

DIGITAL MILLENNIUM COPYRIGHT ACT

---oOo---

SECTION 1201 RULEMAKING HEARING  
BEFORE THE COPYRIGHT OFFICE PANEL

California Hearing

DATE: May 17, 2012

TIME: 9:00 a.m.

LOCATION: UCLA School of Law  
405 Hilgard Avenue  
1242 Law Building, Moot Courtroom  
Los Angeles, California 90095

REPORTED BY: LISA MOSKOWITZ  
Certified Shorthand Reporter  
License Number 10816, RPR, CLR

1 A P P E A R A N C E S

2

3 Moderator:

4 MARIA PALLANTE

5

6 Panel Members:

7 DAVID CARSON  
8 ROBERT KASUNIC  
9 BEN GOLANT  
STEPHEN RUWE

10 List of All Panelists:

11 MARCIA HOFMANN  
12 Electronic Frontier Foundation

13 CHRISTIAN GENETSKI  
14 Entertainment Software Association

15 STEVE METALITZ  
16 Joint Creators and Copyright Owners

17 ART NEILL  
18 New Media Rights

19 CORYNNE McSHERRY  
20 Electronic Frontier Foundation

21 JONATHAN McINTOSH  
22 Remix Video Artist

23 MICHAEL DONALDSON  
24 General Counsel, Film Independent

25 LAURENCE THRUSH  
Film Director

CLARISSA WEIRICK  
Warner Brothers Home Entertainment, Inc.

1 List of All Panelists: (Continued)

2 DAN MACKECHNIE  
20th Century Fox Home Entertainment

3  
4 BRENDAN CHARNEY  
Student at USC Intellectual Property and  
Technology Law Clinic

5  
6 ALEX COHEN  
Student at USC Intellectual Property and  
Technology Law Clinic

7  
8 JACK LERNER  
Clinical Associate Professor of Law at  
USC Intellectual Property and Technology  
9 Law Clinic

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X  
O F P A N E L S

PAGE:

9:00 A.M.

8

Proposed Class to be discussed:

Section 3. Computer programs that enable lawfully acquired video game consoles to execute lawfully acquired software applications where circumvention is undertaken for the purpose of enabling interoperability of such applications with computer programs on the gaming console.

10:30 A.M.

75

Proposed Class to be discussed:

Section 5. Computer programs that enable wireless telephone handsets ("smartphones") and tablets to execute lawfully acquired software applications where circumvention is undertaken for the purpose of enabling interoperability of such applications with computer programs on the handset or tablet.

1:30 P.M.

126

Proposed Classes to be discussed:

Section 7A. Motion pictures on DVDs that are lawfully made and acquired and that are protected by the Content Scrambling System when circumvention is accomplished solely in order to accomplish the incorporation of short portions of motion pictures into new works for the purpose of criticism or comment and where the person engaging in circumvention believes and has

1 reasonable grounds for believing that  
2 circumvention is necessary to fulfill the purpose  
3 of the use in the following instances: (i)  
4 Educational uses by college and university  
5 professors and by college and university film and  
6 media studies students; (ii) Documentary  
7 filmmaking; (iii) Noncommercial videos.

8 Section 7B. Audiovisual works on DVDs that re  
9 lawfully made and acquired and that are protected  
10 by the Content Scrambling System where  
11 circumvention is undertaken for the purpose of  
12 extracting clips for inclusion in primarily  
13 noncommercial videos that do not infringe  
14 copyright and the person engaging in the  
15 circumvention believes and has reasonable grounds  
16 for believing that circumvention is necessary to  
17 fulfill the purpose of the use.

18 Section 7C. Audiovisual works that are lawfully  
19 made and acquired via online distribution  
20 services where circumvention is undertaken for  
21 the purpose of extracting clips for inclusion in  
22 primarily noncommercial videos that do not  
23 infringe copyright and the person engaging in the  
24 circumvention believes and has reasonable grounds  
25 for believing that circumvention is necessary to  
26 fulfill the purpose of the use and the works in  
27 question are not readily available on DVD.

28 Section 7D. Motion pictures that are lawfully  
29 made and acquired from DVDs protected by the  
30 Content Scrambling System and Blu-ray discs  
31 protected by Advanced Access Content System or,  
32 if the motion picture is not reasonably available  
33 on DVD or Blu-ray or not reasonably available in  
34 sufficient audiovisual quality on DVD or Blu-ray,  
35 then from digitally transmitted video protected  
36 by an authentication protocol or by encryption  
37 when circumvention is accomplished solely in  
38 order to incorporate short portions of motion  
39 pictures into new works for the purpose of fair  
40 use and when the person engaging in circumvention  
41 reasonably believes that circumvention is  
42 necessary to obtain the motion picture in the  
43 following instances: (1) Documentary filmmaking;  
44 OR (2) Fictional filmmaking.

45

1 Section 7E. Motion pictures that are lawfully  
2 made and acquired from DVDs protected by the  
3 Content Scrambling system or, if the motion  
4 picture is not reasonably available on or not  
5 reasonably available in sufficient audiovisual  
6 quality on DVD, then from digitally transmitted  
7 video protected by an authentication protocol or  
8 by encryption when circumvention is accomplished  
9 solely in order to incorporate short portions of  
10 motion pictures into new works for the purpose of  
11 fair use and when the person engaging in  
12 circumvention reasonably believes that  
13 circumvention is necessary to obtain the motion  
14 picture for multimedia e-book authorship.

8  
9 Section 7F. Motion pictures on DVDs that are  
10 lawfully made and acquired and that are protected  
11 by the Content Scrambling System when  
12 circumvention is accomplished solely in order to  
13 accomplish the incorporation of short portions of  
14 motion pictures into new works for the purpose of  
15 criticism or comment and where the person  
16 engaging in circumvention believes and has  
17 reasonable grounds for believing that  
18 circumvention is necessary to fulfill the purpose  
19 of educational uses by college and university  
20 professors and by college and university film and  
21 media studies students.

15  
16 Section 7G. Audiovisual works (optical discs,  
17 streaming media, and downloads) that are lawfully  
18 made and acquired when circumvention is  
19 accomplished by college and university students  
20 or faculty (including teaching and research  
21 assistants) solely in order to incorporate short  
22 portions of video into new works for the purpose  
23 of criticism or comment.

20 Section 10A. Motion pictures on lawfully made  
21 and lawfully acquired DVDs that are protected by  
22 the Content Scrambling System when circumvention  
23 is accomplished solely in order to accomplish the  
24 noncommercial space shifting of the contained  
25 motion picture.

23  
24 Section 10B. Legally acquired digital media  
25 (motion pictures, sound recordings, and e-books)  
for personal use and for the purposes of making  
back-up copies, format shifting, access and  
transfer.

1 P R O C E E D I N G S

2

3 MAY 17, 2012

9:00 A.M.

4

5 MR. NIMMER: Good morning, everybody.

6 I'm David Nimmer. I'd like to welcome you  
7 all to the UCLA School of Law. Several years ago the  
8 Copyright Office conducted its Section 1201 Hearing  
9 right here at the law school in the room next door.  
10 We're delighted they've chosen to return here. I'd  
11 like to welcome Maria Pallante, David Carson, Robert  
12 Kasunic, and all the members of the Copyright Office  
13 as well as the witnesses.

14 In lieu of my following two hours of  
15 remarks, I will just quote Patrick Henry or perhaps  
16 Title 7 of the Code of Federal Regulations: "Let the  
17 rulemaking begin."

18 MS. PALLANTE: Thank you, David. I want to  
19 thank David Nimmer, of course, and UCLA for hosting  
20 us.

21 Welcome to the 1201 Rulemaking. I'm Maria  
22 Pallante. Let's introduce our team here. To my far  
23 right is Rob Kasunic, deputy general counsel; David  
24 Carson, general counsel; Ben Golant, assistant  
25 general counsel; and Steve Ruwe, attorney advisor --





1 I'd like to talk first about the need for this  
2 exemption. Second, I'm going to talk about the  
3 contours of our proposed exemption, what we're asking  
4 for and what we're not asking for. Then I'm going to  
5 turn to a couple of the fair use factors that I think  
6 are particularly salient for this exemption request.  
7 And finally I'm going to give you a little bit of new  
8 information that I think is relevant to Statutory  
9 Factor 2.

10 First, why do we need this exemption? The  
11 record that we've given you shows in great detail  
12 that users of video game consoles have been adversely  
13 affected in their ability to make legitimate,  
14 non-infringing uses of content on their consoles over  
15 the past three years. Video game consoles are very  
16 sophisticated computing devices. They are capable of  
17 tremendous things. They have great potential that  
18 users would like to be able to take advantage of.

19 I think it's telling that Sony has, in the  
20 past, marketed PS3 with a campaign that uses the tag  
21 line "It only does everything." These are devices  
22 that are incredibly sophisticated, and while the  
23 opponents of this exemption will tell you that really  
24 they're only useful for playing video games, the  
25 record shows that that's, frankly, just not true.

1           We have shown you evidence of scientific  
2 researchers who have made tremendous use of these  
3 competing devices by installing the Linux operating  
4 system on them in the past and performing very  
5 sophisticated research into astrophysics, artificial  
6 intelligence, and military purposes among other  
7 things.

8           In 2010 Sony modified the firmware on the  
9 PS3 to make it impossible for those devices to run  
10 alternate operating systems, that is, operating  
11 systems other than the game OS. The effect of this  
12 has been researchers have been impaired in their  
13 ability to continue socially beneficial research,  
14 research that is good for us all. It benefits  
15 humanity.

16           The opponents of this exemption will tell  
17 you the Sony PS3 really isn't a very good computing  
18 device for research anyway and that gaming consoles  
19 aren't the type of thing scientific researchers  
20 really need for their work. But I think it's  
21 interesting to note that the scientific community has  
22 shown continuing interest in gaming technology. Both  
23 artists and scientific researchers have made great  
24 uses recently in gaming technologies like the Xbox  
25 Kinect and the Wii remote. This is a motion sensing

1 technology that is peripheral to gaming consoles  
2 specifically, and they're not at issue in this  
3 proceeding because they were designed to be open and  
4 intraoperable with other systems, and that's why  
5 researcher are able to use them.

6           The fact of the matter is consoles have been  
7 limited in that ability. If there is any doubt that  
8 those are useful for research purposes, I encourage  
9 you to look at the declarations that we have  
10 submitted with our proposed request. Both Dr. Khanna  
11 and Dr. Pinto made clear that they used PS3s right up  
12 until the ability to run Linux was removed, and at  
13 that point that technology to them was no longer  
14 attractive for research purposes.

15           The other community that's been affected by  
16 this is the homebrew community. There is a vigorous  
17 community of developers that like to write  
18 independent software for the Wii, PS3, and other  
19 consoles. They write independent games to play on  
20 the consoles, but they also have transformed their  
21 gaming consoles with software that lets them operate  
22 their devices as though they're metronomes,  
23 calculators, alarm clocks, Japanese language learning  
24 devices, 3D maps, and even painting programs that are  
25 simple for very small children.

1           In the past year Sony filed a lawsuit  
2 against several members of the homebrew community  
3 alleging circumvention violations of the DMCA among  
4 other claims. Since then there's been a chill over  
5 the homebrew community. If you look at the  
6 declaration of Aaron Morris that we've submitted with  
7 the record, you will see that that is, in fact, true.  
8 So the reason we need this exemption is to ensure  
9 that scientific research and independent software  
10 development can continue to flourish over the next  
11 three years because at this point, frankly, that's in  
12 doubt.

13           So let's talk about the scope of the  
14 exemption that EFF is seeking here because I think  
15 that the record reflects some confusion about what  
16 exactly we're asking for here. We are asking for a  
17 very specific exemption designed to allow users to  
18 install and run the software of their choice on their  
19 own gaming consoles. The exemption would cover  
20 computer programs that enable lawfully acquired video  
21 game consoles to execute lawfully acquired,  
22 independently created software programs for  
23 non-infringing purposes. It would apply only when a  
24 user circumvents an active control to enable  
25 intraoperability of that lawful acquired software

1 with other programs.

2 I want to be very, very, very clear here.

3 It wouldn't permit infringement. It simply wouldn't.

4 We are not asking for any circumvention for unlawful

5 purposes. This will not authorize or foster any

6 infringing activities, and it won't sanction the

7 distribution of anti-circumvention tools. That is

8 just simply outside the scope of this rulemaking.

9 However, we do think it is covered and authorized by  
10 1201(f).

11 This exemption would apply in a very narrow  
12 circumstance where a user circumvents an active  
13 control to make a console that he lawfully owns  
14 intraoperable with lawfully acquired but unapproved  
15 third-party software for non-infringing purposes.  
16 That's all. That's all we're asking for.

