

EXHIBIT 8

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VIA FEDEX

September 16, 2009

Chancellor Gene D. Block
UCLA Chancellor's Office
Box 951405
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Los Angeles, CA 90095-1405

Dear Chancellor Block:

We are counsel for AIME, an association whose membership includes video publishers of more than 50,000 program titles. On behalf of AIME, we have reviewed UCLA's July 24, 2009 response to the May 19, 2009 and June 18 letters of Betty G. Ehlinger, Executive Director of AIME. (See Attached Letters.) Ms. Ehlinger's letter described serious, on-going copyright infringements occurring at UCLA as a result of the University's use of "Video Furnace" software, which allows UCLA to copy and distribute DVDs to facilitate streaming to students and faculty.

The response from L. Amy Blum, Senior Campus Counsel sets forth two statutory justifications for UCLA's digitization of AIME member videos: Section 110(1) and Section 107 of the Copyright Act. Section 110(1) is limitation on rights of copyright owners for the "performance or display" of certain works in classrooms. Section 107 is the fair use defense.

A. Section 110(1) does not provide UCLA with any justification for copying DVDs

Section 110(1) permits the public performance or public display of copyrighted works in the course of face-to-face teaching activities of instructors and students of non-profit educational institutions in classrooms or similar places of teaching. Although the statute does not authorize copying of works in this limitation – the essence of what UCLA is doing – Ms. Blum attempts to sidestep this problem by the following justification:

It is undisputed that display of lawfully obtained videos, including the entire content of the video, in a classroom is permitted. The exemption also

contemplates that such display may occur in "similar places devoted to instruction". Although there is currently no case law on this issue, because the classroom in the modern day has extended to courseware through which the students and faculty engage in a continuation of the classroom discourse, this courseware is a classroom extension and arguably a "similar places devoted to instruction". Under such an interpretation, making videos available to students in this fashion would qualify for the Section 110(1) exemption. Blum Letter at 2.

Despite the fact that Ms. Blum explicitly states, we ask confirmation that it is not the "official position" of UCLA that the word "courseware," which combines "course" and "software" designed to reflect educational materials that require software, constitutes a "classroom" for copyright purposes. Her artifice of "courseware" as a "place devoted to instruction" utterly ignores other key elements of the statute, most particularly that the performance or display during the course of "face-to-face" teaching and the physical locale of a classroom.

To the drafters of the Copyright Act, "face-to-face" is self-evident:

There appears to be no need for a statutory definition of "face-to-face" teaching activities to clarify the scope of the provision. "Face-to-face teaching activities under clause (1) embrace instructional performances and displays that are not transmitted." The concept does not require that the teacher and students be able to see each other, although it does require their simultaneous presence in the same general place. Use of the phrase "in the course of face-to-face teaching activities" is intended to exclude broadcasting or other transmissions from an outside location into classrooms, whether radio or television and whether open or closed circuit. However, as long as the instructor and pupils are in the same building or general area, the exemption would extend to the use of devices for amplifying or reproducing sound and for projecting visual images. H. R. Rep. No. 94-1476 (94th Cong. 2d Sess.) at 81.

As to the nature of a "classroom or similar place of instruction," the drafters also understood that the phrase was to be given a nature meaning, not the virtual environment Ms. Blum hypothesizes:

Classroom or similar place.—The teaching activities exempted by the clause must take place "in a classroom or similar place devoted to instruction." For example, performances in an auditorium or stadium during a school assembly, graduation ceremony, class play, or sporting event, where the audience is not confined to the members of a particular class, would fall outside the scope of clause (1), although in some cases they might be exempted by clause (4) of section 110. *The "similar place" referred to in clause (1) is a place which is*

"devoted to instruction" in the same way a classroom is; common examples would include a studio, a workshop, a gymnasium, a training field, a library, the stage of an auditorium, or the auditorium itself, if it is actually used as a classroom for systematic instructional activities. Id. at 82 (emphasis supplied).

As a limitation on exploitation of copyrighted works without the consent of authors, Section 110(1) authorizes only public performance and public display, not copying, as UCLA has done. Again, the drafters make this point very clearly:

Works affected.—Since there is no limitation on the types of works covered by the exemption, teachers or students would be free to perform or display anything in class as long as the other conditions of the clause are met. They could read aloud from copyrighted text material, act out a drama, play or sing a musical work, perform a motion picture or filmstrip, or display text or pictorial material to the class by means of a projector. *However, nothing on this provision is intended to sanction the unauthorized reproduction of copies or phonorecords for the purpose of classroom performance or display. Id. at 81-82 (emphasis supplied).*

It should be further understood that with respect to motion pictures, the kinds of works created by AIME members, the Section 110(1) had a further restriction – that the work used in class must have been “lawfully made.” The drafters cautioned: “The exemption is lost where the copy being used for a classroom performance was ‘not lawfully made under this title’ and the person responsible for the performance knew or had reason to suspect as much.” *Id.* at 82.

