



August 23, 2006

The Honorable Arlen Specter
The Honorable Patrick J. Leahy
United States Senate
Senate Office Buildings
Washington, DC 20510

Dear Senators Specter and Leahy:

We are writing, as promised, to update you on important developments in the distributed computing industry with respect to commercial development of peer-to-peer (P2P) file-sharing technologies and businesses that rely on them, to thank you for your support of this positive progress in the aftermath of the US Supreme Court *MGM v. Grokster* decision, and to request your leadership in making fully informed decisions with respect to the so-called "Net Neutrality" issue.

A milestone was achieved last month with the global settlement by DCIA Members Sharman Networks, Brilliant Digital Entertainment, and Altnet in regard to the most widely-known P2P software application, Kazaa. This included a settlement of all copyright and copyright-related actions as well as patent actions brought by our Members against other parties.

The Recording Industry Association of America (RIAA), Motion Picture Association of America (MPAA), and related international entertainment industry trade organizations are now working closely with Altnet and Sharman to give effect to an entertainment-industry sanctioned business model that augurs well for the entire digital distribution marketplace, beyond merely setting an example of appropriate leadership for the file-sharing channel.

Along these lines, other DCIA Members have voluntarily taken constructive steps. Grokster also settled its litigation; and MetaMachine, which distributes the currently most popular P2P software application, eDonkey, is in negotiations to settle with the entertainment industry in advance of such potential litigation.

Meanwhile DCIA Membership has grown to eighty Members, including content rights holders and service-and-support companies, such as P2P payment solutions providers and digital rights management (DRM) developers, as well as P2P software distributors.

We believe it is also timely to make you aware of certain technological advances that have taken place in parallel with the legal settlements. These are important because they affect the nature of file-transfer via P2P on the Internet and relate directly to the current debate over network neutrality:

1) Files transferred via decentralized P2P protocols are identified by a pre-assigned unique known file identifier. This unique identity of each file can in turn serve as a homing device for routers at Internet Service Providers (ISPs) to target, with pinpoint accuracy, those files which need to be acted upon to enforce copyright infringement, eradicate criminally obscene content, or protect national security interests.

2) Targeted files, for example, could include known occurrences of child pornography, identity theft, and terrorist communications, as well as unauthorized copies of music, movies, games, and software. As noted above, the technologies required to accomplish this major improvement are

available, inexpensive, and will have the added benefit of greatly reducing demand for bandwidth due to the resultant reduction in voluminous large-file piracy, such as for unlicensed redistribution of music collections, feature-length films, television program series, videogames, and computer programs.

3) Files that are not targeted remain free to pass through: they are not disturbed, opened, reviewed, or compromised in any way. Privacy of underlying data (and users associated with that data) is upheld with the same high regard enjoyed by the public today. The adoption of these anti-piracy solutions will enable P2P to realize its full potential as the most cost-effective and efficient distribution channel for copyrighted works.

The DCIA and our Members involved in bringing these recently deployed technologies to the marketplace will be glad to meet with you or your staff to provide more details and perform live demonstrations, including the methods being deployed, in cooperation with the major music and movie industry companies, to accumulate all known infringing file identifiers on the Internet.

We strongly believe that the approach outlined above will lead to a better Internet for all, and request your support of our outreach efforts to Internet Service Providers (ISPs), whose participation – including specific roles, responsibilities, and remuneration – needs to be clarified at this juncture for the most substantial benefits to be achieved. We are increasingly concerned that ISP plans for asymmetric networks will undermine the potential benefits of decentralized P2P technologies and their enormous efficiency advancements. We will contact your office to follow-up. Thank you very much for your continued interest in our developing industry.

Respectfully,

Martin C. Lafferty
CEO, DCIA

CC: Senate Committee on the Judiciary
The Honorable Orrin G. Hatch
The Honorable Charles E. Grassley
The Honorable Edward M. Kennedy
The Honorable Jon Kyl
The Honorable Joseph R. Biden, Jr.
The Honorable Mike DeWine
The Honorable Herbert Kohl
The Honorable Jeff Sessions
The Honorable Dianne Feinstein
The Honorable Lindsey Graham
The Honorable Russell D. Feingold
The Honorable John Cornyn
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The Honorable Tom Coburn

Distributed Computing Industry Association
2838 Cox Neck Road
Suite 200
Chester, MD 21619
410-476-7965
www.dcia.info