17 I'm going to talk for a moment now about two  
18 theories factors that I think are particularly  
19 important for purposes of this exemption. I'm not  
20 going to through a whole theories analysis. We've  
21 briefed that in detail. But these two, I think, bear  
22 a little bit of discussion.

23 The first theories factor is the purpose and  
24 character of the use. In many cases modifying  
25 firmware to jailbreak a console is going to be highly

1 transformative, and that's because the user is going  
2 to be adding something new to the original firmware  
3 to create a further purpose for different character  
4 for the console.

5           Let's take scientific research, for example.  
6 The gaming console is meant for playing games. It's  
7 going to be transformed into a device that can  
8 perform sophisticated scientific research. The  
9 user's direct purpose in modifying the firmware is to  
10 create intraoperability, which is a favored purpose.  
11 The ultimate purpose may be something else like  
12 scientific research or developing independent  
13 third-party games. All of these purposes are things  
14 that the Copyright Office encourages and embraces.

15           It's also important to keep in mind that the  
16 ultimate purposes that I just discussed, performing  
17 scientific research or creating independent software  
18 applications, are legitimate and non-exploitive  
19 purposes. That's important for purposes of SEGA and  
20 Connectix. These are two cases that I think are  
21 highly relevant and completely square with our  
22 exemption request.

23           Furthermore, the uses that we are seeking to  
24 authorize are generally private, noncommercial uses.  
25 Those are also favored under the Copyright Act.

1 Finally, the uses that are being made are highly  
2 beneficial to the public.

3 I'd also like to turn for a moment to the  
4 second fair use factor, the nature of the work. Now,  
5 the Copyright Act doesn't protect the functional  
6 element of a work even if other elements of the work  
7 are expressive and protected. So making a copy is  
8 fair use when it's the only way to access the  
9 functional elements of a work and getting access is  
10 necessary to make something intraoperable with  
11 another program.

12 Here the firmware is highly functional. It  
13 is software that runs programs on devices. Users  
14 want to modify the lockout code that keeps software  
15 from running on the console. Again, highly  
16 functional. Making a copy of the firmware is the  
17 only way to access those unprotected elements of the  
18 work. People must do so for a legitimate direct  
19 purpose which is intraoperability. So, again, fair  
20 use factor 1 and 2 support us very strongly.

21 Finally, I want to say just a few words  
22 about Statutory Factor 4, which is the availability  
23 for use of works for nonprofit archival preservation  
24 and educational purposes. I've provided copies to  
25 everybody here of a report that we recently became

1 aware of which was a joint study by a digital  
2 archivist at several universities with support from  
3 the Library of Congress. They were setting  
4 challenges to preservation of video games and  
5 interactive fiction.

6           The executive summary on pages 7 and 8 --  
7 this is what they say in this report: "Intellectual  
8 property laws as they currently stand represents  
9 serious obstacles to preservation of computer games  
10 and interactive fiction. The inability of libraries  
11 and other cultural memory organizations to make  
12 preservation copies of materials employing  
13 technological protection measures will certainly doom  
14 these materials to a rapid demise."

15           Now, I think our exemption request isn't  
16 going to solve all the problems that that community  
17 faces particularly when computer games are protected  
18 by separate distinct access controls. But I do think  
19 that potentially it would make more software  
20 available to those communities for preservation  
21 purposes, particularly the software on the gaming  
22 consoles themselves and independently created games  
23 that would be made as a result of our exemption  
24 request. So I think that suggests that this way is  
25 in favor of Statutory Factor 2.



1           So I know my time is up. Thank you very  
2 much, and I look forward to addressing any questions  
3 you have.

4           MS. PALLANTE: Thank you very much.

5           MR. GENETSKI: Proposed Class 3 seeks an  
6 exemption that would gut video game console's piracy  
7 protections to enable a narrow sliver of uses on game  
8 consoles that can already be accomplished on personal  
9 computers. This office has consistently rejected  
10 similar requests to access works on preferred  
11 platforms as a matter of convenience in the past, and  
12 it should do so again here.

13           My name is Christian Genetski. I'm the  
14 general counsel of the Entertainment Software  
15 Association, and I'm appearing today on behalf of its  
16 members, the game publishers that produce the wide  
17 array of highly expressive, interactive, copyrighted  
18 works that entertain hundreds of millions of  
19 consumers and generated \$25 billion to U.S. economy  
20 last year.

21           The dynamic growth of the video game  
22 industry could not have occurred without strong  
23 copyright protections for video game publishers.  
24 We're here today because our copyright interests are  
25 at stake. These game publishers, the console makers

1 who depend on their games, and the millions of  
2 American consumers who play them all stand to lose if  
3 proposed Class 3 exemption is granted.

4           EFF, the proponent of Class 3, seeks to  
5 minimize the copyright interests that are at stake.  
6 They focus in their comments on the functional  
7 aspects of and the market for console firmware. We  
8 heard in the introductory comments that they  
9 analogized what they're seeking to opening the hood  
10 of a car. But this ignores both the reality of what  
11 the critical TPMs at issue here are designed to  
12 protect as well as the real world impact on the  
13 market for these copyrighted works of excusing the  
14 hacking of those TPMs.

15           Video game consoles are platforms for the  
16 creation, distribution, and consumption of  
17 copyrighted works, and they rely on the TPMs at issue  
18 and specifically the TPMs in the firmware itself to  
19 prevent infringement of those works. We're in the  
20 heartland of what the DMCA is designed to protect.

21           It's precisely because strong copyright  
22 protections are critical to the investment and  
23 creation of copyrighted works that Congress made  
24 clear that exemptions to 1201's anti-circumvention  
25 provision should not only be disfavored but should

1 only be made in the most exceptional of  
2 circumstances. Simply put, this is no exceptional  
3 case.

4 Proponents ask the Copyright Office to open  
5 Pandora's box to accommodate the personal preferences  
6 of a few hobbyists who, having downloaded or created  
7 software like Linux or Pong on their computers, want  
8 to now be able to install and run these same programs  
9 on their video game consoles.

10 We explained in our comments that we filed  
11 with the office why the proponent has not met its  
12 heavy burden of proving as to any individual console,  
13 let alone all three of them, why this exemption is  
14 necessary. I won't review all those details today,  
15 and I'm going to leave it to Steve Metalitz to  
16 explain why the firmware modification is itself an  
17 infringing use. But there are two critical points I  
18 want to spend my time on today.

19 First, I want to make clear that, unlike the  
20 record in the prior request involving jailbreaking of  
21 other devices, the proposed Class 3 exemption creates  
22 a real and substantial threat of copyright harm in  
23 the form of digital piracy.

24 Second, I'll cover the failure of proponents  
25 to identify any adverse impact beyond mere

1 inconveniences in accessing works on the platform of  
2 their choice, an interest that plainly doesn't  
3 warrant granting an exception in light of the  
4 potential for harm.

5           First, the proposed exemption would allow  
6 and encourage the play of pirated content on video  
7 game consoles. This is the very infringement that  
8 TPMs are designed to prevent. The same hacking  
9 methods covered by the proposed exemption are most  
10 well known for their association with piracy and used  
11 to pirate games.

12           Now, in its reply comments -- and we heard  
13 this morning -- EFF claims this argument is  
14 speculation. But our concerns about piracy are based  
15 on evidence, not conjecture. Video game piracy would  
16 be more rampant if circumvention of console TPMs was  
17 permitted by the Copyright Office. Let's be clear.  
18 If a console is not jailbroken, piracy is not  
19 possible. Already the number of downloads and  
20 infringing console games dwarfs any comparable  
21 measure of interested non-infringing homebrew games.  
22 For example, ESA's anti-piracy vendors identified  
23 over 1 million downloads of infringing versions of  
24 250 select console games in just the first quarter of  
25 2012.

1           One need only look at the piracy rates for  
2 PC games which are played on a platform that doesn't  
3 employ its own TPMs to see the risk of this office  
4 granting an exemption for the circumvention of  
5 console TPMs. As Sony explained in its comments  
6 filed with the office, the PC game market has been  
7 decimated because widespread piracy has diminished  
8 publishers' incentives to continue making those  
9 games.

10           Today the PC market is largely reduced to  
11 multiplayer online games that employ server-based  
12 access controls or PC versions of so-called AAA  
13 games, high-quality, high-budget games with budgets  
14 in the tens of millions to \$100 million that also  
15 have console game alternatives. In fact, if you look  
16 at the top 29 most frequently downloaded and  
17 infringing games on Bit Torrent, 28 are PC games, and  
18 in each case the PC version has an equivalent  
19 copyrighted console version.

20           The piracy rates for these dual platform  
21 titles are significantly higher for the PC games, on  
22 the order of seven times higher by one publisher's  
23 measure of infringing downloads of several of its  
24 most popular titles. In this regard console TPMs are  
25 DMCA's success story. If console's ability to

1 enforce platform TPMs is diminished such that console  
2 piracy rates mirror those of PC piracy, the incentive  
3 to create works for those platforms will likewise be  
4 diminished.

5           Now, EFF asserts that people who rely on  
6 this exemption will not commit piracy, but Exhibit B  
7 and C are comments filled with evidence that the very  
8 methods that EFF asks the Copyright Office to excuse  
9 are used almost exclusively for copyright  
10 infringement. EFF's own filing and tech  
11 demonstration last week underscores just how  
12 entangled piracy and the alleged non-infringement  
13 uses are and how no meaningful line can be drawn  
14 between the two.

15           We saw a demonstration of the letter bomb  
16 exploit for Hackmii for the Wii console, and that's a  
17 program that is downloaded by default as a bundled  
18 all-in-one package with step-by-step instructions on  
19 how to use The Homebrew Channel to play pirated Wii  
20 games. Even some of the specific applications that  
21 EFF asserts in its comments would benefit from this  
22 exemption of well-known piracy and anti-utilities,  
23 backup managers, so called backup managers like  
24 multiMAN. These are applications that even the  
25 homebrew community, cited in EFF's comments,

1 disavowed any discussion of on their website because  
2 they understand that those are proxies for piracy.

3           Of course, any attempt to cast an exemption  
4 in this context is ultimately illusory because no  
5 matter the alleged purpose for the hack, once a  
6 console is hacked, the damage is done for all  
7 purposes. There are no subsequent barriers to piracy  
8 should the user of that device later opt to install  
9 pirate games. The protections provided by the DMCA  
10 are already lost.

11           In light of this real and substantial threat  
12 of Internet piracy on the viability of the console  
13 platform and by extension the market for the  
14 availability of works that are published for that  
15 platform, the burden on proponents to show a real  
16 need that cries out for an exemption is particularly  
17 steep.

18           That brings me to my second point. The  
19 Class 3 request is at best nothing more than a  
20 platform-shifting exemption, one to accommodate  
21 personal preferences and convenience, not any of the  
22 core interests that this proceeding is intended to  
23 protect. Specifically the proponent and its  
24 supporters want people to be able to move Linux and  
25 other software programs from their computers, on

1 which they already reside and in many cases were  
2 created, to their video game consoles.

3 Congress intended these proceedings to act  
4 as a safety valve so that individuals can continue to  
5 comment and report on and criticize copyrighted  
6 works. But none of the supporters of the proposed  
7 exemption want to comment and report on or criticize  
8 the video console firmware or the copyrighted video  
9 games that the console TPMs protect. Instead they  
10 want to install software on their video game consoles  
11 instead of computers.

12 As this office has reiterated time and time  
13 again, there is no unqualified right to access works  
14 on any particular machine or device the users choose.  
15 Even if this was a protected interest, the record is  
16 lacking evidence that TPMs have had a substantial  
17 adverse impact. Instead, the record really provides  
18 only examples of mere inconveniences and isolated  
19 individual cases, clearly insufficient to warrant  
20 exemption.

21 56 percent of American households own  
22 current generation video game consoles. The chart  
23 that EFF displayed during their tech demonstration  
24 last week makes clear that these consoles are  
25 overwhelmingly used for the consumption of



1 copyrighted works. The desire of a relatively few  
2 users to disarm piracy protections for those works to  
3 satisfy particular curiosity in platform shifting,  
4 save a few dollars, or avoid a simple licensing and  
5 registration process carries little weight especially  
6 where each of the allegedly non-infringing activities  
7 proffered by EFF are achievable through readily  
8 available equivalent lawful alternatives. I'll take  
9 each of their three examples in turn.

