the Bad, and the Confusing: User Generated Video Creators on Copyright" (Apr. 2007) at www.centerforsocialmedia.org/resources/publications/the_good_bad_and_confusing/.

² The "business of baseball" is the beneficiary of a unique, broad *sui generis* judge-made exemption from federal and state antitrust laws. See, e.g., *Major League Baseball v. Crist*, 331 F.3d 1177 (11th Cir. 2003); *Flood v. Kuhn*, 407 U.S. 258 (1972).

currently has a multi-year agreement granting Universal exclusive distribution rights for all Morgan Creek films. Morgan Creek does business at 10351 Santa Monica Blvd. Suite No. 200, Los Angeles, CA, USA.

9. DreamWorks Animation SKG, Inc. is a developer and producer of computer-generated animated feature films for theatrical, home entertainment, and television markets. DreamWorks Animation represents itself as “producing high-quality family entertainment through the use of computer-generated (CG) animation.” DreamWorks Animation films are distributed by DreamWorks LLC, (collectively hereinafter, “DreamWorks”), which was acquired by Paramount, a property of Viacom, Inc., in January 2006. DreamWorks does business at 1000 Flower Street, Glendale, California, USA.
10. Harcourt Inc. is a publisher of print and electronic materials and represents itself as a global education company. Harcourt is a member of the Reed Elsevier Group plc, a publisher and information provider. Harcourt, Inc. does business at 6277 Sea Harbor Drive, Orlando, Florida, USA.
11. Penguin Group (USA), Inc. is a publisher of fiction and non-fiction print materials. It represents itself as a leading U.S. adult and children’s trade book publisher. Penguin Group (USA) Inc. is the U.S. affiliate of the Penguin Group; Penguin’s parent company is Pearson plc. Penguin Group (USA), Inc. does business at 345 Hudson Street, New York City, New York, USA.
12. Each of the entities described in paragraphs 5-11 (hereinafter “Rights-holder Corporations”) constitute “corporations” as that term is defined Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
13. At all times relevant to the allegations made herein, the acts and practices described constitute “commerce” as that term is defined in the Federal Trade Commission Act, 15 U.S.C. § 44.

FACTUAL ALLEGATIONS

14. The named Rights-holder Corporations are engaged in the production, sale, delivery, or distribution of various forms of media entertainment to the public. This media entertainment is sold to nationwide audiences in multi-million dollar markets.
15. The Rights-holder Corporations use a variety of “copyright warnings” or “anti-piracy warnings” on copyrighted works. These warnings are distinct and separate from copyright notices, although they may appear adjacently. Copyright notices, governed by 37 C.F.R. § 202.2, include the name of the rights-holder, the year, and the “©” symbol or the word “Copyright.”³ *Copyright notices are not the subject of this complaint.*

³ Such notices were required by federal copyright law prior to January 1, 1978. For works first published on and after the effective date of the Berne Convention Implementation Act (March 1, 1989), copyright notices are optional but still widely used for various reasons.

16. Copyright warnings are express statements and representations, either visual or auditory in nature, which describe and purport to limit permissible uses of the work in question. These warnings may make representations regarding civil and criminal penalties for copyright infringement. These warnings are not required by federal law.
17. Each of the Rights-holder Corporations identified herein has employed, and continues to employ, copyright warnings that purport to limit the public's right to engage in activities not explicitly authorized by the Rights-holder Corporation in question. Many of the warnings threaten consumers with criminal and civil penalties for engaging in "unauthorized" activities that are in fact permitted by statute or by limitations imposed by the U.S. Constitution itself.
18. These representations materially misrepresent U.S. copyright law, particularly the fundamental "built-in First Amendment accommodations" which serve to safeguard the public interest.⁴
19. Because of the federal nature of copyright law, state enforcement officials are unlikely to intervene on consumers' behalf in this matter.

