

TRANSCRIPT OF PROCEEDINGS

In the Matter of:)
)
SECTION 1201 PUBLIC HEARING:)
PROPOSED CLASS 3: MOTION)
PICTURES & LITERARY WORKS -)
TEXT AND DATA MINING)
)

Pages: 1 through 99
Place: Washington, D.C.
Date: April 17, 2024

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, NW, Suite 206
Washington, D.C. 20005-4018
(202) 628-4888
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UNITED STATES COPYRIGHT OFFICE

In the Matter of:)
)
 SECTION 1201 PUBLIC HEARING:)
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 PICTURES & LITERARY WORKS -)
 TEXT AND DATA MINING)
)

Suite 206
 Heritage Reporting Corporation
 1220 L Street, NW
 Washington, D.C.

Wednesday,
 April 17, 2024

The parties convened remotely, pursuant to notice,
 at 11:32 a.m.

PARTICIPANTS:

Government Representatives:

SUZANNE WILSON, General Counsel of the U.S.
 Copyright Office
 JOANNA BLATCHLY, U.S. Copyright Office
 RAFI GOLDBERG, National Telecommunications and
 Information Office
 BRANDY KARL, U.S. Copyright Office
 BRITTANY LAMB, U.S. Copyright Office

Panelists:

MICHAEL B. AYERS, AACS LA
 DAVID BAMMAN, University of California, Berkeley,
 on behalf of Authors Alliance
 JONATHAN BAND, Library Copyright Alliance
 JOHN P. BELL, Dartmouth College and University of
 Maine, on behalf of Authors Alliance
 MATTHEW DONGKYUN CHA, Samuelson Law, Technology &
 Public Policy Clinic at University of
 California, Berkeley, on behalf of Authors

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ROBERT ROTSTEIN, MSK LLP, on behalf of Joint
Creators and Copyright Owners
EMILY SHERWOOD, University of Rochester Libraries,
on behalf of Authors Alliance
ERIK STALLMAN, Samuelson Law, Technology & Public
Policy Clinic at University of California,
Berkeley, on behalf of Authors Alliance
DAVID JONATHAN TAYLOR, DVD CCA

1 the question asked, and that you keep your comments
2 brief.

3 In addition, today's event is being live-
4 streamed, and it's being both recorded as well as
5 transcribed by a court reporter. The video and
6 transcript will later be posted on the Copyright
7 Office website. So we ask that everyone speak
8 clearly, please mute your audio when you are not
9 speaking, which will make it all much easier for our
10 court reporter friends to be able to capture
11 everything said today.

12 Finally, I want to let everyone know, both
13 those listening in today as well as the panelists,
14 that Thursday afternoon we will be holding an audience
15 participation session for everyone. You can sign up
16 to participate in that session using the link that
17 will be in the chat. We ask that remarks in that
18 session be limited to about three minutes for public
19 participation, but you can address any of the classes
20 from this week.

21 Today's hearing is, again, Class 3, which is
22 Motion Pictures & Literary Works - Text and Data
23 Mining. Before we begin, I'd like to first invite my
24 Copyright colleagues to introduce themselves.

25 And, Brandy, why don't you start us off.

1 MS. KARL: Hi. I'm Brandy Karl.

2 MS. BLATCHLY: I'm Joanna Blatchly, an
3 attorney advisor.

4 MS. LAMB: And I'm Brittany Lamb, also an
5 attorney advisor.

6 MS. WILSON: We're also joined today by a
7 colleague of ours from NTIA, and can you please go
8 ahead and introduce yourself?

9 MR. GOLDBERG: Absolutely. Good morning.
10 My name is Rafi Goldberg. I'm a senior policy advisor
11 at NTIA.

12 MS. WILSON: Great. Now I'd like to invite
13 both the proponents and opponents of the proposed
14 class to introduce themselves. We're going to start
15 with the proponents, and when you do introduce
16 yourself, please do also identify the organization you
17 are representing here today.

18 And since we have a number of folks on
19 behalf of one organization, can we start with those
20 who are here on behalf of the Authors Alliance?

21 MR. HANSEN: Sure. Good morning. I'm Dave
22 Hansen, Executive Director of Authors Alliance.

23 MS. SHERWOOD: Good morning. I'm Emily
24 Sherwood, Director of Digital Scholarship and Studio X
25 at University of Rochester River Campus Libraries as

1 part of Authors Alliance.

2 MR. STALLMAN: I'm Erik Stallman. I'm the
3 Associate Director of the Samuelson Law, Technology &
4 Public Policy Clinic, representing Authors Alliance

5 MS. SUKHIL: Good morning. I'm Christian
6 Howard-Sukhil, and I'm a clinical student attorney at
7 the UC-Berkeley Samuelson Law, Technology & Public
8 Policy Clinic, representing Authors Alliance.

9 MR. HUANG: Good morning. I'm Zhudi Huang,
10 a law student at Samuelson Clinic at UC-Berkeley,
11 representing Authors Alliance.

12 MR. CHA: Hello. My name is Matthew
13 Dongkyun Cha. I am also a clinical student with the
14 Samuelson Clinic, representing Authors Alliance.

15 MS. WILSON: Did we get everyone on behalf
16 of the Authors Alliance?

17 All right. I'm going to then turn to the
18 Library Copyright Alliance.

19 MR. BAND: Hi. I'm Jonathan Band. I'm here
20 on behalf of the Library Copyright Alliance, and I'm
21 six hours ahead of D.C. I'm here in Geneva for the
22 meeting of the Standing Committee on Copyright and
23 Related Rights, so I will try to keep more awake than
24 our former president at his criminal trial.

25 MS. WILSON: So, for you, I should have said

1 good afternoon. Sorry. I thought I had the whole
2 group in the morning time.

3 And then, Mr. Bell and Mr. Bamman, can you
4 introduce yourselves?

5 MR. BELL: Sure. I'm John Bell. I'm the
6 Director of the Data Experiences and Visualization
7 Studio at Dartmouth College. I am here in support of
8 the Petitioners and not representing a particular
9 organization.

10 MS. WILSON: Great.

11 MR. BAMMAN: I'm David Bamman. I'm an
12 associate professor in the School of Information at
13 UC-Berkeley, also here representing myself.

14 MS. WILSON: Wonderful. And then I do not
15 believe I missed any of the proponents, and so, if I
16 did, go ahead and use that Raise Hand feature.
17 Otherwise, let's go ahead and turn to those opposing
18 the exemption, and why don't we start with AACCS LA.

19 MR. AYERS: Hi. Good morning and good
20 afternoon to everybody. My name is Michael Ayers.
21 I'm legal counsel for the Advanced Access Content
22 System Licensing Administrator. We usually refer to
23 ourselves as AACCS LA. And we're the developer and
24 licensor of content protection technology for Blu-Ray
25 discs.

1 MS. WILSON: Wonderful. Then the
2 Association of American Publishers.

3 MS. CHARLESWORTH: Hi. I'm Jacqueline
4 Charlesworth of Charlesworth Law, and I'm representing
5 the Association of American Publishers today.

6 MS. WILSON: And then the proponent
7 appearing on behalf of DVD CCA.

8 MR. TAYLOR: David Taylor, counsel to DVD
9 CCA, and we are opposing.

10 MS. WILSON: Sorry.

11 MR. TAYLOR: That's okay.

12 MS. WILSON: And then, finally, appearing on
13 behalf of the Joint Creators and Copyright Owners.

14 MR. ROTSTEIN: Yes, Robert Rotstein,
15 Mitchell Silberberg & Knupp for the Motion Picture
16 Association, the News Media Alliance, and the
17 Recording Industry Association of America.

18 MS. WILSON: Wonderful. Thank you all very
19 much, and we're going to go ahead and start off with
20 the questions for this class, and I believe I'm
21 handing it over to Brittany Lamb.

22 MS. LAMB: Thank you. And good morning to
23 everyone. I want to begin with a roadmap of where
24 we're expecting to go in this discussion so that you
25 have a sense of the topics that we're planning on

1 covering. Hopefully, this will help you to limit your
2 responses to the specific topics that we're discussing
3 and help us move the discussion along.

4 We'll begin with questions related to the
5 proposed expansion, though some of our questions may
6 also touch on the current exemption. Specifically, we
7 are planning to cover the logistics of sharing
8 corpora, such as recordkeeping, lawful acquisition of
9 copies, and how to ensure compliance with the
10 exception. We are also planning to cover security
11 concerns related to sharing corpora, the fair use
12 analysis as it relates to sharing, and possible
13 limitations on sharing.

14 Our hope is that we will cover these topics
15 within the first hour. Though the renewal for this
16 class was not opposed, we plan on covering a few
17 topics related to the existing exemption, such as
18 collaboration, security measures, and viewing the
19 copyrighted works. Time permitting, we will also plan
20 on addressing some general issues pertaining to text
21 and data mining.

22 As you can see, we have a lot of material we
23 would like to cover in a limited amount of time. We
24 would appreciate it if you would be cognizant of time
25 in giving your responses. With that, I'll turn it

1 over to my colleague, Joanna.

2 MS. BLATCHLY: Thanks, Brittany.

3 So, with our first question, under the
4 proposed expansion, how would the corpora be shared?
5 For example, would copies be distributed through a
6 file transfer? Would access be given on a server by
7 the host institution that created the corpora? Any
8 information that you have?

9 Yes, Mr. Hansen.

10 MR. HANSEN: Thank you. Yeah. So the
11 proposed expansion focuses on essentially allowing for
12 sharing as an extension of the existing exemption,
13 which includes access for purposes of collaboration
14 and replication, and we think that it's pretty
15 important that the specifics of how exactly that
16 access happens be dictated by the technology that the
17 researchers are actually using. One of the virtues, I
18 think, of the existing exemption is that it allows for
19 some flexibility in terms of the different types of
20 technology and the different types of research
21 environments that researchers are using.

22 I think Emily Sherwood and David Bamman, not
23 to put you on the spot, but they may have some
24 responses on this as well about some of the technology
25 that they use and some of the different ways that

1 universities have thought about access.

2 But, you know, the essence of it is what
3 we've seen and heard from researchers is kind of two
4 sort of scenarios. One is one in which content is
5 hosted on university servers, and outside users are
6 kind of authenticated in and accessing them there, but
7 it may also be necessary to actually share copies and
8 some of that has to do with technical challenges with
9 remote access to high-performance computing
10 environments remotely, and for researchers to
11 effectively use a corpus remotely, you know, it would
12 necessitate copies on their home campus.

13 And I want to emphasize. I know this wasn't
14 exactly the question. But I want to emphasize, in
15 those scenarios, you know, researchers would be
16 subject to all of the same limitations that they are
17 under the existing reg, including all the security
18 requirements that apply currently, and I know we're
19 going to get to that.

20 MS. BLATCHLY: Okay. Thank you. And I do
21 have a follow-up on the topic. Would researchers be
22 able to request only certain works from a corpus, or
23 would the independent text and data mining need to
24 occur on the corpus exactly as it exists in the
25 originating institution?

1 MS. SHERWOOD: I can at least answer that
2 for our use case, for example. So the corpus that
3 is --

4 MS. BLATCHLY: Can you just introduce
5 yourself as well?

6 MS. SHERWOOD: Sorry. Yes, of course.

7 MS. BLATCHLY: Thank you.

8 MS. SHERWOOD: My name is Emily Sherwood.
9 I'm here representing University of Rochester
10 Libraries. So, in our instance, the corpus is created
11 and generated in Mediate, which is the platform that
12 hosts our data generation software.

13 A researcher, for example, would create a
14 research group and a project, and the videos would be
15 uploaded to that space. They are time-stamped videos
16 and the data is generated in time-stamped nature. So
17 having access to those videos as they exist in their
18 time-stamped nature is actually very important to ask
19 or verify research questions on our data because it is
20 all time-stamped and it needs to be within the
21 framework that we have.

22 The servers are secure, and you would need
23 to request access to the platform itself, and then the
24 researcher you're collaborating with would actually
25 have to invite you to that specific research group.

1 That is the only way to access it.

2 If, for example, you wanted to do research
3 on, say, five of the films in our corpus instead of,
4 you know, 70, then we could start a new research group
5 that would still maintain the time-stamped data of
6 that specific corpus, but it would also allow you just
7 to extract those five, say, your library only had, you
8 know, owned five of those videos, you would then only
9 then have access to those five.

10 MS. WILSON: Can I ask a follow-up question
11 on that and your response, which is, so in terms of,
12 like, kind of one corpus, it sounds like there could
13 be a number of sub-corporuses that are created out of
14 that corpus?