10           First, proponents cited TPMs as an  
11 impediment to installing Linux. Linux comes  
12 installed on thousands of devices. As EFF's own  
13 technologist acknowledged last week, you can get  
14 Linux anywhere. On the research uses, those uses are  
15 clearly, if you read the comments, about harnessing  
16 computer power. They're not about the copyrighted  
17 work at all. That's not a concern in this  
18 proceeding. In any event, the record is very clear  
19 that there are no instances of Sony ever denying  
20 authorization for collaborative research uses. In  
21 fact, the record is clear Sony has made several  
22 attempts and has successfully authorized several  
23 researchers to use the PS3 for that purpose.

24           Finally, proponent wants an exemption for  
25 running homebrew games on console platforms. We saw

1 at the tech hearing that this exemption is primarily  
2 about being able to take a game like Pong that you  
3 create on a PC, that is playable on a PC, putting it  
4 on a USB drive, and moving it over to a Wii game  
5 console. Clearly there's an alternative platform  
6 that's available for this same activity that was  
7 demonstrated in the tech demonstration itself. The  
8 same computers that are used to acquire the software  
9 hack, to perform that software hack, and to create  
10 and play it to independent homebrew apps.

11           Finally, also the record makes clear there's  
12 a lawful route to play these applications and games  
13 and develop them and innovate on the consoles  
14 themselves. The console makers want to encourage  
15 many of the uses identified by EFF, and they're  
16 actively doing so. Each of the console makers has an  
17 independent game channel that offers any developers  
18 the opportunity to self-publish through a much less  
19 rigorous licensing process.

20           On balance the record here plainly shows  
21 that console makers strive to enable the very  
22 activities that EFF seeks on the consoles so long as  
23 doing so does not also enable piracy. As a practical  
24 matter, there's only one activity that is  
25 substantially adversely affected by the game console

1 TPMs, and that's the playing, copying, and  
2 distributing of pirate game content.

3 I want to thank you for your time this  
4 morning. This issue is critically important to the  
5 members of my association, many of whom are here in  
6 attendance this morning, and I look forward to  
7 answering any questions you have.

8 MS. PALLANTE: Thank you, Christian.

9 Steve.

10 MR. METALITZ: Good morning. I'm Steve  
11 Metalitz. I'm here on behalf of the joint creators  
12 and copyright owners, seven organizations that are  
13 listed in our submissions. You've already heard from  
14 two very-well briefed and articulate counsel on this.  
15 I'd just like to highlight a couple of points that I  
16 think are important to your analysis of this proposed  
17 exemption.

18 First, the role of Section 1201(f). We have  
19 an exemption in the DMCA for achieving  
20 intraoperability of computer programs. It's called  
21 Section 1201(f). The threshold burden that the  
22 proponents need to satisfy is to show that their  
23 activity is not covered by that because, if it is  
24 covered by that, then obviously there's no basis for  
25 granting an exemption. Prohibition on circumvention

1 can't possibly be having an adverse impact.

2 I thought I heard Ms. Hofmann say this  
3 activity is covered and authorized by 1201(f).  
4 Possibly I misheard her because I think EFF has  
5 avoided answering this threshold question that they  
6 have the burden of answering before you can go any  
7 further in considering their proposed exemption. So  
8 maybe that can be explored more in the question and  
9 answer.

10 Now, of course, you looked at this question  
11 in the last go-round in the smartphone hacking  
12 exemption. The beauty of a de novo proceeding like  
13 this one is you can and, in fact, Congress has  
14 instructed you to take another look at those  
15 questions that you resolved. And, of course, this is  
16 a different proposed exemption anyway. I would  
17 encourage you to take that close look at the statute  
18 and the legislative history to see if you're  
19 satisfied that the proponents have met their burden  
20 of showing that their activity is not covered by  
21 1201(f).

22 Since I had no role in drafting this portion  
23 of the statute, I'm perfectly happy to say this is  
24 not the clearest part of Section 1201. I think if  
25 you look at the statute, you may want to revisit some

1 of your analysis from last time. Let me just read  
2 part of 1201(f): "A person may employ technological  
3 means to circumvent a technological measure for the  
4 purpose of enabling intraoperability of an  
5 independently created computer program with other  
6 programs if such means are necessary to achieve  
7 intraoperability and if it doesn't constitute  
8 infringement."

9           Now, I'm not reading from 1201(f)(1), which  
10 is the portion that applies to (a)(1). I'm reading  
11 from (f)(2). (f)(2), which applies to (a)(2) and (b)  
12 and therefore not directly within this proceeding --  
13 (f)(2) makes it very clear exactly what -- it seems  
14 as those what the proponents want to do is what the  
15 statute would allow them to do. Then if you look at  
16 the legislative history and you see what paragraph 1  
17 is about, legislative history says -- paragraph 1  
18 "permits the circumvention of access control  
19 technologies for the sole purpose of achieving  
20 software intraoperability," which as I understood it  
21 was exactly what the proponents are asking for.

22           It goes on to say, "For example," an  
23 important phrase, this subsection permits software  
24 developer -- this is the identification and analysis  
25 which was the focus of your analysis of this

1 provision last time around, that because they're not  
2 seeking to identify and analyze -- they're actually  
3 seeking to hack the protective measure -- perhaps  
4 it's not covered. I just urge you to take another  
5 look at that. I suggest the reading you gave of this  
6 rather convoluted provision may not be the most  
7 plausible one.

8           In any case, it's the proponents' burden to  
9 you explain to you why their activity did not fall  
10 within 1201(f)(1). They have not done that. If it's  
11 not within 1201(f)(1), then the question arises when  
12 Congress addressed the issue of achieving  
13 intraoperability between computer programs, why  
14 didn't it accommodate this situation that they're  
15 facing? Perhaps the most plausible explanation is  
16 that it described the circumstances under which  
17 achieving intraoperability would be permitted but  
18 only under those circumstances. Again, I would just  
19 encourage you to take another close look at that  
20 question which is a threshold question.

21           Another threshold question, of course, is  
22 whether the use the proponents wish to make is  
23 non-infringing, and we have -- again, you did look at  
24 this question in the context of smartphone hacking  
25 three years ago or two years ago and encourage you to

1 take a re-look at that and talk about that, I'm sure,  
2 later this morning.

3 I think the reliance of the proponents on  
4 the SEGA case and the Sony versus Connectix case, the  
5 leading software intraoperability fair use cases, is  
6 somewhat uncomfortable for them because that's  
7 what -- we know one thing Congress wanted to do in  
8 enacting 1201(f) is to codify and make sure the  
9 principles underlying SEGA and Accolade were not  
10 frustrated by Section 1201. If that's the basis for  
11 their claim that it's non-infringing, it's kind of  
12 hard to avoid the question of whether the activity  
13 they're undertaking is already covered by  
14 Section 1201(f).

15 If it's outside 1201(f), then it's hard to  
16 see how SEGA and Accolade is controlling in their  
17 fair use analysis. I think the big distinction is  
18 that those cases were about intermediate copying, and  
19 this case is not. This case is about permanent  
20 copying, about making a permanent change to the  
21 firmware.

22 I know that EFF, in its reply comments,  
23 makes some reference to the copying being transitory.  
24 That's not how I understand what's going on here.  
25 Once the console is jailbroken, it stays jailbroken,

1 and you can continue to play pirate games on it as  
2 Christian describes. There's nothing transitory  
3 about this.

4 I accept that SEGA and the Connectix case --  
5 the law is not confined to those facts. The  
6 intermediate character seems to be extremely  
7 important in the analysis throughout those cases, and  
8 it's just not present here. The reply comment then  
9 points to the Lexmark decision as an example of how  
10 perhaps this has been extended in other cases, that  
11 copying device firmware is a fair use. I think if  
12 you look at that decision, you'll find it was not  
13 infringing to copy the firmware there because it was  
14 something like 37 bytes. It was not really enough to  
15 attract copyright protection in the first place.

16 The Lexmark court compares that lockout code  
17 to an operating system as the difference between a  
18 lamp post and the Sears tower. We're in Sears tower  
19 territory here. This is extremely complex and  
20 extensive firmware, and when it's copied in total not  
21 for transformative use but for the very use it was  
22 intended to run the machine, I think it's very  
23 difficult to sustain the fair use analysis.

24 We have a footnote in our submission that  
25 explains why we think the fair use analysis you did



1 last time in the smartphone setting kind of turns the  
2 fair use factors on their head. So we encourage you  
3 to take another look at that as Congress asked you to  
4 do in this de novo proceeding. I think you will find  
5 it's difficult to conclude that the proponents have  
6 met their burden of showing this is a fair use.

7 I just want to conclude with a couple of  
8 points that really pick up on what Christian talked  
9 about, the centrality of the technological protection  
10 measures on the operating system of these consoles,  
11 how central that is in combatting piracy of video  
12 games. That's a factor I think you have to take into  
13 account. You have taken it into account in the past,  
14 and I hope you will do that. Just really three  
15 points on this.

16 First, Christian already talked about the  
17 platform-shifting issue. I think what we have here  
18 is two copyrighted works, an operating system and an  
19 application, and steps are taken using circumvention  
20 to make them intraoperable. You have encountered  
21 this problem many times before when the access  
22 controls on the application were hacked so that they  
23 would run on a particular platform. You really had  
24 very little hesitation in finding in some of these  
25 platform-shifting cases that that was not a

1 sufficient basis for granting an exemption.

2           I don't think there's any meaningful  
3 distinction here between that and hacking the access  
4 controls on the platform to enable running the  
5 application unchanged. I guess if there is a  
6 distinction, this falls on the negative side of the  
7 ledger because instead of simply leaving one  
8 copyrighted work in the clear, this enables a great  
9 number of copyrighted -- pirate copyrighted works to  
10 be consumed if the protection of the TPMs is taken  
11 away.

12           The second point on this is I think -- I  
13 urge you to take another look at the question of  
14 whether the DMCA factor about the availability of  
15 copyrighted works -- we would assert that doesn't  
16 refer to the copyrighted work as to which  
17 circumvention has occurred. That refers to  
18 copyrighted works in general. I think that's very  
19 consistent with your prior rulings and your prior  
20 recommendations. It's consistent with the statute,  
21 and I think the thrust of the opposition to this is  
22 based on the impact it's going to have on the  
23 availability of all works or broad range of works in  
24 the video game area.

25           Finally, on the point of defining out

1 infringing activity, Ms. Hofmann said, "We're not  
2 asking for any circumvention for an infringing use."  
3 I'm glad to hear that, and I think it's inevitable  
4 that that's what would be asked for. But I think we  
5 have to look at the reality, the real world  
6 implications of this. I think, as Christian said,  
7 what's going to be the impact? What use is it going  
8 to enable? It can't be made in any other way than  
9 through circumvention.

10 I know that this defining the exemption so  
11 that it doesn't apply to infringing uses is something  
12 the office has done more and more over the years. I  
13 understand the rationale for it, and in some places I  
14 can accept the rationale for it, but I think it's  
15 kind of a matter of degree.

16 I've been casting about for an analogy. The  
17 best I can come up with is that if I have a Chihuahua  
18 and I'm building a dog door for my dog, I think it's  
19 probably okay and fits within your mandate if you  
20 approve a dog door that's the size of a Jack Russell  
21 terrier. Maybe some other things will get through  
22 that are infringing, and you can tolerate that if  
23 there's a substantial -- I don't want to argue that  
24 Chihuahuas have a substantial positive social value.  
25 There are some people who think so.

1           On the other hand, I think what we have here  
2 is a dog door the size of a Great Dane. By far the  
3 main use of this exemption, if it is granted, will be  
4 to enable the play of pirated games. I think you've  
5 recognized in the past the impact of that reality,  
6 and I would just encourage you to do that again in  
7 your consideration of this proposed exemption.

8           Thank you.

9           MS. PALLANTE: Thank you very much, Steve.

10           I'd like to give Marcia three minutes or so  
11 to respond to what you just heard.

12           MS. HOFMANN: Sure. I would like to start  
13 with the reverse engineering exception to the DMCA.  
14 I have it in front of me now. I'm going to walk  
15 through it a little bit. If you'd like to go through  
16 it with me, please by all means do.

17           It seems to me this exception has three  
18 distinct parts. The first part of it authorizes a  
19 person to circumvent a technological measure of an  
20 effectively controlled access to a particular portion  
21 of a work for the sole purpose of identifying and  
22 analyzing those elements of the program that are  
23 necessary to achieve intraoperability. So this  
24 authorizes reverse engineering itself. I mean this  
25 is the provision that authorizes somebody to actually

1 perform the reverse engineering which may well be the  
2 person who actually created the tools we're walking  
3 about, the jailbreaking program.