Misrepresentations in Televised Sporting Events

20. The National Football League presents to viewers of NFL games unfair and deceptive auditory copyright notices throughout the course of games broadcasted over television networks which state the following:

"This telecast is copyrighted by the NFL for the private use of our audience. Any other use of this telecast or any pictures, descriptions, or accounts of the game without the NFL's consent is prohibited."

21. This voice-over warning accompanies images of professional athletes and the official NFL logo in the background, and includes small text in the lower portion of the screen stating, "Telecast 2007, National Football League, All Rights Reserved". Such segments are usually presented immediately after a commercial break and prior to the continuance of the broadcasted game. An example of such a segment was, at the time of filing this complaint, available on the popular online video sharing website, YouTube.⁵
22. Major League Baseball also presents to viewers of its sporting events unfair and deceptive auditory warnings throughout the course of its broadcasts. The following statement is repeatedly made by the league:

⁴ See *Eldred v. Ashcroft*, 537 U.S. 186, 219 (2003).

⁵ "Super Bowl Highlights," YouTube, available at <http://www.youtube.com/watch?v=a4uC2H10uIo>. This clip was posted by law professor Wendy Seltzer for educational purposes. Although this clip initially prompted two objections by purported rights-holders to the YouTube site, the NFL subsequently concluded that copyright students' analysis of its copyright warnings did not constitute piracy. See e.g., Peter Lattman, *Wall Street Journal Law Blog*, Mar. 21, 2007, <http://blogs.wsj.com/law/2007/03/21/law-professor-wendy-seltzer-takes-on-the-nfl/>; see generally <http://wendy.seltzer.org/blog/>.

“This copyrighted telecast is presented by authority of the Office of the Commissioner of Baseball. It may not be reproduced or retransmitted in any form, and the accounts and descriptions of this game may not be disseminated, without express written consent.”

23. The voice-over is often accompanied by animated graphics and the official Major League Baseball logo or other team’s logos. Examples of such segments also appear on YouTube at the time of filing.⁶
24. The warnings used by the NFL and MLB materially misrepresent federal law, to the detriment of consumers. Uses of copyrighted works unauthorized by the copyright holder are not only permitted by federal law, they are actively encouraged by it. Section 107 of the Copyright Act, for example, encourages the unauthorized use of copyrighted works for various purposes including criticism, commentary, and news reporting. Under some circumstances, fair use permits the reproduction of an entire work by consumers.⁷
25. The claim that news accounts or “descriptions” of the game cannot be “disseminated” is manifestly false. “No author may copyright facts or ideas.”⁸ Copyright serves to promote the dissemination of information by ensuring that “every idea, theory, and fact in a copyrighted work becomes instantly available for public exploitation at the moment of publication.”⁹ Yet the leagues purport to prohibit every unauthorized post-game water-cooler conversation, notwithstanding that a sports league is constitutionally barred from obtaining any copyright over the facts of the games that it produces.¹⁰

Misrepresentations in Motion Picture DVDs

26. Just as viewers of television sporting events are confronted with misrepresentations of their rights, viewers of motion picture DVDs are also confronted with misleading claims.
27. Morgan Creek and Universal motion pictures are widely distributed on Digital Video Discs (DVDs) which, when loaded into a DVD playing device, present the viewer with an unfair and deceptive copyright warning. The physical DVDs and packaging are also labeled with an unfair and deceptive copyright warning.
28. The warning below is an example of the language that is contained in the closing credits of motion pictures contained on Morgan Creek and Universal DVDs such as “The Good Shepherd” (2006), which grossed \$69,496,000 in the United States:

⁶ “MLB: Mets copyright warning”, YouTube, available at <http://www.youtube.com/watch?v=28tYwg9q6LU>; “MLB: Yankees’ copyright warning”, YouTube, available at <http://www.youtube.com/watch?v=RI6qw9vUdSw>

⁷ *Sony Corp. v. Univ. City Studios*, 464 U.S. 417, 455 (1984).

