

CableFAX Daily™

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What the Industry Reads First

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Start Over: Court Denies Time Warner Cable's Class Action Settlement

Time Warner Cable's nearly 10-year-old class action lawsuit involving the sale of personal subscriber data seemed on its way to resolution after parties struck a deal in Oct '05. The newspaper notification ads had ran, a Website had collected valid claims (www.twcsettlement.com) and a final settlement approval hearing occurred back in May. But just a few weeks ago, a judge with the **US District Court for the Eastern District of NY** denied approval of the plan, according to the MSO's 10-K filed Fri. The judge's problems with the settlement highlight the difficulties of not having a national footprint. The proposed deal would have given TW subs between Jan 1, '94 and Dec 31, '98, and who were listed on its '99 sales database, a free month of additional service or 2 free movies on demand (*Cfax*, 12/21/05). If a database member is no longer a subscriber, they could opt to receive a free month of service with no installation fee. If they live outside TW's service area, they could have transferred the rights to someone in the MSO's territory. Part of the problem with the settlement, the judge said, was that it's unfair to subs no longer in TW's footprint since they have to transfer their benefit to someone else and release all claims against the operator. The decision also stated that it's unfair to people who were subs during the period but aren't listed on the '99 sales database because they receive nothing and have to release all claims (they could have been on some earlier databases, objectors have argued). "TWC intends to defend against this lawsuit vigorously, but is unable to predict the outcome of the suit or reasonably estimate a range of possible loss," the MSO said in its Fri **SEC** filing. TW Cable declined to comment further. The lawsuit was filed in 1998, claiming that the company sold subs' personal info and failed to inform customers of their privacy rights.

Deals: **Ericsson** swooped in Mon to offer \$1.4bln in cash for **Tandberg TV**, topping an earlier \$1.2bln acquisition offer by **Arris Group** to buy the video-processing equipment maker (*Cfax*, 1/17). Ericsson CEO *Carl-Henric Svanberg* called IPTV "the biggest networked multimedia opportunity" for the company and said Tandberg would become a wholly owned subsidiary if the deal closes. Ericsson also said it has purchased 12% of Tandberg shares and that owners of an additional 13% have endorsed its bid. Arris' offer will remain outstanding while it mulls options, the firm said in a release. **FBR Research** called Ericsson's tender an "airtight competing offer," yet reiterated its 'outperform' rating and \$19 price target on Arris shares. "We strongly believe that Arris is not fundamentally challenged in the near or medium term by lacking a video component, and, if anything, may now be more likely to sell to a big OEM in three or five years' time at a premium given its strong market position," the firm wrote. Arris closed down 9% on Mon, at \$13.91.

Online: Peer-to-peer site **Bittorrent.com** is now legit, launching a service that lets users legally download more than 5K movies, TV shows, games and music content from major studios. It also features more than 40 hours of HD programming. TV shows cost \$1.99, while movie rentals are \$2.99-\$3.99 each. -- **Apple TV** won't bow this month after all. The \$299 box, which wirelessly transports PC content to TVs, is now not expected to ship until mid-March. -- **CBS** is partner-

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ing with **The Electric Sheep Co** to create infrastructure and tools designed to let clients expand community-building and marketing activities in online virtual worlds. CBS took part in The Electric Sheep's latest \$7mln financing round as part of the partnership, which follows the pair's prior collaboration for **Showtime's** "The L-Word in Second Life," an online forum for series fans to interact with each other and cast members. -- **ESPN** on March 15 will offer "ESPN360 All-Access," a free trial of its broadband service available to everyone with a high-speed Internet connection. The net will feature 146 hours of live programming during the window, including NASCAR, Arena Football League and NCAA track coverage.

At the Portals: **NCTA** came to **Comcast's** aid in asking the full **FCC** to reverse a Media Bureau decision denying the MSO's request for a waiver of the July 1 set-top integration ban. "Failure to reverse the Bureau decision would be flatly inconsistent with, and a stunning repudiation of, representations the Commission made to the **US Court of Appeals** in defending its refusal to eliminate the ban," said NCTA, which is still waiting for the FCC to rule on its own waiver request.