4           The second part of it says a person may  
5 develop and employ technological means to perform  
6 reverse engineering or for the purpose of enabling  
7 intraoperability of an independently created computer  
8 program with other programs. So that authorizes a  
9 person to create the tool to reverse engineer or to  
10 achieve intraoperability.

11           Now, Subsection 3 basically allows an  
12 individual then to distribute those tools. All  
13 right? So we have a provision that allows you to  
14 reverse engineer, create a tool for reverse  
15 engineering or for intraoperability, and then finally  
16 a provision to distribute those tools.

17           Now, there is no provision here that  
18 actually allows you to take a tool created by  
19 somebody else and then use it to achieve  
20 intraoperability with an independently created  
21 program. So I think that is the big gap here. I  
22 think it's also worth noting that none of these three  
23 provisions apply in situations constituting  
24 infringement.

25           My understanding is that Mr. Metalitz's

1 position is that intraoperability, the  
2 intraoperability we're talking about for purposes of  
3 this proceeding, is not fair use, and so if it's not  
4 fair use, I think it would be infringement. So I  
5 think that under his reading of it, the reverse  
6 engineering provision wouldn't apply anyway. I think  
7 the reverse engineering provision simply isn't  
8 something that's going to help here.

9 I think Congress created a floor here and  
10 not a ceiling. I think the reason we have this  
11 rulemaking proceeding is because Congress recognized  
12 that technology changes and uses of the technology  
13 changed. We don't have this rulemaking every  
14 20 years. We don't have it every 10 years. We have  
15 it every three years, and the reason is because uses  
16 of technology change frequently, and Congress could  
17 not have foreseen every possible use of gaming  
18 consoles that there could be in the future when it  
19 created the DMCA.

20 So I think clearly an exemption is necessary  
21 here, and the reverse engineering provision simply  
22 doesn't apply.

23 MR. KASUNIC: Steve, what's your view of  
24 that analysis of 1201(f)?

25 MR. METALITZ: Well, as I said, this is not

1 the clear statute, but the word "use" is in there.

2 "A person may employ" -- I guess it's the word

3 "employ." It's not the word "use." "A person may

4 employ technological means to circumvent a

5 technological measure for the purpose of enabling

6 intraoperability."

7 I don't think it could be much clearer that

8 if those conditions are met, it may fall within

9 1201(f)(1). Of course, if it's infringing, it

10 doesn't fall within 1201(f)(1). But if it's

11 infringing, you wouldn't give the exemption either.

12 This analysis assumes it's not infringing. It

13 assumed for the purpose of argument that it is. I

14 think there's a good argument that Congress address

15 this.

16 You went through the analysis last time.

17 It's kind of odd that Congress said you can develop

18 the tool, but they didn't really make any provision

19 for using it. That would be odd, wouldn't it? I

20 just don't think that's the plausible reading here.

21 The plausible reading might be you can use the tool

22 if you meet these criteria. If that's right -- I

23 should say if the proponents don't persuade you that

24 that's wrong, then your consideration of this

25 proposal is at an end. If 1201(f)(1) might apply,

1 then there's no argument that the prohibition is  
2 inhibiting anything because it's not part of the  
3 prohibition. There's a place to adjudicate that.  
4 It's called a U.S. court.

5 MR. GOLANT: Thank you all for your  
6 presentations and your cogent arguments. Now I'm  
7 going to come in and ask you some very basic  
8 questions for clarification so I understand, as we  
9 write this going forward, that we have the knowledge  
10 that we need to for the definitional purposes that  
11 are important.

12 First, I'll ask this very basic question:  
13 What exactly is firmware? And I let each of you  
14 respond if you'd like to and let me know because  
15 that's critical. It doesn't really say so in any of  
16 the proponents or opponents pleadings, and it's  
17 essential that we all know what it really means.

18 MS. HOFMANN: I think it's a very  
19 interesting question. One of the problems I think we  
20 face here is that we're talking about a bunch of  
21 different devices that are created differently. I  
22 think we want something broad enough to make sure we  
23 capture all of the important uses we want to enable.  
24 I think we would say that firmware is the software  
25 that controls access to the booting functions of the



1 machine and access to the operating software.

2 MR. GOLANT: Christian? Steve? You want to  
3 add anything to that? Or we can take questions and  
4 come back later.

5 MR. GENETSKI: I think the general -- at a  
6 high level the description Marcia gave is accurate  
7 what firmware generally is. I would point out a  
8 proponent seeking an exemption bears the burden of  
9 establishing which copyright works are at issue, what  
10 the impact as to those specific works are, what uses  
11 need to be made of those specific works. It's  
12 incumbent on them to articulate that.

13 MR. METALITZ: I would add although, yes,  
14 "firmware" appears a lot in these papers, the  
15 proposal is not for -- the proposed class of works is  
16 not firmware. It's computer programs that enable  
17 consoles to do certain things; so that could extend  
18 beyond the narrative.

19 MR. GOLANT: What is the difference between  
20 a program and firmware?

21 MS. HOFMANN: Firmware is a computer  
22 program. I would say it contains multiple computer  
23 programs. I think that firmware is certainly a  
24 subclass of that, but I think we wouldn't want it to  
25 be restricted to firmware, per se. We certainly want

1 it to reach the underlying element of firmware that  
2 are themselves computer programs that control access  
3 to the operating system of the machine.

4 MR. GOLANT: And so can firmware be a simple  
5 eight lines of code versus a thousand lines? Can it  
6 vary from place to place, device to device.

7 MS. HOFMANN: It can vary from device to  
8 device.

9 MR. GOLANT: So firmware could be a subset  
10 of a computer program, but can firmware itself be  
11 copyrightable under Section 102 of Title 17?

12 MS. HOFMANN: Yes.

13 MR. GOLANT: With regard to the exemption  
14 you requested, are you only talking about three  
15 devices here, PS3, Nintendo Wii, and Xbox?

16 MS. HOFMANN: No, we're not talking about  
17 just about those devices. We're talking about video  
18 game consoles as a class of device. The reason why I  
19 think that's important is because there are other  
20 gaming companies out there and because if we restrict  
21 it to three manufacturers, if another gaming company  
22 starts up next week and produces a video game  
23 console, this wouldn't reach that company. So I  
24 think that the important thing to do is to focus on  
25 the uses and the purposes that we want to authorize

1 and enable as opposed to the actors in the space.

2 MR. GOLANT: So that means you would say the  
3 PS2 and Game Cube would also be part of this  
4 exemption?

5 MS. HOFMANN: Yes, exactly.

6 MR. GOLANT: And future games, PS4 and the  
7 next version of Xbox, would probably be included and  
8 part of this?

9 MS. HOFMANN: Yes.

10 MR. GOLANT: I just need a clarification  
11 because the discussion about what the adverse effects  
12 are now with regard to those particular system, but I  
13 thought is the universe limited or more expansive,  
14 and you answered that question.

15 MS. HOFMANN: Our discussion is limited to  
16 certain consoles because those are the consoles used  
17 by most people in this day and age, but that doesn't  
18 mean there couldn't be a new console invented  
19 tomorrow that wouldn't have these same problems. I  
20 think it would turn the proposed exemption on its  
21 head to basically give that manufacturer a free pass.

22 MR. GOLANT: So extending the question  
23 further, the firmware locks you'd say are very  
24 different or very similar between the three consoles  
25 we are now discussing, Wii and Xbox and PS3?

1 MS. HOFMANN: This is a complicated  
2 question. They use different -- each console uses  
3 different firmware. I think it's fair to say they  
4 all use a system of encryption and authentication  
5 checks to control access to the booting software and  
6 to the operating system of the machine. And I think  
7 that those are the access controls that are at issue  
8 here, the encryption and authentication checks.

9 MR. GOLANT: That's good to know.

10 Moving on to Christian for this particular  
11 question, in Sony's comments there were discussions  
12 about firmware is a highly creative work. Can you  
13 possibly state what that means, "highly creative"?

14 MR. GENETSKI: I can elucidate as a reader  
15 of Sony's comments. Obviously, I was not counsel  
16 filing those comments and wouldn't speak for them on  
17 that. I think the comments do make clear there are a  
18 number of different elements in the firmware  
19 including software that controls the graphics engine  
20 for the games that enables the games that are  
21 published for that platform specifically to harness  
22 that.

23 I think what's important is what the  
24 exemption seeks to be able to do with the firmware,  
25 though, is to actually engage in a circumvention of

1 the authentication sequence that's in the firmware  
2 itself. The uses itself also is circumvention.

3           Could I address briefly Marcia's answer to  
4 the broader question you had?

5           MR. GOLANT: Sure.

6           MR. GENETSKI: It sounds to me like the  
7 proponent is saying they can't identify what the  
8 universe of computer programs would be that would be  
9 covered by the exemption they seek. They don't want  
10 to limit it to the only game consoles and firmware  
11 that they've discussed. They want it to be broader.  
12 They can't limit it to the consoles that they  
13 discussed. And I'm struggling to understand how they  
14 can carry their burden of showing a present adverse  
15 impact and a lack of meaningful alternatives if they  
16 can't define what it is they're seeking.

17           This proceeding is not about granting an  
18 exemption for a broad philosophical right to do  
19 certain things for all purposes and all times though  
20 I understand that may be part of the motivation.  
21 It's about carrying the burden of showing current  
22 real world adverse impacts and lack of alternatives.  
23 Just as a concrete example from the record in this  
24 proceeding, there are only three game consoles  
25 mentioned here, and there are two primary uses, the

1 research use for Linux and the running of independent  
2 homebrew apps, and yet for one of the three consoles,  
3 the Xbox 360, there's an admission in the record that  
4 there is no homebrew community seemingly because of  
5 the indie games marketplace on Xbox, and there's no  
6 single research use cited.

7           At the same time that neither of the  
8 supposed needs for the exemption appear to apply to  
9 that console, the comments also say there's a  
10 thriving jailbreaking community at each of the three  
11 consoles. It begs the question to which the answer  
12 is obvious. What's the thriving jailbreaking  
13 community for a console that doesn't have any uses  
14 for the others need? It's for piracy.

15           MR. GOLANT: That's my next question. I had  
16 seen from your proposal that you've made some  
17 comments about the Wii and their homebrew community  
18 but not for Xbox and PS3, and in converse with regard  
19 to research purposes you talk about PS3, but you  
20 don't talk the Wii and Xbox. So can you give me some  
21 idea as to whether or not all three systems meet all  
22 of the adverse effects for each of those categories  
23 for homebrew?

24           MS. HOFMANN: So let's start with the  
25 homebrew community. The homebrew community is the

1 biggest, it appears, among the Wii, users of the Wii.  
2 Now, our comments say that -- actually our comments  
3 don't say there is no Xbox homebrew community but  
4 that it is small. The PS3 appears to be small as  
5 well although we have shown in our opening comments  
6 and also in our reply that there definitely is a  
7 community there. I think that it's important to  
8 focus not only on the number of people involved but  
9 the larger effect that their favored uses have for  
10 the rest of us. There may be not a large community  
11 of people performing these uses, but they're creating  
12 independent games, and they are engaging in new  
13 socially valuable expression that benefits us all. I  
14 think that the impact of that expression is something  
15 that's worth considering in addition to the number of  
16 individuals involved.

17           Now, in terms of the PS3 -- or I'm sorry,  
18 the scientific research, the PS3 is the one that's  
19 been most often used in the past, but the reason is  
20 because it was able to run Linux whereas none of the  
21 other consoles were able to do that. At this point  
22 I'm not sure that there are any scientific  
23 researchers -- at least I'm not aware of any -- that  
24 are running research on locked-down boxes without the  
25 help and aid of one of the gaming manufacturers.

1           And with all due respect to them, I think  
2   it's wonderful that they have facilitated that  
3   research in certain cases, but it shouldn't be up to  
4   a company to decide what research is socially  
5   valuable enough to support or not. I think it is up  
6   to an individual researcher to decide whether or not  
7   a gaming console could be useful for purposes of what  
8   he's trying to accomplish, and he is in the best  
9   position to decide that. If making a box  
10  intraoperable with software would accomplish that, I  
11  don't see any reason why the law shouldn't permit  
12  that.

13           MR. CARSON: Are we aware of any cases in  
14  which someone has wanted to do a particular kind of  
15  research on one of these consoles and asked  
16  permission and been denied?

