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New Exemptions to Prohibition Against Circumvention of Technology

The Digital Millennium Copyright Act (DMCA) contains numerous provisions that guard against individuals attempting to circumvent copyright controls or protection in various technologies. However, pursuant to terms of the DMCA, the Librarian of Congress has issued a rule setting out six classes of works that will be subject to three-year exemptions from the statute's prohibition against circumvention of technology. The proponents of these exemptions were able to demonstrate that the prohibition on circumventing access control had a substantial adverse effect on the ability of people to make non-infringing uses of the six particular classes of copyrighted works. The six classes of copyrighted works, subject to additional restrictions, are: 1) audiovisual works included in the educational library of a college or university's film or media studies department; 2) computer programs and video games distributed in formats that have become obsolete and that require the original media or hardware as a condition of access; 3) computer programs protected by dongles that prevent access due to malfunction or damage and which are obsolete; 4) literary works distributed in ebook format when all existing ebook editions of the work contain various access controls; 5) computer programs in the form of firmware that enable wireless telephone handsets to connect to a wireless telephone communication network; 6) sound recordings, and audiovisual works associated with those sound recordings, distributed in compact disc format and protected by technological protection measures that control access to lawfully purchased works. Those who may benefit from three of the newer classes of exempted works include owners of wireless telephone handsets who want to continue to use the handsets when they switch to new wireless carriers, film professors making compilations of film clips for classroom instruction, and those who test, investigate and correct security vulnerabilities on compact discs that are distributed with access control technology that compromises the security of personal computers. The exemptions went into effect on November 27, 2006, and will remain in effect until October 27, 2009.

Perfumer's Tagline Causes a Stink

Perfumer Sephora most recent promotion using the tagline "The Greatest Gift Show on Earth," landed in court with the greatest of ease. The marketing campaign features a swinging trapeze artist animation and a festive organ grinder's monkey. Once the Ringling Bros. and Barnum & Bailey circus, which has been using its famous "The Greatest Show on Earth" mark since the 1890's, learned of the promotion, it filed a suit against Sephora and its parent company, the Paris-based LVMH Moët Hennessy Louis Vuitton SA, in the U.S. District Court in Manhattan.

Priority Document Electronic Exchange Program Between USPTO and EPO

The United States Patent and Trademark Office (USPTO) and the European Patent Office (EPO) are set to launch a new free service that will simplify filing procedures in each others offices by allowing patent application priority documents to be exchanged between the two offices electronically. Filing of priority documents is required when applicants are claiming an earlier application filing date in one patent office based on a prior application filing in another. Claiming priority is a valuable tool for businesses investigating whether to pursue patent rights globally because it provides additional time for making a decision as to whether and how extensively to pursue worldwide protection. Under the Paris Convention for the Protection of Industrial Property, a patent applicant may file an application in one Paris Convention member country (the priority document), and within 12 months, file corresponding applications in other member countries, while obtaining the benefit of the first application's filing date. Paris Convention filings are a critical component in many applicants' global business and patenting strategies and represent a substantial portion of worldwide patent activity. It is expected that as a result of this agreement, substantial benefits of reduced expenses and paperwork will ensue when filing a Paris Convention application in the EPO. Other treaties also provide for foreign application rights. For example, the Patent Cooperation Treaty (PCT) can effectively defer the decision of whether and in which countries to file a patent application up to 2 _ years from the original priority document filing date.