On the Hill: The House Telecom subcmte has rescheduled its **FCC** oversight hearing for Mar 14. The Sen Commerce cmte held a similar hearing earlier this month.

Competition: **Verizon** revved up the maximum speed of its FiOS Internet service to 50Mbps in 5 FL counties near Tampa. -- **AT&T** added Scripps Nets including **HGTV** and **Food Net** to its U-verse TV channel lineup.

Programming: **Discovery Channel** stirred up a hornet's nest Mon, hosting a press conference on its upcoming "The Lost Tomb of Jesus," Mar 4, 9pm. The special, produced by director *James Cameron*, suggests that caskets discovered in Jerusalem more than 20 years ago may have held the bones of *Jesus* and his family (possibly even a son). The documentary's findings have drawn sharp criticism, especially from Christian leaders. -- **Versus** will set sail Apr 16 on linear and online coverage of the **America's Cup** yachting competition. The net will air daily highlight shows during its NHL playoff coverage, as well as live daily coverage of semi-finals and finals starting in May. **VERSUS.com** will provide fans with 24-hour access to race information, including video clips and sailing features. -- The Sun (11pm) ep of **G4's** doc/biography series "Icons" will feature writer/director *Frank Miller*, creator of films "Sin City" and "300." -- **VH1** picked up 7 eps of "Dice Undisputed" (Sun, 10pm), chronicling the return to show business of foul-mouthed comic *Andrew Dice Clay*.

Red Carpet Ratings: **E!**'s "Live From the Red Carpet: The 2007 Academy Awards" garnered a 3.94 in metered markets, up 47% over last year. -- **TV Guide Channel's** 2-hour pre-Oscars show hosted by *Joan* and *Melissa Rivers* earned in metered markets a 1.0 rating, matching a historical high while posting an 11% increase over last year.

On the Circuit: *Marie Wilson*, founder and pres of the **White House Project** and co-founder of **Take Your Daughters to Work Day**, will deliver the **WICT** Leadership Conference's keynote, Mar 7, NYC. **Ogilvy & Mather** chmn/CEO *Shelly Lazarus* will close the conference, Mar 8. -- **NAMIC Mid-Atlantic** hosts a career development workshop at **Nat Geo Channel's** HQ in DC, Mar 19, 8am.

Branding: **Hallmark Channel** rolls out a new on-air look and campaign Thurs, tagged "Make Yourself at Home." It's the 1st time since the net's '01 launch that the channel has done an extensive revamping of its on-air image.

In the States: As part of a 5-year pact between **Nickelodeon** and **Miami Metrozoo**, the zoo will feature **Nick Jr** character *Diego*, from the net's "Go, Diego, Go!" series, in the park's upcoming ('08) "Amazon & Beyond" exhibit. Included will



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be a Diego stage show, and integration of Diego into zoo marketing collateral and educational materials. -
- Comcast launched The Sportsman Channel in Tuscaloosa and Huntsville, AL; Houma and Laplace, LA.

Sponsorship: ESPN inked **Russell Athletic** to a 5-year sponsorship deal affecting all **Arena Football League** telecasts on ESPN nets and **ABC**, debuting Sun on ABC. Russell will also provide all uniforms for the league, in which ESPN owns a minority stake.

Defrauded To Get Dollars: More than \$530mln in cash and **Time Warner Cable** stock has been collected from the settlement against **Adelphia** and the **Rigas** family; it will be distributed to related fraud victims, US attorney *Michael Garcia* said Fri. Roughly \$200mln from an Adelphia-funded trust and **SEC** recoveries will also be distributed at a later date. Info is available at **Adelphiafund.com**, or by calling 1-866-446-4884.

