LIBR

Copyright Office

37 CFR Part 201

[Docket No. 2023–5]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: In this final rule, the Librarian of Congress adopts exemptions to the provision of the Digital Millennium Copyright Act ("DMCA") that prohibits circumvention of technological measures that control access to copyrighted works. As required under the statute, the Register of Copyrights, following a public proceeding, submitted a recommendation to the Librarian of Congress ("Register's Recommendation") regarding proposed exemptions. After careful consideration, the Librarian adopts final regulations based on the Register's Recommendation.

DATES: Effective October 28, 2024.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov* or telephone at 202-707-8350.

SUPPLEMENTARY INFORMATION: The Librarian of Congress, pursuant to section 1201(a)(1) of title 17, United States Code, has determined in this ninth triennial rulemaking proceeding that the prohibition against circumvention of technological measures that effectively control access to copyrighted works shall not apply for the next three years to persons who engage in certain noninfringing uses of specified classes of such works. This determination is based on the Register's Recommendation.

The discussion below summarizes the rulemaking proceeding and the Register's recommendations, states the Librarian's determination, and adopts the regulatory text

specifying the exempted classes of works. A more complete discussion of the rulemaking process, the evidentiary record, and the Register's analysis with respect to each proposed exemption can be found in the Register's Recommendation at *www.copyright.gov/1201/2024/*.

I. Background

A. Statutory Requirements

In 1998, as part of the Digital Millenium Copyright Act ("DMCA"), Congress added section 1201 to title 17 to provide greater legal protection for copyright owners in the emerging digital environment. Section 1201 generally makes it unlawful to "circumvent a technological measure that effectively controls access to" a copyrighted work.[1]

Congress established a set of permanent exemptions to the prohibition on circumvention, as well a procedure to put in place limited temporary exemptions. Every three years, the Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to adopt temporary exemptions, with respect to certain classes of copyrighted works, to remain in effect for the ensuing three-year period. Congress established this rulemaking as a "'fail-safe' mechanism" to ensure that the prohibition on circumvention would not adversely affect the public's ability to make lawful uses of copyrighted works, including activities protected by the fair use doctrine.[2]

The triennial rulemaking occurs through a formal public process administered by the Register, who consults with the Assistant Secretary for Communications and Information of the Department of Commerce.[3] Participants must meet specific legal and evidentiary requirements in order to qualify for a temporary exemption. The Register's recommendations are based on her conclusions as to whether each proposed exemption

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[1] 17 U.S.C. 1201(a)(1)(A).
[2] *Id.* at 1201(a)(1)(B)–(D).
[3] *Id.* at 1201(a)(1)(C).

meets those statutory requirements.[4] As prescribed by the statute, she considers whether the prohibition on circumvention is having, or is likely to have, adverse effects on users' ability to make noninfringing uses of a particular class of copyrighted works. Petitioners must provide evidence sufficient to allow the Register to draw such a conclusion.

B. Rulemaking Standards

Congress has specified the legal and evidentiary requirements for the section 1201 rulemaking proceeding; these standards are discussed in greater detail in the Register's Recommendation[5] and the Copyright Office's 2017 policy study on section 1201.[6] The Register will recommend granting an exemption only "when the preponderance of the evidence in the record shows that the conditions for granting an exemption have been met."[7] The evidence must show "that it is more likely than not that users of a copyrighted work will, in the succeeding three-year period, be adversely affected by the prohibition on circumvention in their ability to make noninfringing uses of a particular class of copyrighted works."[8] The Register develops a comprehensive administrative record to support her recommendation.

Section 1201(a)(1) enumerates five factors that guide the Register's Recommendation and the Librarian's determination regarding proposed exemptions: (1) the availability for use of copyrighted works; (2) the availability for use of works for nonprofit archival, preservation, and educational purposes; (3) the impact that the

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[4] The Office has provided detailed analyses of the statutory requirements in its 2017 policy study on section 1201 and elsewhere. *See* U.S. Copyright Office, Section 1201 of Title 17 at 105–127 (2017), https://www.copyright.gov/policy/1201/section-1201-full-report.pdf ("Section 1201 Report").
[5] Register of Copyrights, Section 1201 Rulemaking: Ninth Triennial Proceeding to Determine Exemptions to the Prohibition on Circumvention, Recommendation of the Register of Copyrights (Oct. 2024), *https://cdn.loc.gov/copyright/1201/2024/2024_Section_1201_Registers_Recommendation.pdf* ("Register's Recommendation").
[6] Section 1201 Report at 111–12.
[7] *Id.*; *accord* Register of Copyrights, Section 1201 Rulemaking: Seventh Triennial Proceeding to Determine Exemptions to the Prohibition on Circumvention, Recommendation of the Register of Copyrights 12–13 (Oct. 2018). References to the Register's recommendations in prior rulemakings are cited by the year of publication followed by "Recommendation" (*e.g.*, "2018 Recommendation"). Prior Recommendations are available on the Copyright Office website at *https://www.copyright.gov/1201/*.
[8] Section 1201 Report at 112.

prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research; (4) the effect of circumvention of technological measures on the market for or value of copyrighted works; and (5) such other factors as the Librarian considers appropriate. The statute mandates that any exemption to be defined based on "a particular class of works."[9] Among other things, the determination of the appropriate scope of a "class of works" recommended for exemption can take into account the adverse effects an exemption may have on the market for or value of copyrighted works. Accordingly, "it can be appropriate to refine a class by reference to the use or user in order to remedy the adverse effect of the prohibition and to limit the adverse consequences of an exemption."[10]

II. History of the Ninth Triennial Proceeding

The Copyright Office initiated the ninth triennial rulemaking proceeding by issuing a notice of inquiry ("NOI") on June 8, 2023.[11] The NOI requested petitions for renewal, comments in response to petitions for renewal, and petitions for new exemptions, including proposals to expand current exemptions.[12] These public submissions were due between July 7, 2023 and August 25, 2023.[13] The Office received thirty-eight petitions for renewal of existing exemptions and eleven petitions for new and expanded exemptions. It grouped the petitions for new and expanded exemptions into seven classes.

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[9] 17 U.S.C. 1201(a)(1)(B).
[10] 2006 Recommendation at 19.
[11] Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 88 FR 37486, 37487 (June 8, 2023).
[12] *Id.* *See* Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 82 FR 29804, 29806 (June 30, 2017) (petitions to expand a current exemption are treated as petitions for new exemptions) ("Renewal may only be sought for current exemptions as they are currently formulated, without modification. This means that if a proponent seeks to engage in any activities not currently permitted by an existing exemption, a petition for a new exemption must be submitted.").
[13] 88 FR 37486, 37486; Exemptions to Permit Circumvention of Access Controls on Copyrighted Works: Notice and Request for Public Comment, 88 FR 42891 (July 5, 2023). References to renewal petitions and comments in response are by party and class name (abbreviated where appropriate) followed by "Renewal Pet.," "Renewal Opp'n," and "Renewal Supp." References to petitions for new exemptions and comments in response are by party name and class number followed by "Pet.," "Initial," "Opp'n," or "Reply" for comments submitted in the first, second, or third round, as applicable.

On October 19, 2023, the Office issued a notice of proposed rulemaking ("NPRM") identifying the existing exemptions that the Register intended to recommend for renewal, and providing a description of the proposed classes for new and expanded exemptions.[14] Public submissions were due between December 22, 2023 and March 19, 2024. The Office received approximately 50 submissions in response to the NPRM.[15]

After analyzing the written comments regarding proposed new and expanded exemptions, the Office held three days of public hearings from April 16–18, 2024, via Zoom.[16] Forty-one individuals representing nineteen stakeholder groups offered their views on specific proposed exemptions, and an additional four individuals took part in an audience participation session. After the hearings, the Office issued written questions to participants regarding two of the proposed classes and received seven responses.[17] It then held three *ex parte* meetings with participants concerning three proposed classes.[18] In addition, it received three letters about the rulemaking from other federal agencies and government officials.[19]

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[14] Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 88 FR 72013 (Oct. 19, 2023).

[15] Comments received in this rulemaking are available on the Office's website. *See Ninth Triennial Section 1201 Proceeding, 2024 Cycle*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/* (last visited Oct. 17, 2024); *see also Late Filed Comments*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/late-filings/* (last visited Oct. 17, 2024).

[16] Video recordings of these hearings are available on the Office's website and YouTube pages. *See Ninth Triennial Section 1201 Rulemaking Public Hearings*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/hearings.html* (last visited Oct. 17, 2024); U.S. Copyright Office, Youtube, *https://www.youtube.com/uscopyrightoffice/* (last visited Oct. 17, 2024). Under each proposed class, citations to hearing transcripts refer to that particular class. Hearing transcripts for each individual class are available on the Office's webpage. *Transcripts of Public Hearings in the Ninth Triennial Section 1201 Rulemaking*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/hearing-transcripts/* (last visited Oct. 17, 2024).