From the plain language of the statute, bolstered by its legislative history, it is clear that the copying performed by UCLA’s Media Library and the performance with in the virtual “courseware classroom” are outside the scope of Section 110(1). As UCLA admits that there is no TEACH Act angle to its defense,¹ there should be no pretense that Section 110 has any application to UCLA’s use of the Video Furnace software to copy and stream AIME member videos. In sum, UCLA’s argument regarding Section 110(1) is misguided and misinformed, and leaves the institution vulnerable to claims of infringement.

B. Ms. Blum’s Fair Use Analysis Is Equally Flawed: It is Biased, Result-Oriented and Lacks the Objective Balancing of Criteria Essential to Fair Use Determination

UCLA’s second defense for the Media Library’s digitizing and streaming AIME member videos is predicated upon a “fair use” of the DVDs. As you are no doubt aware, fair use is not a bright line test, but rather requires a balancing of statutorily criteria based on the facts as

¹ Ms. Blum states, “[T]he TEACH Act is not an exemption relied upon because the use is not for distance learning.” Blum Letter at 1.

presented in each instance. While there may be different opinions about the weighing of the criteria, reasonable judgment will prevail. In this instance, we find Ms. Blum's analysis flawed. As she should understand, a fair use analysis must be "work specific," meaning that each author's work is entitled to an assessment as the facts with respect to each work may vary. Without considering a single specific title, her letter makes generalized statements that are evidently biased and result-oriented. Her analysis lacks any effort at rigorous, objective balancing of the criteria essential to fair use determinations.

To amplify on this criticism, let us take a closer look at the facts, UCLA's analysis, and the statutory balance:

1. The purpose and character of the use.

As an educational institution, UCLA understandably claims the use is for non-profit, teaching purposes. However, UCLA has acquired rights to Video Furnace from a for profit company, which in the copyright liability scheme may be a contributory infringer. It is presumptuous for UCLA to suggest that its obtaining a license from Hai Vision, a commercial entity, absolves it from liability without any implication for the first factor in the fair use analysis.²

In the "education" section of its website, Hai Vision not only stresses that the "video on-demand" system allows viewing videos in dorms and across campus, but also *specifically promotes UCLA's use of Video Furnace*, stating the system was originally developed with UCLA's assistance:

HaiVision's Video Furnace is the premier package for end-to-end delivery of content for higher education and K-12 institutions. Video Furnace is ideal for delivering cable content in dormitories and across the campus, for providing

² Thus, how Hai Vision promotes Video Furnace is instructive. From its website, Hai Vision describes its Video Furnace as follows:

End-to-End Solution for Video-over-IP featuring the remarkable "Zero Footprint" InStream Player.

HaiVision's Video Furnace System 5 provides a secure, easy to use, simply to deploy, end-to-end system for encoding and distributing live video to computers and set top boxes, for creating scheduled playback channels for enterprise TV and signage, and for recording content and delivering video on demand.

More uses, more users!! Video Furnace is a complete IP video solution."

www.haivision.com/products/furnace (last accessed June 12, 2009). (Emphasis supplied.)

video-on-demand content for use within classes and by students at their leisure, for launching campus TV stations, for making special classes or events available to everyone, and for recording classes and events for later review. ... *Video Furnace* was initially developed in close collaboration with a number of leading universities including Northwestern, Dartmouth, and UCLA.
<http://www.haivision.com/applications/education> (last accessed September 13, 2009.)

Hai Vision's placement of UCLA at the vortex of creation of its system has clear commercial implications, none of which Ms. Blum recognizes or addresses.

2. **Nature of the Copyrighted Work.** Ms. Blum's analysis of the nature of the copyrighted works is muddled. She properly indicates the DVDs were previously published, and when acquired by UCLA, they were available in video or CD format, not streamed. Although she suggests UCLA expressed an interest in an Ambrose Digital Streaming license of the Shakespeare series, she ignores the fact that Ms. O'Donnell stated the Ambrose streams were superior to those currently being used by UCLA, but that because of budget constraints, licensing from Ambrose would not be contemplated for two years or more. Her conclusion is equally incomplete: Regardless, the works owned by the University were not created for use in classrooms or for instruction. This factor favors fair use." Blum Letter at 3.

Fundamentally, most of the copyrighted works (AIME member DVDs) are designed specifically for educational uses. That many of these publishers license streamed versions for use within educational institutions underscores that the educational market is the core market for these works. When Congress adopted the TEACH Act, it made clear that "works created for mediated instruction" were outside the qualified limitation. Section 110(2) explicitly prohibits educational institutions from exploiting works that are marketed "primarily for performance or display as part of mediated instructional activities transmitted via digital networks" without the consent of the copyright owner. In this case, the streamed versions of the AIME member videos fit that definition. With a statutory prohibition so explicit, the suggestion that this fair use factor favors UCLA, without even a discussion of its implication, is untenable.

Moreover, there are two important contractual matters that involve many of the AIME member DVD titles. First, certain AIME members obtain distribution rights to particular titles, obligating them to pay the content source. For example, Ambrose Video, which distributed DVD's of Shakespeare plays to UCLA, has contractual obligations to the BBC, the content source. Ambrose owes fees back to the BBC based on the sales and uses, so that when it packages the DVDs for university use, it explicitly retains all duplication rights, as well broadcast rights and all other forms of public display. That UCLA Media Library has purchased

a different version of a play in a particular format neither conveys a right to digitize, nor gives UCLA the privilege of interfering with Ambrose's contractual duties to the BBC.