⁸ *NBA v. Motorola*, 105 F.3d 841, 847 (quoting *Feist, infra*).

⁹ *Eldred*, 537 U.S. 186, 219 (2003).

¹⁰ “[Just as] census data therefore do not trigger copyright because these data are not ‘original’ in the constitutional sense... [t]he same is true of all facts – scientific, historical, biographical, and news of the day. They may not be copyrighted and are part of the public domain available to every person.” *Feist v. Rural Tel. Servs.*, 499 U.S. 340, 347-48 (1991) (internal quotations omitted).

“All material is protected by copyright laws of the United States and all countries throughout the world. All rights reserved. *Any* unauthorized exhibition, distribution, or copying of this film or any part thereof (including soundtrack) is an infringement of the relevant copyright and *will* subject the infringer to severe civil and criminal penalties.”

(emphasis supplied) See Exhibit A.

29. The above warning is presented at the close of the film and consists of a black background with white text.

30. Morgan Creek and Universal also print misleading statements on the retail packaging and also on the physical DVD. The statement below is printed on both the retail packaging and the physical DVD containing the Morgan Creek and Universal film “The Good Shepherd” (2006):

“WARNING: For private use only. Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion pictures and video formats.”

31. These warnings materially misrepresent federal law, to the detriment of consumers. As stated above, numerous uses of copyrighted works that are not authorized by the copyright holder are actively encouraged by federal law.

32. For example, Section 110(1) of the Copyright Act allows performances or displays of a work in a classroom that are not authorized by the rights holder. Indeed, the U.S. Copyright Office itself has ruled (through the Librarian of Congress) that “the reproduction and public performance of short portions of motion pictures or other audiovisual works in the course of face-to-face teaching activities of a film or media studies course would generally constitute a noninfringing use.”¹¹ Contrary to the misrepresentation described above, federal law does not “provide severe civil and criminal penalties” for any of the uses not authorized by the copyright holder that are described in this paragraph.

33. DreamWorks’s motion pictures are widely distributed on Digital Video Discs (DVDs), which when loaded into a DVD playing device, present the viewer with an unfair and deceptive copyright warning.

34. The warning below is an example of the language used in DreamWorks DVDs such as “Shrek II” (2004), which grossed \$441,226,247 domestically (USA and Canada), was the highest grossing motion picture of 2004, and, at the time of filing this complaint, ranked third on the all-time domestic box-office receipts list:

¹¹ See *Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies*, 71 Fed. Reg. 68,472, 68,474 (Nov. 26, 2006).

“WARNING: Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion picture video tapes or video discs. Criminal copyright infringement is investigated by the FBI and may constitute a Felony with a maximum penalty of up to five years in prison and or a \$20,000.00 fine.”

See Exhibit B.

35. The warning consists of a blue background with white text. These scripts are presented visually with no accompanying audio. The viewer sees the warning immediately preceding the feature film, following other films’ previews. The viewer is unable to fast-forward past this warning, and is thus forced to watch DreamWorks’s misrepresentation.
36. Users are forced to watch a similarly deceptive warning that appears in DreamWorks’s recently released “Flushed Away” (2006):

“The contents of this video device are protected under copyright and other intellectual property laws. This video device is licensed only for non-commercial private viewing in homes. Any distribution outside of the licensed territory, copying, transmission, public performance, alteration, or reverse engineering is strictly prohibited and may result in criminal and/or civil liability. All rights reserved.”

See Exhibit C.

37. These warnings materially misrepresent federal law, to the detriment of consumers. As stated above in paragraph 32, federal law actively encouraged numerous unauthorized uses of copyrighted works, which will not “result in criminal and/or civil liability.” The warning stated above purports to limit viewing outside the home – for example, in an academic environment – notwithstanding the fact that such a limitation cannot be imposed.¹²
38. These warnings, through their explicit statement of prohibition, invocation of harsh civil and criminal penalties, and deliberate omission of consumers’ rights, serve to mislead the public.