[17] Participants' post-hearing letter responses are available on the Office's website. *Post-Hearing Questions*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/post-hearing/* (last visited Oct. 17, 2024).

[18] *Ex Parte Communications*, U.S. Copyright Office, *https://www.copyright.gov/1201/2024/ex-parte-communications/* (last visited Oct. 17, 2024). The Office required participants to comply with its *ex parte* regulation, codified at 37 CFR 205.24. This regulation requires that parties submit a meeting request and summary to the Office after an *ex parte* meeting, which is substantially the same process employed in prior section 1201 rulemakings. Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 85 FR 65293, 65310 (Oct. 15, 2020).

[19] The letters are available on the Office's website. *Letters Between the U.S. Copyright Office, Other Agencies, and Other Government Officials*, U.S. Copyright Office*, https://www.copyright.gov/1201/2024/USCO-letters/* (last visited Oct. 17, 2024).

The Register consulted with the National Telecommunications and Information Administration ("NTIA"), in the Department of Commerce, as required by section 1201(a)(1). NTIA actively participated in the rulemaking process, providing input at key stages in meetings convened by the Office, and participated in the virtual public hearings where it engaged directly by asking questions. NTIA communicated its views on each of the proposed exemptions in writing to the Register on September 24, 2024.[20] The Office summarizes NTIA's views below. NTIA's full recommendation is available at *https://cdn.loc.gov/copyright/1201/2024/2024_NTIA_DMCA_Letter.pdf*.

III. Summary of Register's Recommendation

A. Renewal Recommendations

The Register received petitions to renew all but one of the exemptions adopted pursuant to the eighth triennial rulemaking,[21] and recommends renewal of all exemptions for which petitions were filed.[22] She finds that the reasons for the Librarian's prior adoption of the exemptions are likely to continue during the next three-year period. The existing exemptions, and the bases for the recommendation to renew each exemption in accordance with the streamlined renewal process, are summarized below.

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[20] Letter from Alan Davidson, Assistant Sec'y for Commc'ns & Info. Adm'r, Nat'l Telecomms. & Info. Admin., U.S. Dep't of Commerce, to Shira Perlmutter, Register of Copyrights and Dir., U.S. Copyright Office (Sept. 24, 2024) ("NTIA Letter").

[21] A renewal petition was not filed for the exemption permitting circumvention of video games in the form of computer programs for the purpose of allowing an individual with a physical disability to use alternative software or hardware input methods. *See* 37 CFR 201.40(b)(21) (2023); 88 FR 72013, 72015 n.19.

[22] *See* 85 FR 65293, 65295 (describing that there was no "meaningful opposition" to renewing exemptions when the Office had "not received comments actually disputing whether there [wa]s a continued basis for any exemptions"); *see also* Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 85 FR 37399, 37402 (June 22, 2020) (describing "meaningful opposition" standard).

1. Audiovisual Works – Educational and Derivative Uses

Multiple individuals and organizations petitioned to renew the exemption covering the use of short portions of motion pictures for various educational and derivative uses.[23] The Office did not receive meaningful opposition to renewal. Renewal of each of this exemption's subparts was unopposed, except for noncommercial videos, as discussed below. The existing exemption and its various subparts collectively serve as the baseline in assessing whether to recommend any expansion to Classes 1 and 2.

a. Audiovisual Works–Criticism and Comment–Filmmaking[24]

Two organizations petitioned to renew the exemption for motion pictures for uses in documentary films or other films where the use is in a parody or for the work's biographical or historically significant nature. No oppositions to the renewal were filed. Petitioners stated that they personally know many filmmakers who have found it necessary to rely on this exemption and will continue to do so. The petitions summarized the continuing need and justification for the exemption.

b. Audiovisual Works–Criticism and Comment–Noncommercial Videos[25]

Two organizations petitioned to renew the exemption for motion pictures for uses in noncommercial videos. The Office did not receive meaningful opposition to renewal of this exemption.[26] Petitioners stated that they had personal knowledge that video creators have relied on this exemption and anticipate needing to do so in the future. The Organization for Transformative Works ("OTW") included an account from an academic who stated that footage ripped from DVDs and Blu-ray is preferred for "vidders" (noncommercial remix artists) because "it is high quality enough to bear up under the

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[23] *See* 37 CFR 201.40(b)(1).
[24] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.1.
[25] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.2.
[26] Opposition to the Organization for Transformative Works' ("OTW') requested changes is addressed as Class 1 below. Commenters objected only to OTW's request for changes to the exemption, not to renewal of the exemption as-is.

transformations that vidders make to it."[27] The petitioners demonstrated the continuing need and justification for the exemption.

c. Audiovisual Works–Criticism and Comment–Multimedia E-books[28]

Petitioners also sought renewal of the exemption for the use of motion picture excerpts in nonfiction multimedia e-books. No oppositions were filed against renewal. The petition demonstrated the continuing need and justification for the exemption. In addition, the petitioners demonstrated personal knowledge that high-resolution video is not available without circumvention of technological protection measures ("TPMs"). They provided, as an example, Bobette Buster's continued work on an e-book series based on her lecture series, "Deconstructing Master Filmmakers: The Uses of Cinematic Enchantment."[29]

d. Audiovisual Works–Criticism, Comment, Teaching, or Scholarship–Universities and K–12 Educational Institutions[30]

Multiple individuals and organizations petitioned to renew the exemption for motion pictures for educational purposes by college and university or K–12 faculty and students. No oppositions were filed against renewal. The petitions demonstrated the continuing need and justification for the exemption, indicating that educators and students continue to rely on excerpts from digital media for class presentations and coursework. For instance, a collective of individuals and organizations provided several examples of professors using DVD clips in the classroom. A group of individual educators and educational organizations[31] broadly suggested that the "entire field" of

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[27] OTW Noncom. Videos Renewal Pet. at 3.
[28] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.3.
[29] Buster, Authors All. & Am. Ass'n of Univ. Professors ("AAUP") Nonfiction Multimedia E-Books Renewal Pet. at 3.
[30] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.4.
[31] The individuals and organizations include Peter Decherney, Michael Delli Carpini, Library Copyright Alliance ("LCA"), and the Society for Cinema and Media Studies ("SCMS") (collectively, "Joint Educators I").

video essays or multimedia criticism "could not have existed in the United States without fair use and the 1201 educational exemption."[32] Petitioners demonstrated personal knowledge and experience with this exemption based on their past participation in the section 1201 triennial rulemaking and the experience of their members—thousands of digital and literacy educators and other members supporting educators and students. The Register finds that petitioners demonstrated a continuing need and justification for the exemption.

e. Audiovisual Works–Criticism and Comment–Massive Open Online Courses ("MOOCs")[33]

A collective of individuals and organizations petitioned to renew the exemption for educational uses of motion pictures in Massive Open Online Courses ("MOOCs"). No oppositions were filed against renewal. The petitions demonstrated the continuing need and justification for the exemption, stating that instructors continue to rely on the exemption to develop, provide, and improve MOOCs, as well as to increase the number of (and therefore access to) MOOCs in the field of film and media studies. As teachers and proponents of MOOCs—most of whom have advocated for this exemption in prior rulemakings—petitioners demonstrated personal experience with and knowledge of this exemption.

f. Audiovisual Works–Criticism and Comment–Digital and Media Literacy Programs[34]

The Library Copyright Alliance ("LCA") and Renee Hobbs petitioned to renew the exemption for motion pictures for educational uses in nonprofit digital and media literacy programs offered by libraries, museums, and other organizations. No oppositions

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[32] Joint Educators I AV Educ. Renewal Pet. at 3.
[33] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.5.
[34] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.A.6.

were filed against renewal. The petition stated that librarians across the country have relied on the current exemption and will continue to do so for their digital and media literacy programs, thereby demonstrating the continuing need and justification for the exemption. Petitioners have personal experience with this exemption, as they engage with institutions and individuals offering these programs.

2. Audiovisual Works–Accessibility[35]

The Association of Transcribers and Speech-to-Text Providers ("ATSP") and LCA petitioned to renew the exemption for motion pictures for the provision of captioning and/or audio description by disability services offices or similar units at educational institutions for students, faculty, or staff with disabilities. No oppositions were filed against renewal. The petitioners demonstrated the continuing need and justification for the exemption, and, as "represent[atives of] disability services professionals and supporting entities collectively responsible for the regular provision of captioning and audio description services for thousands of students," personal knowledge and experience with the exemption.[36] Petitioners stated that the "exemption enables disability services offices and similar units to ensure that students with disabilities have access to the same advantages as their peers in the pursuit of education."[37]

3. Audiovisual works—Preservation or Replacement—Library, Archives, and Museum[38]

LCA petitioned to renew the exemption for motion pictures for preservation or the creation of a replacement copy by an eligible library, archives, or museum. No oppositions were filed against renewal. LCA petitioned for the exemption's adoption in the eighth triennial rulemaking and demonstrated the continuing need and justification for

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[35] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.B.
[36] ATSP & LCA Captioning Renewal Pet. at 3.
[37] *Id.*
[38] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.C.

the exemption.[39] For example, it asserted that institutions across the country have relied on the exemption to make preservation and replacement copies of movies in their collections, many of which are not available for purchase or streaming. LCA indicated that as DVD and Blu-ray discs deteriorate, institutions like libraries and museums will continue to need to circumvent technological protections to make such copies. LCA also demonstrated its personal knowledge of the exemption.