Second, if the purchase orders for AIME-member videos are scrutinized, UCLA will find that it acquires many titles pursuant to a license, not outright sale. For example, many AIME publishers have different rates for DVDs acquired for site-specific uses than for site-specific plus library lending rights. Contractual obligations are clearly recognized under copyright law as controlling, and can render copyright limitations, including fair use, unavailing. A few years ago, AIME addressed this problem with the Nassau, NY BOCES, which sought to allow unrestricted inter-library loans of AIME member DVDs. When shown by AIME that particular media centers acquired DVDs subject to a license that did not allow lending videos outside the institution, Nassau BOCES stopped the lending practice and removed DVD titles from their Union Catalog system. In brief, a DVD acquired for home or in class use at a particular institution does not allow for other public performances. This is why any fair use analysis of the nature of the copyrighted work must be done on a title-by-title basis. Ms. Blum's facile treatment of this second criterion is woefully inadequate.

3. The Substantiality of the Portions Used in Relation to the Work as a Whole. Ms. Blum does not attempt to explain why an entire video must be digitized. She simply presumes that nothing less than an entire DVD is adequate and that total copying favors fair use. To the contrary, courts are quite rigorous in making title-by-title analysis of works and finding that substantial copying without explicit justification is a strong basis for finding against fair use. See *Princeton University Press v. Michigan Document Services, Inc.*, 99 F.3d 1381 (6th Cir. 1996) (finding copying 5-30% of specific books for coursepack purposes not fair.)

Further to the weakness of this factor for UCLA is the fact that Ms. Blum's analysis does not acknowledge that rarely are entire DVDs performed during class. Under these circumstances, why limited selected excerpts of works are inadequate for the pedagogical purposes is not addressed. Digitizing an entire DVD to afford more convenient access would not qualify as an acceptable rationale for fair use.

4. Effect of the Use on the Potential Market For or Value of the Original. Long recognized as the most pivotal issue in the fair use analysis, Ms. Blum's simply presumes there is no adverse effect on AIME's publishers. Without examining a single specific title or a single fair use decision, she postulates that if UCLA's Media Library did not digitize, "the market for the videos would not increase since the students would never be required to purchase the videos." Blum Letter at 3. That untested thesis, even if true, ignores the fact that UCLA and other similarly situated universities might purchase rights. By the logic of her argument, schools could take 16mm filmstrips and create VHS or DVD copies, even if the publishers were offering such versions, because a school would not require a student to buy the filmstrip. That there is a

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market not only for DVDs, but also streamed video, is made evident by UCLA's Media Library's very activities. That UCLA wants to bypass the legitimate market and set up a surreptitious approach using its Media Library is no excuse for its actions.

Ms. Blum adds one final specious argument that has long been rejected by courts in fair use analysis: that the infringer will spur sales to the benefit of the copyright owner.³ Such argument has been espoused by other copyright infringers, only to be rejected repeatedly by courts. See *L.A. Times v. Free Republic*, 2000 U.S. Dist. LEXIS 5669, *72 (C.D. Cal. 2000) ("courts have routinely rejected the argument that a use is fair because it increases demand for the plaintiff's copyrighted work."); see also *Campbell v. Acuff-Rose Music*, 510 U.S. 569, 591, n. 21 (U.S. 1994) (even if a "film producer's appropriation of a composer's previously unknown song . . . turns the song into a commercial success, the boon to the song does not make the film's simple copying fair."); *Ringgold v. Black Entertainment TV*, 126 F.3d 70, 81, n.16 (2d Cir. 1997) ("[e]ven if the unauthorized use of plaintiff's work in the televised program might increase poster sales, that would not preclude her entitlement to a licensing fee"); *DC Comics, Inc. v. Reel Fantasy, Inc.*, 696 F.2d 24, 28 (2d Cir. 1982) ("[s]ince one of the benefits of ownership of copyrighted material is the right to license its use for a fee, even a speculated increase in DC's comic book sales as a consequence of RFI's infringement would not call the fair use defense into play as a matter of law."); *Umg Recordings v. Mp3.com, Inc.*, 92 F. Supp. 2d 349, 352 (S.D.N.Y. 2000) ("any allegedly positive impact of defendant's activities on plaintiffs' prior market in no way frees defendant to usurp a further market that directly derives from reproduction of the plaintiffs' copyrighted works.").

To the contrary, there is a material, adverse financial impact on the copyright owners. If the market were to pay for the use, copyright owners would benefit. If, as suggested by UCLA's media librarian, UCLA had interest in paying for uses, AIME believes a high percentage of educational films in distribution would be available from commercial streaming sites. This is their industry and marketplace. In short, we believe no judicial panel asked to evaluate UCLA's behavior would conclude it is fair use.

C. Media Center Practices Also Violate the DMCA

³ "Rather, it is quite likely that students' exposure to the films and videos in the course create interest in the material such that students may purchase or rent their own commercial version for their personal use. Thus, the use of the videos by the Media Library may actually increase the marketability of the films and videos. This factor weighs in favor of fair use." Blum Letter at 4.