15 MS. SHERWOOD: So, yes, if you had a more
16 limited research question that was looking at a
17 smaller subset, it would be possible for us to extract
18 those corpus into a separate research group, so you
19 would only have access to, say, the five -- I'm making
20 this up -- the five films that you would like to look
21 at and analyze, but they would still fall within the
22 same time-stamped data and be able to replicate and
23 verify the data that we had already generated.

24 MS. BLATCHLY: Okay. Thank you.

25 Mr. Band?

1 MR. BAND: Yeah, I just wanted to clarify in
2 response to that last question that, you know, and
3 this is my understanding, that it's not like a new
4 corpus is being created. There is one corpus at,
5 let's say, the University of Rochester Library that
6 has the 70 works, and this is simply giving -- the
7 subgroup is simply giving access to a smaller group.
8 It's not like it's creating a new corpus for those
9 people. That's my understanding.

10 Emily, please correct me if I'm wrong.

11 MS. SHERWOOD: Yes, that's correct. We
12 would be able to limit the access if requested to do
13 so, but it would still be part of the same corpus.
14 That's correct.

15 MS. WILSON: Okay. Yes, because that was
16 actually, just to follow up, that was specifically my
17 question, if there were multiple sub-corporuses being
18 created versus what it sounds like is more of -- and,
19 by the way, I'm also going to just thank you all to
20 indulge us as we try to understand something that you
21 work with much more frequently and have more
22 familiarity with. So if it is more a situation with
23 the existing corpus that a query is simply designed
24 that would only pull from certain parts of the
25 existing corpus, is that correct?

1 MS. SHERWOOD: Yes, it would be pulled from
2 the existing corpus. So the corpus is there and it
3 would be able to extract from the existing corpus the
4 portion that you wanted to focus on, but it would
5 still be the same corpus.

6 MS. LAMB: And if I could ask a quick
7 follow-up question as well. So it sounds -- and I'm
8 sorry to pick on you so much, Ms. Sherwood.

9 MS. SHERWOOD: That's okay.

10 MS. LAMB: But it sounds like for what you
11 are doing, it is hosted by your institution and it
12 would be providing access to outside researchers
13 rather than sharing it by a file share or something
14 like that and so it would remain kind of on, hosted by
15 University of Rochester Libraries, is that correct?

16 MS. SHERWOOD: That's correct. So we would
17 maintain the corpus here at University of Rochester
18 and grant permission to outside researchers if needed.

19 MS. LAMB: Okay. And is there a function to
20 download the works if you're an outside researcher?

21 MS. SHERWOOD: There is not, no.

22 MS. LAMB: Okay. Thank you.

23 MS. BLATCHLY: Mr. Bell?

24 MR. BELL: Thanks. I think it's important
25 to note that there are some use cases where actually

1 copying the files to another institution would be
2 necessary, and I can give an example for some of the
3 projects that we are working on.

4 We are doing large-scale analysis using a
5 lot of GPU resources that may not be available at the
6 initial host organization but we have available for
7 us. Under that scenario, we would be copying files
8 but, again, be doing so in the same sort of secure
9 environment and under the same restrictions that we
10 have in the existing exemption.

11 MS. BLATCHLY: Okay. Thank you. If we
12 don't have any other responses on that, I think I'll
13 turn it over at this time to Brittany.

14 MS. LAMB: Sure. Okay. So our next
15 question, and this may be mostly for the proponents,
16 but others should feel free to weigh in as well.
17 We're interested in what forms of recordkeeping
18 concerning corpora are currently in place, and what
19 degree of specificity the records use to identify the
20 works in a corpus? For example, is it just by title,
21 or is a unique identifier like an ISBN used to
22 identify a specific edition of a work?

23 Mr. Bamman?

24 MR. BAMMAN: So thank you for that question.
25 So, for our work here, we've digitized about 2500

1 DVDs, and I would love to tell you all about the kind
2 of projects that we've done with this data if you
3 wanted to ask a question about that.

4 But, for this specific question, we do keep
5 detailed records about the specific version of the DVD
6 that we've digitized, so that includes not just the
7 title but the UPC number. And part of that is to be
8 able to enable reproducibility by others, right? So,
9 if some other researcher wanted to replicate exactly
10 my same research question, they need to know exactly
11 what the materials were that we ran our analysis on so
12 they could purchase the same DVDs and run it
13 themselves.

14 One of the issues I want to raise for this
15 particular exemption is that it's not always possible
16 for different researchers to purchase exactly the same
17 DVD that I have, right, so it may be the case that I
18 bought the last remaining copy of a movie that was
19 published in 1981 or something that's really difficult
20 to find. And when you purchase these DVDs from
21 sources like Amazon and Thrift Books like I have, you
22 don't always know exactly which particular item of
23 that work that you're buying.

24 So part of what I'm envisioning here for
25 this particular exemption is that being able to

1 purchase a specific title would allow sharing of these
2 individual different UPC numbers for the different
3 DVDs. But, yes, for recordkeeping, we log all of
4 those specific items that we purchase.

5 MS. LAMB: Okay. Thank you. I think you
6 actually anticipated my follow-up question, which is
7 whether you would need to purchase the exact same
8 edition of the work or if having some other version or
9 edition would be sufficient.

10 So, if anyone else wants to weigh in and
11 discuss those issues, yeah, that would be great. But,
12 Mr. Bamman, we can go back to you.

13 MR. BAMMAN: I'm happy to defer to others if
14 you want to jump in ahead of me, but what I will say
15 is that, yeah. So, for our case, it's often really
16 important to be able to have the same, the exact copy
17 that we read our analysis on, for others to be able to
18 verify our results independently.

19 So, if they were to go out and buy the same
20 title but a different version -- so say we buy the
21 wide-screen version; they buy the director's cut -- it
22 means that the films are not going to be exactly the
23 same, right? They may have different run times. They
24 may have different aspect ratios. There may be some
25 subtle differences between those two so that if I'm

1 sharing metadata, right, about the films that we
2 generated through our algorithmic processes like who
3 the actors are in each individual frame, they wouldn't
4 necessarily be comparable across those two different
5 items. So being able to share the exact copy of the
6 data that we've run our analysis on, I think, is going
7 to be important simply for scientific
8 reproducibility's sake.

9 MS. LAMB: Mr. Bell.

10 MR. BELL: I would just add to that this.
11 It's not even just limited to the different versions
12 of a film that might appear on different discs. It's
13 also down to things like the technical encoding of the
14 files. In some cases, that actually makes a
15 difference to the analysis. So having the actual
16 exact copies of the files for verification purposes
17 and trying to figure out if there are additional
18 related questions that would then be comparable to the
19 original work, that's an important aspect of it as
20 well.

21 MS. LAMB: So, unless anyone else has
22 anything they would like to say on that, my next
23 question is, is it sufficient for the recipient
24 institution to have a copy of the works of the corpus
25 in their libraries, or does the researcher need to

1 separately acquire the copies?

2 Mr. Hansen?

3 MR. HANSEN: Yes. So our position is that,
4 you know, this is an extension of the existing
5 exemption. The existing exemption says that it's the
6 institution that has to own the copy, not the
7 individual researcher.

8 Where that institution houses the copy,
9 whether it's in a media center, in a lab, in a
10 university library, the current exemption doesn't
11 specify. And I can say, talking with lots of people
12 in this community, that current practice under the
13 existing exemption is that it's all of the above.
14 People have followed a variety of those approaches.

15 And so, for this, I think, you know, holding
16 the copy in the library certainly would be sufficient
17 but not necessary. It could be held in some other
18 sub-organizational unit of the university.

19 MS. WILSON: If I could, you know, jump in
20 on a follow-up on that, as well as, if there's anyone
21 else on that for proponents who have more to say on
22 that answer, we'd like to hear it.

23 It is helpful to understand how the current
24 exemption has been interpreted, but in the cases you
25 were discussing where perhaps another part of the

1 institution holds the copy, how does the researcher or
2 those who are responsible for the corpus ensure that a
3 copy is actually maintained? And how does that relate
4 to recordkeeping? You know, because I do think that
5 there are questions about how has this worked over the
6 last three weeks -- three weeks -- three years and
7 then what the, you know, proposed expansion would
8 specifically mean in terms of logistics.

9 MS. LAMB: Mr. Bell.

10 MR. BELL: I can say how it worked for us.
11 We've had our library and film media studies
12 department go through their collections and pull
13 specific discs out at our request. We already have a
14 list of those, obviously, and we just went through and
15 selected them for use in this study. We do definitely
16 keep all of those records anyways because it's part of
17 the publication process and the research process to
18 understand what is actually in the corpus itself. So
19 having all of those on hand is important to the
20 scholarly work, not just the recordkeeping portion of
21 it here.

22 Beyond that, I think the sort of ongoing
23 question of whether or not the disc is maintained in
24 the library, long story short, that's something that
25 we deal with a fair amount, and so there are existing

1 processes in place to say that, look, we are using
2 this. It is actively being processed and worked on.
3 And so, therefore, please make it available for us
4 over a longer period of time.

5 MS. LAMB: And Mr. Bamman.

6 MR. BAMMAN: Yeah. Just to give you a sense
7 about the variety of practices here. So the only DVDs
8 that we digitize are ones that I've bought for the
9 specific research purpose, which may mean that there
10 are multiple copies that the institution owns because
11 the library also may own the same copy in a different
12 format. I would have no problem going to the library
13 and asking to digitize those versions. But just to be
14 able to maintain more direct research control over our
15 specific corpus, I bought them all and digitized them,
16 and I keep records about all of those ones that we've
17 digitized.

18 MS. LAMB: Okay. Thank you.

19 And Ms. Sherwood.

20 MS. SHERWOOD: Yes. Similarly to Dr. Bell,
21 at University of Rochester, we purchase them through
22 the library collections. So all of the videos used
23 for this particular research project were purchased
24 through library collection funds and also partially
25 funded by the film and media studies department. But

1 they all exist in our library collection.

2 MS. LAMB: Okay. Thank you. I think I'm
3 going to turn it over to Mr. Goldberg to see if he has
4 any questions.

5 MR. GOLDBERG: Great. Thank you. This
6 discussion has made me wonder a bit about the peer
7 review process prior to publication. To what extent
8 have proponents found that they need the ability to
9 share a corpus for peer review purposes instead of
10 just with researchers at other institutions, or, you
11 know, is that something that's needed? Is that
12 something that can be excluded here? I'm just sort of
13 curious about how that works.

14 MS. LAMB: Mr. Bell.

15 MR. BELL: Sure. The short version is that
16 we haven't been doing that very much because it hasn't
17 been part of the existing rule. I think that this is
18 an opportunity to really think a little bit about what
19 quantitative digital humanities means as a discipline
20 because we're starting to get more into the types of
21 methodologies that have traditionally been used more
22 in STEM research and in the sciences and NSF grants
23 and things like that, where that kind of peer review
24 ahead of time is much more common.

25 The history in the humanities has been more

1 qualitative in nature. Peer review has a different
2 feel to it, so I don't think that we had the need to
3 do that quite as much in the past, and that's one of
4 the things I'm hoping for with this new extension, is
5 to be able to enable some of those methodologies and
6 bring some of those quantitative modes of operation
7 over into the humanities.

8 MS. LAMB: Thank you.

9 And Mr. Bamman.

10 MR. BAMMAN: Yeah, and I will say for us too
11 we have a project right now that's measuring
12 representation for race and gender in movies,
13 Hollywood movies, over the past 40 years. And this
14 particular topic is one that I'm deeply concerned
15 about when it comes to publication because we're at
16 the stage now of writing up all of our results to
17 submit to a major journal, and reproducibility is a
18 big part of the review process, right?

19 One strategy that people often use is to
20 provide access to derived metadata. So, in our
21 context, we have information about who the actor is in
22 every frame of a movie. We could give that to
23 reviewers to let them verify that derivative phase,
24 but starting from the movie itself to get those
25 derived metadata would not be possible with this

1 particular collection. And so we haven't run up
2 against those kind of hurdles yet, but I'm expecting
3 that we're going to, and it is a concern.

4 MS. LAMB: Okay. Thank you.

5 And Mr. Hansen.

6 MR. HANSEN: Thank you. And so I wanted to
7 comment because, as I think I've mentioned, we've been
8 talking with lots of text data mining researchers in
9 lots of different research environments. And so, just
10 as sort of an aggregate data point across them, I
11 think there are some different approaches to the
12 current exemption. The current exemption does allow
13 for sharing access for verification purposes, and so
14 we have heard of some folks looking at that and
15 saying, gee, that actually would facilitate some level
16 of access for kind of a peer review process.