17           MS. HOFMANN: I have not heard of a case  
18  where a person has been denied, but Dr. Khanna, who  
19  submitted a declaration in support of us -- he  
20  mentions he spoke to Sony about the research he  
21  wanted to do while the consoles were able to run  
22  Linux. Sony liked the idea, and they gave him a  
23  number of consoles on which to perform his research,  
24  which I'm sure he really appreciated, but that number  
25  was not actually adequate, and then he had to buy



1 more. So I think we do have evidence there have been  
2 times when researchers have approached companies,  
3 Sony specifically, and they've gotten some help and  
4 some aid but really not everything that they need.

5 MR. CARSON: Did Sony forbid him to use the  
6 additional ones he bought for those purposes?

7 MS. HOFMANN: No, they didn't.

8 MR. CARSON: What was the problem?

9 MS. HOFMANN: That was at a time when the  
10 Sony PS3 could run Linux. That didn't happen after  
11 Sony removed that functionality.

12 MR. CARSON: To be clear, once Sony has  
13 removed that functionality, you're not aware of any  
14 case when someone has got his own and asked  
15 permission to use the console in that respect, and  
16 Sony said, "No, we're not going to assist you in  
17 using it for those purposes."

18 MS. HOFMANN: Correct. I haven't heard of  
19 any instance of that.

20 MR. CARSON: Sorry. I just wanted to make  
21 that clear.

22 MS. HOFMANN: I also just wanted to mention  
23 quickly that with respect to the exemption that was  
24 granted for smartphones last time, of course, the  
25 evidence presented to you had mostly to do with the

1 iPhone because that was the dominant player in the  
2 market at the time. But that exemption didn't apply  
3 solely to the iPhone. It applied to all smartphones.  
4 I think that that is -- I think that makes sense  
5 because if you have a situation where copyright laws  
6 or anti-circumvention laws apply to one manufacturer  
7 but not others, I think that could create some really  
8 strange market effects. I think the important thing  
9 is to create a situation where users can perform the  
10 function for a very specific purpose to enable  
11 intraoperability, to conduct fair uses because if  
12 things are specific to -- if these exemptions are  
13 specific to a manufacturer, I think we have a  
14 situation where, number one, there's likely to be a  
15 lot of confusion about what's legal and what's not  
16 because it's going to be very specific to one market  
17 player and conceivably even to certain models of  
18 technology. And also I think it might throw a wrench  
19 in the market.

20 MR. GOLANT: I think we're going to ask  
21 Christian some questions.

22 MR. GENETSKI: Can I respond briefly?

23 MR. GOLANT: Go ahead.

24 MR. GENETSKI: I heard a couple points,  
25 acknowledgments, that I think are salient to the

1 burden analysis. We heard the homebrew -- an  
2 acknowledgment that the homebrew community -- one of  
3 the two principal adverse impacts cited to support  
4 the exemption is quite small with regard to at least  
5 two or three consoles.

6 MR. GOLANT: Is it important in the overall  
7 analysis that if the group is small, that means the  
8 likelihood of granting exemptions will also be small?  
9 In other words, is there some sort of proportionality  
10 that there's a bigger community out there that will  
11 benefit from exemption that makes the case stronger?

12 MR. GENETSKI: I believe it's salient to the  
13 analysis of whether the impact is de minimis, that  
14 very few people are actually trying to make this use.  
15 In the Sony comments they note that when the other OS  
16 feature was available, less than one-tenth of  
17 1 percent of users actually made use of the feature.  
18 Since it was disabled -- and it was disabled because  
19 that was used as a means to hack the TPMs and allow  
20 for piracy -- the record is clear that Sony has  
21 authorized researchers to continue to use that. It's  
22 made keys available, even though the other OS has  
23 been removed, for them to continue research.

24 More importantly, broadly, these activities  
25 are not foreclosed by the console TPMs. They're

1 available on other alternatives. A lot of this is  
2 about being able to use your video game console like  
3 a computer. The thing you can do to use that is a  
4 computer. So you also have for independent game  
5 development three available channels. The console  
6 makers want to encourage these activities. They're  
7 doing it. They just can't do it by allowing the  
8 disabling of the only protection they have to prevent  
9 the piracy of the copyrighted works that are the  
10 lifeblood of the platform.

11 MR. GOLANT: You bring up a point I wanted  
12 to raise also. In terms of characterization of the  
13 systems themselves, I think the ESA as well as Sony  
14 has said that they're entertainment devices, not  
15 computing devices. Do you want to clarify what is  
16 meant by that?

17 MR. GENETSKI: I alluded to in my opening  
18 comments at EFF's tech demonstration last week they  
19 showed a chart for U.K. usage of consoles, but  
20 there's a Nielsen study of U.S. console usage that  
21 had very similar other than BBC programming perhaps  
22 versus HBO GO as the television component. It's very  
23 similar. These devices are used to consume  
24 copyrighted works, video games primarily but also  
25 increasingly television movie content. That is their

1 primary use. The TPMs are designed to ensure there  
2 is a market for all of those copyrighted work.  
3 They're designed to make sure pirated versions of the  
4 same works are useless so that there is no digital  
5 redistribution of the pirated version of those works.  
6 That's what they're for, and the reason this  
7 exemption is troublesome for us is that it would  
8 sanction and, we believe, allow and encourage the  
9 circumvention of those TPMs that occur.

10 MR. GOLANT: I was thinking that there's a  
11 divergence of devices. I want to get -- you would  
12 never think that your exemption would ever apply to  
13 cable set-top box, but now cable plays games, online  
14 video, On Demand video, linear cable TV broadcast.  
15 So that's something -- you don't think a set-top box  
16 like that is anywhere within the scope of your  
17 particular request; right?

18 MS. HOFMANN: No.

19 MR. GOLANT: You want to make another point?

20 MS. HOFMANN: Yeah, may I respond to that?

21 I just want to be clear again. I keep hearing a lot  
22 about infringement and piracy. Our exemption  
23 wouldn't apply in situations like that. If an  
24 individual circumvents the encryption and  
25 authentication on protecting firmware for purposes of

1 running pirated content, it simply doesn't apply. It  
2 simply doesn't apply. The content-holders and the  
3 device manufacturers will have the full range of  
4 legal remedies available to them in that case as they  
5 do now.

6 MR. CARSON: What about the following  
7 scenario: So I circumvent in order to do scientific  
8 research. A couple weeks from now I decide, you  
9 know, there's this pirated game I'd like to play. I  
10 don't have to circumvent again because it's already  
11 broken; so I can start playing pirated games on it.  
12 You acknowledge there's some risk that once the box  
13 is open essentially, that it can and in many cases  
14 probably will be used to play pirated games.

15 MS. HOFMANN: I think in a situation like  
16 that where the purpose is for conducting scientific  
17 research, the exemption would apply, but, of course,  
18 once the person actually starts to infringe, then  
19 there are remedies available under the Copyright Act  
20 for that, full range of remedies. The question of  
21 whether or not the purpose for circumventing for  
22 scientific research or something else I think would  
23 be a factual question for a court to sort out, and if  
24 the court didn't believe the actual purpose was for  
25 scientific research, then the exemption wouldn't

1 apply at all.

2 MR. KASUNIC: So anyone can use one  
3 non-infringing act as the basis for global  
4 circumvention, and then even if every subsequent act  
5 after that was infringing, 1201 would be inoperative.  
6 It would be left to copyright law.

7 MS. HOFMANN: I think that the exemption  
8 would apply only where the circumvention is  
9 undertaken for the purpose of a legitimate  
10 non-infringing use, and anything that happens after  
11 that is examined independently. So I think if you  
12 have a situation where it's a mixed question of  
13 whether an individual was circumventing for a  
14 legitimate purpose and an illegitimate purpose,  
15 that's something that a court would have to sort out  
16 whether or not the exemption actually applied. Just  
17 to be clear, if an individual is circumventing for an  
18 infringing purpose, it wouldn't apply.

19 MR. KASUNIC: How do you see that  
20 technically working with the console if someone  
21 circumvented and had a non-infringing use in the  
22 first instance, would then circumvention or 1201 no  
23 longer be operative if you disabled the technological  
24 protection measure in that first instance? Then  
25 would subsequent use of that box still implicate

1 1201?

2 MR. GENETSKI: That's our concern. You put  
3 your finger on the exact concern here. Setting aside  
4 the ability to divine the present intent at the  
5 moment of circumvention, once jailbroken, the console  
6 is jailbroken. And if I jailbreak it on a Tuesday  
7 and install The Homebrew Channel and then I wait a  
8 day until Wednesday to use the same tool which also  
9 has multipurpose functionality that allows me to then  
10 surf the web and download and play infringing copies  
11 of Wii games, my circumvention is arguably already  
12 exempted and excused. So the DMCA is now taken out  
13 of play. If there were evidence that -- it may be  
14 proffered that someone -- you know, that they were  
15 lying and asserting that that was their use at the  
16 time, but that's going to be obviously a very  
17 difficult proof question. I think there are other  
18 problems too with trying to -- I respect that the  
19 proponents try to cabin the exemption to not  
20 encourage piracy, but I think there are a number of  
21 reasons why that purpose-driven exemption doesn't  
22 work here. At the end of the day the reason you've  
23 cited is really the overriding one. It's illusory in  
24 this context to try to create a purpose for the  
25 exemption.



1           MR. KASUNIC: Given that we know software  
2 video game piracy is a significant issue just in  
3 terms of thinking about Section 1201 factors and the  
4 balancing that has to take place, how do you balance,  
5 for instance, the use of being able to play Pong in  
6 the homebrew system with the numbers that we are  
7 aware of in terms of video game piracy and given the  
8 fact that there are many alternatives that are  
9 available on which that particular game can be  
10 played?

11           MS. HOFMANN: First of all, I think that  
12 with respect to the balancing factors, if you're  
13 going to take into account the works created by  
14 Mr. Metalitz's clients and the works created by the  
15 individuals that Mr. Genetski represents, I think you  
16 also have to take into account the works of the  
17 homebrew community and the scientific research  
18 community as well. I think that these are all things  
19 that need to be balanced together.

20           We don't just take into account the  
21 companies that manufacture entertainment content  
22 here. We also take into account the independently  
23 created games and the scientific product that comes  
24 out of research as well.

25           MR. KASUNIC: But even taking those into

1 account, you're not saying that those could not be  
2 accomplished without an exemption; right? There are  
3 many alternative platforms on which those other uses  
4 and other works could be employed.

5 MS. PALLANTE: That's our question. What's  
6 the scope of the available alternatives.

7 MS. HOFMANN: There are available  
8 alternatives in the sense that individuals have  
9 computers, and perhaps they can accomplish certain  
10 purposes on certain other computers. I think the  
11 point here is that we're talking about a situation  
12 where an individual owns a video game console which  
13 is a computer. This is this person's own lawfully  
14 owned console, and this person wants to use it for  
15 certain purposes that are legitimate, and this  
16 individual wants to make that box intraoperable with  
17 independent third-party software in order to run it  
18 the way that he would like. It is a private home  
19 use.

20 MR. KASUNIC: Well, then in terms of the  
21 question that Ben had asked about the set-top box and  
22 I think it was a little narrowly drawn. It's not  
23 covered by the scope of this exemption, but isn't the  
24 reasoning you just cited completely applicable?  
25 Couldn't you apply the reasoning or opine where you

1 own something -- okay, maybe in the cable situation  
2 you don't actually even own the box. You just rent  
3 it.

4           But wouldn't it be the situation that any  
5 device that was owned, if there was some  
6 non-infringing use to which you could put that, then  
7 you could circumvent? Even though there were many  
8 other platforms available, many other types of  
9 devices, you could do the exact same thing. So if I  
10 want to start to play music on my e-Book reader, I  
11 should be able to circumvent that even if that's  
12 doing a very good job of protecting the content on  
13 that particular device. It basically seems unlimited  
14 the underlying rationale.

15       A. I do think that there are very good  
16 arguments that those would be fair uses. So I do  
17 think that the underlying rationale is something that  
18 supports the idea that those should be made  
19 permissible uses. The scope of the exemption as  
20 we've drawn it here is what it is because we've heard  
21 from the community that we represent that this is  
22 what they need. This is what they're facing right  
23 now. There are individuals out there who want to  
24 make certain uses of video game consoles as opposed  
25 to other devices like cable boxes on top of TVs to

1 accomplish certain very legitimate socially desirable  
2 purposes. So that's why we're asking for this right  
3 now.

4 MR. GOLANT: Let me just raise another  
5 question I was going to ask Christian along those  
6 lines. Tell me, again, the scope of the gaming  
7 industry's suits against individuals for jailbreaking  
8 their consoles now. How many have there been  
9 roughly, and what have been the claims? Particularly  
10 we've read about George Hotz. Were there other high  
11 profile cases like that?