Unaddressed in Ms. Blum's response is the impact of the UCLA practices on the anti-circumvention prohibitions in Section 1201 of the Copyright Act, known as the Digital Millennium Copyright Act ("DMCA"). The DMCA amendments, which were extensively negotiated by content owners and the educational community,⁴ prohibit the bypassing of technological measures in digital works, such as DVDs, designed to restrict access and/or copying. In order for UCLA's Media Center to digitize and stream many AIME members' works, it must disable technical measures restricting access and copying. Such practices have repeatedly been held unlawful.⁵

D. Actions Immediately Required of UCLA

AIME believes UCLA is at a crossroads. As an educational leader in the heart of the entertainment community and as a moral beacon for students and faculty in the digital age, UCLA should be an exemplar of sound copyright policies. Many creative, hard-working videographers, who live by the fruits of their intellectual and artistic talent, demand nothing less. Where digital copying has occurred, we first need an accounting, an identification of every title digitized and streamed. Its members, among all affected publishers, should be properly notified and fairly compensated. AIME is committed to working with UCLA in arranging for a fair system of remuneration for the affected publishers.

⁴ I represented five national library associations during the DMCA debate and advocated for the educational goals in these legislative deliberations.

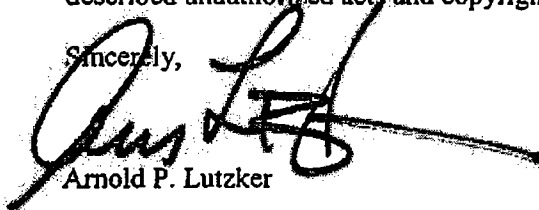
⁵ See *Universal City Studios v. Corley*, 273 F.3d 429, 460 (2d Cir. 2001) (permanently enjoining defendants from posting DeCSS, a computer program that enabled circumvention of protective encryption of movies sold on DVDs, and from electronically "linking" their site to others that posted DeCSS in violation of the DMCA); *Realnetworks, Inc. v. DVD Copy Control Ass'n*, 2009 U.S. Dist. LEXIS 70503, *84 (N.D. Cal. 2009) (finding defendant's software that enabled users to copy DVDs and store digital duplicates on a hard drive in violation of U.S. copyright law and holding that "...while it may well be fair use for an individual consumer to store a backup copy of a personally-owned DVD on that individual's computer, [the DMCA] has nonetheless made it illegal to manufacture or traffic in a device or tool that permits a consumer to make such copies."); *Macrovision v. Sima Prods. Corp.*, 2006 U.S. Dist. LEXIS 22106, *7 (S.D.N.Y. 2006) (preliminarily enjoining defendant from selling any products that circumvent plaintiff's copyright protection technologies in violation of the DMCA); *321 Studios v. MGM Studios, Inc.*, 2004 U.S. Dist. LEXIS 2771, *1099 (N.D. Cal. 2004) (enjoining the manufacture and distribution of 321 Studios' DVD copying software and finding the software in violation of the anti-trafficking provisions of the DMCA because it was both primarily designed and produced to circumvent a protective technological measure known as the Content Scramble System, or "CSS," and marketed to the public for use in circumventing CSS).

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Prospectively, AIME will work with UCLA and other leading institutions of academia to make clear the harm of unlicensed digitization and work for a system that meets the needs of publishers/content creators and educators. However, if UCLA decides to ignore AIME's plea and expression of concern, then this letter must serve as a warning to cease and desist infringement and a demand to take formal corrective actions. With the notices that AIME has provided, UCLA should not hide behind the cloak of fair use or statutory exemptions. Neither are applicable. What is needed is a full accounting and remedial action. We ask that this be undertaken immediately.

We ask that UCLA notify AIME of its legal position before the end of this month. Please know that AIME's President and counsel are prepared to meet with representatives of UCLA to resolve this problem on an urgent basis. AIME believes that given the egregious nature of the infringements, commitment must be evident from the Chancellor's Office, so that there is no misunderstanding at other levels of the university. Unless and until all these matters are successfully resolved, we ask that UCLA permanently cease and desist from all previously described unauthorized acts and copyright violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold P. Lutzker", with a long horizontal flourish extending to the right.

Arnold P. Lutzker

cc: L. Amy Blum, Esq.
Betty Ehlinger, Executive Director AIME
Allen Dohra, President of AIME

EXHIBIT 9

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EVIDENCE CODE SECTION 1152 AND FEDERAL EVIDENCE CODE SECTION 408**

October 21, 2009

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VIA FACSIMILE - [202-408-7677]

Arnold P. Lutzker, Esq.
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Re: Your Client AIME's Complaint Regarding the UCLA Instructional Media
Collections and Services

Dear Mr. Lutzker:

We have reviewed your September 16, 2009 letter regarding alleged copyright infringement in connection with the UCLA Instructional Media Collections and Services' ("IMCS") use of streamed digital video. As was previously reflected in our prior correspondence with AIME, UCLA believes that it has a good faith basis for asserting that its use is covered by exemptions in the Copyright Act. However, we would like to accept your offer to have a meeting with AIME's representative to discuss a resolution.