4. Audiovisual Works—Text and Data Mining—Scholarly Research and Teaching[40]

Multiple organizations jointly petitioned to renew the exemption for text and data mining of motion pictures by researchers affiliated with a nonprofit institution of higher education, or at the direction of such researchers, for the purpose of scholarly research and teaching. Petitioners demonstrated the continuing need for this exemption, citing researchers who rely on it, such as professors using DVD clips in their classrooms and in their research. They also demonstrated their personal experience with this exemption, having advocated for its adoption in the eighth triennial rulemaking proceeding. Although two organizations jointly objected to renewal of this exemption, the comments seemed to have misunderstood the Register's prior findings and did not demonstrate that the previous rulemaking record was no longer reliable. Petitioners asserted that there have not been any legal changes or market developments that would disturb the Office's previous analysis or materially impact the record on which the Register had relied. This existing exemption serves as the baseline in assessing whether to recommend any expansions in Class 3(a).

5. Literary Works—Text and Data Mining—Scholarly Research and Teaching[41]

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[39] LCA Preservation Renewal Pet. at 3.
[40] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.D.
[41] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.E.

Multiple organizations jointly petitioned to renew the exemption for text and data mining of literary works that were distributed electronically, by researchers affiliated with a nonprofit institution of higher education, or at the direction of such researchers, for the purpose of scholarly research and teaching. No oppositions were filed against renewal. The petitions demonstrated the continuing need and justification for the exemption, highlighting various professors' ongoing and developing research projects dependent on it. Petitioners also demonstrated personal knowledge of the exemption based on their ongoing relationships with researchers using it. This existing exemption serves as the baseline in assessing whether to recommend any expansions in Class 3(b).

6. Literary Works—Text and Data Mining—Assistive Technologies[42]

Multiple organizations jointly petitioned to renew the exemption for literary works or previously published musical works that have been fixed in the form of text or notation, distributed electronically, and include access controls that interfere with assistive technologies. No oppositions were filed against renewal. The petitioners demonstrated the continuing need and justification for the exemption, stating that individuals who are blind, visually impaired, or print-disabled are significantly disadvantaged with respect to obtaining accessible e-book content because TPMs interfere with the use of assistive technologies. Additionally, they demonstrated personal knowledge and extensive experience with the assistive technology exemption, as they are all organizations that advocate for the blind, visually impaired, and print-disabled.

7. Literary Works—Medical Device Data[43]

The Coalition of Medical Device Patients and Researchers ("the Coalition") petitioned to renew the exemption covering access to patient data on medical devices or

[42] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.F.
[43] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.G.

monitoring systems. No oppositions were filed against renewal. The Coalition demonstrated the continuing need and justification for the exemption, stating that "the exemption is vital to patients' ability to monitor the data output of medical devices that monitor and maintain their health" and to medical research.[44] It also demonstrated personal knowledge and experience with this exemption, citing member Hugo Campos's experiences as a patient who has needed access data from his implanted defibrillator, and its research regarding medical devices.

8. Computer Programs—Unlocking[45]

The Institute of Scrap Recycling Industries, Inc. ("ISRI") petitioned to renew the exemption for computer programs that operate wireless devices, to allow connection of a new or used device to an alternative wireless network ("unlocking"). No oppositions were filed against renewal. The petition demonstrated the continuing need and justification for the exemption, stating that users "continue to purchase or acquire donated cell phones, tablets, laptops, and a variety of other wireless devices no longer needed by their original owners and try to make the best possible use of them through resale or recycling," which requires unlocking the devices so they may be used on other carriers.[46] ISRI demonstrated personal knowledge and experience with the exemption based on its involvement in previous triennial rulemakings and its representation of nearly 1,600 companies that process, broker, and consume scrap commodities.

9. Computer Programs—Jailbreaking[47]

Multiple organizations petitioned to renew the four exemptions for computer programs that enable electronic devices to interoperate with or to remove software applications ("jailbreaking"). These exemptions permit circumvention for the purpose of

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[44] Coalition Medical Devices Renewal Pet.at 3.
[45] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.H.
[46] ISRI Unlocking Renewal Pet. at 3.
[47] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.I.

jailbreaking (1) smartphones and other portable all-purpose computing devices, (2) smart televisions, (3) voice assistant devices, and (4) routers and dedicated networking devices. No oppositions were filed against renewal. The petitions demonstrated the continuing need and justification for the exemption and that petitioners have personal knowledge and experience with regard to this exemption. Petitioners described how users of a variety products in each of these categories rely on this exemption to maintain functionality and security of older devices, to install alternative operation systems, and to customize software applications on electronic devices. Collectively, the petitions demonstrated that without this exemption, TPMs installed on the enumerated products would have an adverse effect on various noninfringing uses.

10. Computer Programs—Repair of Motorized Land Vehicles, Marine Vessels, or Mechanized Agricultural Vehicles or Vessels[48]

iFixit and MEMA, The Vehicle Suppliers Association ("MEMA"), petitioned to renew the exemption for computer programs that control motorized land vehicles, marine vessels, or mechanized agricultural vehicles or vessels for purposes of diagnosis, repair, or modification of a vehicle or vessel function. No oppositions were filed against renewal. The petitioners each represent or advise individuals and businesses that perform vehicle service and repair and have personal experience with this exemption through those activities. They demonstrated the continuing need and justification for the exemption. For example, MEMA stated that its membership "continues to see firsthand that the exemption is helping protect consumer choice and a competitive market, while mitigating risks to intellectual property and vehicle safety"—particularly as "every year vehicle computer programs become more important and essential to today's motor vehicles."[49] In the 2021 rulemaking, the Register concluded that the "prohibition against

[48] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.J.
[49] MEMA Vehicle Repair Renewal Pet. at 3.

circumvention . . . [was] likely to adversely affect diagnosis, repair, and lawful modification of a vessel function for marine vessels," as well as functions for land vehicles, including agricultural land vehicles such as tractors.[50] The Office did not receive any evidence indicating that these categories of vehicles and vessels should be treated differently in this proceeding.

11. Computer Programs—Repairs of Devices Designed Primarily for Use by Consumers[51]

The Electronic Frontier Foundation ("EFF") petitioned to renew the exemption for computer programs that control devices designed primarily for use by consumers for diagnosis, maintenance, or repair of the device. The Office did not receive meaningful opposition to renewal.[52] The petitioners demonstrated the continuing need and justification for the exemption. For example, EFF asserted that "[m]anufacturers of these devices continue to implement technological protection measures that inhibit lawful repairs, maintenance, and diagnostics, and they show no sign of changing course."[53] EFF has personal knowledge of this exemption, as it has been involved with the section 1201 rulemaking process since its inception and has specifically advocated for device repair exemptions.

12. Computer Programs—Repair of Medical Devices and Systems[54]

Multiple organizations petitioned to renew the exemption to access computer programs that are contained in and control the functioning of medical devices or systems, and related data files, for purposes of diagnosis, maintenance, or repair. The petitioners repair, maintain, service, or sell medical systems and devices and thus have personal

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[50] 2021 Recommendation at 223.
[51] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.K.
[52] Although Author Services filed a comment opposing renewal of the exemption "in its present form," the comment only addressed devices outside the scope of the existing exemption. *See* 88 FR 72013, 72020–21.
[53] EFF Device Repair Renewal Pet. at 3.
[54] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.L.

experience with this exemption. The petitions demonstrated the continuing need and justification for the exemption, for example stating that "the use of TPMs in medical systems and devices is widespread" and that manufacturers "have developed new systems that further restrict access to use of necessary software tools."[55] Petitioners also emphasized that this exemption makes possible device repair and maintenance services that ensure continuity and efficiency of patient care.

Three organizations submitted timely opposition comments. Opponents asserted that the exemption undermines the U.S. Food and Drug Administration's ("FDA") maintenance and repair standards for the intricate equipment used in patient care and conflicts with other congressional policies. They also argued that the Supreme Court's decision in *Andy Warhol Found. for the Visual Arts v. Goldsmith*[56] undermined the validity of the previous rulemaking's analysis. As in the Register's 2021 Recommendation, in this rulemaking the Register again emphasizes that the Office "generally does not consider other regulatory schemes as part of the . . . analysis because the focus of this proceeding is on copyright-related considerations,"[57] and notes that granting an exemption under section 1201 does not absolve any user from compliance with other relevant laws and regulations. The Register further concludes that the *Warhol* decision does not substantially change the Office's analysis of the uses at issue in this exemption.