12 MR. GENETSKI: That's the only case cited in  
13 the record. I'm not aware of any lawsuits that have  
14 been filed based on jailbreaking of consoles to run  
15 homebrew, for example. I'm not aware of any cases  
16 filed against college professors and researchers who  
17 were attempting to run an alternative operating  
18 system.

19 What I am aware of is discussion in the  
20 marketplace about criminal actions against  
21 trafficking in circumvention tools where the  
22 commentary is a close eye is being kept on this  
23 rulemaking because those sorts of prosecutions will  
24 be mooted if the exemption is granted and  
25 jailbreaking is legal.

1           Obviously, I understand the subtleties of  
2 what this proceeding is supposed to cover and that  
3 that's incorrect, but that perception is certainly  
4 out there, and I think that's the context in which  
5 you see these things being discussed.

6           MR. GOLANT: Along those lines, you would  
7 say the chill out there that people are concerned  
8 about, about what you call legitimate purposes, for  
9 these particular consoles, that's what you said in  
10 your comments.

11           MS. HOFMANN: That's right. The declaration  
12 of Aaron Morris mentions that. I would like to say  
13 also that the lawsuit against George Hotz was also  
14 against several other people who are very vigorous,  
15 robust, productive members of the homebrew community,  
16 many of whom live abroad.

17           But the reason that they got swept up in  
18 this lawsuit is because they gave a presentation at a  
19 conference in Germany in which they discussed their  
20 research studying the authentication and encryption  
21 measures in firmware on several different devices --  
22 the Wii, the Xbox, and PS3 among others -- and they  
23 were all sued by Sony in addition to George Hotz. I  
24 want to be clear that that lawsuit included a claim  
25 of anti-circumvention as well as distributing tools.

1 It is directly relevant here.

2           Also, another thing that I'm not sure if  
3 it's in the record or not because it is a little bit  
4 tangential. But Microsoft creates this technology  
5 called the Kinect, which allows you to -- it uses  
6 motion-sensing technology so you can use your body as  
7 the controller for the Xbox. A couple of years ago  
8 there was a situation in which an individual who was  
9 actually one of the people sued by Sony, one of the  
10 members of the homebrew community sued by Sony,  
11 developed an open source driver that made it possible  
12 for you to plug a Kinect into a different computer  
13 and open a USB connection so you can get the input  
14 from the camera.

15           Microsoft's first response to that was to  
16 issue a vague public legal threat about how they were  
17 in touch with law enforcement about this, and they  
18 didn't appreciate tampering with their product. And  
19 then Microsoft realized that actually what had  
20 happened there was that this individual took  
21 advantage of an open design of the product to make  
22 this innovative new use of the Kinect. There was no  
23 access control. There was no TPM that created a  
24 barrier; so, of course, there was no 1201 problem.  
25 And after that Microsoft totally embraced this, and

1 that's been very important because enabled a great  
2 deal of artistic and scientific research using the  
3 Kinect with other machines.

4           So, for example, there's an MIT researcher  
5 who created a little robot who uses the Kinect to  
6 create 3D maps of environments that's responsive to  
7 people gesturing and pointing, and the thinking is  
8 this might be very, very useful at some point in  
9 emergency or disaster situations. There are artists  
10 who have created these puppet shows where children  
11 can interact with the puppets and actually be part of  
12 the show.

13           So the use of the Kinect has been really  
14 exciting in those ways, and it is all due to the fact  
15 that a member of the homebrew community came up with  
16 this open source driver.

17           MR. GOLANT: Good to know. I'm winding down  
18 my questions, but one illustration is by Andrew Wong  
19 about repairing broken consoles. Is it in your view  
20 necessary to jailbreak a console in order to repair  
21 it? Or maybe that depends on what's being broken.  
22 If an operating system fails, how does someone, if  
23 they have the savvy to do it, self-repair a console?

24           MS. HOFMANN: I think depending on what  
25 you're trying to repair it may be necessary. I have

1 to be honest. I don't know the details. If you'd  
2 like more information from Mr. Wong on that, I'm sure  
3 he'd be happy to provide it.

4 MR. GOLANT: One of the other reasons given  
5 as to an adverse effect if you didn't have an  
6 exemption in place, there would be a fear among  
7 people wanting to get their cases back in order and  
8 didn't know whether or not they would be in trouble  
9 with 1201 because of that.

10 MR. KASUNIC: I just had a couple questions  
11 about ownership issues. We've heard in other  
12 contexts about differences between the devices and  
13 software contained on devices. Is there any -- from,  
14 I guess, most of these consoles -- are there  
15 particular licensing agreements that go with those  
16 consoles with respect to the software residing on the  
17 device?

18 MR. GENETSKI: I believe that Sony's  
19 comments may address that in part, but it was the  
20 ownership versus licensing, which I understand was a  
21 robust part of the discussion in the iPhone  
22 jailbreaking context, was not proffered as a  
23 rationale by the proponents. Frankly, I have not  
24 studied those licensing agreements; so I wouldn't be  
25 prepared to speak to their particular terms today.



1 MR. METALITZ: If I could add to that as a  
2 veteran of the last go-round, I don't think there was  
3 any claim this time that Section 117 makes the use  
4 non-infringing. I think fair use was the only basis  
5 for that assertion; so that makes the ownership  
6 question less relevant.

7 MR. KASUNIC: One thing about -- I was just  
8 looking back at 1201(f), and the language that you  
9 cited relating to "employ" is in subsection  
10 1201(f)(2). If you look at the beginning of that  
11 provision, it says, "Notwithstanding the provisions  
12 of Subsection (a)(2) and (b)." So it doesn't cover  
13 (a)(1); right?

14 MR. METALITZ: Right. I agree. This is a  
15 puzzling provision because it talks about -- it's  
16 basically about the act of circumvention. It says,  
17 "The act of circumvention can be carried out  
18 regardless of (a)(2) and (b)." I think perhaps the  
19 key to understanding that is the legislative history  
20 on (1) that says the particular activity described in  
21 (1) is an example of the kinds of circumvention that  
22 can be carried out for the purposes of  
23 intraoperability.

24 I'm not prepared to say this is conclusively  
25 covered by 1201(f)(1). It still surprises me that

1 the proponents until today never really addressed  
2 this question of whether (f)(1) affects the activity  
3 that they're talking about because if it does, then  
4 the game is over for them. Maybe that's why they  
5 haven't addressed it.

6 MR. KASUNIC: Let me put that to you, then.  
7 You walked us through the different provisions and  
8 why it might not, but I thought I heard you saying,  
9 too, in your opening statement that 1201(f) applied.

10 MS. HOFMANN: No, I don't think it applies  
11 to the types of uses we're seeking an exemption for.  
12 I think that reverse engineering could apply in  
13 situations where individuals actually perform the  
14 reverse engineering, create a jailbreak tool, and  
15 then distribute it. I think those uses or those  
16 actions may be covered by this exception, but I think  
17 that your typical individual who just uses that tool  
18 to perform a jailbreak is not covered.

19 MR. KASUNIC: So wouldn't that be the case  
20 in every use, then, of Section 1201(f)? As the way  
21 Congress drafted 1201(f), then, it's completely  
22 ineffectual to do anything but create tools that  
23 can't be used?

24 MS. HOFMANN: I think it's possible Congress  
25 didn't foresee this kind of a situation.

1 MR. KASUNIC: But they didn't foresee  
2 allowing the creation of tools that could never be  
3 used under their default rule of a prohibition being  
4 in place. I mean that's what you're saying; right?

5 MS. HOFMANN: I think what they were  
6 expecting was that this would apply to individuals  
7 who were pretty sophisticated and who are performing  
8 reverse engineering for purposes of software  
9 development or creating intraoperability in the  
10 computing industry. I think that's what Congress was  
11 thinking about when they created this exception.

12 I don't think they foresaw a situation where  
13 programmers might create tools that are useful for  
14 consumers and then put them in the hands of consumers  
15 so that consumers could obtain intraoperability of  
16 their own individual computers. So that's why I  
17 think an exemption is particularly apt here. I just  
18 think it was something Congress wasn't foreseeing at  
19 the time, and now the time is right for the Copyright  
20 Office to say in this particular situation for these  
21 specific legitimate uses it's okay for users to use  
22 those tools to jailbreak.

23 MR. KASUNIC: In the case of the research  
24 uses of the consoles, isn't the main focus, then, on  
25 the hardware? So the benefits there -- I guess I

1 should ask first. These consoles are essentially  
2 subsidized to a certain extent? Is that why we're  
3 seeing a price differential in people saying that  
4 they can use these consoles for very effective  
5 research as opposed to going out and buying another  
6 hard drive or processor somewhere else? Is there a  
7 reason why this is cost effective for using consoles  
8 for doing research as opposed to just getting the  
9 hardware somewhere else? Does that have to do with  
10 some kind of subsidy for those?

11 MR. GENETSKI: I can't speak to what the  
12 researchers' business calculations and which console  
13 can be used for which purpose and which it might be  
14 more efficient for. Everything I know is in the  
15 record pertaining to the PS3 that the proponents put  
16 forward. I think, generally speaking, consoles  
17 are -- as I said, they are devices used for the  
18 consumption of copyrighted works, and yes, the  
19 revenues for that platform are driven by -- each of  
20 the console makers are also first-party publishers of  
21 content for their own platforms. The revenues  
22 generated through this business are largely derived  
23 from the sale of those first-party works and  
24 licensing revenues for the other works published for  
25 the platform and not from the sale of the devices

1 themselves.

2 MR. KASUNIC: Then in terms of using these  
3 consoles, is the primary goal, then, to use the  
4 hardware that exists on the consoles, or is it to --  
5 in some cases it sounds like to replace the software  
6 or use the hardware for other purposes for which it  
7 was initially designed.

8 MS. HOFMANN: I think that's particular to  
9 the user. I think that that's a question that  
10 doesn't have an answer that reaches across all of  
11 the --

12 MR. KASUNIC: Let's talk about the  
13 scientific research, then, because that seems to be  
14 the most broadly socially beneficial one that's being  
15 cited. What kind of uses is the -- how does the  
16 scientific -- do the scientific researchers use the  
17 device? Is that per the hardware?

18 MS. HOFMANN: In the situations that we've  
19 cited in our papers, the researcher are using the  
20 hardware along with the different operating system in  
21 order to crunch numbers and make scientific  
22 calculations in ways that the original operating  
23 system wouldn't enable.

24 MR. KASUNIC: Then do you see any particular  
25 problem if someone owned the particular device and

1 went to wipe the software and everything that existed  
2 on it and I would expect at that point the device  
3 probably would not play games that had required some  
4 kind of secret handshake or some kind of  
5 authentication within it. But if someone wanted to  
6 wipe the device to use it for a completely different  
7 purpose just for the hardware alone, is that  
8 something that implicates 1201?

9 MR. GENETSKI: I can imagine a scenario  
10 where, you know, the innards of the box are removed,  
11 and it's used to elevate your other audio device to  
12 sit on top of it to block your outlet so it's not in  
13 plain view in your living room. I assume that that  
14 would probably be a use that doesn't implicate 1201.

15 It's hard for me to speculate where along  
16 the continuum -- clearly we're here today because  
17 what we're concerned about is the circumvention of  
18 the TPMs because those TPMs are designed to prevent  
19 play of pirated works. Uses of the device that don't  
20 implicate those core copyright concerns are probably  
21 outside the province of this proceeding.

22 MR. METALITZ: If I can just add, I don't  
23 think it's the first time this question has arisen in  
24 these proceedings. For example, in the security area  
25 one of the things a couple cycles ago people wanted

1 to do was basically remove software. It's hard to  
2 say if you remove an access control and the result is  
3 you no longer have access to the thing the access  
4 control is protecting, it's a little hard to fit that  
5 into the 1201 paradigm. That's obviously not what  
6 the proponents are seeking.

7 MR. CARSON: That's what we're trying to  
8 find out. I'm not sure it's clear to me. Maybe it's  
9 clear to you. Would you be satisfied if one were  
10 permitted to circumvent simply in order to remove all  
11 software from the device and put their own software  
12 on it?

13 MS. HOFMANN: Well, I think that that  
14 probably wouldn't help the homebrew community at that  
15 point.

16 MR. CARSON: Let's talk about research  
17 purposes right now.

18 MS. HOFMANN: My understanding, based on the  
19 use cases that we've seen, is that the need is for  
20 researchers to be able to make their consoles  
21 intraoperable with independent third-party software.  
22 We've seen situations where they would like to  
23 install a new operating system and then run software  
24 that they create themselves or that they get from  
25 another source that wouldn't be intraoperable with

1 the console's original operating software. In terms  
2 of scientific purposes that are implicated here, I  
3 think that's what we're talking about.