17 And I think that's what you get with, you
18 know, a new regulation. This is a three-year-old
19 regulation, and it's kind of a learning experience, so
20 people are reading it in different ways and using it
21 in different ways. But I just thought you should have
22 that data point, and I wanted to make sure we kind of
23 got out there that, you know, there are certain levels
24 of access that are already permitted for kind of
25 outsiders in the current exception, including for

1 verification purposes.

2 MS. BLATCHLY: So can I just ask a follow-up
3 for clarification? Is peer review something that you
4 as researchers would consider part of verification?

5 Let's start with Mr. Bell.

6 MR. BELL: Again, I think that it depends on
7 the discipline. I think that that is the direction
8 that we are going, but because we come from a more
9 sort of qualitative background and are going in a
10 quantitative direction, that is still an emerging
11 practice in at least my discipline.

12 MS. BLATCHLY: Mr. Bamman.

13 MR. BAMMAN: And I would say yes to that.
14 Peer review is part of the definition of what
15 verification is. In my context, I tend to be very
16 conservative with our security risk, and so if one of
17 the options for allowing others to verify the results
18 of our research is to give them access to our secure
19 environment, I'm less open to that for people who I
20 don't know and don't have strong collaborative ties
21 with. So peer review would fall into this particular
22 category, I think.

23 MS. BLATCHLY: Okay. Thank you. It looks
24 like we don't have any more hands on this topic, so
25 I'm going to move on to the next question here, and

1 this one might also be best suited for the proponents,
2 but anyone should feel free to answer.

3 If a corpus is shared either under the
4 proposed expansion or as part of collaboration under
5 the current exemption, what happens if a work in that
6 corpus is no longer available to be lawfully acquired?
7 Is it removed from the corpus before it's shared? Is
8 that even possible?

9 Yes, Mr. Hansen?

10 MR. HANSEN: Thank you. So I just want to
11 make sure I understand the question or the scenario.
12 So the situation is, you know, University A creates a
13 corpus based on, let's say, a set of a hundred DVDs,
14 shares that with University B because they already own
15 those same DVDs. They've lawfully acquired them at
16 some point. And then, at some point in time, that DVD
17 gets taken off the market or is no longer available
18 for sale?

19 MS. BLATCHLY: I think we're envisioning a
20 scenario where this happens before the collaboration
21 or the corpus is being shared. If there is a subset
22 of the corpus that somebody wants to study and they
23 request access, but they learn that Title X is no
24 longer available, but it was in the original corpus
25 that they are seeking to study, what would happen at

1 that point?

2 MR. HANSEN: Ah, I see. Well, I would
3 invite some of the text data mining researchers on the
4 call to chime in on the technicalities of actually
5 removing things from the corpus.

6 But, in terms of what we are proposing,
7 access would only be allowable for titles that the
8 receiving institution actually owns a copy of. And
9 so, if they can't get a copy of it in some lawful
10 manner for whatever reason, then that title would need
11 to be excluded from the corpus.

12 And I think Emily Sherwood has talked a
13 little bit about the possibility of sort of subsetting
14 aspects of an existing corpus, so maybe she could
15 chime in. But I think the scenario that would happen
16 is that that receiving institution would have to
17 somehow not receive that title that they don't own.

18 MS. SHERWOOD: Yeah. I think, as I
19 explained before, what we could do is remove access to
20 those individualized videos from the people who are
21 requesting access via our platform.

22 MS. BLATCHLY: Okay. Thank you.

23 And Mr. Band.

24 MR. BAND: Yeah. And I just want -- you
25 know, this is sort of like a high-level comment. I

1 just hope that you all understand how at some level
2 that constraint that we're agreeing to is absurd. I
3 mean, you know, it just kind of goes against the fiber
4 of research and fair use and the way libraries work.

5 But, you know, in the interest of making
6 this process work, we're willing to agree to that kind
7 of restriction. I mean, you know, it frankly makes no
8 sense, you know, especially given the reality that one
9 could go online and find an infringing copy of that
10 work, you know, in hundreds of places. But, you know,
11 in the interest of this process, we're, you know,
12 willing to, you know, tie our hands, you know, behind
13 our back.

14 MS. BLATCHLY: Okay. Thank you for that
15 comment. I think I have a somewhat related comment.
16 Who is responsible for ensuring that the works are
17 lawfully acquired? Is that on the originating
18 institution or on the receiving institution?

19 Mr. Hansen?

20 MR. HANSEN: I think this is a pretty
21 straightforward issue of, like, the institution that
22 is circumventing TPMs in the first instance would have
23 the responsibility of ensuring that they acquired
24 access or acquired the copies lawfully.

25 And just as a side comment on that, I think

1 that largely happens through university libraries and
2 other, through research teams that are pretty careful
3 about where they are getting things from.

4 And so, in that instance, you know, they're
5 responsible as they create the corpus. And then, for
6 the institution on the receiving end, you know, they
7 would have to do the matching up to make sure that
8 they actually own the titles that they are requesting
9 access to, and that would happen upon acquisition
10 there.

11 I guess I would also just interject in this
12 that acquisition workflows for different institutions
13 can vary, but especially at larger institutions, where
14 a lot of this happens at an institutional level that
15 goes through procurement offices, that goes through a
16 kind of bureaucratic process, there's a lot of steps
17 along the way to prevent unlawfully made copies from
18 being acquired.

19 MS. BLATCHLY: Okay. Thank you. I think,
20 with that, I'm going to turn it over -- oh, sorry,
21 Suzy, did you want to say something?

22 MS. WILSON: I just have a -- well, one,
23 also, David Jonathan Taylor, you have your hand up and
24 so I want to give you a chance to speak, and let me
25 just kind of throw in a follow-up question, which is

1 simply, under the proposed expansion, if, again, as
2 was described, you know, the original creator of the
3 corpus will have lawfully acquired the works and
4 they're the ones who are circumventing the TPMs and
5 then, if the corpus is shared, is there -- how does
6 the obligation -- we know that the obligation is on
7 the sharing, the institution that's receiving the
8 corpus and obtaining access. But is there any
9 recordkeeping obligation on the original institution
10 with regard to, you know, these requirements were
11 disclosed, we have a certification that this has
12 occurred? Anything else like that?

13 MS. BLATCHLY: And we'll start with Mr.
14 Taylor.

15 MS. WILSON: Well, actually, let's start
16 with the proponents first because that's a proponent
17 question, and then we'll go to -- I know the opponents
18 have lined up with their hands.

19 MS. BLATCHLY: Okay.

20 MS. WILSON: Mr. Hansen, did you want to
21 answer that?

22 MR. HANSEN: Sure. I'm happy to. And I
23 think, as some of the researchers have already
24 mentioned, recordkeeping is pretty important as part
25 of the research process for publication, for peer

1 review. And so, in our proposed text, we haven't
2 indicated any sort of recordkeeping requirement in
3 there. It would be highly unusual for an institution
4 not to keep records of what they are using because
5 researchers need that as part of their research
6 process. But I don't think it would be unreasonable
7 for an institution to have to keep a record of, like,
8 what do they own, when did they own it, when did this
9 happen, those kinds of things.

10 I guess the only little concern I have with
11 that is, you know, the proposed text that we suggested
12 as an expansion on this regulation is relatively
13 straightforward. The regulation is already rather
14 long. It's, frankly, kind of intimidating to a lot of
15 researchers. And so I would say, if there is a
16 recordkeeping requirement, it would be helpful to make
17 it straightforward so that people can really
18 understand it and use it.

19 And I say that in the context of, over the
20 last two years, I've done workshops at probably two
21 dozen universities meeting with over a thousand
22 different researchers to try to help them understand
23 how to use this because they're not lawyers, they're
24 not copyright experts, and so they're trying to
25 navigate a kind of complex process. So I guess that's

1 sort of a generalized regulatory suggestion, is that
2 there's a real virtue in simplicity to help ensure
3 actual, real compliance.

4 MS. WILSON: Thank you.

5 MS. BLATCHLY: And I think, since, Mr.
6 Taylor, you had your hand up from before, we'll start
7 with you.

8 MR. TAYLOR: All right. Yes, I just wanted
9 to respond to Mr. Hansen's suggestion that the burden
10 would fall on the receiving institution that they
11 would have to verify it. I mean, the act of
12 circumvention is being done by the initial creating
13 the corpus, and if it is subject to the limitation
14 that it can share provided that the other institution
15 would have those same copies of works, then, in order
16 for it to circumvent lawfully, the burden must fall on
17 the institution that builds the initial corpus.

18 MS. BLATCHLY: All right. Thank you.

19 Mr. Rotstein?

20 MR. ROTSTEIN: Sure. I just want to point
21 out that, and stepping back, we've been talking about
22 two things. This doesn't involve only access, it
23 involves copying and distribution. And it's not even
24 limited distribution. We haven't talked about the
25 fact that the receiving institution can redistribute

1 to another institution presumably under the proposed
2 extension.

3 And also, I'm hearing conflicting -- the
4 first comment by the proponent was that if a certain
5 title is unavailable or even different, that doesn't
6 work for the research. So, presumably, for the
7 research to work, one would have to, you know, send
8 the full corpus with a version of, say, a DVD that
9 wasn't purchasable, and that's problematic.

10 And just thirdly really quickly, I have to
11 respond to Mr. Band's comment that limitations are
12 absurd. I, frankly, think that unlimited distribution
13 of corpus doesn't have any basis in the law.

14 MS. BLATCHLY: Okay. Thank you. And I
15 think we do have some questions on that later on.

16 So, for right now, Ms. Charlesworth?

17 MS. CHARLESWORTH: Yes, thank you. This is
18 more of, I apologize, a comment than a question. But
19 we've heard a lot of about the maintenance of motion
20 pictures, but we haven't heard anything about books
21 and how those are tracked and what kind of
22 recordkeeping pertains to books. I imagine some of
23 those corpora could be much larger, and I was just
24 curious for the persons I represent, the book
25 publishers, whether there was anyone who could speak

1 to the specifics of books and journal articles and
2 other things that are being circumvented under the
3 rule?

4 MS. BLATCHLY: Okay. I think Mr. Ayers had
5 a response and then if anyone can add to that.

6 MR. AYERS: Thank you. Thank you. So, to
7 piggyback on a comment that David Taylor had made, I
8 think it would be important to clarify that it's not
9 only the originating institution that should have the
10 obligation; it's both institutions, both the
11 originating and the receiving institution. The
12 originating institution is the one doing the original
13 circumvention, and its obligation under the proposed
14 expansion would be to only share their corpus with
15 another institution that is also following the rules.

16 And so there needs to at least be -- it's
17 not just a mere matter of recordkeeping of what was
18 handed over but making sure there was an appropriate
19 basis for the handover in the first place, including
20 at the very least some representation by the receiving
21 institution that they had legally obtained copies of
22 the works that they're accessing.

23 And I would just note more broadly really to
24 a couple of the earlier comments in this session that
25 we certainly hear a lot of folks are trying to do some

1 very good work. But we're also aware of, in the
2 submissions that had preceded this hearing, we've got
3 examples of institutions which are already
4 interpreting the current exemption in ways that are
5 inconsistent with the current exemption and not only
6 with the current exemption but even with the proposed
7 expansion, including soliciting copies from other
8 institutions to make collections of clips, performing
9 close viewing of works, which is something that in the
10 earlier proceeding three years ago we'd been assured
11 that viewing of the works was not necessary unless it
12 was for verification purposes, and we're seeing now
13 that it's actually considered very necessary to some
14 of the work being proposed.

15 So I think we need to be aware at a very
16 high level that the expansion that is proposed is
17 perhaps not actually the expansion that is going to be
18 practically implemented. And so we should make sure
19 that our work there is very thoughtful and careful in
20 considering not only what the text of the proposed
21 expansion would include but also what practical impact
22 is that likely to have on entities that are already
23 acting outside the current existing exemption.

24 MS. BLATCHLY: I'm going to have to cut you
25 off here just in the interest of time and we do have a

1 lot to get to.

2 Very briefly, Mr. Bamman, I will let you
3 respond.

4 And then, Mr. Rotstein, if your hand is
5 still up from the last time, if you could put it down.
6 Thank you.

7 So Mr. Bamman, and then we're going to move
8 on.

9 MR. BAMMAN: Great. Thank you. Yes. So
10 just to respond to two of the comments there. So, on
11 the points about the different DVD versions being
12 different, what I meant there was that if I purchased
13 and digitized a version of "The Empire Strikes Back"
14 from 1980 and that version is no longer in print but a
15 different institution could buy a different version of
16 "The Empire Strikes Back," then I'm wondering if that
17 is a basis for me to be able to transfer or to give
18 access to my particular copy since it's a copyrighted
19 work, if not the specific version that we have.