Misrepresentations in Print Media

39. The copyright warnings employed by certain print media publishers are similarly characterized by misrepresentations of the law. For example, Harcourt, Inc.’s *The Republic of Pirates* by Colin Woodward contains the following copyright warning:

¹² See *supra* note 11.

“No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher.”

See Exhibit D.

40. This warning misrepresents the fact that copying which the publisher has not authorized may nevertheless be permitted by law.
41. Penguin Group (USA) Inc. engages in similar unfair and deceptive practices. The copyright warning that appears in a recent Penguin publication that inherently relies on public domain documents and fair use rights, *The Lost Men: The Harrowing Saga of Shackleton's Ross Sea Party* by Kelly Tyler-Lewis, states, *inter alia*:

“Without limiting the rights under copyright reserved above, no part of this publication may be reproduced, stored, or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without the prior written permission of both the copyright owner and the above publisher of this book.

The scanning, uploading, and distribution of this book via the Internet or via any other means without the permission of the publisher is illegal and punishable by law. Please purchase only authorized electronic editions and do not participate in or encourage electronic piracy of copyrightable materials. Your support of the author's rights is appreciated.”

See Exhibit E.

42. In addition to denying consumers' fair use rights, this warning implies the exercise of some other, mysterious and unidentified right in addition to the copyrights reserved in this statement. This implication of control over the content which is cumulative to the copyright holders' rights has no basis in law. These warnings materially misrepresent federal law, to the detriment of consumers.
43. By contrast, John Wiley & Son's 2007 publication of *Hotel California: The True-Life Adventures of Crosby, Stills, Nash, Young, Mitchell, Taylor, Browne, Ronstadt, Geffen, the Eagles, and Their Many Friends* by Barney Hoskyns contains the following notice:

“No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, scanning, or otherwise, ***except as permitted under Section 107 or 108 of the United States Copyright Act***, without either the prior written permission of the Publisher, or authorization through payment of the appropriate per-copy fee to the Copyright Clearance Center...”

(emphasis supplied) See Exhibit F.

44. While this warning fails to recognize that certain parts of the publication (for example, facts such as David Crosby’s birth date) may lack sufficient originality to qualify for copyright, it attempts to recognize that certain uses unauthorized by the copyright holder are nevertheless permitted under U.S. law. See Sections 107 (“Limitations on exclusive rights: Fair use”) and 108 (“Limitations on exclusive rights: reproduction by libraries and archives”).¹³

45. The presence of such a statement in this text not only indicates the feasibility of acknowledging consumers’ fair use rights; it highlights the absence of such recognition by the Rights-holder Corporations named here.

46. Another stark contrast to the misrepresentations by the Rights-holder Corporations is *Nimmer on Copyright*. *Nimmer* is one of the leading copyright treatises, edited by David Nimmer and published by LexisNexis Matthew Bender. The *Nimmer* treatise, often viewed as a highly authoritative view on copyright law, states after its copyright notice that

“Permission to copy material exceeding fair use, 17 U.S.C. § 107, may be licensed for a fee...”

47. The publisher also expressly disavows any rights in government works, reminding the reader that

“No copyright is claimed in the text of statutes, regulations, and excerpts from court opinions quoted within this work.”

48. In addition, the *Nimmer* text contains a “Statement on Fair Use” in which it outlines the publisher’s *view* on fair use. Rather than misrepresenting this view as an authoritative construction of the law, however, the Statement recognizes the competing interests between the public and the rights-holder:

“LexisNexis Matthew Bender recognizes the balance that must be achieved between the operation of the fair use doctrine, whose basis is to avoid the rigid application of the copyright statute, and the protection of the creative rights and economic interests of authors... It is LexisNexis Matthew Bender’s *position* that if the “progress of science and the useful arts”^[14] is promoted by granting copyright protection to authors, such progress may well be impeded if copyright protection is diminished in the name of fair use.”

(emphasis supplied).

