



United States Copyright Office

Library of Congress · 101 Independence Avenue SE · Washington, DC 20559-6000 · www.copyright.gov

July 3, 2012

Re: Docket No. RM 2011-7
Exemptions to Prohibition on Circumvention of Technological Measures that Control
Access to Copyrighted Works
Proposed Classes 7 and 8

Dear Witnesses:

Thank you for your participation in the recent hearings relating to proposed Class 7 and 8 in the Copyright Office's "1201 Rulemaking" proceeding.

Following our review of the transcripts, we request that you respond to the following requests and questions.

1. *(For all witnesses who testified relating to proposed Classes 7 and 8):* The screen capture products "Replay Video Capture" offered by Applian, as well as "Jing," "Camtasia," and "Snagit" offered by Techsmith, have been referred to in the record as potentially viable alternatives to circumvention which diminish or remove the need for several of the requested exemptions. Please state and explain your position as to whether and why (or why not) one who uses the current version of any of the above named screen capture products in order to copy all or part of a copyrighted motion picture "circumvent[s] a technological measure that effectively controls access to a work protected by this title" in violation of 17 U.S.C. § 1201(a)(1)(A).

2. *(For all witnesses who testified relating to proposed Class 7D: optional for witnesses who testified relating to other subclasses within Class 7):* (A) Are documentary filmmakers generally required to obtain errors and omissions insurance for their films prior to distributing and/or publicly performing them?

(B) Are documentary filmmakers generally required to obtain errors and omissions insurance for their films prior to exhibiting them at a film festival?

(C) What would be the effect and advisability of requiring, as a precondition for benefitting from an exemption for documentary filmmakers, that the documentary filmmaker must have a good faith intention to obtain errors and omissions insurance prior to distribution and/or public performance of the film and that, prior to any distribution to the public or any public performance of a film, the documentary filmmaker must have obtained errors and omissions insurance?

3. (*For witnesses opposing proposed Class 7*): Proponents have argued that the use of screen capture software to capture segments of the 2009 Star Trek motion picture was insufficient because of pixelization, dropped frames and poor quality of zoomed in and cropped images, and offered examples of such shortcoming.¹

The Office requests that opponents of proposed Class 7 inform the Office whether they are able to use screen capture software² and any editing software to capture the same images from the 2009 Star Trek movie with results that are of sufficient quality for the requested uses. If you are able to do so, please describe the hardware and software products used and the specific steps taken to obtain the results, and submit a copy of the resulting images. Please also either provide copies to the other witnesses addressed in this letter or provide the Copyright Office with permission to provide copies to the other witnesses.

Please respond by letters sent as email attachments, addressed to 1201@loc.gov, with hard copy mailed to:

David O. Carson
General Counsel
U.S. Copyright Office
P.O. Box 70400
Washington, DC 20024

With respect to paragraphs 1 and 2, please provide responses no later than Wednesday, July 18. With respect to paragraph 3, witnesses opposing proposed Class 7 are requested to provide a response (or a confirmation that there will be no response) no later than Tuesday, July 24. If any opponents prepare and submit copies of the subject images, proponents of Class 7 are invited to submit responses addressing the quality of the images no later than eight days following their receipt of or access to the copies.

Thank you.

Sincerely,



David O. Carson
General Counsel

¹ The images presented in the hearing are online at <http://transformativeworks.org/projects/vidtestsuite-images> and <http://transformativeworks.org/projects/vidtestsuite>

² The Office prefers that you use one of the screen capture products previously referred to in the record, namely “Replay Video Capture” offered by Applian, and “Jing,” “Camtasia,” and “Snagit” offered by Techsmith.

Addressees:

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Jim Morrissette and Gordon Quinn, Kartemquin Films, C/O Jack Lerner
Mitch Singer, Chief Digital Strategy Officer, Sony Pictures Entertainment, C/O Steve Metalitz
Donald Leake Jr., Program Director, Copy Protection Business Development, IBM Research
Division, in support of AACCS LA, C/O Dean Marks
Tim Short, Teacher in support of DVD CCA and AACCS LA, C/O David Taylor
Corynne McSherry, Intellectual Property Director, Electronic Frontier Foundation
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Art Neill, Executive Director, New Media Rights
Jonathan McIntosh, Remix Video Artist, rebelliouspixels.com
Michael C. Donaldson, General Counsel, Film Independent
Laurence Thrush, Film Director, C/O Jack Lerner
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