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Reply comment

Concerning the Copyright Office's Rulemaking on Exemptions from Prohibition on Circumvention of Technological Measures that Control Access to Copyrighted Works.

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I am pleased to have the opportunity to submit this reply comment concerning the Copyright Office's Rulemaking on Exemptions from Prohibition on Circumvention of Technological Measures that Control Access to Copyrighted Works.

I support and affirm the comments of the Electronic Frontier Foundation, the American Library Association and related organizations, the Association for Computing Machinery, the Media Laboratory at Massachusetts Institute of Technology, the National Association of Independent Schools, and the Computer Professionals for Social Responsibility. These organizations have eloquently written on the dangers of unlimited application of Section 1201 by copyright holders without regard to historic fair use exemptions.

One additional comment that I have not seen elsewhere is the long-term historical disposition of copyrighted works. Article I, Section 8 of the U.S. Constitution includes the following provision:

To promote the progress of science and useful arts, by securing for *limited times* to authors and inventors the exclusive right to their respective writings and discoveries; (emphasis added)

While a discussion of what the original intent of "limited times" was is beyond the scope of this comment, it is clear that the intent was for inventions, information, and other expressions to eventually pass into the public domain.

Already in the short history of computing, much information has been lost forever due to technological obsolescence and loss of information on formats of digital media. For example, data from many early planetary missions undertaken by NASA is no longer readable. Electronic records from businesses and government are regularly lost. These problems occur without any technological measures in place to prevent copying or other archiving. When the weight of financially and personally draining legal action by large corporations is a very real threat, independent research into file formats and development of competitive readers will be deterred. Without independent means of archiving digital data and retrieving these data, society is at great risk of losing much of the intellectual and cultural output in the coming years. The loss to future generations would be incalculable.

Imagine a modern society where the classics of literature, or the writings of the founding fathers, were lost to the ages because the files could not be read or could not be decrypted because the necessary information was lost when the company that retained the proprietary "keys" went out of business. To not allow broad exceptions for research and archival would bring this grim vision of the future closer to our doorsteps.