49. Upon conceding that this view is the publisher’s *position*, rather than an authoritative interpretation of the law, the Statement identifies proposed guidelines for fair use which *allow* certain reproduction. Moreover, the publisher states that

¹³ Additional limitations on a rights-holder’s exclusive rights not noted in this warning are found throughout the Copyright Act, U.S. Code Title 17.

¹⁴ U.S. Const. art. 1, § 8, cl. 8.

“LexisNexis Matthew Bender fully supports educational awareness programs designed to increase the public’s recognition of its fair use rights.”

The difference between these statements and the Rights-holder Corporations’ warnings noted above could not be clearer. Rather than misrepresenting federal law to read as it might prefer, the publisher of this leading copyright treatise recognizes the need to balance authors’ rights with the public’s fair use rights.

50. By contrast, the Rights-holder Corporations named here do not state their *position* on the desirability of consumer fair use rights. They instead misrepresent to the consumer that such rights do not exist.
51. It is immaterial that certain such phrases described herein, when considered technically, may be construed so as not to constitute misrepresentation.¹⁵ Lawyerly legerdemain cannot excuse deception.¹⁶

COUNT 1 – DECEPTIVE TRADE PRACTICES

52. As described in paragraphs 14-51, the Rights-holder Corporations have represented to consumers and the public that certain acts permitted and encouraged by the U.S. Copyright Act of 1976 are prohibited, and that the exercise of these statutorily guaranteed rights will lead to criminal and civil penalties. The statements conveyed in the misrepresentations pertain to federal law and therefore are likely to affect consumers’ conduct regarding a given media entertainment product.
53. The statements and practices described in paragraphs 14-51 are likely to mislead consumers acting reasonably under the circumstances, to the detriment of the consumer.
54. The statements and practices in paragraphs 14-51 are material because they concern consumers’ ability to utilize entertainment media which they have purchased or which is transmitted via public airwaves, misrepresent the nature of federal law, and threaten criminal and civil penalties for activities which are in fact authorized by law but not sanctioned by the Rights-holder Corporations.
55. These misrepresentations are further material because they have caused and continue to cause consumers to forgo legal activities and to forebear using services and purchasing and using devices which enable activities that are in fact authorized by law but not sanctioned by the Rights-holder Corporations.
56. The statements and practices as alleged in paragraphs 14-51 constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

¹⁵ *Country Tweeds, Inc. v. Federal Trade Comm’n*, 326 F.2d 144, 147-48 (2d Cir. 1964) (“Statements susceptible of both a misleading and a truthful interpretation will be construed against the advertiser.”).

¹⁶ “To tell less than the whole truth is a well known method of deception; and he who deceives by resorting to such method cannot excuse the deception by relying upon the truthfulness per se of the partial truth by which it has been accomplished.” *P. Lorillard Co. v. Federal Trade Comm’n*, 186 F.2d 52, 58 (4th Cir. 1950).

COUNT 2 – UNFAIR TRADE PRACTICES

57. The statements and practices in paragraphs 14-51 fall well beyond the bounds of established concepts of fairness. The misrepresentation of federal law, concurrent with the implied or explicit threat of criminal or civil action, in a manner having the capacity to intimidate consumers from exercising federally guaranteed rights, constitutes an oppressive, unethical and unscrupulous practice.
58. Consumers who are intimidated into foregoing, limiting, or licensing activities already permitted by statute and the U.S. Constitution suffer substantial injury.
59. In each instance, the misleading warning in question coincides with or is permanently affixed to the entertainment media in question and is not reasonably avoidable by the consuming public.
60. Because actual U.S. law represents the sound judgment of the United States Congress, no countervailing benefit to consumers or competition could justify the statements and practices described in paragraphs 14-51. By attempting to withdraw from the public certain rights granted by Congress and the Constitution, the acts and practices described in paragraphs 14-51 offend public policy.
61. The statements and practices as alleged in paragraphs 14-51 constitute unfair acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