13. Computer Programs—Security Research[58]

Multiple organizations and security researchers petitioned to renew the exemption permitting circumvention for purposes of good-faith security research. No oppositions were filed against renewal, and one group of security and policy professionals submitted

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[55] Avante Health Sols., Avante Diagnostic Imaging, and Avante Ultrasound Medical Device Repair Renewal Pet. at 5.
[56] 598 U.S. 508 (2023).
[57] 2021 Recommendation at 229.
[58] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.M.

a comment in support of the petition. The petitioners demonstrated the continuing need and justification for the exemption, as well as personal knowledge of and experience with this exemption. They highlighted professors' critical research regarding vulnerabilities in voting machines, devices underpinning the financial industry, smart phones, and other devices. They also stated that this exemption enables security testing that is vital to ensure device users' privacy is protected and security issues are corrected.

14. Video Games—Preservation and Abandoned Video Games[59]

The Software Preservation Network ("SPN") and LCA jointly petitioned to renew the exemption for individual play by gamers and preservation of video games by a library, archives, or museum for which outside server support has been discontinued, and preservation by a library, archives, or museum, of discontinued video games that never required server support. No oppositions were filed against renewal, and one individual filed a comment in support. Petitioners demonstrated that there is a continuing need and justification for the exemption. They stated that video game collection librarians report an ongoing need to preserve TPM-encumbered video games in their collections and that the "[section] 1201 exemption has become a crucial tool in their ongoing efforts to save digital game culture before it disappears."[60] They demonstrated personal knowledge and experience through past participation in section 1201 rulemakings and through their representation of members who have relied on this exemption.

This existing exemption serves as the baseline in assessing whether to recommend any expansions in Class 6(b).

15. Computer Programs—Preservation[61]

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[59] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.N.
[60] SPN and LCA Abandoned Video Game Renewal Pet. at 3.
[61] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.O.

SPN and LCA jointly petitioned to renew the exemption for the preservation of computer programs other than video games, and computer program-dependent materials, by libraries, archives, and museums. No oppositions were filed against renewal, and one individual filed a comment in support. Petitioners demonstrated that there is a continuing need and justification for this exemption. For example, they asserted that remotely accessing preserved computer programs "fulfill[s] cultural heritage institutions' missions to support research, analysis, and other scholarly re-use of the historical record (and to do so equitably and inclusively)."[62] In addition, they demonstrated personal knowledge and experience through past participation in section 1201 rulemakings relating to access controls on software and through representing major library associations with members who have relied on this exemption.[63]

This existing exemption serves as the baseline in assessing whether to recommend any expansions in Class 6(a).

16. Computer Programs—3D Printers[64]

Michael Weinberg petitioned to renew the exemption for computer programs that operate 3D printers to allow use of alternative material. No oppositions were filed against renewal. The petition demonstrated the continuing need and justification for the exemption, and the petitioner demonstrated personal knowledge and experience. Specifically, Mr. Weinberg declared that he is a member of the 3D printing community and has been involved with this exemption's renewal and modification in each section 1201 rulemaking it has been considered. Additionally, he stated that while 3D printer manufacturers "continue to use TPMs to limit the types of materials used in printers," since the last rulemaking proceeding, there has been "an expansion of third-party

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[62] SPN & LCA Software Preservation Renewal Pet. at 3.
[63] *Id.*
[64] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.P.

materials available for 3D printers" due to the current exemption, which has assured manufacturers and users that their uses would not violate section 1201.[65]

17. Computer Programs—Copyright License Investigation[66]

The Software Freedom Conservancy ("SFC") petitioned to renew the exemption for computer programs, for the purpose of investigating potential infringement of free and open-source computer programs. No oppositions were filed against renewal. The petition demonstrated the continuing need and justification for the exemption, including through discussion of how TPMs, such as encryption, "prevent[ ] the investigation of computer programs" within various devices, such as laptops, IP-enabled doorbells, baby monitors, and thermostats, that use free and open source software ("FOSS") to operate.[67] SFC indicated that barriers to investigating FOSS will "continue to exist . . . [and would] prevent . . . users from obtaining access to the relevant copyrighted works" without the exemption.[68] As a participant in the previous rulemaking and "the nonprofit home for dozens of FOSS projects representing well over a thousand volunteer contributors," SFC demonstrated personal knowledge and experience regarding the exemption.[69]

18. Computer Programs—Videogame Accessibility[70]

In 2021, the Register found that the record "support[ed] an exemption to enable individuals with disabilities to use alternate input devices to play video games."[71] The Office previously noted the strong justifications for the exemption and recommended that Congress enact a permanent exemption to enable such accessibility. It did not, however,

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[65] Weinberg 3D Printers Renewal Pet. at 3.
[66] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.Q.
[67] SFC Copyright License Investigation Renewal Pet. at 3.
[68] *Id.*
[69] *Id.*
[70] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at IV.R.
[71] 2021 Recommendation at 315.

receive a petition to renew this exemption and, given the constraints of the rulemaking process, the Register is not able to recommend renewal.

B. New or Expanded Designations of Classes

Based upon the record in this proceeding regarding proposed expansions to existing exemptions or newly proposed exemptions, the Register recommends that the Librarian grant the following additional exemptions from the prohibition against circumvention of technological measures set forth in section 1201(a)(1):

1. Proposed Classes 3(a) and 3(b): Audiovisual Works and Literary Works—Text and Data Mining[72]

Authors Alliance, the American Association of University Professors ("AAUP"), and LCA petitioned to expand the existing exemptions that permit circumvention of technological protection measures on copies of copyrighted audiovisual and literary works that were lawfully acquired, to enable researchers to perform text and data mining for the purpose of scholarly research and teaching. The current exemptions permit access to the corpora to outside researchers "solely for purposes of collaboration or replication of the research."[73] Petitioners stated that additional research based on text and data mining techniques is stymied by uncertainty surrounding whether and when the corpora at issue may be used by researchers at outside institutions. Proposed Classes 3(a) and 3(b) would provide an exemption to allow academic researchers to share copies of corpora with researchers affiliated with other nonprofit institutions of higher education "for purposes of conducting independent text [and] data mining research and teaching, where those researchers are in compliance with the exemption."[74]

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[72] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at V.C.
[73] 37 CFR 201.40(b)(4)–(5).
[74] Authors All., AAUP & LCA Class 3(a) Pet. at 2; Authors All., AAUP & LCA Class 3(b) Pet. at 2.

Association of American Publishers ("AAP"); Motion Picture Association ("MPA"), News Media Alliance, and the Recording Industry Association of America ("RIAA") (collectively, "Joint Creators III"); DVD Copy Control Association ("DVD CCA") and the Advanced Access Content System Licensing Administrator, LLC ("AACS LA"); and the International Association of Scientific, Technical and Medical Publishers opposed the proposed expansions for classes 3(a) and 3(b). They argued that the "proposed new language would dramatically enlarge the scope of the exemptions adopted in 2021" and could lead to "a wide range of potentially infringing uses" of copyrighted works.[75] They also raised issues with the existing exemptions' security measures and viewing provisions.

As discussed in the Register's Recommendation, absent modifications to the current exemptions for text and data mining, researchers at other academic institutions will face adverse effects in their ability to make noninfringing use of copyrighted audiovisual and literary works. The Register recommends that the current exemptions be modified to permit researchers affiliated with other nonprofit institutions of higher education to access corpora solely for the purposes of text and data mining research or teaching. "Access" in this context means that an institution may provide outside researchers with credentials for security and authentication to use a corpus that is hosted on its servers; it does not mean that an institution or a researcher may disseminate a copy of a corpus (or copyrighted works included therein) to outside researchers or give outside researchers the ability to download, make copies of, or distribute any copyrighted works.

The Register also recommends amending the existing exemptions to clarify the security measures provisions and the viewing provisions to bring the regulatory text in

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[75] Motion Picture Association ("MPA"), News Media Alliance, and the Recording Industry Association of America ("RIAA") (collectively, "Joint Creators III") Class 3(a) Opp'n at 5; *see* Ass'n of Am. Publishers ("AAP") Class 3(b) Opp'n at 2–3; DVD Copy Control Ass'n ("DVD CCA") and Advanced Access Content Sys. Licensing Adm'r, LLC ("AACS LA") Class 3(a) Opp'n at 12–13, 19–20.

line with the fair use analysis in the 2021 Recommendation. These amendments do not require a new fair use analysis. Specifically, she recommends amending the security measures provisions to: (1) include reasonable requests from trade associations; (2) permit inquiries into security measures regardless of whether they are based on individual agreements or the institution's own standards; and (3) allow those inquiries when the copyright owners *reasonably believe* that their works are in the corpus. The Register also recommends amending the viewing provision to permit researchers to view the contents of copyrighted works as part of their research, provided that viewing takes place in furtherance of research objectives (*e.g.*, processing or annotating works to prepare them for analysis) and not for the works' expressive value.