In order to ensure that we can have a productive meeting, we would like to reach agreement on the goals of the meeting. Here is what we propose as a framework for settlement:

1. Without admitting any liability or wrongdoing, for content in which AIME members own the copyrights, the IMCS will agree to stop streaming content outside of the Library premises starting on December 20, 2009. This will allow the IMCS sufficient time to notify the faculty that this service will no longer be provided so that they can make other arrangements to meet their classroom needs and ensure that the current students' ability to complete their courses is not disrupted. We presume that AIME members

Arnold P. Lutzker, Esq.
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have no objection to the library continuing to provide access to the content at the library's on-site viewing facilities.

2. AIME to provide the IMCS with the list of all titles from the IMCS catalog that are owned by AIME members, or provide the identification of the distributors represented by AIME. This is to ensure that UCLA knows all of the content that is the subject of these negotiations and any resolution. A link to the IMCS collection can be found at:
<http://www.media2.oid.ucla.edu/>.
3. The parties will meet at UCLA on a mutually agreeable date to attempt to negotiate terms for a one year, renewable, license that will permit the IMCS to stream a high-resolution digital version of all content represented by AIME, and other related terms.
4. All copyright holders represented by AIME will agree to a full and complete release of all claims against The Regents of the University of California, and its UCLA campus, employees, etc. arising from UCLA's copying, distribution and other use of their content and the parties will enter into a settlement agreement.

We believe this is a reasonable framework for moving ahead with a beneficial business relationship that resolves the dispute. We look forward to your response.

Sincerely,



L. Amy Blum, Esq.
Senior Campus Counsel

cc: Larry Loehner, Associate Vice Provost and Director OID
Pat O'Donnell, Manager IMCS

EXHIBIT 10

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October 28, 2009

VIA FEDEX and EMAIL
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L. Amy Blum, Esq.
Senior Campus Counsel
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Box 951405
2147 Murphy Hall
Los Angeles, CA 90095-1405

Dear Ms. Blum:

We are in receipt of your letter dated October 21, 2009.

Let me start by acknowledging that AIME is encouraged by UCLA's stated willingness to meet to resolve this matter. However, so that we have a mutually understood framework and basis for meeting, there are a number of points that should be clarified.

First, you state that UCLA will stop streaming content outside the library premises starting December 20, 2009. This is predicated on what you state is your previously articulated "good faith basis" for asserting fair use. Let me be clear about this point. Pursuant to §504(c)(2) of the Copyright Act, in case of infringement, if an employee or agent of a nonprofit educational institution, library or achieves, acting within the scope of employment has "reasonable grounds for believing that his or her use of the copyright work was a fair use under section 107," a court may remit statutory damages. However, while you continue to assert UCLA's claim to fair use, you have not attempted to address the specific objections we set forth in our communication dated September 16, 2009, indicating that fair use is not applicable to UCLA's activities. Absent clear refutation of the challenges we presented to your assertion of fair use, we do not believe that there exists "reasonable grounds" for a fair use claim that satisfies the statutory requirement for remittitur.

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Moreover, it is totally inaccurate to assert that AIME members have not made high resolution digital content available for uses similar to those UCLA has undertaken. Many AIME members have marketed videos with these rights since 2002, or even earlier. Therefore, please be advised that not only do we dispute your suggestion that UCLA had reasonable grounds to claim fair use from the inception of its streaming activity, but also, subsequent to receipt of our letter, continued streaming of AIME member works is knowing infringement. In short, there is no exemption or fair use defense for your actions to continue through December 20, 2009. I would add further, so you are not mistaken, that AIME is not in a position to grant either a general exemption or license with respect to your continuing activities. You are on notice that UCLA proceeds in this fashion at its own risk.

Second, you state that UCLA "presume[s] that AIME members have no objection to the library continuing to provide access to the content at the library's on-site viewing facilities." To the contrary, any exploitation of works is subject to the terms or conditions between UCLA and specific video providers. As a trade association, AIME is not in a position to provide legal assurance with respect to exploitation of unspecified works, on behalf of unidentified publishers. As with all other works acquired by UCLA, access and use of the works within the libraries' on-site viewing facilities are subject to the terms and conditions of the specific licenses and the Copyright Act.

Third, as to your request that AIME provide the IMCS with a list of all titles from its catalogs of its members that are the subject of these discussions, we respectfully submit this is not an acceptable way to proceed. To the extent there is a burden of identifying works to be addressed, we submit this is UCLA's. Therefore, we ask that IMCS identify all works that it has streamed to date, and all additional works for which it seeks a license. AIME should be provided with a complete list by title, publisher/distributor and format. To the extent the works have already been digitized and streamed, the dates of those actions should also be provided.

AIME's position is simple and straightforward: it is UCLA's duty to comply with the terms of its licenses and copyright law. It is inappropriate to put AIME and its members in a position to identify titles that UCLA might wish to reproduce and stream to classrooms. We reiterate that IMCS is in the best position to know the works it has handled in this fashion, and the works it wishes to exploit in the future. With an available list, we will be in a position to identify the AIME members whose rights are affected by the IMCS activities, and also to gain an appreciation of the scope of UCLA's needs.

