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March 12, 2009

Via E-Mail (andrew.rozycki@mail.ogc.umn.edu)

Andrew G. Rozycki, Esq  
Associate General Counsel and Senior Patent Counsel  
University of Minnesota  
360 McNamara Alumni Center  
200 Oak Street S.E.  
Minneapolis, Minnesota 55455

Re: Investigation of University of Minnesota U.S. Patents in connection with  
a Potential Blu-ray Disc Patent Licensing Program  
Our Reference No.: 53322-131

Dear Andrew:

This letter provides the results of our evaluation regarding U.S. Patent No. 5,859,601. In summary, it is our opinion that U.S. Patent No. 5,859,601 is essential for BD-RO BFS discs, BD-RE BFS (v1) recording, BD-RE BFS (v2) recording, and BD-R BFS recording.

Attached is our March 2009 Interim Report listing all Blu-ray Disc Standards for which we find U.S. Patent No. 5,859,601 is essential.

You represented to us that the University of Minnesota possesses sufficient rights to license this patents in a potential Blu-ray Disc Patent licensing program. We performed our evaluation in reliance on your representation.

Please note that we performed these evaluations solely for the purpose of determining whether or not the University of Minnesota can contribute this patent to a potential Blu-ray Disc Patent Licensing Program. Therefore, this opinion should not be used for any other purpose.



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### ANALYSIS CRITERIA

The analysis we performed is limited to determining whether or not the patent that you have submitted is essential for implementing a disc, playback device, or recording device according to the Blu-ray Disc Standards.

In the case of U.S. patents and U.S. patent applications, we considered all of the grounds for infringement defined in Title 35 U.S.C. §271, including, for example, inducement of infringement under 35 U.S.C. §271(b), contributory infringement under 35 U.S.C. §271(c), and product-of-a-patented-process infringement under 35 U.S.C. §271(g). As such, we will consider claims of U.S. patents and U.S. patent applications submitted for evaluation for the following categories and book types:

- (1) A recording method claim may be evaluated for the disc category of Blu-ray Disc Read-Only Format Version 1, Part 1: Basic Format Specifications, Blu-ray Disc Read-Only Format Version 1, Part 2: File System Specifications, Blu-ray Disc Read Only Format Version 2, Part 3: Audio Visual Basic Specification, and Blu-ray Disc Hybrid Format Version 1, Part 1: Basic Format Specification. A recording apparatus claim may also be evaluated for the disc category of these standard books.
- (2) A recording method claim may be evaluated for the disc categories of Blu-ray Disc Rewritable Format Version 1, Part 1: Basic Format Specifications; Blu-ray Disc Rewritable Format Version 1, Part 2: File System Specifications; Blu-ray Disc Rewritable Format Version 1, Part 3: Audio Visual Basic Specifications; Blu-ray Disc Rewritable Format Version 2, Part 1: Basic Format Specifications; Blu-ray Disc Rewritable Format Version 2, Part 2: File System Specifications; Blu-ray Disc Rewritable Format Version 2, Part 3: Audio Visual Basic Specifications; Blu-ray Disc Rewritable Format Version 3, Part 3: Audio Visual Basic Specifications; Blu-ray Disc Recordable Format Version 1, Part 1: Basic Format Specifications; and Blu-ray Disc Recordable Format Version 1, Part 2: File System Specifications.
- (3) A claim covering a method for making a blank disc may be evaluated for the disc categories of Blu-ray Disc Rewritable Format Version 1, Part 1: Basic Format Specifications; Blu-ray Disc Rewritable Format Version 2, Part 1: Basic Format Specifications; and Blu-ray Disc Recordable Format Version 1, Part 1: Basic Format Specifications. A claim covering an apparatus for making a blank disc may also be evaluated for the disc categories of these standard books.
- (4) A claim covering either of the following combinations may be evaluated for the disc categories of one of the standard books:

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- (I) a combination of a disc and a method (*e.g.*, of playback); and
- (II) a combination of a disc and an apparatus (*e.g.*, a player).

It is possible that such a claim can also be submitted for evaluation for the playback category and/or the recording category as well.

Under U.S. law, a patent infringement occurs *only* if each and every limitation of at least one claim of a patent can be found in an accused process or product. Thus, in our evaluation:


- (1) we interpret the limitations or "claim elements" of the claims of each patent under U.S. law; and
- (2) then we apply the claims as interpreted to the documented portions of the Blu-ray Standard.

"Means-plus-function" claim elements are interpreted as follows. First, the function performed by the means is identified. Next, the specific structures, materials, or acts described in the patent specification for performing the function are identified. The means-plus-function element is then interpreted to cover the identified disclosed structures, materials, or acts and their equivalents.

In performing this evaluation, we studied the patent, the file history of the patent, the pertinent Blu-ray Disc Standard, and that claims chart and presentation you provided.

Please contact us if you have any questions.

Very truly yours,  
PROSKAUER ROSE LLP

By   
Kenneth Rubenstein

cc: Jay Schrankler (jwschrankler@umn.edu)  
Michael F. Moore (moore045@umn.edu)