20 Now, on the point about books, right, we
21 have all been discussing movies exclusively here. And
22 from my experience, we have not used this exemption
23 with e-books at all, right, now in part because this
24 is due to contractual override issues that the books
25 that we would love to be able to work with we would

1 have to purchase from Amazon or other places, whose
2 terms of service prohibits breaking DRM to do this
3 kind of work. So we're still trying to find a way of
4 making this exemption useful for doing anything with
5 books at all.

6 MS. BLATCHLY: Okay. Thank you.

7 And at this time, Mr. Goldberg, you have a
8 question

9 MR. GOLDBERG: Great. Thank you. Very
10 quickly, Mr. Ayers made an interesting point around
11 the requirements falling on multiple institutions,
12 which, you know, raised an interesting idea for me,
13 which is, how should we think about the possibility
14 that an act of circumvention, which perhaps, for
15 argument's sake, let's say, is compliant with the
16 terms of an exemption at the time it happens, later
17 falling outside of the exemption because of something
18 that, you know, perhaps another institution did
19 improperly maybe years later? I'm curious to hear
20 about both sides, you know, sort of about the extent
21 to which an act of circumvention could retroactively
22 fall outside the scope of an exemption.

23 MS. BLATCHLY: Ms. Howard-Sukhil?

24 MS. HOWARD-SUKHIL: So I just want to
25 clarify. I actually have a point in response to Ms.

1 Charlesworth's question about books. And so I'm happy
2 to clarify that, or if someone else wants to answer
3 Mr. Goldberg's question first, that's fine with me.

4 MS. BLATCHLY: We don't have any other hands
5 at this time.

6 MS. HOWARD-SUKHIL: Okay. Okay. So I just
7 want to say that my own background, I can speak to
8 this a little bit. And I am a clinical law student
9 representing Authors Alliance.

10 But, prior to attending law school, I
11 received my Ph.D. in English Literature from the
12 University of Virginia with specializations in
13 contemporary literature and the digital humanities.

14 After this, I served as a digital humanities
15 post-doctoral fellow at Bucknell University, and I do
16 have direct experience working on TDM works and
17 developing TDM corpora.

18 I will say very briefly that I left the
19 academy before the 2021 exemption was passed. But I
20 just do want to clarify that having worked on corpora
21 that were at the time, you know, in the public domain,
22 recordkeeping is an essential part of any scholar who
23 is working, whether they're working on DVDs or text-
24 based materials. So, to Ms. Charlesworth's point,
25 that would be something that is maintained. So thank

1 you.

2 MS. BLATCHLY: Thank you.

3 And Mr. Band.

4 MR. BAND: Yeah. I guess, to respond to Mr.
5 Goldberg's question, you know, the question with
6 respect to -- every fact situation is going to be
7 slightly different and one would have to do the legal
8 analysis with respect to that issue.

9 So, certainly, the way the Copyright Office
10 is interpreting the exemption is that, you know, even
11 if you circumvented a work lawfully at a certain time,
12 then what you're able to do with that could change at
13 different periods of time.

14 I'm not sure that's necessarily -- you know,
15 my personal view is that that might not necessarily be
16 right, meaning, if the circumvention is legal once
17 when you do it, then, you know, I would think that
18 what you then do with it is beyond the scope of
19 Section 1201.

20 But, certainly, the Copyright Office has not
21 been interpreting that and no one has been acting as
22 if, you know, you only look at the issue of
23 circumvention and the lawfulness of the circumvention
24 at the time it was done, and then Section 1201 becomes
25 completely irrelevant because, at that point, the work

1 is as it were in the clear. So that would mean that,
2 even if it is part of the corpus of Institution 1,
3 then, if Institution 2 at a later date is trying to
4 access it, then one would look at, you know, is it
5 lawful at that point for there to be a distribution to
6 Institution 2.

7 MS. BLATCHLY: Thank you.

8 Mr. Taylor?

9 MR. TAYLOR: Yes, I guess I would have to
10 disagree with Mr. Band that you can't look down the
11 chain because the exemption only exists and permits
12 the circumvention in the case of sharing is, you know,
13 if there is downstream liability. So, as a condition
14 to circumvent in the first place, you have to have
15 downstream liability.

16 MS. BLATCHLY: Okay. Thank you.

17 Mr. Hansen.

18 MR. HANSEN: So I think this in a way
19 addresses the downstream liability question and also a
20 comment that Mr. Ayers made previously about who is
21 responsible for ensuring compliance.

22 And I agree actually. I think that both
23 institutions have an obligation, both the receiving
24 and the sending. The way that we have suggested the
25 text is that it says the sharing is allowed where

1 those researchers are in compliance with the
2 exemption. And so that receiving institution would
3 have to do all of the checks. It would have to ensure
4 all of the security requirements are in place. It
5 would have to ensure that they owned those copies.

6 And that sort of liability flows because the
7 institution that does the circumvention would have
8 some obligation to ensure that the receiving
9 institution actually is in compliance. So we're not
10 trying to, like, get receiving institutions out of
11 some sort of liability so they can do whatever they
12 want with these copies. I think the idea here is to
13 say the very same obligations that are imposed on the
14 institution that does the work of circumventing TPMs,
15 because it is so time-intensive and technical, you
16 know, the downstream institution has to comply by all
17 of the exact same rules, and we want to put them on a
18 level playing field. That's the intent.

19 MS. BLATCHLY: Okay. Thank you.

20 I think, at this point, Brittany, I'm going
21 to hand it over to you.

22 MS. LAMB: Thank you. So our next question
23 is, if the proposed expansion is granted, can the
24 researchers or institutions request monetary
25 compensation or some other kind of benefit in exchange

1 for sharing a corpus?

2 MS. WILSON: I'll just jump in since we
3 don't have any hands up. Oh, we got a couple up. All
4 right, because I think we felt that this was not
5 addressed in the proposal, and we wanted to make sure
6 we understood what the intent was and what the
7 thoughts were on this issue.

8 So, Brittany, I'll hand it back to you to
9 call on those with their hands up.

10 MS. LAMB: Sure. So we'll start with Ms.
11 Charlesworth.

12 MS. CHARLESWORTH: Well, maybe I should go
13 last and respond to what Mr. Bell and Mr. Hansen may
14 have to say on this before I jump in.

15 MS. LAMB: Sure. Yes. We can start with
16 Mr. Bell then.

17 MR. BELL: I would just say that that
18 wouldn't be considered. That charging would not be
19 consistent with the practices that we have in other
20 types of data-sharing situations for research. So I
21 wouldn't think that we would try to do something like
22 that here either.

23 MS. LAMB: Thank you.

24 And Mr. Hansen.

25 MR. HANSEN: John sort of answered it. Same

1 answer. I'd just point out, you know, the exemption
2 is limited to uses at non-profit institutions of
3 higher education. That isn't to say, you know, non-
4 profits don't exchange a lot of money, but this is not
5 for any sort of commercial purpose.

6 MS. LAMB: Okay. Thank you.

7 And Mr. Taylor.

8 MR. TAYLOR: Yes, I would just simply say
9 that it becomes problematic to the extent that you're
10 creating a service that is a corporate lending
11 service, and even if it's not "for profit," even if
12 it's for cost-sharing, I think it becomes more of a
13 corpus lending service.

14 MS. LAMB: Ms. Sherwood.

15 MS. SHERWOOD: We would not charge at all
16 for cost-sharing, and it wouldn't become a corpus
17 lending service because the other institution would
18 also be required to purchase the DVDs or the videos at
19 play. So there would be no financial benefit.

20 MS. LAMB: Okay. Thank you.

21 And Ms. Charlesworth.

22 MS. CHARLESWORTH: Oh, thank you. I mean, I
23 think the reason I jumped up with my hand there was
24 because I think this could lead to a lot of problems
25 where money is changing hands, and it certainly seems

1 inconsistent to me with the spirit, I think this was
2 mentioned earlier, of this being solely for academic
3 non-profit purposes.

4 In fact, I think, you know, the current
5 version of the rule could be buttoned down even a
6 little bit more, and this is briefly mentioned in our
7 papers, but, you know, to the extent there's a renewal
8 of the exemption, it really should be limited strictly
9 to academic non-profit purpose, and the corpora
10 shouldn't be shared, you know, shouldn't be sent off
11 to commercial users or in any way monetized. That's
12 AAP's view, and I think that that, I'm hoping the
13 Copyright Office will make that clear.

14 MS. LAMB: Okay. Thank you. I will hand it
15 back to Joanna.

16 MS. BLATCHLY: Thank you. So, if the
17 proposed expansion is granted, who should be
18 responsible for ensuring that recipient institutions
19 and researchers use effective security measures?

20 Mr. Ayers.

21 MR. AYERS: Thank you. I would go back to
22 our earlier comment about ensuring that the movies in
23 question or the works in question are actually owned.
24 I think there would have to be responsibility on both
25 sides because, again, the idea is that the sharing

1 should not take place unless it's with an entity that
2 is also operating under the same exemption conditions,
3 and so that has to be ascertained.

4 And, again, I think we can also look to
5 current uses that are purportedly under the current
6 exemption that are inconsistent with that. So, again,
7 I think we would need to make sure that any security
8 obligation would have to be shared and perhaps more
9 clearly set out than is current.

10 MS. Blatchly: Okay. Thank you.

11 And Mr. Hansen.

12 MR. HANSEN: I think the answer is both the
13 sending and the receiving institution are responsible
14 for ensuring their security requirements. I think
15 this is also a good moment to point out that
16 institutions actually do this all the time with all
17 sorts of data, particularly when you look at research
18 happening in clinical health fields or other areas
19 where data security is particularly important.
20 Universities are actually really good at this and they
21 do this with regularity with agreements amongst them
22 about how to ensure security compliance, and so I
23 think that, again, both institutions would need to
24 comply.

25 MS. BLATCHLY: Okay. Thank you.

1 I think, Brittany, I'll hand it over to you.

2 MS. LAMB: Sure. So my next question is, if
3 the proposed expansion is granted, should additional
4 security measures be imposed to safeguard a corpus
5 while it is being shared? So this would be not a
6 situation where the originating institution just
7 grants access, but if there is a file share kind of
8 situation, should security measures be in place to
9 govern the transitory period?

10 Mr. Cha?

11 MR. CHA: Yeah, institutions already have
12 these standards in place for a safe and secure
13 transmission of sensitive data. Like Dave said, this
14 isn't really anything new.

15 For example, Berkeley's minimum security
16 standards for electronic information expressly require
17 the use of secure, authenticated, and industry
18 accepted encryption mechanisms when transferring
19 sensitive data. For data at risk, the standards
20 include the use of industry standard encryption,
21 intrusion detection systems, and network security
22 policies, such as auto login access controls and
23 appropriate physical environmental security controls.

24 Other institutions similarly have methods to
25 protect their own highly confidential information, and

1 the receiving institutions have to follow these same
2 exact security requirements with the exemptions. They
3 currently have the capacity to securely transmit data
4 and the standards to do so.

5 MS. LAMB: Thank you.

6 Mr. Ayers.

7 MR. AYERS: All right. Thank you. I would
8 point out that the security was discussed in the last
9 go-round on this issue and certainly is a concern here
10 too when sharing that while certainly there are
11 entities that will act very responsibly and take very
12 seriously the secure treatment of that data, where
13 it's important to make sure that there are appropriate
14 standards so that every entity who is engaging in this
15 exemption follows those standards.

16 And I would note that more specifically to
17 the question you asked as to whether there needs to be
18 particular security standards in place for the
19 transfer of the files from one entity to the other, I
20 would say, yes, absolutely. The whole reason that
21 these works were protected in the first place was to
22 prevent their unlawful and unauthorized sharing,
23 including basically a soup-to-nuts, beginning-to-end
24 encryption and protection system that protects the
25 work from the moment it's created with the motion

1 picture studio and the replicator all the way through
2 until it is viewed in, according to analog, eyeballs.
3 And so to take it out of that environment and then not
4 apply appropriate security at some point in the
5 authorized exemption use is problematic indeed.

6 MS. LAMB: Thank you.

7 Mr. Taylor.

8 MR. TAYLOR: Yes. Thank you. I just want
9 to say I hear a lot of, you know, trust us,
10 universities know how to do this. But what we've seen
11 in practice is that there seems to be a large
12 disconnect between the researchers and the work
13 they're doing and what universities actually know
14 their researchers are doing.

15 For example, it was very easy for me to get
16 access to a database, and it demonstrated to me that
17 there was no security in place. Reviewing the
18 comments of the MPA and the reply comments, I got the
19 very strong sense that counsel for the universities
20 were not aware of what the researchers were, in fact,
21 doing and were very reluctant to come forward and
22 defend those actions and couldn't provide the
23 assurances that the university really is protecting
24 this content as the regulation would require.

