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Class_10_Opp'n_The Motor & Equipment Manufacturers Association

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Comment

Proposed Class 10 (Computer Programs - Unlocking)

The Motor & Equipment Manufacturers Association (“MEMA”) opposes adoption of the proposed Class 10 exemption (Computer Programs – Unlocking).

Petitioner Institute of Scrap Recycling, Inc. (“ISRI”) seeks to remove the enumeration of devices in the existing exemption and extend the exemption to “any other devices with 4G LTE or 5G or other cellular connection capabilities,” including, but not limited to, “Smart TVs, Internet of Things (IoT) devices, immersive extended reality (XR) headsets, desktop computers, and drones.” ISRI Class 10 Pet. #2 at 2. MEMA is concerned that the proposed exemption would authorize circumvention of technological protection measures (“TPMs”) that protect cellular-connected vehicle modules and Electronic Control Units (“ECUs”) without sufficient consideration of the potential consequences for consumer safety.

Passenger and commercial vehicles are increasingly becoming more and more connected for a variety of purposes, such as vehicle telematics, over-the-air updates, and communications for safety-related systems. ECUs have an impact on almost every aspect of modern vehicles, from automatic emergency braking systems to headlights. Many of these systems are interrelated and calibrated to function both collectively and independently. A change in one component of the system could have an impact on an entirely different system or control unit of the vehicle. Further, the combination of the technology, systems, and calibrations of each are specific to each vehicle and therefore require an understanding of the vehicle and its parts, as well as the technology and how it may impact those parts. The TPMs on systems within vehicles also help ensure that the vehicles meet federally mandated safety and emissions standards.

The Copyright Office should not permit circumvention of TPMs in cellular-connected vehicles or vehicle components without careful consideration of the potential adverse effects circumvention could lead to and whether any safeguards or limitations should be enacted to mitigate the risk of harm. Petitioners have not provided sufficient evidence in the record to warrant an exemption at this time. Moreover, Congress made

clear that “the ‘particular class of copyrighted works’ [is intended to] be a narrow and focused subset of the broad categories of works . . . identified in section 102 of the Copyright Act.” H.R. REP. NO. 105-551, pt. 2, at 38 (1998). For this reason, the Copyright Office has repeatedly rejected broad, open-ended exemption classes.

If the Copyright Office considers granting this exemption, MEMA urges the agency to ensure that the scope of “any other devices with 4G LTE, 5G or other cellular connection capabilities” is limited and expressly excludes motor vehicles and motor vehicle equipment. See 49 U.S.C.A. § 30102(a)(7) (defining “motor vehicle”); and § 30102(a)(8) (defining “motor vehicle equipment”).

About MEMA

MEMA is the leading trade association representing U.S. motor vehicle parts suppliers. Our members manufacture and remanufacture components, technologies, and systems for use in passenger vehicles and heavy trucks, supplying both the original equipment and aftermarket segments. In total, vehicle parts manufacturers represent the largest sector of manufacturing jobs in the United States, directly employing over 900,000 Americans in all 50 states. MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (“AASA”); Heavy Duty Manufacturers Association (“HDMA”); MERA, The Association for Sustainable Manufacturing; and Original Equipment Suppliers Association (“OESA”).

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The Motor & Equipment Manufacturers Association (“MEMA”)



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