REQUEST FOR RELIEF

62. Investigate the circumstances surrounding the Rights-holder Corporations systemic misrepresentations of consumer rights.
63. Order the Rights-holder Corporations to cease misrepresenting the nature of the U.S. Copyright Act of 1976, Title 17, United States Code, including but not limited to consumers' fair use rights.
64. Order the Rights-holder Corporations to refrain from future misrepresentation of the nature of the U.S. Copyright Act of 1976, Title 17, United States Code, including but not limited to consumers' fair use rights.
65. Order the Rights-holder Corporations to, in a clear and conspicuous manner, engage in corrective advertising regarding their prior misrepresentation of consumer rights, and further advise consumers that these statements misstated the nature of consumers rights under U.S. law.
66. Order the Rights-holder Corporations to develop a plan of action for preventing future misrepresentations of consumer rights in copyright warnings and public advisories.

67. Order the Rights-holder Corporations to obtain, individually or jointly, an assessment from an objective, qualified, non-governmental third-party professional expert that:
- o advises the Rights-holder Corporations regarding what assertions are appropriate and inappropriate in copyright warnings under different circumstances and in different media that are accurate, balanced, and consistent with all provisions of the U.S. Copyright Act and the Federal Trade Commission Act;
 - o provides a model copyright warning for relevant forms of media that is accurate, balanced, and consistent with all provisions of the U.S. Copyright Act and the Federal Trade Commission Act; and
 - o is made available to consumers and the public upon being rendered to the Rights-holder Corporations.
68. Order the Rights-holder Corporations to provide for educational awareness programs from an objective, qualified, non-governmental third-party institution, designed to increase the public's recognition of its fair use rights and thereby remediate misconceptions created by the Rights-holder Corporations' prior misrepresentations.
69. Order the Rights-holder Corporations to forebear from attempting to force consumers into waiving their rights through contractual instruments, including contracts of adhesion.
70. Permanently enjoin the Rights-holder Corporations from violating the Federal Trade Commission Act as alleged herein.
71. Further order the Rights-holder Corporations to provide any and all other relief that the Commission deems appropriate.

Respectfully submitted,



Edward J. Black
Matthew Schruers
Computer & Communications Industry Association
900 Seventeenth Street NW, Eleventh Floor
Washington, D.C. 20006
(202) 783-0070