25 MS. LAMB: Okay. Thank you.

1 Ms. Charlesworth.

2 MS. CHARLESWORTH: Yes. Thank you. Well, I
3 want to echo that and say, you know, it's one thing to
4 have a rule in place and a policy in place, but it's
5 quite another to connect it to and actually implement
6 it with respect to projects like this. And I don't
7 want to rehearse everything that was already in our
8 papers, but we sent out letters.

9 There was a lot of resistance to responding.
10 We didn't get any real substantive response on the
11 question of what exactly are you doing, you know, in
12 working with researchers who are doing this work to
13 ensure that the security measures applicable to highly
14 confidential information at your institution are
15 actually being applied here, you know, which would
16 include probably some amount of training, where are
17 the corpora being hosted.

18 There was just -- there's no -- this gets to
19 the broader theme of transparency. There's just
20 simply no transparency on what's going on here. And
21 as copyright owners, you know, we're sitting here in
22 the dark and not understanding whether anything is
23 actually being observed under the rule.

24 So, you know, as I think was just said, we
25 keep hearing, well, trust us. The rule says this.

1 The rule will ensure this. But that's really quite a
2 difference between sort of thought and action. So I
3 think, you know, and this may be for a later
4 discussion in the hearing, but we really need
5 mechanisms where the copyright owners can reliably
6 check. They need to know what works are being used.

7 Apparently, the records are being kept. So
8 that's one point that we've covered a fair amount.
9 And number two, we need to be able to understand
10 exactly how the procedures are being applied, the
11 security procedures in particular, in addition to, you
12 know, the lawful copy procedure, how they're being
13 applied. And there just needs to be some ability in a
14 situation like this where you have massive corpora of
15 DRM-free work, really, you know, the fair-use question
16 ultimately depends on appropriate security, as in
17 HathiTrust and Google Books, and there needs to be
18 much more ability to confirm that.

19 MS. LAMB: Okay. Yeah. Thank you. Just to
20 remind everyone we are very short on time, so we will
21 discuss security measures later on as well. But, if
22 everyone could kind of focus on the specific issue and
23 keep responses brief, that would be fantastic.

24 So, briefly, I'll turn to Mr. Hansen then.

25 MR. HANSEN: Well, I was going to respond.

1 On the issue of security of the corpus at which
2 institution and whether universities have the capacity
3 to do this, you know, I would point out, as far as I'm
4 aware, there's no evidence in any TDM researcher's
5 corpus being breached, any security incidents out
6 there reported on that.

7 This is not research that's happening kind
8 of in secret. Researchers are publishing their work.
9 It's out there in peer reviewed outlets. All of this
10 stuff is available, and, as far as I'm aware, there's
11 no evidence of breaches.

12 And regarding, you know, investigation into
13 security practices, I guess I'd just point out, with
14 regard to these letters, there actually were
15 substantive responses on those. They were put in
16 place or they were sent with a very short time line
17 for individuals to respond to very large institutions
18 with a wide variety of research activity. And,
19 frankly, they were sent with kind of questions about
20 their validity.

21 For example, the AAP letter, sending letters
22 to University of California and Stanford University on
23 behalf of presses that are housed within those own
24 institutions, which AAP referred to as requesting
25 presses. And based on conversations I've had with

1 press directors, they were never consulted or asked at
2 least in some instances about whether those requests
3 should go out on their behalf.

4 MS. LAMB: Okay. Thank you. I'm so sorry,
5 but we have to move on to our next question. So I'm
6 going to hand it back over to Joanna.

7 MS. BLATCHLY: Thank you, Brittany.

8 Should a copyright owner be entitled to
9 inquire into whether and where a corpus has been
10 shared?

11 Ms. Charlesworth.

12 MS. CHARLESWORTH: I will be brief. Of
13 course. Of course. You know, in the interest of
14 transparency, copyright owners should know where their
15 works are being shared.

16 MS. BLATCHLY: Okay. Thank you.

17 Mr. Taylor.

18 MR. TAYLOR: Yes, and I absolutely agree
19 with Ms. Charlesworth that it's not only the copyright
20 owner, but it's also the representatives, be them
21 trade associations or the like. I mean, to suggest
22 that the trade association who are here making these
23 representations can't turn around and ask how are
24 these representations actually enforced, I mean, that
25 seems a little disingenuous.

1 And we've come across this issue about the
2 role of certain collection societies. I don't see any
3 difference why the Copyright Office can't make it
4 perfectly clear that the trade associations that
5 represent different parties in this proceeding also
6 should have the authority, clear authority, to be able
7 to ask these questions of how the rule is being
8 implemented.

9 MS. BLATCHLY: Okay. Thank you.

10 And Mr. Band.

11 MR. BAND: So just to be ornery, that was a
12 joke. No, I would say, as a general matter, no for
13 the simple reason that if you look across all of the
14 other exemptions under 1201, there is not the ability
15 to start engaging in, frankly, fishing expeditions, as
16 was done in this instance in a manner and timing that
17 was clearly intended to intimidate researchers.

18 You know, we've been talking about, I mean,
19 some of the opponents have been talking about the
20 massive size of these corpora, but, you know, we don't
21 know actually, you know, there's no evidence that they
22 are really that massive. We've heard of relatively
23 small numbers actually so far. But, even if they are
24 massive, I mean, other exemptions also involve large
25 numbers of works. I mean, the real sort of the proof

1 is in the pudding that there are, you know, with all
2 of these exemptions across all the years of Section
3 1201, I mean, I don't know if there is any evidence of
4 any leakage whatsoever. And that goes back to my
5 earlier point. Why would anyone bother sort of
6 cheating on 1201 when you can just find everything out
7 on the open web? You know, there is a complete
8 disconnect, but the bottom line is that no, there
9 should not be an invitation for fishing expeditions.

10 MS. WILSON: So I'm just going to jump in
11 here. We are aware in the record of the discussion
12 and different opinions regarding letters that were
13 sent and the responses that were received. But, to
14 respond to, you know, some of Mr. Band's comments, in
15 the existing exemption, it provided an opportunity for
16 a copyright owner to inquire, and one question that
17 has come up is, and maybe particularly against the
18 backdrop of the dueling letters, is how does a
19 copyright owner know to inquire if that is something
20 that was provided to them in connection with the first
21 exemption.

22 So that's kind of a question of, you know,
23 in the current exemption, does that work? And I
24 think, with respect to everyone who might be ready to
25 respond and say no, we get a little bit of the no from

1 what occurred prior to in connection with this
2 rulemaking. But then the question is, is that
3 something that should continue? If so, how do we make
4 that workable? And I'm going to assume that some of
5 those who have their hands up might have an answer to
6 that, and I will ask Mr. Rotstein to go ahead.

7 MR. ROTSTEIN: It should continue, and it
8 should be expanded. There should be some notice
9 provision. I don't want to belabor the letters, but
10 I'll give one example. You know, at least one of the
11 responses said, we're not going to respond because
12 only the copyright owners can take advantage of this
13 and we don't know that you're a copyright owner.

14 So how does one know? To make this work,
15 it's really essential that there be some sort of
16 recordkeeping notice to the copyright owners and be
17 more efficient actually to do that because the
18 copyright owners would presumably know whom to ask.

19 MS. BLATCHLY: Okay. Thank you.

20 MS. WILSON: Thank you. Mr. Ayers.

21 Thanks, Joanna.

22 MR. AYERS: Yeah. Just to sort of disagree
23 with Mr. Band, I would say that even if the current
24 corpora are not "massive," I think, in the discussions
25 in the last go-round and here again, we're

1 anticipating that they certainly could be. That was
2 certainly one of the reasons for the concerns about
3 how securely these corpora were maintained but also
4 because we're talking about now not just siloed
5 corpora in individual institutions but sharing these
6 corpora in a network of institutions in one form or
7 another, whether it's simply access to look at the
8 data or actually engaging in the file transfer that's
9 been discussed a little bit.

10 And so we do end up having something that,
11 even if it starts out small in one location, could end
12 up being massive. And that becomes a big target for
13 those who, even though, certainly, individual movies
14 can be downloaded from various sources online for
15 those who are interested, this treasure trove of
16 content is a pretty attractive target once the
17 appropriate parties start becoming aware of it.

18 MS. WILSON: Thank you.

19 Ms. Charlesworth.

20 MS. CHARLESWORTH: Yeah. No, I just wanted
21 to say, I mean, I think Mr. Band's comments that this
22 was some sort of fishing expedition are really not
23 appropriate. The burden here is on the proponents to
24 show that they're entitled to do this, and the basis
25 of their argument is fair use. And the fair-use

1 argument, as we've now discussed in the last
2 proceeding and again in this proceeding, is based on
3 effective security measures.

4 So, really, you know, apart from responding
5 to the letters in or failing to respond in an
6 appropriate way, I mean, there was an option here
7 given the reply period to actually make the case that
8 the security measures were actually being properly
9 implemented, that researchers knew about them, that
10 the institutions knew what was going on, and that was
11 not done. And that's very concerning to copyright
12 owners for all the reasons that have been expressed.
13 I mean, you have a potentially massive corpora of
14 copyrighted works, and they could clearly be targets.

15 And this was really important in the Google
16 Books and HathiTrust cases. So it was, number one, an
17 appropriate request. Number two, of course, a trade
18 association that's been authorized by its members to
19 make the request should be able to make the request.

20 And, again, I just want to emphasize or
21 reiterate the point that, yes, it would be really
22 helpful to know who's actually using what so that we
23 would know who to ask, and that, you know, I think,
24 was a little bit of an oversight in the last rule.

25 MS. WILSON: Thank you for that comment.

1 We're going to hear from Mr. Hansen and then
2 Mr. Bell, and then we're going to go ahead and move on
3 to our next question.

4 Mr. Hansen.

5 MR. HANSEN: Yes, I guess I'll try to keep
6 this brief because I know we're short on time. I
7 think the current exemption is reasonable. It allows
8 for copyright owners to make inquiries. I think you
9 really have to be a copyright owner to do this, and
10 they have to be reasonable requests, which is what the
11 regulation says.

12 I also want to emphasize that none of this
13 research is happening in a corner. Researchers are
14 publishing their research, they're including their
15 methodology. All of this is out in the open, and at
16 that point, that's one place where copyright owners
17 can learn about what's going on, see this kind of
18 activity happening. If they have a concern about a
19 particular work that they think maybe is pirated or
20 somehow is out on the web, they can do their
21 investigation and see very clearly what kind of work
22 has been done by TDM researchers using corpora.

23 In terms of notification, I think it's
24 perfectly reasonable for institutions to keep records.
25 And I think, in order to comply adequately with the

1 existing reg and with our proposed expansion, they
2 would need to keep really good records of what they're
3 doing and what they have.

4 But notification, I think, is actually a
5 real challenge and would be practically unworkable.
6 Who to notify, how to notify, the Copyright Office is
7 well aware that who exactly the rights holder is of
8 any particular work is not always a very clear
9 question to answer. And so, you know, researchers are
10 doing this in a way that is very much out in the open
11 and very much available for copyright owners to
12 investigate at that stage.

13 MS. WILSON: Just one quick follow-up just
14 to make sure I understand your comment. But, when you
15 state that it is out in the open and people know
16 what's happening, is that only at the point of
17 publication of a research, or is there an earlier -- I
18 just want to make sure that I'm not missing a detail
19 that you might be providing in terms of an earlier
20 public access or information opportunity for a
21 copyright owner.

22 MR. HANSEN: I'll let Mr. Bell respond maybe
23 on that.

24 MS. WILSON: Okay. Great. Thank you.

25 Mr. Bell.

1 MR. BELL: Sure. So most of the time, I
2 think that the publication would be the moment when
3 all of the data sort of goes out. And by "data" here,
4 I mean the record of what is in the particular corpus.

5 But, to go back to the point about
6 notification, I'll just say that from practical
7 purposes from somebody who is doing this kind of work,
8 notification is not realistic, and I say that because
9 of the issues of identifying, yes, but also the time
10 involved in going back and forth and trying to figure
11 that out. I can tell you that on the existing
12 projects or project I'm using the TDM exemption for,
13 15 percent of the budget is spent on just the
14 circumvention. And if we were to then extend that to
15 going into the legal process of notifying everybody,
16 identifying who everybody is across a large corpus of
17 materials, that is going to shut down a lot of
18 possibilities and basically make it impossible to even
19 realistically apply for a grant in a lot of cases,
20 much less receive one and execute it.

21 MS. BLATCHLY: Okay. Thank you.

22 And I know there are two hands raised, but I
23 think, at this point, we're so far behind that we're
24 going to need to move on to the next question.

