



United States Copyright Office

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Re: Docket No. 2017-10
Exemptions to Prohibition Against Circumvention of Technological
Measures Protecting Copyrighted Works

Dear Participants:

On June 28, 2018, the U.S. Copyright Office received the attached letter relating to Proposed Class 10 from the Computer Crime and Intellectual Property Section (CCIPS) of the U.S. Department of Justice. The Office recognizes that this document was submitted after the close of the written comment period and appreciates that participants have expressed concern over the acceptance of similar materials into the rulemaking record without an adequate opportunity to respond. Indeed, in an effort to avoid such situations to the extent possible, and mindful of the interest in the security research exemption and other areas expressed by other government agencies in the last rulemaking, the Office in this proceeding encouraged interested agencies to submit any comments as part of the public docket, but did not receive any such comments.

Nevertheless, in light of the new and potentially material information raised by the CCIPS letter, the Office has determined to accept it into the record. The

Office concludes that there is a strong public interest in having the record benefit from the expert views of a government agency with jurisdiction in this area; indeed, the statute directs the Register of Copyrights to consult with NTIA in forming her recommendation. *See also* ACUS Recommendation 80-6, *Intragovernmental Communications in Informal Rulemaking Proceedings*, 45 Fed. Reg. 86,407-408 (Dec. 31, 1980) (noting that other agencies may offer “perspectives or expertise not readily available to the rulemaking agency that would enhance the quality of internal debate”). While the Office will continue to disfavor untimely filings as a general matter, we believe this interest is sufficiently compelling to justify consideration of CCIPS’s submission under these circumstances. The Office also believes this decision is consistent with its broader efforts to provide greater transparency throughout the rulemaking process. *See* U.S. COPYRIGHT OFFICE, SECTION 1201 OF TITLE 17 147-52 (2017), available at <https://www.copyright.gov/policy/1201/section-1201-full-report.pdf>.

The Office will provide Class 10 hearing participants with the opportunity to submit written responses to CCIPS’s letter. Any responses should be submitted **no later than the close of business on Friday, July 13, 2018**. Please submit your responses to me at regans@copyright.gov and Kevin Amer at kamer@copyright.gov. Responses should be limited to topics addressed in CCIPS’s letter.

Sincerely,



Regan A. Smith
General Counsel and Associate Register of Copyrights

cc: John B. Morris, Jr.
Associate Administrator
Office of Policy Analysis and Development
National Telecommunications & Information Administration
U.S. Department of Commerce