DATED: August 1, 2007

EXHIBITS

Exhibit A – The Good Shepherd

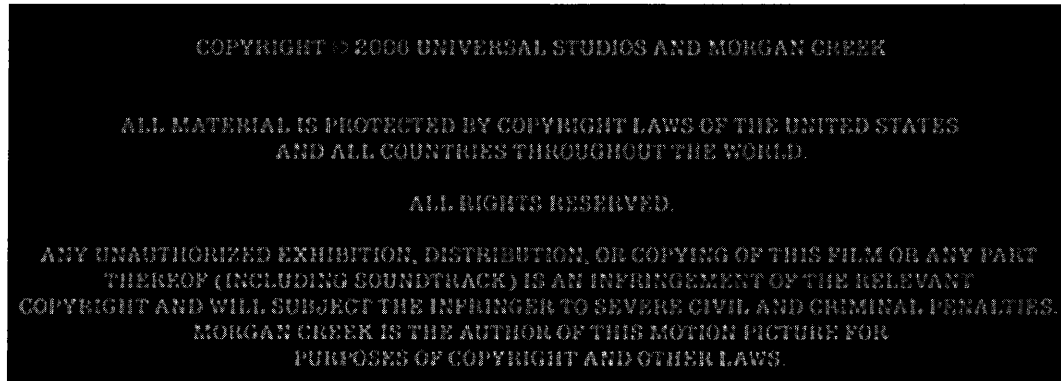


Exhibit B – Shrek 2

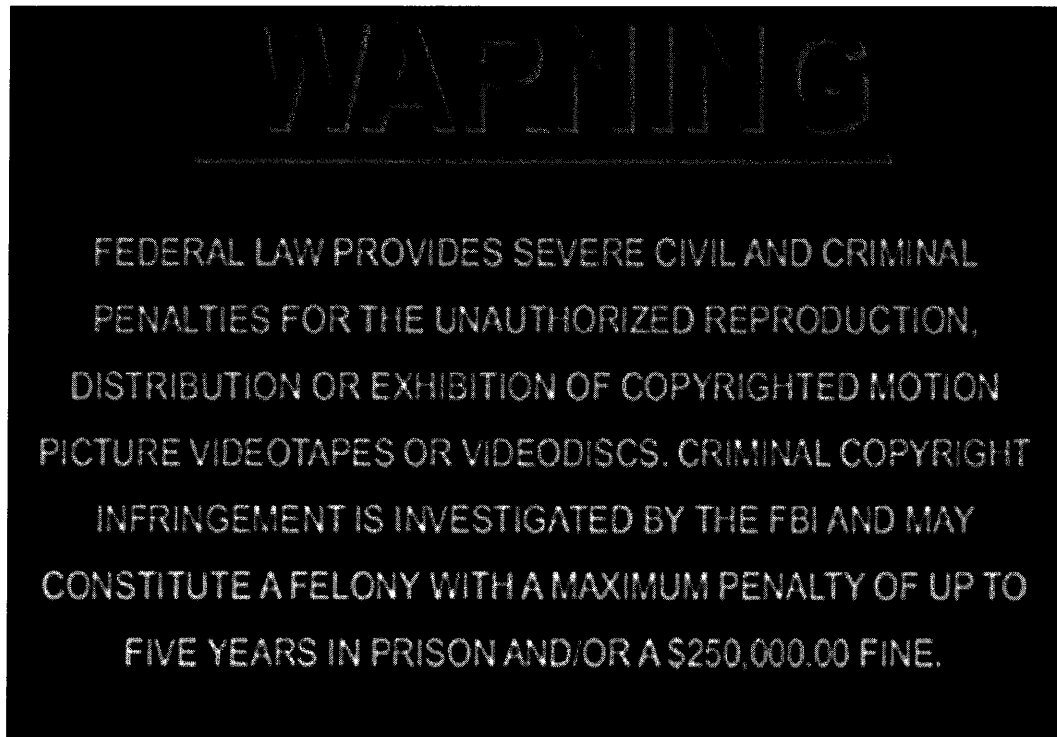


Exhibit C – Flushed Away

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IS LICENSED ONLY FOR NON-COMMERCIAL PRIVATE
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OR REVERSE ENGINEERING IS STRICTLY PROHIBITED,
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Exhibit D – The Republic of Pirates

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www.HarcourtBooks.com

Exhibit E – The Lost Men

Penguin Books Ltd, Registered Offices: 80 Strand, London WC2R 0RL, England

First published in 2006 by Viking Penguin, a member of Penguin Group (USA) Inc.

10 9 8 7 6 5 4 3 2 1

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The maps on pages 93 (“The First Sledging Season, January–March, 1915”) and 174 (“The Second Sledging Season, September 1915–March 1916”) were prepared by Kelly Brunt and Elles Gianocostas using data from charts by Æneas Mackintosh (Scott Polar Research Institute, University of Cambridge); the *Aurora* 1916–17 log of John King Davis (State Library of Victoria); and the Antarctic Digital Database version 4.1 (copyright Scientific Committee on Antarctic Research, 1993–2003).

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Exhibit F – Hotel California

Copyright © 2006 by Barney Hoskyns. All rights reserved

Published by John Wiley & Sons, Inc., Hoboken, New Jersey
Published simultaneously in Canada

First published in different form in Great Britain in 2005 by Fourth Estate, an imprint of HarperCollins, as *Hotel California: Singer-songwriters and Cocaine Cowboys in the LA Canyons 1967–1976*.

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