4 MR. CARSON: So you don't need the existing  
5 operating system or the existing firmware basically.  
6 You need the box. You need to be able to put your  
7 own operating system on it. You wipe it clean of  
8 whatever was on it before. Is that true?

9 MS. HOFMANN: You do need the firmware, I  
10 believe.

11 MR. CARSON: Why do you need the firmware?

12 MS. HOFMANN: To run the hardware. The  
13 firmware controls access to the programs and so  
14 you -- and it coordinates the booting sequence, and  
15 so you certainly would need that.

16 MR. CARSON: It's not possible to come up  
17 with your own substantive firmware to do the same  
18 thing?

19 MS. HOFMANN: I think it is potentially  
20 possible to do that will, but I have to say with  
21 respect to the individual users that we are  
22 representing, I don't know what their individual  
23 needs are with respect to that. But if you want more  
24 detail, we can provide it.

25 MR. CARSON: That would be helpful.



1           Just one more question on 1201(f). One  
2 thing I can agree with you on, Steve, is it's not  
3 entirely clear. Let's assume that we reread it  
4 several times, and we conclude that some or all of  
5 the conduct the proponents and their class want to be  
6 able to do actually falls within the scope of  
7 1201(f), and they can do it under 1201(f); so they  
8 don't need us to designate a class. We'll make it  
9 quite clear in our federal register notice that we  
10 have analyzed 1201(f), and we are confident that  
11 1201(f) permits them to do exactly what they want to  
12 do. Therefore, there's no need for us to recommend a  
13 class of works to be exempt.

14           Any problem with that from your perspective?

15           MR. METALITZ: I don't think that's really  
16 your job. I think your job is to determine whether  
17 they have made the case that it doesn't apply.

18           MR. CARSON: But part of making the case  
19 might be we really need to do this. There's no way  
20 under the law we can do this; so we need your help.  
21 If we say, well, yeah, there is a way under the law  
22 you can do it; so you don't need our help, then  
23 that's very pertinent to our ruling.

24           MR. METALITZ: There are a lot of -- in the  
25 250 pages of your recommendation last time, there

1 were a lot of opinions expressed about different  
2 aspects of the copyright law. I don't know what  
3 weight courts would give them in a proceeding where  
4 you're not asked to -- you don't have a factual basis  
5 for determining the application of laws to particular  
6 facts. I think it's perfectly appropriate for the  
7 Office to give its opinion on the scope of these  
8 provisions.

9           The real question here is whether the  
10 proponents have met their burden of showing that the  
11 prohibition is preventing something. If they can't  
12 show that 1201(f) doesn't apply, then they can't meet  
13 that burden.

14           MR. CARSON: Let's assume we read it, and we  
15 explain exactly why we think 1201(f) permits people  
16 to do exactly what you want them to do, and therefore  
17 we're going to deny the exemption. Do you walk out  
18 feeling, "Oh, my God. Now we're in trouble," or do  
19 you feel, "Great. We got what we needed" or  
20 somewhere in between?

21           MS. HOFMANN: I think I would have mixed  
22 feelings about that. I would be very glad that you  
23 feel that that's the case and that you're so  
24 supportive of intraoperability, but I would also  
25 worry because I don't think that that necessarily

1 guarantees at the end of the day that Mr. Genetski's  
2 clients feel the same way or that Mr. Metalitz's  
3 clients feel the same way. It doesn't guarantee at  
4 the end of the day that a court would agree either.

5 So while I think that would be incredibly  
6 helpful and exciting, I don't think that it would  
7 remove the legal concerns and the murkiness that the  
8 users that we represent are experiencing.

9 MS. PALLANTE: Thank you. We're going to  
10 end this panel. Let's take a ten-minute break.

11 (Recess taken.)

12 ---oOo---

13 10:30 A.M. PROPOSED CLASS TO BE DISCUSSED:

14 SECTION 1201(5)

15 PANELISTS: MARCIA HOFMANN  
ART NEILL  
16 STEVE METALITZ

17 MS. HOFMANN: I am Marcia Hofmann from the  
18 Electronic Frontier Foundation, which is the  
19 proponent of proposed Class 5.

20 In 2010 the librarian granted an exemption  
21 to let smartpone users add independently created  
22 computer programs to their devices through a process  
23 known as jailbreaking or rooting. Since then  
24 innovation has flourished among independent app  
25 developers and allowed users to make creative new

1 uses of their phones.

2 I'm going to talk about three things this  
3 morning. I'm going to talk about what's changed in  
4 the market since that exemption was granted. Second,  
5 I'll talk about why the exemption should be renewed  
6 and then expanded also to include tablets, and I am  
7 going to briefly speak at the end about the  
8 opposition to this exemption.

9 So what's changed since the last Rulemaking?  
10 At this point 50 percent of all Americans own a  
11 smartphone. That's a figure that comes from Nielsen.  
12 At this point Android has nearly a 50 percent market  
13 share and Apple, 32 percent. Apple announced this  
14 year that it has sold more than 25 billion apps. In  
15 2009 when the last Rulemaking proceeding was going  
16 on, they had sold about a billion. So as we can see,  
17 things have gone well in this market, and Apple has  
18 done tremendous work and has made tremendous gains.

19 Another thing that's changed is that tablets  
20 have exploded onto the scene. At this point about --  
21 well, actually not at this point. In January about  
22 30 percent of Americans owned an e-Reader or another  
23 tablet. That's a very interesting figure because a  
24 much smaller number owned a tablet just a month  
25 before. It was about 18 percent. So this is a

1 device that lots of people are buying and taking  
2 advantage of and finding incredibly exciting and  
3 useful in their lives.

4           The reason we are asking that tablets be  
5 added to this class this time around is because they  
6 are a very similar device to smartphones, and people  
7 tend to use them in very similar ways. They are both  
8 small handheld devices that you carry with you on a  
9 day-to-day basis that you use for all sorts of  
10 things, keeping in touch with people. They are  
11 basically little computers. You can do web browsing.  
12 You can do messaging. You can do any number of  
13 things with these devices.

14           They both get applications from online  
15 marketplaces like, for example, the Apple App Store  
16 if we're talking about the iPhone and the iPad. They  
17 use the same operating systems protected by the same  
18 access controls. In fact, many jailbreaking programs  
19 work identically on both types devices. For example,  
20 the iPhone dev team released a jailbreak program  
21 called Absinthe earlier this year and it works on  
22 iPhones, iPads, and the iTouch.

23           So that's why we think that there are  
24 interesting and special commonalities between these  
25 two devices. There is no principled reason for

1 having an exemption for smartphones and not tablets  
2 at this point particularly given the tremendous  
3 uptake in their use.

4           Another thing that has done very well since  
5 the last Rulemaking is the practice of jailbreaking.  
6 I mentioned Absinthe, the iPhone dev team's  
7 jailbreaking program. It was released in January,  
8 and it was downloaded nearly a million times in just  
9 three days. Three days. The last time we had this  
10 Rulemaking we were aware of about a million people  
11 who had jailbroken their devices. At this point  
12 we're talking about a million people in three days.  
13 I think it's worth noting that, as I mentioned, that  
14 jailbreak applies to iPhones and iPads and to the  
15 iTouch. I can tell you about half of those downloads  
16 of Absinthe were for iPads.

17           Jay Freeman, who is here today -- he runs  
18 the independent app marketplace Cydia, where people  
19 can get independent third-party applications to run  
20 on jailbroken Apple devices, and he tells me that  
21 Cydia had downloads from nearly 50 million different  
22 jailbroken devices in the past year. We see that  
23 people are getting a lot of content from these  
24 third-party marketplaces. So everybody is doing  
25 well. Apple is doing well. The manufacturers are

1 doing well. Google is doing well, and the  
2 independent developers are doing well, too.

3           Let's turn to why this exemption should be  
4 renewed. Andrew "bunnie" Huang submitted a petition  
5 with more than 27,000 signatures supporting this  
6 exemption and also exemption 3. So we see that there  
7 is a lot of public support for this. Several hundred  
8 people filed comments in support of proposed Class 5,  
9 and some of them really showcase how the public are  
10 making beneficial, fantastic uses of the ability to  
11 jailbreak their devices. For example, I encourage  
12 you to read the comments of Kevin McCleod, who is a  
13 deaf man who rooted his Android phone in order to  
14 remove some of the more intensive applications that  
15 were installed by the carrier.

16           And the reason he wanted to do that is  
17 because he needs to use video relay software on his  
18 phone which is very resource intensive and sucks up a  
19 lot of battery power. So by rooting the phone, he  
20 was able to make it so he could run that software all  
21 day. He really underscores in his comments how this  
22 has helped him stay on a level playing field with his  
23 hearing peers at work and has really contributed to a  
24 very fulfilling professional life.

25           Also, Stephanie Hughes submitted comments.

1 She's a nurse, and she spoke about how she is able to  
2 use jailbroken iPhone for work purposes as well. She  
3 is able to track her performance and record details  
4 about her interactions with her patients, and it's  
5 been useful for her as well.

6 Tom Van Nostrand works at an Army base in  
7 the Middle East, and he talked about how he modified  
8 his jailbroken iPhone to make the flashlight turn on  
9 more quickly than Apple would otherwise let you, and  
10 that's been really important for him because when  
11 he's walking around on the Army base late at night,  
12 he might encounter scorpions or wild dogs, and we can  
13 see that's obviously a very beneficial use.

14 And last week we heard from a developer from  
15 Mozilla, and he told you why engineers need to be  
16 able to root Android devices in order to create and  
17 test software for those machines. As he told you, a  
18 company like Mozilla, which develops Firefox,  
19 wouldn't be able to develop high quality professional  
20 grade software without the legal ability to root a  
21 device.

22 There's a great deal of creativity and  
23 innovation going on, and all of this would go back  
24 under a cloud if this exemption isn't renewed. I  
25 think there are many, many beneficial uses in the



1 record which would suddenly become legally fraught if  
2 this exemption isn't granted.

3           So finally I'd like to talk very briefly  
4 just about the case against this exemption that's  
5 been made. First and foremost, I think it's a very  
6 conspicuous fact that nobody has opposed this who has  
7 a device in issue. Apple has not opposed it.  
8 Google, which provides the Android platform, hasn't  
9 opposed this. The manufacturers of the phones --  
10 HTC, Samsung, Motorola -- they haven't opposed this.  
11 They're not here today testifying. The carriers  
12 haven't opposed it. They're not here testifying.  
13 Anyone who actually has a work within the proposed  
14 class is not here testifying today. And I think that  
15 speaks volumes about the amount of harm they've  
16 suffered over the past two years since that exemption  
17 was granted. There is not a shred of evidence of  
18 harm in the record. In fact, everybody has done  
19 quite well by all indications.

20           The joint commenters have opposed this, and  
21 Mr. Metalitz is here today. It's interesting that  
22 their opposition is as minor and as circumscribed as  
23 it is. They don't challenge that users are making a  
24 fair use here. They don't even challenge three of  
25 the four statutory factors. The one that they do

1 challenge is the effect of circumventing access  
2 controls on their copyright interests.

3           Their objections are based on two articles  
4 talking about piracy, both from 2009, which predate  
5 the 2010 exemption. So I don't think that those can  
6 be reliably relied upon as evidence of harm that has  
7 actually come from the smartphone exemption granted  
8 in 2009. Basically the harm is totally speculative,  
9 and I don't see any actual evidence that there has  
10 been harm even to these clients.

11           Just to sum up, the 2010 exemption served  
12 the public interest by enabling innovation, consumer  
13 choice, and competition. We ask that the register  
14 recommend this exemption be renewed and expanded to  
15 include tablets, and I look forward to your  
16 questions.

17           Thank you.

18           MR. NEILL: Good morning.

19           My name is Art Neill, and I'm the founder of  
20 New Media Rights, which is a nonprofit organization  
21 based in San Diego. We provide a lot of one-to-one  
22 assistance to Internet users, consumers as well as  
23 independent mobile application and other software  
24 creators. So our work with folks directly is why I'm  
25 here talking to you today because we've actually seen

1 consumers on the ground trying to use these apps as  
2 well as mobile app developers that are trying to  
3 develop independently.

4           What we've seen is that jailbreaking is  
5 actually essentially over the last couple of years to  
6 creating competition and dynamism in the marketplace.  
7 As with a number of exemptions that you're all  
8 reviewing today, jailbreaking is simply a safety  
9 valve; right? It's simply a safety valve to the  
10 anti-circumvention laws. In this case the exemption  
11 that's before you allows competition in what is  
12 otherwise a series of closed systems. The exemption,  
13 we believe, proposed Class 5 should be renewed for  
14 smartphones, extended to tablets allowing consumers  
15 to jailbreak their devices.