Fourth, while we are prepared to have serious discussions with UCLA regarding the copyright implications of Video Furnace, we are mindful of provisions of state and federal anti-trust laws that may be implicated by any effort to resolve this dispute. Therefore, we reserve our position

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as to how to appropriately structure any potential resolution. It may be necessary for AIME to negotiate general principles, but leave the final terms to UCLA and individual publishers.

I would be remiss in not stating that it is has been disconcerting to AIME that your letter suggests that UCLA cannot be held responsible for its failure to comply with the Copyright Act. Prior to implementing the Video Furnace project, it was UCLA's responsibility to ascertain whether underlying rights were secured, and if not, an effort should have been made to acquire them. AIME believes that it is UCLA's responsibility to negotiate for the rights it wishes to secure, aware that such rights may be held by AIME members – or others. For example, aside from AIME members, there are video works owned by members of MPAA, with whom we have communicated about this issue. There are likely many studio films within the ICMS catalog that will need to be covered by separate licenses.

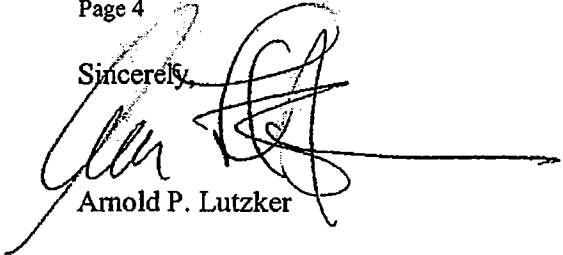
As stated, we would like to meet with the Chancellor and his legal advisors as soon as possible. Our plan would be to understand precisely what UCLA is doing with the subject videos, how it is digitizing and storing them, what educational needs it is pursuing, what materials it could receive from video publishers that would obviate the infringements, and then to work out the reasonable terms and conditions that individual publishers should find acceptable. We also need to know more about the relationship between UCLA and Video Furnace, as well as the other institutions which teamed with UCLA in developing the Video Furnace software. Further, we are looking for a clear statement by UCLA in its published copyright policies as to “best practices” in this area.

We are not, however, prepared, to execute license agreements on behalf of AIME members. This action must be taken by each member individually. If it seems desirable for AIME to serve as a clearinghouse for services associated with such uses, and if there were general agreement by UCLA and AIME members, then we would look for a mechanism to serve in that capacity. So that you are not under any misimpression, we reiterate that the decision to license UCLA for these purposes and the terms of such licenses will be arranged directly with individual publishers

Regardless of the outcome of our negotiations, on behalf of the members of AIME, we want to state in a clear and unmistakable voice that we expect an immediate cessation of all streaming inside and outside of the library of all video products for which streaming rights have not been secured. This is a responsible precondition to our meeting and will ensure that the parties proceed in good faith. We hope to receive an immediate response agreeing to a meeting and agreeing to comply with our cease and desist request. Absent such a framework, then there may be little to discuss and AIME members will then consider all appropriate legal options.

* * *
L. Amy Blum, Esq.
Senior Campus Counsel
October 28, 2009
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Sincerely,

A handwritten signature in black ink, appearing to read 'Arnold P. Lutzker', with a long horizontal line extending to the right.

Arnold P. Lutzker

EXHIBIT 11

UNIVERSITY OF CALIFORNIA, LOS ANGELES

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March 2, 2010

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VIA EMAIL

Arnold P. Lutzker, Esq.
Lutzker & Lutzker LLP
1233 20th Street, NW
Suite 703
Washington, DC 20036

Re: Your Clients AIME and Ambrose's dispute with UCLA Instructional Media Collections and Services ("IMCS")

Dear Mr. Lutzker:

We appreciate your patience while the campus worked through the various issues raised by your clients' assertion that video streaming for educational purposes constitutes copyright infringement. The campus reviewed the issues at the highest levels of both academic and administrative leadership. Based on this additional review, the campus has decided to restart its streaming service, subject to some procedural modifications.

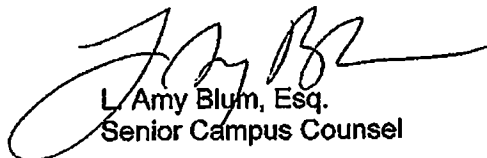
As we previously advised, the streaming service offered by UCLA IMCS does not constitute copyright infringement because it falls within the exemptions for fair use (17 U.S.C. §107) and face teaching (17 U.S.C. §110(1)). We also have now determined that the TEACH Act, (17 U.S.C. §110(2)) applies. Without rehashing our prior analysis or fully addressing each of these exemptions, we want to remind you that UCLA's service would qualify as the same type of "time-shifting" and "space-shifting" that the United States Supreme Court and the Ninth Circuit have long found permitted by the Copyright Act. (See *Sony Corp. of America v. Universal City Studios, Inc.* (1984) 464 U.S. 417 (time-shifting), and *Recording Industry Association of America v. Diamond Multimedia Systems, Inc.* (9th Cir. 1999) 180 F.3d 1072 (space-shifting).) UCLA provides extensive protections to ensure that only the users already permitted to view the content (students in a specific class) ever have access to the streamed content.