2. Proposed Class 5: Computer Programs—Repair of Commercial Industrial Equipment[76]

Public Knowledge and iFixit jointly petitioned for an expanded repair exemption that would permit circumvention for the purposes of diagnosis, maintenance, and repair of commercial and industrial equipment. The U.S. Department of Justice Antitrust Division and the Federal Trade Commission filed comments in support of the petition. Proponents asserted that that there were sufficient commonalities to support a broad class by providing four representative examples, including commercial food preparation equipment. Opponents ACT | The App Association; Associated Equipment Distributors; Entertainment Software Association ("ESA"), MPA, and RIAA ("collectively, "Joint Creators I"); Philips North America, LLC; and the Association of Home Appliance

[76] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at V.E.

Manufacturers primarily argued that the scope of the class was overly broad and unsupported by the record. NTIA supported the proposed exemption.

The Register recommends adopting a new exemption covering diagnosis, maintenance, and repair of retail-level commercial food preparation equipment because proponents sufficiently showed, by a preponderance of the evidence, adverse effects on the proposed noninfringing uses of such equipment. However, she declines to recommend an exemption for a broader class of software-enabled commercial and industrial devices in the absence of a sufficient showing of adverse effects on the record presented in this rulemaking.

3. Proposed Class 7: Computer Programs—Vehicle Operational Data[77]

Class 7 proponents sought a new exemption to permit lawful owners and lessees, or those acting on their behalf, to access, store, and share vehicle operational and telematics data generated by motorized land vehicles and marine vessels. They argued that the proposed exemption would allow vehicle owners and lessees to make productive, noninfringing uses of that data, such as monitoring vehicle use and streamlining the vehicle repair process. In subsequent comments and at the public hearing, proponents agreed that any exemption should include limitations, such as the continued applicability of other laws.

Alliance for Automotive Innovation, Association of Equipment Manufacturers, National Association of Manufacturers, and the Joint Creators I opposed the exemption. They argued that consumers already have sufficient access under current laws and market practices, particularly the existing vehicle repair exemption found in section 37 CFR 201.40(b)(13) ("Repair Exemption"). They further contended that the proposed

[77] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at V.G.

exemption was overbroad and would raise issues related to safety, privacy, and trade secrets.

NTIA supported the proposed exemption and recommended that it operate as a "standalone" exemption, separate from the Repair Exemption. In addition, NTIA recommended including the term "analyze" within the proposed regulatory language, as furthering the intended goals of the exemption.

For the reasons detailed in the Register's Recommendation, the Register concludes that the prohibition on circumvention adversely affects the ability of lawful owners and lessees, or those acting on their behalf, to access, store, and share operational and telematics data, which are likely to be noninfringing. She further finds that such uses would not adversely affect the market for or value of computer programs integrated into vehicles and vessels and that the purported alternatives do not sufficiently mitigate any adverse effects. She also recommends adopting regulatory provisions mirroring those within the Repair Exemption regarding the applicability of the exemption to other laws, separate subscription services, and unauthorized access to other copyrighted works.

C. Classes Considered but Not Recommended

Based upon the record in this proceeding, the Register recommends that the Librarian determine that the following classes of works shall not be exempt during the next three-year period from the prohibition against circumvention of technological measures set forth in section 1201(a)(1):

1. Proposed Class 1: Audiovisual Works—Noncommercial Videos[78]

Proposed Class 1 proponents sought to expand the existing exemption that permits circumvention of access controls protecting excerpts of motion pictures on DVDs, Blu-ray discs, and digitally transmitted video for the purposes of criticism and

[78] The Register's analysis and conclusions for this subpart, including citations to the record and relevant legal authority, can be found in the Register's Recommendation at V.A.

comment, including for educational purposes by certain users. The Office received one petition from OTW seeking an amendment to the language of the existing exemption.[79] Specifically, OTW proposed rewriting the text of the current exemption related to noncommercial videos, which is being renewed, by reverting to language used in the 2010 rulemaking, when the exemption was initially adopted. OTW maintained that its proposed changes would not substantively alter the exemption but would render it more understandable to users. It made essentially the same request in the 2021 proceeding, which the Register did not recommend adopting.

The Office received no comments in support of the proposal, no requests from OTW or other parties to participate in the public hearings, and no other evidence in support of the proposal. Two groups, however, filed opposition comments. These groups opposed the language changes that OTW proposed, but did not oppose renewal of the exemption as currently written. Opponents highlighted the Register's previous findings in the 2021 rulemaking that OTW's proposed changes were not warranted, as well as OTW's failure in this proceeding to submit any evidence supporting its petition. NTIA acknowledged that petitioner did not submit its request in a procedurally proper manner, but supported petitioner's proposed modifications to the class and structural alterations to the way exemptions are written in general. The Register does not recommend the expansion proposed as Class 1, which does not include substantive changes.

2. Proposed Class 2: Audiovisual Works—Online Learning[80]

Proposed Class 2 would expand the existing exemption for circumvention of access controls protecting motion pictures on DVDs, Blu-ray discs, and digitally transmitted video for educational purposes in massive open online courses ("MOOCs")

[79] OTW submitted a petition for renewal, which the Office construed as a request for expansion since petitioner requested alterations to the existing exemption.
[80] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Recommendation at V.B.

by faculty and employees acting at the direction of faculty of accredited nonprofit educational institutions. Petitioner sought to expand the scope of the exemption for "educators . . . and preparers of online learning materials acting at the direction of educators" of "qualified online educational entities," including for-profit entities and unaccredited educational institutions, to use short portions of motion pictures "for the purpose of teaching registered learners . . . in courses requiring close analysis of film and media excerpts when the transformative fair use of the excerpts contributes significantly to learning, for the purpose of criticism, comment, illustration, or explanation."[81] Proponents argued that these entities should have free and efficient ways of accessing high-quality motion picture excerpts to educate nontraditional learners. Opponents argued against the proposed expansion, contending that proponents failed to meet their evidentiary burden, including that the conduct at issue would be noninfringing. Finally, AACS LA argued that screen capture technology has improved and remains an adequate alternative in some circumstances.

NTIA supported the proposed exemption with some modifications to address opponents' concerns.

The Register finds that the record lacks support to expand the existing exemption to for-profit and/or unaccredited educational entities. She therefore does not recommend adopting the proposed exemption.

3. Proposed Class 4: Computer Programs—Generative AI Research[82]

Class 4 proponents sought an exemption for the purpose of conducting "trustworthiness" research on AI systems. Specifically, they sought to conduct research on harmful or undesirable outputs from generative AI systems, including content that is

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[81] Peter Decherney, Sarah Banet-Weiser, Shiv Gaglani & SCMS (collectively, "Joint Educators II") Class 2 Reply at 2–3.

[82] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Recommendation at V.D.

biased, is sexually explicit, or infringes copyrights. They asserted that section 1201 inhibits this research by prohibiting the circumvention of various safeguards on online platforms, including account authentication systems.

Opponents asserted that the proposed language was overbroad, arguing that a broad exemption could damage all software markets and sweep in a variety of systems and products, such as Blu-ray disc players. They also contended that proponents failed to provide sufficient information about the TPMs at issue and whether they would be circumvented for the proposed research. Finally, they argued that an exemption would be premature, and that the rulemaking was not the appropriate venue to establish new law, given the nascent technology involved and ongoing legislative and policy work on generative AI.

NTIA supported an exemption modeled after the current security research exemption,[83] but without the requirement that research be conducted on lawfully acquired devices, or with the authorization of the system owner or operator. Although NTIA concluded that section 1201 would not apply to most of the activities identified by proponents, it believed that the use of certain prompts could implicate the prohibition on circumvention. NTIA also found sufficient evidence of adverse effects, crediting statements from academic researchers describing the "chilling effect" of section 1201 on their work.

The Register recommends denying the proposed exemption. She acknowledges the importance of AI trustworthiness research as a policy matter and notes that Congress and other agencies may be best positioned to act on this emerging issue. She narrowed the proposed class to generative AI systems made available via software as a service based on the rulemaking record. She finds, however, that the adverse effects identified by

[83] 37 CFR 201.40(b)(16) (2023). The current security research exemption is being renewed during this rulemaking proceeding.

proponents arise from third-party control of online platforms rather than the operation of section 1201, so that an exemption would not ameliorate their concerns.

4. Proposed Classes 6(a) and 6(b): Computer Programs and Video Games—Preservation[84]

Proposed Classes 6(a) and 6(b) would amend the existing exemptions permitting libraries, archives, and museums to circumvent TPMs on computer programs and video games, respectively, for the purpose of preservation activities. The proposed amendment to Class 6(a) would remove the limitation that a preserved computer program must be accessible to only one user at a time (the "single-user limitation"). Petitioners sought clarification of the single-user limitation, arguing that it is currently open to two different interpretations. The existing exemption, they contended, could be read to allow multiple users to access circumvented copies at once, so long as the number of users does not exceed the number of copies the institution owns; or to mean that only one user at a time may access a copy of the circumvented work regardless of how many copies the institution owns. Proposed Class 6(b) would also remove the current exemption's limitation that a video game must not be distributed or made available outside of the physical premises of the institution (the "premises limitation").

