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Class 16_InitialComments_Marcia Wilbur

Posted by the **U.S. Copyright Office** on Dec 15, 2020

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Pertaining to the 1201 Proposed Exemption Class 16: Computer Programs—Copyright License Investigation

This proposed exemption does not meet the requirements set by the Copyright Office.

1. The petition is not clear.
2. Based on submission the class is not an appropriate class per the notification of inquiry requirements for temporary exemption for the prohibition on circumvention:

“persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition . . . in their ability to make noninfringing uses under [title 17] of a particular class of copyrighted works.”

3. No distinct, verifiable or measurable adverse impacts on non infringing uses included in this proposed class.

As the Copyright Office consistently reiterates rulemaking requirements, this proposed exemption does not meet the requirements for:

distinct
verifiable
or
measurable adverse impacts on non infringing use.

There are no specifics. Too broad.

Information provided per this proposal (16 by SFC) does not specify any measurable adverse affect by the prohibition to justify the proposed class.

4. No real, tangible or concrete examples provided with the proposed class.

As per the requirements, such evidence “cannot be hypothetical, theoretical, or speculative, but must be real, tangible, and concrete.”

In accordance with past rejections and in line with the statement in Federal Register / Vol. 85, No. 200 / Thursday, October 15, 2020 / Proposed Rules - in light of that requirement, such broad proposed categories were rejected as inappropriate.

As an AIoT developer and FOSS advocate, I encourage freedom. However, this proposed class is broad, offers no specifics, is not measurable and does not meet many requirements set forth by the Copyright Office.

This proposed class would seem to not only circumvent encryption but circumvent basic legal principles by bypassing encryption to investigate. This seems like something outside the authority of the Copyright Office.

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Comment ID

COLC-2020-0010-0136



Tracking Number

kim-soyy-o1un

Comment Details

Submitter Info

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