25 Brittany, I'm going to hand it over to you.

1 MS. LAMB: Sure. Thanks, everyone. So, if
2 the current exemption is expanded in line with the
3 proponents' request, should there be any limits on
4 sharing corpora? For example, should there be limits
5 on the number of institutions or researchers the
6 corpus can be shared with, or should only the
7 institution or researcher that created the corpus be
8 permitted to share it? And should recipient
9 institutions or researchers be prohibited from further
10 distribution of that corpus?

11 Mr. Bell.

12 MR. BELL: I'll say that just whether
13 something should or shouldn't happen, the practicality
14 of it is that you're going to generally have to go
15 back to the originating organization anyway because
16 you're not going to have copies of things that you are
17 not actively using hanging around your servers once
18 you've received them from another institution. That
19 just adds more overhead, it adds more maintenance, and
20 we don't want to try to create an abstract set of
21 materials. We only want to work with materials that
22 are actually relevant to the thing that's in front of
23 us.

24 MS. LAMB: Okay. Ms. Sherwood, sure.

25 MS. SHERWOOD: As we have stated previously

1 in our situation, it would always come back to the
2 original corpus owner because we would be granting
3 access to our corpus versus sharing a corpus and then
4 having others share that moving on.

5 MS. LAMB: Okay. Thank you.

6 So, if there isn't anyone else, I'll hand it
7 back over to Joanna.

8 Oh, sorry. Mr. Rotstein.

9 MR. ROTSTEIN: Just briefly. It goes
10 without saying that we think there should be no
11 expansion, but I still didn't hear -- you know, just
12 saying, well, our policy is that we won't doesn't mean
13 that it won't happen and that a resharing won't
14 happen, and that remains a concern that, you know,
15 certainly, there is an incentive to do that based on
16 what the proponents are saying because of the issues
17 of cost. So just pointing out that there was no
18 answer that it won't happen.

19 MS. WILSON: I have a quick follow-up
20 question. We trusted you with, again, kind of the
21 sharing, the proposal to share. When a corpus is
22 shared, and this applies both in the situations of
23 institutions that may simply grant access, though I
24 think the answer is going to be easier, and then those
25 that actually share the actual, you know, data and the

1 corpus, to be resident on another institution's
2 servers, when that research is completed by the
3 receiving institution, is it the proponents'
4 anticipation that, one, access would cease or that the
5 copy that was shared would be deleted?

6 Mr. Hansen.

7 MR. HANSEN: I think that this would be
8 driven on a case-by-case basis, but I think there are
9 strong reasons to think that in some circumstances, it
10 would be really important for the receiving
11 institution to hold onto that data in a secure
12 environment for downstream reproducibility. You know,
13 there is a strong interest for scientific research to
14 have a pathway for subsequent researchers to verify
15 whether a given study was actually accurately done.

16 And I'm sure you've seen some of these
17 things in the news of sort of scandals with people
18 modifying their data and then no one ever being able
19 to follow up on it. And so there are strong reasons
20 why, from a research integrity standpoint, it would be
21 important for some institutions in some circumstances
22 to keep a copy.

23 MS. WILSON: Mr. Ayers.

24 MR. AYERS: As Mr. Rotstein mentioned a
25 little bit ago, again, we would oppose any expansion.

1 But, to the extent an expansion is being considered,
2 the limitations on the sharing would need to be at the
3 very least assurances, representations by the
4 receiving entity and verification by the originating
5 entity that all of the mechanisms that are required to
6 be observed are set to be observed and that those are
7 actually in place so that the receiving institution
8 has a copy of the underlying work that's applicable,
9 that security measures are in place, et cetera.

10 And to the extent we're talking about
11 limitation, it certainly would make sense that if the
12 access or copying of the corpus is done for a
13 particular research project, once that research
14 project is completed, certainly, the access should
15 turn off, and that if it's going to be retained, then
16 you have questions of, well, now does that entity
17 have, in turn, its own ability to share the work
18 further, which I think is very problematic. So I
19 think we'd have to consider very carefully the
20 limitations on the receiving entity.

21 MS. WILSON: Understood.

22 Okay. Mr. Bell and Mr. Rotstein. And,
23 again, I'm sorry. We keep repeating this, but if you
24 could make your comments brief so we can make sure we
25 finish on time.

1 MR. BELL: Sure. I'll just say I think the
2 entire concept of research being done is a little bit
3 questionable. There are projects that get funded and
4 those projects may answer one question and raise
5 another four or five questions.

6 In that case, having the corpus around to
7 follow up on those is an important asset that you
8 wouldn't want to have to go back and then re-spend the
9 resources to reproduce something that you already had
10 five minutes ago and then had to delete because you
11 just came to the end of a grant period. It's just it
12 might fit a little bit more in sort of the sciences
13 where you have more discrete question and answer.
14 But, in the humanities, it's very important to allow
15 those new explorations to continue.

16 MS. WILSON: Thank you.

17 MR. ROTSTEIN: So I think I'm up. Real
18 quickly, so what I'm hearing is that there would be a
19 transmission. The receiving entity would have to keep
20 it in order to verify research. The person verifying
21 it, presumably, if there's a replication, would have
22 to have a copy of the corpus. So now that's three
23 entities. I don't know whether the person doing the
24 replication would have to keep it for security. So I
25 think this necessarily assumes that there is multiple

1 distributions just the way academia works.

2 They'd have to maintain the research. They
3 have to replicate, validate it. And so you have at
4 least three steps, three distributions which might
5 permanently have to be maintained based on academic
6 standards, and that's fairly remarkable.

7 MS. WILSON: Thank you very much. And I'm
8 turning it back to Joanna and Brittany. Take it away.

9 MS. LAMB: Thanks, everyone. We're now
10 going to move on to touch very briefly on some
11 questions concerning the existing exemption. So, in
12 the comments, there was some discussion about
13 perceived ambiguities with the term "collaboration."
14 Putting aside the requested expansion for now, is
15 there a definition of "collaboration" that would
16 clarify or clear up those ambiguities?

17 Mr. Rotstein, I don't know if your hand was
18 from earlier. Okay.

19 Sure, Mr. Hansen.

20 MR. HANSEN: It's conceivable that a
21 definition of "collaboration" that sufficiently
22 encompasses, you know, further questions from
23 different research groups could address this. We
24 think that our proposed expansion actually would be a
25 clearer way to do this. As I mentioned, I have talked

1 to a lot of people who are trying to implement or use
2 this exemption, and the kind of common way that most
3 people are reading "collaboration" in the existing reg
4 is that it covers direct collaboration on particular
5 research projects. And so, you know, you have a
6 researcher, say, at one institution asking a question
7 on X and they're writing a paper and doing a project
8 with a researcher at another institution on that very
9 same question.

10 And, you know, I think some of how the
11 regulation works in practice is sort of a reflection
12 on the demeanor and approach of the research
13 community. I've found that text data mining
14 researchers are very detail-oriented and very
15 fastidious about following very, very, carefully what
16 the regulation says, and so, if they feel like their
17 interpretation of "collaboration" might be stretching
18 the reg beyond what it could mean, then they're very
19 careful not to do it.

20 And I say that just as a kind of comment for
21 how this community is reading the regulation overall.
22 They're trying to be very conscientious and careful
23 about it, and so they've read "collaboration" in a
24 somewhat more restrictive way.

25 MS. LAMB: Okay. Thank you.

1 Mr. Bell.

2 MR. BELL: Mr. Hansen already said a lot of
3 what I was going to say here because I think that we
4 are reading that right now in this very restrictive
5 way. But, again, I would go back to what I just said
6 about the idea that one question prompts another,
7 prompts another, and if we are trying to have a
8 definition of "collaboration," then whatever that
9 definition is should encompass the kind of research
10 that humanists are undertaking with these materials,
11 and that includes that kind of relationship where one
12 prompts another, prompts another.

13 MS. LAMB: Thank you.

14 Mr. Taylor.

15 MR. TAYLOR: Yes. I don't think that
16 "collaboration" defined is so difficult in practice or
17 in theory. What we saw was that the database creators
18 or the corpus creators, they had no problems defining
19 "collaboration" to be that work which they too were
20 interested in and that work which somebody else may be
21 independently interested in.

22 And the only real example that we had access
23 to was Kinolab, and we explained this very clearly
24 that Kinolab, despite these assurances that
25 researchers are so conservative, they, in fact, were

1 very free and very able to share their works with as
2 many people that were willing to consult with them.

3 So I don't think that this is the issue that
4 the proponents make it out to be when you really look
5 at the facts.

6 MS. LAMB: Thank you.

7 Ms. Charlesworth.

8 MS. CHARLESWORTH: Yes. You know, I think,
9 first of all, I don't think the regulation is
10 ambiguous. I think it says you can't download or
11 disseminate the corpus, but it allows for
12 collaboration. And, to me, what that leaves is direct
13 access to the corpus as maintained by the hosting
14 site.

15 The other thing I just want to point out is,
16 in 1201, again, the burden is on the proponents, but
17 there has to be a showing that there are researchers
18 out there who were unable to collaborate, and I didn't
19 see that in the record here. In other words, I think
20 that this is, at best, sort of a hypothetical problem.

21 It seems to me that in especially people who
22 are very heavily engaged in this, and I think we've
23 heard this somewhat from Ms. Sherwood, there's ways to
24 grant access that don't involve making copies and
25 recreating the corpus in another school, and it does

1 require some maybe, you know, interested researchers.

2 But, if schools aren't interested in doing
3 that, that's not really a circumvention. You know,
4 it's not because of the anti-circumvention issue; it's
5 really just a question of maybe resources and
6 interests. You know, obviously, it would be much more
7 comfortable for copyright owners, I mean, not to go
8 back into the whole security issue, but if we knew
9 what was going on where and it wasn't being replicated
10 in ways that we didn't understand.

11 MS. LAMB: Okay. Thank you.

12 I'm going very, very briefly back to Mr.
13 Hansen.

14 MR. HANSEN: Sure. So I think, you know,
15 one challenge with "collaboration" is no matter how
16 you read that term, there are certain independent
17 research questions that are just never going to fall
18 under any sort of definition there and so limiting to
19 that, unless you view, like, sort of the entire
20 research academy as collaborators in a sort of grand
21 sense, it would leave them out.

22 And I also wanted to add that the Office, I
23 think, has seen the submission from Kinolab, and that
24 came up. I just wanted to make very clear in terms of
25 interpretation of the existing reg, Kinolab actually

1 relies on a different portion of the reg, a different
2 exemption, (b)(1), the short portions exemption, and
3 while they do use the TDM exemption, the activities
4 that were described pre-date actually the
5 implementation of the existing reg and were done under
6 (b)(1), which I don't think we want to get into a
7 whole discussion about (b)(1) at this juncture.

8 MS. LAMB: Okay. Thank you.

9 I'm going to call on Ms. Howard-Sukhil very
10 quickly, and then we'll move on to the next one.

11 MS. HOWARD-SUKHIL: Yeah. I'll try to keep
12 my comment here short. I just want to mention that,
13 like, there are a couple other groups that are not
14 encompassed by this collaboration, right, and those
15 are three groups in particular, right, like, TDM
16 scholars who are at smaller, less well-resourced
17 institutions, TDM scholars focused on non-English
18 language text, and early career TDM scholars. I'm
19 going to very briefly focus on this last group to kind
20 of show how, like, we need something that's, I think,
21 more than collaboration, right, namely, the
22 existing -- or the expansion.

23 So I recently interviewed approximately 40
24 academic scholars, librarians, and other support staff
25 who regularly conduct or assist with TDM projects.

1 The early career scholars with whom I spoke almost
2 universally cited the restriction on corpora sharing
3 as a significant and even insurmountable obstacle to
4 their research.

5 For instance, multiple early career scholars
6 stated that they shifted their research to 19th
7 century works in order to avoid copyright issues. I
8 also know at least one other early career scholar who
9 works on 20th century materials who won't go near the
10 digital humanities because of the time, expense, and
11 legal uncertainty. And there are some scholars who
12 have started work on valuable research projects using
13 in copyright works, and they've had to abandon those
14 projects because of these issues.

15 So early career scholars are choosing not to
16 apply digital humanities' methods to in copyright
17 materials precisely because of the insurmountable
18 challenges related to the prohibition on corpora
19 sharing, and I just want to make sure that that point
20 is in the record. Thank you.

21 MS. LAMB: Thank you.

22 I'll pass things off to Joanna again.

23 MS. BLATCHLY: Thanks, Brittany.

24 Because we're running quite short on time at
25 this point, we're going to shift gears and ask a few

1 questions about text and data mining generally and
2 sort of the scope of the term.

3 So opponents have raised concerns about the
4 exemption being used to train a generative AI system.
5 So putting aside the fact that both involve large
6 digital corpora, to what extent might text and data
7 mining involve machine learning?