Proponents argued that researchers could make noninfringing uses of the exemption even if the single-user limitation and the premises limitation were removed. This position was based in part on their view that proposed uses would be transformative, and would not affect the potential market for or value of the copyrighted works because only works that are no longer reasonably available in the commercial marketplace would be subject to the exemption.

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[84] The Register's analysis and conclusions for this class, including citations to the record and relevant legal authority, can be found in the Recommendation at V.F.

DVD CCA and AACS LA and Joint Creators I opposed removing the single-user limitation. They argued if a preservation institution were to allow multiple simultaneous uses of a preserved program, users' conduct would not be fair use and would cause market harm.

DVD CCA and AACS LA, Joint Creators I, and ESA opposed removing the premises limitation. They contended that there would be a significant risk that preserved video games would be used for recreational purposes. They further argued that the expanded exemption would give preservation institutions too much discretion regarding how they provide remote users access to preserved works; and that it did not contain appropriately tailored restrictions to ensure that uses would be limited to teaching, research, or scholarship uses. They believe that removing the premises limitation would also adversely affect the existing market for older video games.

NTIA supported the removal of each limitation.

The Register concludes that proponents did not show that removing the single-user limitation for preserved computer programs or permitting off-premises access to video games are likely to be noninfringing. She also notes the greater risk of market harm with removing the video game exemption's premises limitation, given the market for legacy video games. She recommends clarifying the single copy restriction language to reflect that preservation institutions can allow a copy of a computer program to be accessed by as many individuals as there are circumvented copies legally owned. This clarifying text will address the perceived ambiguity in the current exemption, while maintaining the single-user limitation's intended purpose to minimize the risk of substitutional uses of preserved computer programs.

D. Conclusion

Having considered the evidence in the record, the comments of proponents and opponents of the exemptions, and the objectives of section 1201, the Register

recommends that the Librarian of Congress exempt for the next three years certain classes of works, as described above, from the prohibition against circumvention of technological measures that effectively control access to copyrighted works.

Dated: October 18, 2024

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Shira Perlmutter,
Register of Copyrights and
Director of the U.S. Copyright Office.

Determination of the Librarian of Congress

Having duly considered the recommendation of the Register of Copyrights as summarized above, which recommendation is hereby incorporated by reference, the Librarian of Congress accepts that recommendation with respect to all the classes of works under consideration. The Librarian, exercising her authority pursuant to 17 U.S.C. 1201(a)(1)(C) and (D), hereby publishes as a new rule the classes of copyrighted works that shall for a three-year period be subject to the exemption found in 17 U.S.C. 1201(a)(1)(B) from the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C. 1201(a)(1)(A).

The Librarian is aware that the Register and her legal staff have invested a great deal of time over the past two years in analyzing the many issues underlying the 1201 process and proposed exemptions.

Through this work, the Register has come to believe that the issue of research on artificial intelligence security and trustworthiness warrants more general Congressional and regulatory attention. The Librarian agrees with the Register in this assessment. As a regulatory process focused on technological protection measures for copyrighted content, section 1201 is ill-suited to address fundamental policy issues with new technologies.

The Librarian is further aware of the policy and legal issues involving a generalized "right to repair" equipment with embedded software. These issues have now occupied the White House, Congress, state legislatures, federal agencies, the Copyright Office, and the general public through multiple rounds of 1201 rulemaking.

Copyright is but one piece in a national framework for ensuring the security, trustworthiness, and reliability of embedded software, and other copyright-protected technology that affects our daily lives. Issues such as these extend beyond the reach of 1201 and may require a broader solution, as noted by the NTIA.

The Librarian fully supports the Register in her examination of these issues and urges Congress to work with the Copyright Office and other federal agencies to consider these issues beyond the contours of this 1201 rulemaking.

List of Subjects in 37 CFR Part 201

Copyright, Exemptions to prohibition against circumvention.

Final Regulations

For the reasons set forth in the preamble, 37 CFR part 201 is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702

2. Section 201.40 is amended by revising paragraph (b) to read as follows:

§ 201.40 Exemption to prohibition against circumvention

* * * * *

(b) *Classes of copyrighted works.* Pursuant to the authority set forth in 17 U.S.C. 1201(a)(1)(C) and (D), and upon the recommendation of the Register of Copyrights, the Librarian has determined that the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C.

1201(a)(1)(A) shall not apply to persons who engage in noninfringing uses of the following classes of copyrighted works:

(1) Motion pictures (including television shows and videos), as defined in 17 U.S.C. 101, where the motion picture is lawfully made and acquired on a DVD protected by the Content Scramble System, on a Blu-ray disc protected by the Advanced Access Content System, or via a digital transmission protected by a technological measure, and the person engaging in circumvention under paragraphs (b)(1)(i) and (b)(1)(ii)(A) and (B) of this section reasonably believes that non-circumventing alternatives are unable to produce the required level of high-quality content, or the circumvention is undertaken using screen-capture technology that appears to be offered to the public as enabling the reproduction of motion pictures after content has been lawfully acquired and decrypted, where circumvention is undertaken solely in order to make use of short portions of the motion pictures in the following instances:

(i) For the purpose of criticism or comment:

(A) For use in documentary filmmaking, or other films where the motion picture clip is used in parody or for its biographical or historically significant nature;

(B) For use in noncommercial videos (including videos produced for a paid commission if the commissioning entity's use is noncommercial); or

(C) For use in nonfiction multimedia e-books.

(ii) For educational purposes:

(A) By college and university faculty and students or kindergarten through twelfth-grade (K–12) educators and students (where the K–12 student is circumventing under the direct supervision of an educator), or employees acting at the direction of faculty of such educational institutions for the purpose of teaching a course, including of accredited general educational development (GED) programs, for the purpose of criticism, comment, teaching, or scholarship;

(B) By faculty of accredited nonprofit educational institutions and employees acting at the direction of faculty members of those institutions, for purposes of offering massive open online courses (MOOCs) to officially enrolled students through online platforms (which platforms themselves may be operated for profit), in film studies or other courses requiring close analysis of film and media excerpts, for the purpose of criticism or comment, where the MOOC provider through the online platform limits transmissions to the extent technologically feasible to such officially enrolled students, institutes copyright policies and provides copyright informational materials to faculty, students, and relevant staff members, and applies technological measures that reasonably prevent unauthorized further dissemination of a work in accessible form to others or retention of the work for longer than the course session by recipients of a transmission through the platform, as contemplated by 17 U.S.C. 110(2); or

(C) By educators and participants in nonprofit digital and media literacy programs offered by libraries, museums, and other nonprofit entities with an educational mission, in the course of face-to-face instructional activities, for the purpose of criticism or comment, except that such users may only circumvent using screen-capture technology that appears to be offered to the public as enabling the reproduction of motion pictures after content has been lawfully acquired and decrypted.

(2)(i) Motion pictures (including television shows and videos), as defined in 17 U.S.C. 101, where the motion picture is lawfully acquired on a DVD protected by the Content Scramble System, on a Blu-ray disc protected by the Advanced Access Content System, or via a digital transmission protected by a technological measure, where:

(A) Circumvention is undertaken by a disability services office or other unit of a kindergarten through twelfth-grade educational institution, college, or university engaged in and/or responsible for the provision of accessibility services for the purpose of adding

captions and/or audio description to a motion picture to create an accessible version for students, faculty, or staff with disabilities;

(B) The educational institution unit in paragraph (b)(2)(i)(A) of this section has a reasonable belief that the motion picture will be used for a specific future activity of the institution and, after a reasonable effort, has determined that an accessible version of sufficient quality cannot be obtained at a fair market price or in a timely manner, including where a copyright holder has not provided an accessible version of a motion picture that was included with a textbook; and

(C) The accessible versions are provided to students or educators and stored by the educational institution in a manner intended to reasonably prevent unauthorized further dissemination of a work.

(ii) For purposes of this paragraph (b)(2):

(A) "Audio description" means an oral narration that provides an accurate rendering of the motion picture;

(B) "Accessible version of sufficient quality" means a version that in the reasonable judgment of the educational institution unit has captions and/or audio description that are sufficient to meet the accessibility needs of students, faculty, or staff with disabilities and are substantially free of errors that would materially interfere with those needs; and

(C) Accessible materials created pursuant to this exemption and stored pursuant to paragraph (b)(2)(i)(C) of this section may be reused by the educational institution unit to meet the accessibility needs of students, faculty, or staff with disabilities pursuant to paragraphs (b)(2)(i)(A) and (B) of this section.

