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The comments filed in support of an exemption for text and data mining fail to provide a factual basis and substantive legal arguments to support of the exemption being proposed and to support the notion that space shifting and format shifting are noninfringing acts. The burden of proving that an exemption should be granted is on the proponents of the exemption. The submissions merely allege that access controls are preventing people from engaging in text and data mining because other means, such as OCR, are too expensive.

The mere fact that a user may prefer to access a particular literary work in a particular format does not justify an exemption. Moreover, any such inconvenience is clearly outweighed by the potential harm to copyright owners resulting from the increased risk of infringement associated with allowing digital distributions under an exemption. The burgeoning marketplace for SIIA member works in education, science and elsewhere continues to generate new ways for consumers to obtain, access and use these works on the devices of their choosing, and through widely divergent ways of analyzing particular texts using AI and other tools. The ability of literary work copyright owners to protect their works through the use of technological protection measures plays a large part in this evolution.

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Comment Details

Submitter Info

Organization Name

Software and Information Industry Association



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