People: **CVC's Optimum Lightpath** tapped **Troy Glick** as vp, product dev and **David Strauss** vp, marketing. -- **GE's Jeff Fleeher** will become vp/CFO of **NBCU TV networks** distribution and **NBCU digital** distribution. -- **GSN** named **Chad O' Hara** exec dir, business and legal affairs.

Business/Finance: The **European Commission** approved **Liberty Global's** exercised Nov options that increased by 28% its ownership in Belgian MSO **Telenet**.

CableFAX Daily Stockwatch

Company	02/26 Close	1-Day Ch	Company	02/26 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BROADCASTERS/DBS/			AMDOCS:	35.15	(0.35)
BRITISH SKY:	44.65	0.03	AMPHENOL:	68.04	0.21
DIRECTV:	23.00	0.12	ARRIS GROUP:	13.91	(1.38)
DISNEY:	35.11	(0.03)	AVID TECH:	33.62	(0.24)
ECHOSTAR:	42.47	(0.05)	BLNDER TONGUE:	2.03	(0.15)
GE:	35.34	0.24	BROADCOM:	36.20	(0.2)
HEARST-ARGYLE:	27.39	0.72	C-COR:	14.79	0.04
ION MEDIA:	1.31	0.03	CISCO:	27.24	(0.27)
NEWS CORP:	24.65	(0.19)	COMMSCOPE:	39.51	0.37
TRIBUNE:	30.81	0.11	CONCURRENT:	1.54	0.01
MSOS					
CABLEVISION:	29.00	(0.27)	CONVERGYS:	26.66	(0.18)
CHARTER:	3.22	0.03	CSG SYSTEMS:	25.35	(0.16)
COMCAST:	26.47	(0.66)	GEMSTAR TVG:	4.24	(0.01)
COMCAST SPCL:	26.21	(0.76)	GOOGLE:	464.93	(5.69)
GCI:	14.70	0.03	HARMONIC:	9.30	0.20
KNOLOGY:	14.63	(0.04)	JDSU:	16.70	(0.18)
LIBERTY CAPITAL:	105.40	0.31	LEVEL 3:	6.76	0.21
LIBERTY GLOBAL:	29.73	(0.04)	MICROSOFT:	29.07	0.17
LIBERTY INTERACTIVE:	24.14	0.25	MOTOROLA:	19.25	0.10
MEDIACOM:	8.25	0.25	NDS:	50.99	(0.3)
NTL:	28.22	0.00	NORTEL:	30.99	(0.43)
ROGERS COMM:	34.42	0.20	OPENTV:	2.79	(0.04)
SHAW COMM:	36.47	(0.79)	PHILIPS:	39.14	0.11
TELEWEST:	24.20	0.00	RENTRAK:	15.29	0.10
TIME WARNER:	21.10	(0.34)	SEACHANGE:	10.62	(0.12)
WASH POST:	776.50	(12.15)	SONY:	52.90	0.63
PROGRAMMING					
CBS:	31.40	0.08	SPRINT NEXTEL:	19.53	0.26
CROWN:	4.17	(0.08)	THOMAS & BETTS:	52.92	(0.89)
DISCOVERY:	16.26	0.06	TIVO:	6.16	(0.15)
EW SCRIPPS:	48.52	(0.07)	TOLLGRADE:	12.58	(0.09)
GRUPO TELEVISA:	29.02	(0.72)	UNIVERSAL ELEC:	27.90	0.01
INTERACTIVE CORP:	40.74	0.16	VONAGE:	5.42	0.03
LIBERTY:	8.32	0.06	VYYO:	4.16	(0.04)
LODGENET:	26.72	(0.7)	WEBB SYS:	0.06	0.02
NEW FRONTIER:	9.56	0.22	WORLDGATE:	1.18	0.03
OUTDOOR:	11.78	(0.23)	YAHOO:	32.12	0.02
PLAYBOY:	10.60	(0.21)	TELCOS		
UNIVISION:	35.96	(0.02)	AT&T:	37.50	0.50
VALUEVISION:	12.70	(0.11)	QWEST:	8.75	0.21
VIACOM:	40.39	0.02	VERIZON:	38.39	(0.02)
WWE:	16.20	(0.12)	MARKET INDICES		
TECHNOLOGY					
3COM:	4.03	(0.04)	DOW:	12632.26	(15.22)
ADC:	17.00	(0.47)	NASDAQ:	2504.52	(10.58)
ADDVANTAGE:	3.63	0.03			
ALCATEL LUCENT:	13.29	(0.07)			

