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VIA E-MAIL TO:

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Regan Smith  
General Counsel  
U.S. Copyright Office  
Library of Congress  
101 Independence Ave. SE  
Washington, DC 20559-6000

**Re: Docket No. 2017-10 – Summary of *Ex Parte* Meeting Regarding Exemption To Prohibition Against Circumvention Of Technological Measures Protecting Copyrighted Works (Proposed Class 7)**

Dear Ms. Smith:

Thank you for meeting with me on July 24th, 2018. As you know, Dima Budron, an associate at Mitchell Silberberg and Knupp LLP, and Ben Golant and Mike Warnecke, from the Entertainment Software Association, attended with me. Kevin Amer, Nick Bartelt, Anna Chauvet, and John Riley, also attended on behalf of the Copyright Office. This letter summarizes our discussion.

1. We reiterated that the Joint Creators and Copyright Owners oppose any expansion of the exemption applicable to motorized land vehicles. We also offered our views on how regulatory language should be drafted if the Register nevertheless determines that she should recommend that the Librarian expand the exemption. Our request was for the Register to recommend a targeted definition of the devices to be covered by the exemption and to ensure that the language does not enable unauthorized access to works that are not solely computer programs.
2. We answered the Office's questions regarding the language included in our post-hearing response letter concerning this proposed class of works.
3. We emphasized that the record is not materially distinct from the records of prior cycles during which the Register declined to recommend exemptions for video game console

repair and modification. Also, the Register's prior 1201 Study conclusions concerning the legally suspect status of many modifications remain sound.

4. We took the position that the proponents failed to introduce timely evidence regarding issues related to repair of videogame consoles and other devices, electing not to introduce such evidence until the public hearings and post-hearing letters.
5. We described the reasonable alternatives that exist with respect to repairing videogame consoles, such as manufacturer warranties and post-warranty repair services, which are cost-effective and efficient options, especially because the manufacturers have an incentive to maintain consumer satisfaction and get consoles working again quickly.
6. We highlighted how video games and video game consoles differ from the machines covered by the current exemption. For example, video games, video game consoles, and repairs of consoles are at lower price points than vehicles and vehicle repairs. Many of the proponents' arguments do not apply to video games, video game consoles, and other devices.
7. We explained why the Register should not recommend, and the Librarian should not issue, an expanded exemption that would cover circumvention related to in-vehicle entertainment systems or telematics systems.

The Joint Creators and Copyright Owners appreciated the opportunity to meet with the Copyright Office on these issues.

Respectfully submitted,

/s/J. Matthew Williams  
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