8 Mr. Bamman.

9 MR. BAMMAN: Yeah. So I have a lot to say
10 about this particular topic because a lot of the
11 methods that -- so it's true that what we're using
12 these methods for is to take measurements about
13 culture, right, about material that's printed in books
14 and what we observe on TV and movies. And so a lot of
15 the work that we're applying are machine learning
16 models, right, models that can recognize where a face
17 is in a frame and identify who an actor is in the
18 context of that face. So machine learning models are
19 definitely at the core of text and data mining
20 research I find.

21 Now I think the generative AI question is a
22 slightly different one, right, in the sense that, you
23 know, the most popular models that we see for
24 generative AI at this point are ChatGPT, GPT-4, that
25 can generate full text or even video models like Sora.

1 But it's also true that a lot of the models
2 that we see in machine learning are increasingly
3 generative AI in their basis, right? So even if we're
4 not using a model to generate new text or a new movie,
5 we're still using a generative model in the context of
6 the work that we're doing.

7 And to give you one example about this, you
8 can imagine a research question that's trying to
9 measure how predictable a novel is, right, how cookie
10 cutter it is. And so, if we want to do that, what we
11 would do is essentially take a generative model that
12 predicts the probability of the next word, which is
13 what ChatGPT does right now. ChatGPT uses this to be
14 able to generate new text. But we could use that same
15 model to measure how probable that next word is,
16 right? If it's very probable, we have a sense about
17 measuring how predictable it is. So even though we
18 wouldn't be using that model to generate new text, we
19 would still be using it to take a measurement about
20 surprise and predictability.

21 So I think it's important to differentiate
22 between the use of generative AI models for doing
23 analytical work, which I think is at the core of text
24 and data mining, right, to take measurements about
25 some text or about some movie from the other kind of

1 uses of it for generating something new, generating
2 text and generating movies.

3 MS. BLATCHLY: Thank you.

4 Mr. Bell.

5 MR. BELL: Thanks. I'll just add that I
6 don't think that we are interested in the digital
7 humanities and recreating Sora, right? Nobody wants
8 to make a completely generative system out of this.

9 We're looking at those sort of analytical
10 applications. I think that if we're talking about
11 trying to delineate between generative and analytic
12 uses of machine learning or artificial intelligence,
13 it's important to note that there is that overlap that
14 Mr. Band was just talking about.

15 For instance, in the project that we're
16 working on, we are doing post-analysis of individual
17 frames, and that involves a straightforward machine
18 learning method where you're seeing or trying to see
19 the poses of humans that are within the frame.

20 But then there is something that, depending
21 on your definition, could be considered generative
22 because we are then inferring a third dimension that
23 does not exist in a two-dimensional film in order to
24 understand how those people are standing in space.

25 And so I would just be careful about

1 definitions excluding generative AI use that also
2 impact the type of work that we're talking about as an
3 accidental, you know, side effect of trying to exclude
4 true generative work in a sense that maybe more
5 colloquially it might be understood.

6 MS. BLATCHLY: Okay. Thank you.

7 Ms. Charlesworth.

8 MS. CHARLESWORTH: Yes. I mean, just
9 relatedly, I think we just heard that there is an
10 overlap here, for lack of a better word, maybe not to
11 generate new works per se but that a lot of the
12 research, a lot of the materials, a lot of the data, a
13 lot of the techniques overlap with generative AI.

14 And so another sort of concern here is, and
15 I've seen this happen, you know, where you have an
16 academic research project and then the research or the
17 data or whatever are turned over to another entity,
18 maybe a commercial entity, you know, to exploit as
19 generative AI material or to train AI systems.

20 And I think even if there's no money
21 changing hands there directly at least, that's a
22 concern, you know, that we're going to have these
23 large corpora of really, I mean, everyone's after all
24 this data now. They're going to be sitting there and,
25 you know, how do we ensure if this continues, how do

1 we ensure that that's not going to be used for
2 generative AI projects.

3 MS. BLATCHLY: Thank you, Ms. Charlesworth.
4 And now Mr. Taylor.

5 MR. TAYLOR: Yes. I think that this is a
6 good question because I think we've had three years
7 and we have a more complete record than we had before.
8 Last time around, we were thinking that it would be
9 only machines looking at the content of what's on the
10 record, I mean content that was in a database, and we
11 find out that it is not. But, with the benefit of
12 this record, we can work better to find text and data
13 mining that was actually authorized in the last
14 rulemaking to be what I understand to be distant
15 viewing. So I think, if we incorporated distant
16 viewing, then we would have a better idea of what
17 indeed the Copyright Office has created under this
18 exemption.

19 MS. BLATCHLY: Okay. Thank you.

20 Mr. Band.

21 MR. BAND: Yes. I mean, the problem with
22 using terms like "generative AI" is their lack of
23 precision, as others have said. But you can imagine,
24 even if you're sort of doing, you know, sort of
25 classical digital humanities research, you know, it's

1 going to be producing a database. Well, the database,
2 that could be a copyrighted work and, therefore, you
3 know, that may be generative AI. So I think, you
4 know, we need to, you know, just not, you know, start
5 using terms where we can then have unintended
6 consequences in terms of basically shutting down this
7 whole operation.

8 MS. BLATCHLY: Okay. Thank you.

9 Mr. Hansen.

10 MR. HANSEN: It's a very basic point, but I
11 just wanted to go back to the text of the reg and our
12 proposal and emphasize that sharing of the corpora
13 outside of the limited bounds of the exemption is not
14 allowed. And so, you know, to the extent that there
15 are fears, for example, of these works being, for
16 example, uploaded into ChatGPT or kind of outside
17 systems, the reg doesn't allow for that. And so I get
18 it and I think that that is a concern for rights
19 holders, but it's also something that is already
20 prohibited by the reg.

21 As to the further definition, you know, I
22 think that it's really important, and text data mining
23 researchers can chime in on this, but that they have
24 flexibility to be able to choose their tools and the
25 methods through which they're doing their research. I

1 think a really quick way to make a regulation like
2 this obsolete kind of immediately is to try to over-
3 specify how researchers are able to do that. I think
4 even over the last three to five years, as I've seen,
5 that technology and the tools that people are using
6 have changed significantly.

7 MS. BLATCHLY: Okay, Mr. Bell, we'll let you
8 go and then we're going to turn to Mr. Goldberg.

9 MR. BELL: I just want to confirm that the
10 ability to choose your tools is real important. I can
11 say that the speed with which these sort of analytic
12 tools are coming out means that we've been running a
13 project for the last year and a half and we've changed
14 the underlying model that we're using for our analysis
15 multiple times just within that span within the same
16 project, however you would define "project." So it is
17 important to allow that freedom.

18 MS. BLATCHLY: Okay. Thank you.

19 Mr. Goldberg, did you have a question?

20 MR. GOLDBERG: Thank you. Yes. And Mr.
21 Bell may have actually started to answer it a little
22 bit. In view of the gen AI buzzword and the
23 discussion that it's been generating here, I was
24 wondering if proponents could talk a little more
25 specifically about the models that researchers are

1 using, how they've evolved over the last three years.
2 You know, are we actually talking about a
3 fundamentally different activity, or do you see it as
4 similar to the models you've already been running
5 under the current exemption?

6 MS. BLATCHLY: All right. Thank you.

7 Mr. Bell.

8 MR. BELL: I think it's fundamentally the
9 same activity. I think that it's just the
10 applications that become a little bit different. The
11 different models I was talking about are all external
12 models.

13 So, for this particular project, we're not
14 doing any training of new models. The new models that
15 we're talking about are actually coming out from other
16 sources, and we're just looking at them and trying to
17 apply it to the corpus that we have right now.

18 So, yeah, I would say that in trying to
19 allow that sort of flexibility of the underlying
20 technology, we're really using the technology to
21 answer a humanistic question. And I honestly care
22 less about what that specific model is than about
23 answering the question so long as it's within, you
24 know, the normal standards of rigor and legality and
25 all those sorts of things for the purposes of the

1 profession.

2 MS. BLATCHLY: Okay. Thank you. And we
3 just have about 10 minutes left. We're going to go to
4 Mr. Bamman, and then we're going to move on to a new
5 line of questioning.

6 MR. BAMMAN: Great. Thank you. Yeah. So I
7 think, again, it is important to differentiate between
8 the uses of generative AI, right, because we see
9 ChatGPT now, it seems like something fundamentally
10 new. But the models underlying it are very similar to
11 how we've been carrying out work in machine learning
12 over the past 40 years.

13 Again, I think what differentiates text and
14 data mining is that we are using models to measure
15 something about these works and not to generate new
16 things. Just to give you a concrete example from my
17 own work, again, what we're doing here is measuring
18 representation for race and gender in Hollywood movies
19 over the past 40 years, right, so what we do, we have
20 a machine learning model to recognize the faces in a
21 frame. We have another model that we use to identify
22 who the actor is that corresponds to that face.

23 And then what we do is take measurements
24 about how often do we see men show up on screen, women
25 show up on screen, and actors who are white, black,

1 Latino, Hispanic, South Asian, East Asian, so we can
2 measure how that's changed over the past 40 years.

3 Now we've seen increasing representation
4 over the past 10 years in particular. But, again,
5 this is a question about measurement, right? So we're
6 not using these models to generate any new movies.
7 We're using the same basic machinery to tell us
8 something that we can measure about these works.

9 MS. WILSON: Joanna, if there's no more
10 questions, no more hands up, I have a quick question
11 to follow up. I just want to clarify and
12 particularly, Mr. Bamman, your last example.

13 I think that what we're trying to
14 understand, trying to get clarity on is the exemption
15 that is provided that allows you to use copyrighted
16 works to do text and data mining research on those
17 copyrighted works, that distinction between using
18 copyrighted works to train a large language model that
19 is then applied whether it's to these works or to
20 other works. So I think there is a distinction there.

21 And I think, for example, when
22 predictability was mentioned, that is different to me
23 than text and data mining, and I wonder if you can
24 speak to that just briefly. I know we're running out
25 of time, but there are many questions that come up

1 here.

2 MR. BAMMAN: Yeah. Absolutely. So I think
3 that to take the predictability example as a concrete
4 use case, there, we can imagine being able to train a
5 model that would give us a measurement, right, about
6 how formulaic a text is that's simply a measure of the
7 probability of the next word, right?

8 So, if I train a model that can predict with
9 complete accuracy what the next word is in a novel,
10 then we have some sense about its status as being too
11 predictable. Now the way that we would train a model
12 like that is a language model, right, to take some
13 collection of text, train a model to condition on some
14 previous sentence to predict those next words. And if
15 we were to train a model on only texts that are in the
16 public domain, right, and texts that are not in
17 copyright, it would all be works that were published
18 before 1928 that will look very different from works
19 that are released in 2024.

20 MS. WILSON: And I'm sorry, and I apologize
21 for interrupting, but in the interest of time, what
22 we're trying to understand is, are you seeking to use
23 this exemption with respect to the training of a large
24 language model? Because I do think that, as I think
25 we all know, is subject to litigation in a lot of

1 different courts right now, is subject to study under
2 the Act. And what we're trying to understand is, is
3 there a certain area here that is text and data mining
4 and then there is text and data mining on the
5 copyrighted works that are the subject of this
6 exemption or and versus the training of a large
7 language model that might be applied to such works to
8 understand things.

9 MR. BAMMAN: So I think that I would not
10 imagine copyrighted works being used to train a large
11 language model like we imagine ChatGPT being. But,
12 that said, I think that the notion of a language
13 model, right, not a large one, is something that's
14 still very common in machine learning to give us
15 measurements about words, right? So it wouldn't have
16 the same capacity as ChatGPT right now, but it's a
17 very similar kind of model, right? So, again, we
18 wouldn't train it for a ChatGPT scale large language
19 model, but a language model itself, not a large one, I
20 could see that.

21 MS. WILSON: Thank you. I'm sorry. I can't
22 see if there's other hands up. If there are no other
23 hands up, I turn it back to Joanna and Brittany. And,
24 by the way, we do know we're short on time. We're
25 probably going to run a little bit over for everyone

1 who is listening, and hopefully, that our panelists
2 can stay on.

3 MS. LAMB: Okay. Thanks. So I'm going to
4 switch gears a little bit here. I think some people
5 touched on this earlier a little bit. Would text and
6 data mining be limited if researchers could not view
7 and/or annotate the copyrighted works in the corpus?

