



**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:

Thank you for your participation in the proceeding related to Proposed Class 7 (computer programs – repair) as part of the Copyright Office’s Section 1201 rulemaking proceeding. As a follow up to certain matters discussed at the hearing, we would like to provide you with an opportunity to provide written responses to the following questions:

1. Some proponents have urged the Office to expand the scope of the current repair exemption to allow for circumvention for the purposes of diagnosis and repair of all software-enabled devices. At the hearing in Los Angeles, the Office sought to define a limiting principle that would allow legitimate repair and diagnosis activities while disallowing circumvention that is more likely to lead to infringement.
  - a. EFF suggested that the scope of the exemption could be defined to cover all software-enabled devices except for “device[s] that [are] primarily . . . media playback device[s] for audiovisual works and sound recordings.” Tr. at 143 (Apr. 25, 2018) (Walsh) (on file with U.S. Copyright Office; to be available on Office website). Joint Creators II indicated that they did not endorse this specific proposal but were amenable to assisting the Office in crafting potential exemption language. *See id.* at 144. Please provide your views on regulatory language that would exempt circumvention for the purpose of diagnosis and repair of software-enabled devices, except for devices that are primarily media playback devices for

audiovisual works and sound recordings. Please discuss the extent to which such an exemption would accommodate a legitimate need for diagnosis and repair of particular types of devices, including any specific examples of repair activity that would be addressed. To the extent you believe EFF's formulation would present concerns, please suggest any alternative language that could address those issues. Please also provide specific examples of devices with media playback capability that you believe should or should not be covered by the exemption.

- b. Joint Creators II have argued that, in the event the Register recommends expanding the existing exemption to additional categories of devices, "only circumvention to access computer programs should be covered by any recommended exemption. Access to other categories of works should be categorically excluded." Joint Creators II Class 7 Opp'n at 13. Please provide your views on regulatory language that would exempt circumvention for the purpose of diagnosis and repair of software-enabled devices, but would be limited to circumvention of access controls protecting computer programs and no other category of copyrightable works. Please provide specific examples of devices that would or would not be covered by such an exemption.

Please provide your responses **no later than the close of business Monday, June 11, 2018**. Such responses should identify the responding party and the proposed class at issue, and should be no more than fifteen pages in length. Please note that no further exhibits will be accepted. Please submit your responses to me at [resm@loc.gov](mailto:resm@loc.gov) and Anna Chauvet at [achau@loc.gov](mailto:achau@loc.gov).

Sincerely,



Regan A. Smith  
Deputy General Counsel