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CLASS: Literary works, including computer programs and databases, protected by access control mechanisms in which the mechanism controls access both to copyrighted works and to works not under copyright.

SUMMARY: Use of public domain works is by definition unlimited. Any restriction on the use of public domain works will cause economic harm.

ARGUMENT (1): By definition the use of any literary work which is in the public domain is unlimited in scope, including the free copying of such works. If it is impossible to make free copies due to technological access restrictions, and it is instead necessary to pay for each copy to a third part in control of the access technology, then the amount paid for each copy is a direct loss to the nation's economy. For example: if I must pay \$5 to access an otherwise free literary work, then that is \$5 removed from my available funds for no gain whatsoever. Compounded across the entire economy, the economic waste will be tragic.

ARGUMENT (2): By definition, the use of any literary work which is in the public domain is unlimited, including use for profit. Technological access controls will inhibit the ability of new businesses to profit from public domain works by limiting what may be done with that work at no cost. (For example, although a work may be in the public domain, I can be forced to pay for a copy, or for the rights to use a proprietary player technology, due to access controls placed on the work.) This in turn *must* increase the expense of any venture, and may thwart the venture altogether. For example: Disney Enterprises, Inc. (Disney) freely used stories in the public domain, including Cinderella, Pinocchio, and Snow White and the Seven Dwarfs. Disney paid no costs for the use of this material—a fact that no doubt encouraged the use of this material for their well-known motion pictures. History proves that they opted for free public domain content over for-pay content, so its value to business is clear.

If public domain literary works are not exempted from the DMCA, it is the same as removing untold amounts of new products, services, jobs, and revenue from our nation's economy.