Arnold P. Lutzker, Esq.
March 2, 2010
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Nevertheless, in order to make the legal basis for including content for video streaming by UCLA IMCS more transparent, UCLA will now require all faculty requesting streamed video for a particular course to provide an explanation of the pedagogical need for the requested content and how that content is integral to the classroom experience. This will provide an extra layer of assurance that the requested use for each class is consistent with those permitted under the Copyright Act.

I realize that your clients may be disappointed by this decision, but I do hope that they will appreciate UCLA's effort to add further steps in our procedure to enhance its copyright compliance.

Sincerely,



L. Amy Blum, Esq.
Senior Campus Counsel

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Campus to restart streaming of instructional video content

By Phil Hampton March 03, 2010

UCLA is taking steps to restore the streaming of previously purchased instructional content behind password-protected course websites, a practice the campus believes is permitted under various provisions in the federal Copyright Act.

Campus officials temporarily suspended the practice in January as a good-faith gesture while UCLA attempted to resolve a copyright claim with a trade association. After carefully reviewing options and implications, UCLA has notified the Association for Information Media and Equipment (AIME) that it intends to restore the service.

"Course instruction long ago ceased to be bound by the walls of the classroom, and we are obligated to provide students with appropriate instructional content in whatever medium helps to foster an effective learning environment," said Jim Davis, UCLA vice provost for information technology and chief academic technology officer. "We're well aware the outcome of this dispute could affect other educational institutions, and it's important that UCLA take a leadership role and demonstrate just how critical the appropriate use of technology is to our educational mission."

Campus officials say the instructional uses in which UCLA engages are permitted under the fair-use limitation on the exclusive rights of a copyright owner. For example, UCLA's practices are consistent with landmark court rulings that allowed video recording of television programs for viewing at a later date (so-called "time-shifting") and the transfer of musical content from one device to another ("space-shifting").

The safe harbor of the TEACH Act, which permits transmissions of content for educational purposes, and the face-to-face exemption of the Copyright Act also support UCLA's uses.

Campus officials estimate that streamed content will return to course websites during the 2010 spring quarter. Faculty are first being asked to specify the educational purpose of making videos available as part of their instruction.

"While we believe our previous protocols were consistent with applicable laws, this modification provides an extra layer of assurance and transparency so that we can resume streaming videos as soon as possible rather than prolonging the impact on students and faculty through additional negotiations," Davis said.

UCLA's decision to restart the streaming of instructional content was informed in part by principles developed jointly by the Academic Senate and the UCLA Information Technology Planning Board (ITPB), the faculty-administration committee charged with IT policy.

"The streaming video service directly benefits the learning experience of students," said Robin Garrill, chair of the UCLA Academic Senate and professor of chemistry and biochemistry. "It allows them the flexibility to view instructional materials at times that ensure maximum productivity, when they can best contemplate and respond to the materials, and it exposes them to a broader range of educational material."

The UCLA faculty and administration quickly reached consensus on both the need to restore these essential instructional services and to assert our rights to use intellectual property within the bounds of existing copyright laws," said Christine Borgman, chair of the Information Technology Planning Board and UCLA Presidential Professor of Information Studies.

Under the auspices of the UCLA Office of Instructional Development, campus Instructional Media Collections & Services (IMCS) spends approximately \$45,000 annually to purchase media specifically for instructional uses. In 2005, UCLA began converting titles requested by faculty into a streamable format and making them available to students for coursework.

Content examples include Shakespeare productions for English courses, foreign-language films for linguistic and foreign-language courses, and documentaries for history and sociology courses — all integral to the class instruction of students. To protect against unintended uses, streamed material is available only behind password-protected course websites, only to students enrolled in the applicable course, and only via the UCLA intranet. These measures prevent downloading, uploading, file-sharing and copying.

In May 2009, UCLA was approached by a single distributor of DVDs who, for the first time, offered streamed content for instructional purposes. UCLA indicated interest in the new products but also advised that it was streaming previously purchased content. Only after that time did the trade association allege a copyright violation.

In a good-faith gesture to allow the parties to discuss possible resolution of the dispute outside the legal system, UCLA temporarily suspended the posting of streamed content, effective at the start of the winter quarter in January 2010.

To minimize the impact on students, the content will remain available to view in the Office of Instructional Development media lab under extended hours through the spring quarter.

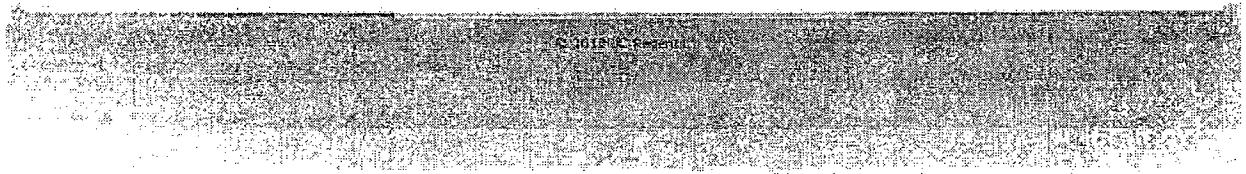


Media Contacts

Phil Hampton
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UCLA *Office of Instructional Development*

Instructional Media Collections & Services

To: Teaching Faculty and Management Services Officers

Dear Colleagues:

For the past five years the Instructional Media Collections and Services (IMCS) has been pleased to provide instructors with the option to make videos placed on reserve also available via their password protected course website.