(3)(i) Motion pictures (including television shows and videos), as defined in 17 U.S.C. 101, where the motion picture is lawfully acquired on a DVD protected by the Content Scramble System, or on a Blu-ray disc protected by the Advanced Access

Content System, solely for the purpose of lawful preservation or the creation of a replacement copy of the motion picture, by an eligible library, archives, or museum, where:

(A) Such activity is carried out without any purpose of direct or indirect commercial advantage;

(B) The DVD or Blu-ray disc is damaged or deteriorating;

(C) The eligible institution, after a reasonable effort, has determined that an unused and undamaged replacement copy cannot be obtained at a fair price and that no streaming service, download service, or on-demand cable and satellite service makes the motion picture available to libraries, archives, and museums at a fair price; and

(D) The preservation or replacement copies are not distributed or made available outside of the physical premises of the eligible library, archives, or museum.

(ii) For purposes of paragraph (b)(3)(i) of this section, a library, archives, or museum is considered "eligible" if—

(A) The collections of the library, archives, or museum are open to the public and/or are routinely made available to researchers who are not affiliated with the library, archives, or museum;

(B) The library, archives, or museum has a public service mission;

(C) The library, archives, or museum's trained staff or volunteers provide professional services normally associated with libraries, archives, or museums;

(D) The collections of the library, archives, or museum are composed of lawfully acquired and/or licensed materials; and

(E) The library, archives, or museum implements reasonable digital security measures as appropriate for the activities permitted by paragraph (b)(3)(i) of this section.

(4)(i) Motion pictures, as defined in 17 U.S.C. 101, where the motion picture is on a DVD protected by the Content Scramble System, on a Blu-ray disc protected by the Advanced Access Content System, or made available for digital download where:

(A) The circumvention is undertaken by a researcher affiliated with a nonprofit institution of higher education, or by a student or information technology staff member of the institution at the direction of such researcher, solely to deploy text and data mining techniques on a corpus of motion pictures for the purpose of scholarly research and teaching;

(B) The copy of each motion picture is lawfully acquired and owned by the institution, or licensed to the institution without a time limitation on access;

(C) The person undertaking the circumvention or conducting research or teaching under this exemption views or listens to the contents of the motion pictures in the corpus solely to conduct text and data mining research or teaching;

(D) The institution uses effective security measures to prevent dissemination or downloading of motion pictures in the corpus, and upon a reasonable request from a copyright owner who reasonably believes that their work is contained in the corpus, or a trade association representing such author, provide information to that copyright owner or trade association regarding the nature of such measures; and

(E) The institution limits access to the corpus to only the persons identified in paragraph (b)(4)(i)(A) of this section or to researchers affiliated with other nonprofit institutions of higher education, with all access provided only through secure connections and on the condition of authenticated credentials, solely for purposes of text and data mining research or teaching.

(ii) For purposes of paragraph (b)(4)(i) of this section:

(A) An institution of higher education is defined as one that:

(*1*) Admits regular students who have a certificate of graduation from a secondary school or the equivalent of such a certificate;

(*2*) Is legally authorized to provide a postsecondary education program;

(*3*) Awards a bachelor's degree or provides not less than a two-year program acceptable towards such a degree;

(*4*) Is a public or other nonprofit institution; and

(*5*) Is accredited by a nationally recognized accrediting agency or association.

(B) The term "effective security measures" is defined as:

(*1*) Security measures that have been agreed to by all interested copyright owners of motion pictures and institutions of higher education; or

(*2*) Security measures that the institution uses to keep its own highly confidential information secure.

(5)(i) Literary works, excluding computer programs and compilations that were compiled specifically for text and data mining purposes, distributed electronically where:

(A) The circumvention is undertaken by a researcher affiliated with a nonprofit institution of higher education, or by a student or information technology staff member of the institution at the direction of such researcher, solely to deploy text and data mining techniques on a corpus of literary works for the purpose of scholarly research and teaching;

(B) The copy of each literary work is lawfully acquired and owned by the institution, or licensed to the institution without a time limitation on access;

(C) The person undertaking the circumvention or conducting research or teaching under this exemption views the contents of the literary works in the corpus solely to conduct text and data mining research or teaching;

(D) The institution uses effective security measures to prevent dissemination or downloading of literary works in the corpus, and upon a reasonable request from a

copyright owner who reasonably believes that their work is contained in the corpus, or a trade association representing such author, provide information to that copyright owner or trade association regarding the nature of such measures; and

(E) The institution limits access to the corpus to only the persons identified in paragraph (b)(5)(i)(A) of this section or to researchers affiliated with other nonprofit institutions of higher education, with all access provided only through secure connections and on the condition of authenticated credentials, solely for purposes of text and data mining research or teaching.

(ii) For purposes of paragraph (b)(5)(i) of this section:

(A) An institution of higher education is defined as one that:

(*1*) Admits regular students who have a certificate of graduation from a secondary school or the equivalent of such a certificate;

(*2*) Is legally authorized to provide a postsecondary education program;

(*3*) Awards a bachelor's degree or provides not less than a two-year program acceptable towards such a degree;

(*4*) Is a public or other nonprofit institution; and

(*5*) Is accredited by a nationally recognized accrediting agency or association.

(B) The term "effective security measures" is defined as:

(*1*) Security measures that have been agreed to by all interested copyright owners of literary works and institutions of higher education; or

(*2*) Security measures that the institution uses to keep its own highly confidential information secure.

(6)(i) Literary works or previously published musical works that have been fixed in the form of text or notation, distributed electronically, that are protected by technological measures that either prevent the enabling of read-aloud functionality or interfere with screen readers or other applications or assistive technologies:

(A) When a copy or phonorecord of such a work is lawfully obtained by an eligible person, as such a person is defined in 17 U.S.C. 121; provided, however, that the rights owner is remunerated, as appropriate, for the market price of an inaccessible copy of the work as made available to the general public through customary channels; or

(B) When such a work is lawfully obtained and used by an authorized entity pursuant to 17 U.S.C. 121.

(ii) For the purposes of paragraph (b)(6)(i) of this section, a "phonorecord of such a work" does not include a sound recording of a performance of a musical work unless and only to the extent the recording is included as part of an audiobook or e-book.

(7) Literary works consisting of compilations of data generated by medical devices or by their personal corresponding monitoring systems, where such circumvention is undertaken by or on behalf of a patient for the sole purpose of lawfully accessing data generated by a patient's own medical device or monitoring system. Eligibility for this exemption is not a safe harbor from, or defense to, liability under other applicable laws, including without limitation the Health Insurance Portability and Accountability Act of 1996, the Computer Fraud and Abuse Act of 1986, or regulations of the Food and Drug Administration.

(8) Computer programs that enable wireless devices to connect to a wireless telecommunications network, when circumvention is undertaken solely in order to connect to a wireless telecommunications network and such connection is authorized by the operator of such network.

(9) Computer programs that enable smartphones and portable all-purpose mobile computing devices to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the smartphone or device, or to permit removal of software from the smartphone or device. For purposes of this paragraph (b)(9), a

“portable all-purpose mobile computing device” is a device that is primarily designed to run a wide variety of programs rather than for consumption of a particular type of media content, is equipped with an operating system primarily designed for mobile use, and is intended to be carried or worn by an individual.

(10) Computer programs that enable smart televisions to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the smart television, and is not accomplished for the purpose of gaining unauthorized access to other copyrighted works. For purposes of this paragraph (b)(10), “smart televisions” includes both internet-enabled televisions, as well as devices that are physically separate from a television and whose primary purpose is to run software applications that stream authorized video from the internet for display on a screen.

(11) Computer programs that enable voice assistant devices to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the device, or to permit removal of software from the device, and is not accomplished for the purpose of gaining unauthorized access to other copyrighted works. For purposes of this paragraph (b)(11), a “voice assistant device” is a device that is primarily designed to run a wide variety of programs rather than for consumption of a particular type of media content, is designed to take user input primarily by voice, and is designed to be installed in a home or office.

(12) Computer programs that enable routers and dedicated network devices to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the router or dedicated network device, and is not accomplished for the purpose of gaining unauthorized access to other copyrighted works. For the purposes of

this paragraph (b)(12), "dedicated network device" includes switches, hubs, bridges, gateways, modems, repeaters, and access points, and excludes devices that are not lawfully owned.

(13) Computer programs that are contained in and control the functioning of a lawfully acquired motorized land vehicle or marine vessel such as a personal automobile or boat, commercial vehicle or vessel, or mechanized agricultural vehicle or vessel, except for programs accessed through a separate subscription service, when circumvention is a necessary step to allow the diagnosis, repair, or lawful modification of a vehicle or vessel function, where such circumvention is not accomplished for the purpose of gaining unauthorized access to other copyrighted works. Eligibility for this exemption is not a safe harbor from, or defense to, liability under other applicable laws, including without limitation regulations promulgated by the Department of Transportation or the Environmental Protection Agency.