8 Ms. Sherwood.

9 MS. SHERWOOD: For our research question and
10 purposes, they would be. So, for example, our
11 research has centered on the close-up in the history
12 of film and television, and our researchers discovered
13 in early marking that queer identities are not always
14 discussed or evident by a character through dialogue.
15 Consequently, queer identity is not ones that can be
16 easily counted by a computer or identified through
17 text analysis of dialogue, for example. And so we
18 ended up creating a metadata category for queer coded,
19 which were more subtle modes of representation that
20 were evident particularly in early film and
21 television. And so, at least at this stage in our
22 research, quantifying early representations of the
23 LGBTQIA community in film and television requires a
24 human to view to generate that data.

25 MS. LAMB: Thank you.

1 Mr. Taylor. You're muted still.

2 MR. TAYLOR: Sorry. Four years later on
3 Zoom and I still can't use it. The point is, is that
4 to the extent that that work needs to be done, that
5 work hasn't been approved in this rulemaking as a non-
6 infringing activity and they haven't requested it
7 either. Our concern is that it's not suddenly swept
8 up by the fact that they provided a lot of evidence
9 with respect to that as far as their expansion.

10 So to the very question is they haven't
11 brought forward enough examples or made the argument
12 that that example is, and the last recommendation
13 clearly excluded that possibility.

14 MS. LAMB: Thank you.

15 Mr. Bamman.

16 MR. BAMMAN: Yes. So I think, on this
17 point, it might be helpful here for me to talk about
18 how we carry out this kind of work in our secure
19 environment and the kind of complications that have
20 for this kind of verification of results because all
21 of work at Berkeley is done in a secure research
22 computing environment that protects data to the level
23 of HIPAA and FERPA standards.

24 Now this environment is command-line only,
25 so we can't view anything in this environment. We

1 interact with it only through text. Now the current
2 regulation allows for a provision for viewing the
3 results for verifying the research algorithms that we
4 apply on it.

5 It's ambiguous, though, from my perspective
6 about whether or not we can take our materials out of
7 that secure environment for the purpose of viewing.
8 So what we do to be able to verify the accuracy of our
9 algorithms is to digitize our DVDs twice, right, to
10 circumvent TPMs twice using two different exemptions,
11 right, the TDM exemption if we're running computation
12 over the entire movie in the secure environment and
13 then short-portions exemption to sample individual
14 frames, right, a small number of them that we can
15 view, annotate with a human to create a measure of
16 what the truth is to then be able to compare those to
17 derived metadata, right, the different spreadsheets
18 that we create by humans and in a computational
19 environment, to see how much our methods are actually
20 correct, right, to verify those results in that way.

21 So I think having some clarity about what
22 the viewing, what is permissible viewing-wise, I
23 think, would be helpful here. I think, because of the
24 ambiguity, we have to resort to effectively creating
25 twice as much effort in digitizing these works twice

1 to make use of these two different exemptions to allow
2 us to verify our results in a way that we're
3 comfortable with at our risk level.

4 MS. LAMB: Okay. Thank you.

5 So I'll hand it back to Joanna.

6 MS. BLATCHLY: Okay. Thank you. This is a
7 related question, and bear with me because it's a
8 little bit long in its lead-up. But related to the
9 viewing of the underlying works, the current
10 regulatory text permits the person undertaking the
11 circumvention to view the underlying work solely for
12 the purpose of verification of the research findings.

13 The 2021 recommendation described this
14 provision as "a limitation that researchers may not
15 use the copies of the copyrighted works in the corpus
16 for their expressive purposes." So there appears to
17 be some tension between the two statements, where the
18 regulatory text permits viewing but only for
19 verification purposes, but the recommendation
20 prohibits viewing for expressive purposes.

21 So our question is, should the regulatory
22 text be revised to prohibit viewing for expressive
23 purposes rather than to limit viewing for verification
24 purposes?

25 And, Ms. Charlesworth, I will start with

1 you.

2 MS. CHARLESWORTH: Yeah. So one sort of
3 quirk in the regulation is it refers only to the
4 person doing circumvention, but I assume that there
5 are other people who have access to the corpus. And
6 so I think that needs to be clarified, that whatever
7 the rule is would apply to all of them.

8 But second, I think the rule allows viewing
9 for purposes of verification of the research results,
10 which would be, you know, was this word really on this
11 page. You know, like, in other words, looking at it
12 not for the actual content to analyze the content,
13 which is what is, in my opinion, going on in some of
14 these, at least from the letters that were submitted,
15 people are doing close analysis of films by viewing
16 things. I think we've heard some discussion of why
17 that is or why another exemption might apply.

18 But the point is, for purposes of this
19 exemption, really, the only viewing would be just to
20 confirm whether you call it -- we proposed some
21 language, but whether you call it statistical or
22 computational or statistical results, that's really, I
23 think, the point here. The point is you're not using
24 this as a substitute to have human people reading the
25 works.

1 MS. BLATCHLY: Okay. Thank you.

2 Ms. Howard-Sukhil.

3 MS. HOWARD-SUKHIL: Yeah. Thank you. So,
4 first, I want to say that expressive, changing that to
5 expressive would be much more helpful. And I'd like
6 to provide an example from my background, right?

7 So, at the outset, and other researchers
8 have said this before, but I do want to reiterate that
9 the tools and methods that researchers use will be
10 dependent on the needs of the project, right? These
11 tools and methods will necessarily vary based on that
12 project. So, in some cases, properly tagging and
13 preparing a corpus for computational analysis depends
14 on human analysis of snippets of corpus content. This
15 work is integral to verifying the integrity of the
16 corpus and TDM outputs. So let me offer hopefully
17 very briefly an example to illustrate because I do
18 think this is really important.

19 As a graduate student, I served as a
20 research assistant on Alison Booth's digital
21 humanities project known as "Collective Biographies of
22 Women," which analyzes public domain biographies
23 authored by women. So part of my work on this project
24 involved processing public domain works using a
25 narrative schema which was known as the Biographical

1 Elements and Structure Schema, or BESS for short.

2 So specifically, BESS contains several
3 categories of markup that are useful for analyzing
4 narrative events. So these would include tags related
5 to the chronology and real-world events of the
6 subject's life. These were under the tag of persona,
7 narration, and style. This was tagged as discourse.
8 And then passages depicting the body and character of
9 the persona, and this is tagged as persona
10 description.

11 Because BESS markup involves interpretive
12 judgments regarding what events are happening and how
13 individuals are described in the sample text, research
14 assistants such as myself had to review these samples
15 and perform the BESS markup manually. A senior
16 research assistant or the project manager would then
17 vet the markup for consistency. Once a critical mass
18 of samples had been marked up using the BESS language,
19 the senior researchers could run computational
20 analyses to understand how women's lives are narrated
21 across the given corpus.

22 So, in short, certain projects require that
23 the corpus is processed and vetted by humans in a way
24 that enables a researcher to run the necessary
25 statistical analyses and verify the integrity of the

1 corpus and outputs. Thank you.

2 MS. BLATCHLY: Okay. Thank you.

3 Mr. Rotstein.

4 MR. ROTSTEIN: Yeah. I don't think we
5 should lose sight of the fact that human review of a
6 copyrighted work for annotation is an expressive use,
7 and annotations are derivative works, can be
8 derivative works or can be infringing if they're
9 unauthorized. So that's an expressive use.

10 And, again, coupled with the distribution,
11 I'll go back to it, the prior proceeding was informed
12 by HathiTrust and Google Books, and you had none of
13 those indicia. In fact, the reason fair use was found
14 in those cases was because you didn't have those
15 indicia. So I don't think we should lose sight of the
16 fact that human review for annotation is clearly an
17 expressive use.

18 MS. BLATCHLY: Okay. Thank you.

19 Mr. Taylor.

20 MR. TAYLOR: Yes, I would just say I agree
21 with the prior statements. I think, to answer your
22 question specifically, I think the regulatory language
23 we would have to look at to have a final conclusion,
24 and it's been our position that we would love to see
25 these regulatory languages before they're actually

1 promulgated so that maybe there could be some feedback
2 on it.

3 But that being said, I don't think a
4 layperson is going to understand "for expressive
5 purposes" better than they do "for viewing for
6 verification purposes." I think the latter, what you
7 currently have, a layperson would probably understand
8 much more readily than what "for expressive purposes"
9 could mean.

10 MS. BLATCHLY: Okay. Thank you.

11 Mr. Band.

12 MR. BAND: Not surprisingly, I disagree. I
13 think, if you go back to the Google Books case, you
14 know, "expressive purposes" means for purposes of
15 reading the book, or, here, "expressive" is for
16 purposes of viewing the movie. But the kinds of uses
17 that we've just heard described, even though you're
18 viewing it, you're not viewing it to view the movie;
19 you're viewing a snippet for research purposes.

20 And, you know, we just need to keep in mind
21 that this is for research purposes. And the concern
22 that was articulated the last time, it was all about
23 the fact that the researchers might somehow on a
24 Saturday night sit and watch these movies instead of
25 buying them, right? But the point is a research use

1 is not an expressive use.

2 MS. BLATCHLY: Okay. Thank you. I have a
3 couple more hands that we're going to try get through.

4 So Ms. Sherwood.

5 MS. SHERWOOD: Hi. I think I can give an
6 example that will clarify the difference between and
7 what our researchers are doing. So for one of our
8 high data generation was done by a researcher who
9 marked nine films and 11 episodes of television,
10 creating 80 clips and generating 17,000 markers on
11 those 80 clips. That means the researcher averaged
12 916 markers on each piece of media or roughly 217
13 markers per clip. That's 217 metadata categories per
14 clip. And I think that that is not actually, like,
15 viewing for expressive purposes. That is viewing for
16 explicit metadata categories of formulistic language.
17 If it is possible, I had requested to share my screen
18 earlier, and I hadn't done that. I don't know if we
19 have time.

20 MS. BLATCHLY: I think at this time we
21 don't. I'm sorry.

22 MS. SHERWOOD: Okay. Thank you.

23 MS. BLATCHLY: Okay. Mr. Hansen.

24 MR. HANSEN: Oh, I'm sorry. I probably
25 didn't take my hand down. I just wanted to point out

1 Google Books did include expressive uses. It allowed
2 people to view snippet view. And that's highly
3 analogous to the kinds of uses that we're talking
4 about here.

5 MS. BLATCHLY: Okay. Thank you.

6 And Ms. Huang.

7 MS. HUANG: Yes, I would also like to add
8 that the Supreme Court in Warhol also explicitly
9 recognized that the purpose of a secondary work is
10 distinct from the original work, and I quote, "when
11 the use comments on, criticizes, or provides otherwise
12 unavailable information about the original." Like
13 Director Sherwood has demonstrated, the type of work
14 that the proposed expansion is enabling is exactly to
15 provide otherwise unavailable information about the
16 original work, a use that the Warhol Court cited, in
17 fact, as a transformative fair use. Thank you.

18 MS. BLATCHLY: Thank you.

19 So it looks like we have one hand left. So
20 I think, with that, Mr. Taylor, you'll get the last
21 word.

22 MR. TAYLOR: Thank you, and I'll make it
23 quick. What we're talking about here are not snippet
24 views. What we've seen is that researchers will build
25 significant databases that offer substantial clips,

1 and these clips in their totality can equal easily
2 one-half to one-third of an entire movie. So we are
3 not talking about Google Books and the snippet
4 function that we see in Google Books.

5 MS. BLATCHLY: Okay. Thank you. And I
6 think that that is all that we have here, so, at this
7 point, I will hand it back to Ms. Wilson.

8 MS. WILSON: Thank you so much. And, by the
9 way, thank you, everyone who is on. We really
10 appreciate your engagement and the information that
11 you provided today. It is very helpful for us.
12 Clearly, there was a lot more we could continue to
13 talk about. But it was a really helpful discussion
14 and we really appreciate it.

15 We will adjourn for now, but we will be back
16 later today with our next hearing, and I do not have
17 the time of that right at my fingertips. Are we
18 adjourning for an hour, or is it longer than that?

19 MS. KARL: It is until 2:30 Eastern Time.

20 MS. WILSON: All right. Great. Just less
21 than one hour. So thank you, everyone. I hope a
22 number of you can watch or participate in the next
23 session. Thank you.

24 MS. KARL: Thank you.

25 //

1 (Whereupon, at 1:40 p.m., the hearing in the
2 above-entitled matter was adjourned.)

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REPORTER'S CERTIFICATE

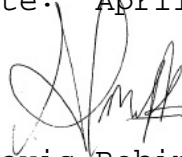
CASE TITLE: Section 1201 Public Hearing: Proposed
Class 3: Motion Pictures & Literary Works - Text and
Data Mining

HEARING DATE: April 17, 2024

LOCATION: Washington, D.C.

I hereby certify that the proceedings and
evidence are contained fully and accurately on the
tapes and notes reported by me at the hearing in the
above case before the United States Copyright Office

Date: April 17, 2024



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