Recently the IMCS received a cease and desist demand from AIME, a trade organization whose membership includes video publishers. While IMCS exercised a good faith belief that its uses were consistent with the exemptions for face-to-face teaching and Fair Use, AIME claims that the uses are not exempt and violate copyright. Although this dispute is on going, we regret to inform you that beginning Winter Quarter 2010 we will be suspending the option for web-streamed access. We sincerely hope that the suspension is temporary and we are working with Campus Counsel to find a solution agreeable to all concerned. In the meantime, you may still place video materials on reserve for viewing in person in the Media Lab; however video streaming via Video Furnace of materials other than those for which the instructor or the Regents own the copyrights will be suspended until further notice.

In addition to the suspension of Video Furnace services, the reduction in funding for the Media Lab has made it necessary to reduce operating hours. Effective Winter Quarter 2010, the Old Media Lab operating hours will be:
Monday through Thursday from 10 a.m. - 7 p.m.
Friday from 9 a.m. - 6 p.m.

We apologize for the inconvenience these changes will result in for you and your students and hope to find a solution soon.

Sincerely,

Patricia O'Donnell

Manager

OID Instructional Media Collections & Services and Media Lab

EXHIBIT 12

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number
PA 1-691-394

Effective date of
registration:
July 19, 2010

Title

Title of Work: Hamlet: The Complete Dramatic Works of William Shakespeare BBC/Time-Life
Poducer

Completion/Publication

Year of Completion: 1980

Date of 1st Publication: September 1, 1980

Nation of 1st Publication: United Kingdom

International Standard Number: ISBN 1-58281-135-0

Author

■ Author: The British Broadcasting Corporation

Author Created: entire motion picture

Work made for hire: Yes

■ Author: Time-Life Films, Inc.

Author Created: entire motion picture

Work made for hire: Yes

Copyright claimant

Copyright Claimant: The British Broadcasting Corporation

Copyright Claimant: Time-Life Films, Inc.

Rights and Permissions

Organization Name: AMBROSE VIDEO PUBLISHING INC

Address: 145 WEST 45TH STREET

NEW YORK, NY 10036 United States

Certification

Name: Stephanie Armocida

Date: July 19, 2010

Correspondence: Yes



Registration #: PA0001691394

Service Request #: 1-451119254



AMBROSE VIDEO PUBLISHING INC
STEPHANIE ARMOCIDA
145 WEST 45TH STREET
STE 1115
NEW YORK, NY 10036 United States

EXHIBIT 13

Arnold Lutzker

From: UCLA Public Records [UCLAPublicRecords@finance.ucla.edu]
Sent: Thursday, July 08, 2010 7:23 PM
To: Arnold Lutzker
Cc: Felker, Aimee
Subject: UCLA Request 2773 Arnold Lutzker - Motion Pictures/Distributors
Attachments: DM Titles with Distributors.xls

VIA EMAIL
July 8, 2010

Arnold P. Lutzker
Counsel for the Association for Information Media and Equipment
Lutzker & Lutzker LLP
1233 20th Street, NW Suite 709
Washington DC 20036
202-408-7600
Fax: 202-408-7677

RE: Request 2773 -- Motion Picture Related Records from January 1, 2005 to Present
Part 1 a and b -- Motion Pictures and Owners/Distributors

Dear Mr. Lutzker:

I am writing in response to your request of March 9, 2010 regarding the following items in your request:

1. Any request from any member of the faculty or other employee and fulfillment of such request to make a video, DVD or other audio-video digital work (individually herein referred to as a "Motion Picture") available to faculty and/or students via UCLA's digital network. To clarify, we are not seeking records that involve a professor's request to use of a physical copy of a Motion Picture for live performance in a classroom; rather we are seeking records that involve UCLA's taking a physical copy of the Motion Picture and, utilizing equipment, converting it into a format from which the Motion Picture may be streamed to users (faculty or students) via the UCLA digital network. To the extent such public records are available, our request incorporates records as to the following information:
 - a. The title of the Motion Picture requested;
 - b. The name of the owner and/or distributor of the Motion Picture requested;

Attached is a list of the Motion Pictures and name of owner and/or distributor per your request. We are waiving the fees for these records.

Please email or call Aimee Felker at afelker@finance.ucla.edu – (310) 794-2988, should you have any questions regarding the status of the remainder of your request.

Sincerely,

Frances Thompson

UCLA Public Records Coordinator
Records Management & Information Practices
Corporate Financial Services
10920 Wilshire Blvd. Suite 530
Los Angeles, CA 90024
(310) 794-8741 | (310) 794-8691 (fax)
fhompson@finance.ucla.edu | www.finance.ucla.edu
For public records requests email: UCLAPublicRecords@finance.ucla.edu