(14) Computer programs that are contained in and control the functioning of a lawfully acquired motorized land vehicle or marine vessel such as a personal automobile or boat, commercial vehicle or vessel, or mechanized agricultural vehicle or vessel, except for programs accessed through a separate subscription service, to allow vehicle or vessel owners and lessees, or those acting on their behalf, to access, store, and share operational data, including diagnostic and telematics data, where such circumvention is not accomplished for the purpose of gaining unauthorized access to other copyrighted works. Eligibility for this exemption is not a safe harbor from, or defense to, liability under other applicable laws, including without limitation regulations promulgated by the Department of Transportation or the Environmental Protection Agency.

(15) Computer programs that are contained in and control the functioning of a lawfully acquired device that is primarily designed for use by consumers, when circumvention is a necessary step to allow the diagnosis, maintenance, or repair of such a

device, and is not accomplished for the purpose of gaining access to other copyrighted works. For purposes of this paragraph (b)(15):

(i) The "maintenance" of a device is the servicing of the device in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that device; and

(ii) The "repair" of a device is the restoring of the device to the state of working in accordance with its original specifications and any changes to those specifications authorized for that device. For video game consoles, "repair" is limited to repair or replacement of a console's optical drive and requires restoring any technological protection measures that were circumvented or disabled.

(16) Computer programs that are contained in and control the functioning of lawfully acquired equipment that is primarily designed for use in retail-level commercial food preparation when circumvention is a necessary step to allow the diagnosis, maintenance, or repair of such a device, and is not accomplished for the purpose of gaining access to other copyrighted works. For purposes of this paragraph (b)(16):

(i) The "maintenance" of a device is the servicing of the device in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that device; and

(ii) The "repair" of a device is the restoring of the device to the state of working in accordance with its original specifications and any changes to those specifications authorized for that device.

(17) Computer programs that are contained in and control the functioning of a lawfully acquired medical device or system, and related data files, when circumvention is a necessary step to allow the diagnosis, maintenance, or repair of such a device or system. For purposes of this paragraph (b)(17):

(i) The “maintenance” of a device or system is the servicing of the device or system in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that device or system; and

(ii) The “repair” of a device or system is the restoring of the device or system to the state of working in accordance with its original specifications and any changes to those specifications authorized for that device or system.

(18)(i) Computer programs, where the circumvention is undertaken on a lawfully acquired device or machine on which the computer program operates, or is undertaken on a computer, computer system, or computer network on which the computer program operates with the authorization of the owner or operator of such computer, computer system, or computer network, solely for the purpose of good-faith security research.

(ii) For purposes of paragraph (b)(18)(i) of this section, “good-faith security research” means accessing a computer program solely for purposes of good-faith testing, investigation, and/or correction of a security flaw or vulnerability, where such activity is carried out in an environment designed to avoid any harm to individuals or the public, and where the information derived from the activity is used primarily to promote the security or safety of the class of devices or machines on which the computer program operates, or those who use such devices or machines, and is not used or maintained in a manner that facilitates copyright infringement.

(iii) Good-faith security research that qualifies for the exemption under paragraph (b)(18)(i) of this section may nevertheless incur liability under other applicable laws, including without limitation the Computer Fraud and Abuse Act of 1986, as amended and codified in title 18, United States Code, and eligibility for that exemption is not a safe harbor from, or defense to, liability under other applicable laws.

(19)(i) Video games in the form of computer programs embodied in physical or downloaded formats that have been lawfully acquired as complete games, when the

copyright owner or its authorized representative has ceased to provide access to an external computer server necessary to facilitate an authentication process to enable gameplay, solely for the purpose of:

(A) Permitting access to the video game to allow copying and modification of the computer program to restore access to the game for personal, local gameplay on a personal computer or video game console; or

(B) Permitting access to the video game to allow copying and modification of the computer program to restore access to the game on a personal computer or video game console when necessary to allow preservation of the game in a playable form by an eligible library, archives, or museum, where such activities are carried out without any purpose of direct or indirect commercial advantage and the video game is not distributed or made available outside of the physical premises of the eligible library, archives, or museum.

(ii) Video games in the form of computer programs embodied in physical or downloaded formats that have been lawfully acquired as complete games, that do not require access to an external computer server for gameplay, and that are no longer reasonably available in the commercial marketplace, solely for the purpose of preservation of the game in a playable form by an eligible library, archives, or museum, where such activities are carried out without any purpose of direct or indirect commercial advantage and the video game is not distributed or made available outside of the physical premises of the eligible library, archives, or museum.

(iii) Computer programs used to operate video game consoles solely to the extent necessary for an eligible library, archives, or museum to engage in the preservation activities described in paragraph (b)(19)(i)(B) or (b)(19)(ii) of this section.

(iv) For purposes of this paragraph (b)(19), the following definitions shall apply:

(A) For purposes of paragraphs (b)(19)(i)(A) and (b)(19)(ii) of this section, "complete games" means video games that can be played by users without accessing or reproducing copyrightable content stored or previously stored on an external computer server.

(B) For purposes of paragraph (b)(19)(i)(B) of this section, "complete games" means video games that meet the definition in paragraph (b)(19)(iv)(A) of this section, or that consist of both a copy of a game intended for a personal computer or video game console and a copy of the game's code that was stored or previously stored on an external computer server.

(C) "Ceased to provide access" means that the copyright owner or its authorized representative has either issued an affirmative statement indicating that external server support for the video game has ended and such support is in fact no longer available or, alternatively, server support has been discontinued for a period of at least six months; provided, however, that server support has not since been restored.

(D) "Local gameplay" means gameplay conducted on a personal computer or video game console, or locally connected personal computers or consoles, and not through an online service or facility.

(E) A library, archives, or museum is considered "eligible" if—

(*1*) The collections of the library, archives, or museum are open to the public and/or are routinely made available to researchers who are not affiliated with the library, archives, or museum;

(*2*) The library, archives, or museum has a public service mission;

(*3*) The library, archives, or museum's trained staff or volunteers provide professional services normally associated with libraries, archives, or museums;

(*4*) The collections of the library, archives, or museum are composed of lawfully acquired and/or licensed materials; and

(*5*) The library, archives, or museum implements reasonable digital security measures as appropriate for the activities permitted by this paragraph (b)(19).

(20)(i) Computer programs, except video games, that have been lawfully acquired and that are no longer reasonably available in the commercial marketplace, solely for the purpose of lawful preservation of a computer program, or of digital materials dependent upon a computer program as a condition of access, by an eligible library, archives, or museum, where such activities are carried out without any purpose of direct or indirect commercial advantage. Any electronic distribution, display, or performance made outside of the physical premises of an eligible library, archives, or museum of works preserved under this paragraph may be made to only one user at a time, for a limited time, and only where the library, archives, or museum has no notice that the copy would be used for any purpose other than private study, scholarship, or research.

(ii) For purposes of the exemption in paragraph (b)(20)(i) of this section, a library, archives, or museum is considered "eligible" if—

(A) The collections of the library, archives, or museum are open to the public and/or are routinely made available to researchers who are not affiliated with the library, archives, or museum;

(B) The library, archives, or museum has a public service mission;

(C) The library, archives, or museum's trained staff or volunteers provide professional services normally associated with libraries, archives, or museums;

(D) The collections of the library, archives, or museum are composed of lawfully acquired and/or licensed materials; and

(E) The library, archives, or museum implements reasonable digital security measures as appropriate for the activities permitted by this paragraph (b)(20).

(iii) For purposes of paragraph (b)(20) of this section, the phrase "one user at a time" means that for each copy of a work lawfully owned by an eligible library, archives,

or museum and preserved under paragraph (b)(20)(i) of this section, such library, archives, or museum may make an electronic distribution, display, or performance of that work outside of its physical premises. An eligible library, archives, or museum may make each copy of such lawfully owned and preserved work available to different users simultaneously. This provision does not permit an eligible library, archives, or museum to make multiple, simultaneous copies of the same copy of a work for the purposes of providing users access to the work.

(21) Computer programs that operate 3D printers that employ technological measures to limit the use of material, when circumvention is accomplished solely for the purpose of using alternative material and not for the purpose of accessing design software, design files, or proprietary data.

(22) Computer programs, solely for the purpose of investigating a potential infringement of free and open source computer programs where:

(i) The circumvention is undertaken on a lawfully acquired device or machine other than a video game console, on which the computer program operates;

(ii) The circumvention is performed by, or at the direction of, a party that has a good-faith, reasonable belief in the need for the investigation and has standing to bring a breach of license or copyright infringement claim;

(iii) Such circumvention does not constitute a violation of applicable law; and

(iv) The copy of the computer program, or the device or machine on which it operates, is not used or maintained in a manner that facilitates copyright infringement.

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Dated: October 18, 2024

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Carla D. Hayden,
Librarian of Congress

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