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M.C. Antil's CableFolks

Lifetime's Brooks Sets the Record Straight

Led Zeppelin never won a Grammy. Neither did Neil Young, the Grateful Dead, the Doors, the Supremes or the Who.

And for that matter, neither did Bob Marley, Janis Joplin or Buddy Holly.

But last month in L.A., Tim Brooks did.

At the 2007 Grammy Awards ceremony, Tim, who heads up Lifetime's research department, walked off with a Grammy for best historical album. "Lost Sounds: Blacks and the Birth of the Recording Industry" was released in 2006 on Archeophone Records. It featured the rare music and spoken word recordings at the heart of Brooks' monumental 2004 book of the same name.

I guess there's a certain irony to Tim winning a Grammy, because among cable network researchers he's as close as we have to a rock star.

Not only is he one of the most talented and articulate researchers in the industry, but as co-author of the mind-boggling tome, "The Complete Directory to Prime Time Network and Cable TV Shows, 1946-Present," Tim has carved a niche for himself as television's in-house historian.

(And if you want to know what I mean by mind-boggling, consider that the book's ninth edition, which is slated for release later this year, is currently at 2,000 pages and counting).

But this was something different altogether; in fact just the opposite. If television is anything, it's ubiquitous. But Tim's book on lost black recordings deals with a slice of history that had fallen so completely through the cracks of time, if he had not taken it upon himself to unearth it, it might have been lost forever.

In kidnapping situations, of course, there is the Stockholm syndrome, in which a hostage starts to empathize



M.C. Antil

with his or her captor. And to hear Tim talk about the incredible music being produced by African Americans at the turn of the century, or to listen to him relate how uniquely different it is to hear the controversial words of Booker T. Washington rather than simply read them, you get the sense that at some point in his journey through the annals of recorded sound, Tim Brooks became one with his subject.

Tim's passion is so thick, you could slice it and sell it by the pound. And he's fascinating to listen to, whether he's talking about black vocal quartets whose unique arrangements and harmonies predated doo wop by more than half a century, or describing how former heavyweight champ Jack Johnson's voice, which many believed had never been recorded, reveals him to be not loud, boisterous and flamboyant, as many believe, but soft-spoken, articulate and deeply thoughtful.

When I asked Tim if this wasn't pretty heady stuff, writing a book that might indeed change, if not actual history than the perception of it, he paraphrased what a fellow historian once said after publishing a well-documented biography. Tim told me, "This guy said his book may not be a big seller, but now nobody is going to be able to not know what happened. Now it's in print. Now it's documented. And now it's going to be difficult for the falsehoods to survive."

So what did Tim do with his Grammy?

Surprisingly, he doesn't have it yet.

Apparently, unlike Oscars, Grammys are actually shipped to the winners. But he has a spot on his mantle picked out. "This may or may not be the biggest award I've ever won," he told me earlier this week. "But it is certainly the one people that people know the most about."

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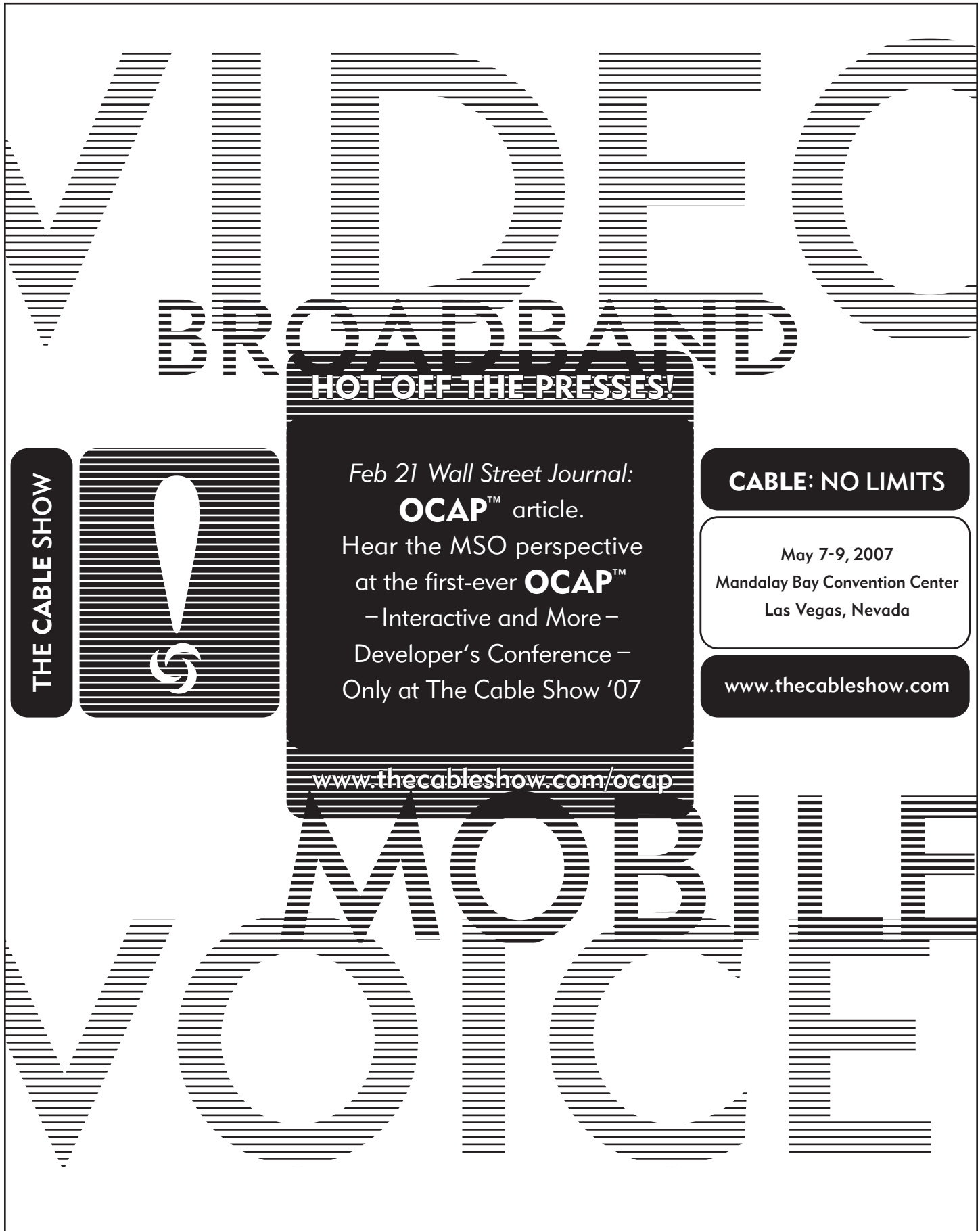
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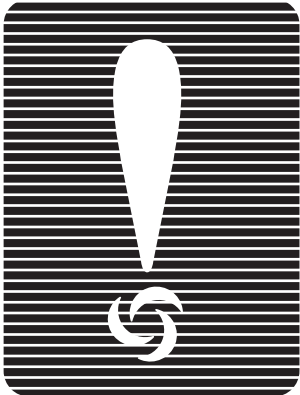
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