16           Marcia mentioned that about 50 percent of  
17 folks now own -- there's about 50 percent ownership  
18 for smartphones, about 20 percent of Americans  
19 currently now own a tablet. There's an interesting  
20 statistic that I pulled up recently from cellular  
21 telephone industries is that 31 percent of consumers  
22 now access the Internet only on their cell phone  
23 which means that you've got these smartphones and  
24 tablets gaining in terms of usability and their  
25 capabilities, but there's actually an often

1 unrecognized difference between tablets and  
2 smartphones and traditional personal computers.

3           And that's that it's much easier for device  
4 manufacturers, operating system makers, and other  
5 user access to legal programs otherwise legal  
6 programs that they want to use on their smartphone or  
7 tablet. It's hard for anybody in this room to  
8 imagine their personal computer not being able to  
9 install certain types of software because the  
10 manufacturer of the computer decides that's not okay  
11 or the operating system maker decides that that's not  
12 okay. That's the system that we have for  
13 smartphones, and jailbreaking is an important outlet  
14 safety valve for that.

15           So jailbreaking provides consumers with  
16 greater control of their devices that they purchased  
17 for 5- or \$600 often, maybe \$200 for an iPhone, let's  
18 say, with a two-year commitment. But often  
19 standalone they can cost \$500 for an iPad maybe, \$600  
20 for an iPhone.

21           Jailbreaking has given consumers alternative  
22 marketplaces to obtain apps, allows consumers to gain  
23 a better understanding of their device, allows  
24 consumers to actually fully use the devices that they  
25 legally own, and in some cases jailbreaking has

1 actually been helpful to combatting censorship, and  
2 I'll go into that in a minute. I think we need to  
3 extend also the benefits that we've given to  
4 smartphone users over the last few years to tablets  
5 as well.

6           Let me talk a little about how jailbreaking  
7 increases and helps competition in the marketplace.  
8 I think the preeminent example is the proliferation  
9 of marketplaces. For example, with jailbreaking on  
10 iOS, Apple's operating system, this has led to the  
11 creation of a competing app store called Cydia, which  
12 Jay Freeman is here today. The alternative app store  
13 is only available on jailbroken iOS devices. Think  
14 about what Cydia actually hosts. They host legal,  
15 independently created apps that are not available in  
16 the official App Store due to Apple's approval  
17 process. The approval process has been criticized at  
18 times as being unpredictable, unclear, and  
19 subjective.

20           The competition provided by Cydia -- it  
21 allows Apple on one hand, which is probably the  
22 reason you don't see them today, to maintain a user  
23 experience that they want to maintain, but for users  
24 who want to, they can go ahead and make -- install  
25 otherwise legal programs they want to use on their

1 device. It kind of maintains this balance where  
2 Apple is able maintain a user experience. Users are  
3 able to make use of the device in the way that they  
4 choose.

5           One of the best examples of this may be the  
6 use of Flash on the iPhone, let's say, which is  
7 restrict by Apple. That's a business decision. They  
8 may want to use HTML5 standard in the future, and  
9 they feel that for whatever reason Flash is  
10 inappropriate for their advice and their user  
11 experience. But certain users don't appreciate that.  
12 They do want to use Flash. They're able to access  
13 otherwise legal Flash video content, otherwise legal  
14 Flash games by simply going to an alternative  
15 marketplace and having access to the Flash  
16 application on Cydia.

17           So alternative marketplaces, providing a  
18 safety valve to censorship by iOS makers, operating  
19 system makers, wireless carriers, and device  
20 manufacturers, and all those folks in the chain have  
21 some gatekeeping power, and they all have exercised  
22 it at one point or another.

23           Just as a brief example, certainly these can  
24 be arbitrary types of reinjections, but they can also  
25 be a bit politically motivated. A couple years ago

1 there was an app called iSingle Payer, which so  
2 happened to advocate for a single-payer healthcare  
3 system. This app was not allowed for having a strong  
4 political message. There was another app that --  
5 eventually actually with this app Apple did reverse  
6 its decision because there was a public outcry. Not  
7 every developer gets a public outcry about their app,  
8 right, to get it back into the store or not.

9 Another app of the political example would  
10 be Freedom Time, which was a clock that counted down  
11 to the end of President Bush's term. This was  
12 rejected apparently due to the community standards of  
13 Apple. Now, if you look at the community standards,  
14 this makes sense, right? Apps that are obscene,  
15 pornographic, offensive, defamatory, those are not  
16 allowed. But it also excludes apps that in Apple's  
17 reasonable judgment may be found to be objectionable.

18 For developers that means they need to guess  
19 what's going to be okay in Apple's reasonable  
20 judgment. And that means two things for developers.  
21 It means, A, for independent developers, that  
22 rejection comes after they've invested a lot of time  
23 and money in their application; and B, it means they  
24 need to scale back. They need to play it safe since  
25 those rejected apps may mean a lot of lost time and

1 profit. For consumers it means that content and  
2 services that are otherwise legal are unable to be  
3 accessed and that these apps are unavailable to them  
4 because the operating system or phone manufacturer  
5 simply find them objectionable. Again, it's a safety  
6 valve.

7           Apple's ability to maintain a consumer  
8 experience is actually maintained here. Apple can  
9 provide the user experience to a vast majority of  
10 users that they want to provide it, but for those who  
11 choose to have some greater control over their  
12 device, they can because of this exemption.

13           This proceeding is not just about Apple.  
14 It's broader than just Apple of course. You talk  
15 about the ability to update operating systems, let's  
16 say. So if you have an Android phone, there are many  
17 Android phones. Let's say you get an Android phone.  
18 You have a two-year contract. The responsibility for  
19 updating that device is actually given to the carrier  
20 in the Android situation. Many Android phones that  
21 are in folks hands right now are actually two, three,  
22 four versions behind the current state of the  
23 software. What that means is you're beholden to your  
24 carrier for updates to OS which can mean security  
25 flaws, which can also mean other improvements to the



1 operating system. The only way to make those  
2 improvements yourself, then, is to have access by  
3 jailbreaking.

4           Just a couple notes about giving users  
5 control of their devices. When the iPhone first came  
6 out, there was a privacy issue with an initial text  
7 message feature called SMS Preview. It just put a  
8 text message right up on screen without the user's  
9 choice, and a lot of users had an issue with it. It  
10 put the whole text message right on the screen so  
11 sometimes people could read people's text messages  
12 that they didn't want seen. It was a simple feature,  
13 but you couldn't change the user experience. You  
14 couldn't change that feature without jailbreaking.

15           The same with the iPad. When the iPad first  
16 came out, there was actually a button on the side of  
17 the iPad that locked the screen. When you turned the  
18 screen, it locked it that direction. That was  
19 changed to a mute button. Folks actually remotely --  
20 and so folks wanted to actually change it back to its  
21 original button. Only way to do that, again, was  
22 jailbreaking.

23           Jailbreaking has provided users the ability  
24 to customize their device with WinterBoard and  
25 DreamBoard, which customizes the home screen;

1 SBSettings, which allows battery control and the  
2 ability to customize their settings. People on  
3 Android would be actually familiar with that.  
4 Otherwise, there's been a -- last fall I think is a  
5 good example with the Carrier IQ spyware program, the  
6 Carrier IQ program that key-logged and recorded  
7 location and web history of users. This program was  
8 included automatically on Android and iPhone, but you  
9 only could get it removed by a remote update from the  
10 carrier. The only other way to remove this spyware  
11 program was to actually jailbreak.

12           Tablets and smartphones are quickly becoming  
13 just as powerful and useful as personal computers,  
14 and it's only logical that these devices allow users,  
15 if they desire it, the same freedom of software  
16 choice the users have enjoyed for years with personal  
17 computers.

18           MS. PALLANTE: Thank you, Art.

19           Steve.

20           MR. METALITZ: Thank you very much. Steve  
21 Metalitz, representing the joint creators and  
22 copyright owners.

23           I guess it's 30,000 to 1. I like those  
24 odds. In fact, of course, you are going to get some  
25 testimony as well next month in Washington from the

1 Business Software Alliance, one of the members of our  
2 group which, I think, includes some of the companies  
3 you referred to. Let me just briefly respond to some  
4 of the issues that have been raised.

5           This exemption does raise some of the same  
6 issues we talked about in the first panel. I'm not  
7 going to into them in great detail. There is a  
8 threshold issues, but the proponents have shown  
9 1201(f) is not applicable or any other statutory  
10 exemption. I don't think it's quite correct that our  
11 submission is limited to one or two of the ESA  
12 factors. We are also critical of the fair use  
13 analysis that the Office made in the last cycle, and  
14 we don't think that the burden of showing these are  
15 non-infringing uses has been made. That's all laid  
16 out in our submission; so I won't go into details  
17 there.

18           I guess I'd like to talk about three general  
19 issues and then a couple of specific questions about  
20 the proposed exemption. I think the first thing we  
21 have to bear in mind here is that -- or have to ask  
22 is whether the proponents have carried their burden  
23 of showing there are no alternatives to circumvention  
24 to do what they want to do. I'm not talking here  
25 about circumvention of the firmware. I'm talking

1 about running the applications that jailbreaking  
2 enables. There is not just one platform for  
3 smartphones. We heard the largest part of the market  
4 is Android, and that comes in many different flavors  
5 and many different degrees of openness or of ability  
6 to accept or to run applications that are not  
7 specifically approved by the provider.

8           There are many great applications that have  
9 been described in the previous presentation. I think  
10 the question is are there no alternatives to  
11 circumvention in order to run those applications, and  
12 we have a competitive marketplace, competitive  
13 platforms, and I don't think it's the case that the  
14 fact that one manufacturer, for example, has refused  
15 to approve a particular application means that users  
16 have no alternatives if their main goal is to run  
17 that application.

18           The second point which is related to that is  
19 the problem that the recommendation 2010 created of  
20 drawing a distinction between business interests and  
21 copyright interests and that only the latter can be  
22 recognized in this proceeding. The former as the  
23 Office defined them are not given any weight. I  
24 think it's a bit less clear than that. I think it's  
25 obvious Congress was concerned about copyright owners

1 but not just about the narrowly defined copyright  
2 interests of those owners. It's very clear,  
3 particularly after the MDY decision, that  
4 infringement is not or even a causal relationship to  
5 infringement is not an element of 1201(a) and the  
6 ability to protect access controls.

7           And it's also not true, contrary to the  
8 assertion by EFF in their reply comments, that a  
9 violation of 1201(a) can only be invoked by the  
10 copyright owner. In fact, if you look at the  
11 totality of the litigation that's been brought,  
12 probably the majority of it has been brought by  
13 providers of access control technologies who are  
14 going after people who are using their tools to  
15 circumvent, particularly in cable and satellite  
16 piracy situations. So it's not tied to -- in other  
17 words, people who have no copyright interest, if you  
18 will, in the material that's being accessed do have  
19 the ability to enforce Section 1201. That was  
20 Congress' determination, and so for the Office to  
21 draw that distinction, it truly has no basis in the  
22 statute. We think it was a mistake and should be  
23 revisited.

24           The third aspect of this, again, related to  
25 that is this issue of proprietary platforms.

1 Mr. Neill said he can't imagine a situation in which  
2 you're not able to run a particular program on a  
3 computer because of the way that the operating system  
4 is configured. I think I'm quoting him correctly.  
5 You can't install a particular program X on  
6 platform Y. I find that very easy to imagine. Maybe  
7 that's because I'm a lot older than Mr. Neill because  
8 that used to be the predominant model for how  
9 computers were designed and marketed.

10 I think the market has probably rendered,  
11 certainly in the personal computer area, a fairly  
12 strong verdict that that's not a viable business  
13 model to follow. But while I agree that smartphones  
14 and tablets are computers and it's harder and harder  
15 to distinguish between them, in fact, those markets  
16 are different, and I don't think it's conclusive that  
17 that's going to be the outcome in the smartphone or  
18 tablet market. In any case, it's irrelevant. That's  
19 a decision the market should be making. That's not a  
20 decision the Copyright Office should be involved in,  
21 enforcing and putting its thumb on the scale in  
22 opposition to proprietary platforms and insisting  
23 that those who try to offer them really don't have  
24 the tool of Section 1201 available to them in order  
25 to try to enforce that and to promote that business

1 model.

2 I mean in the first panel we had the example  
3 of someone who wants to use their eBook to play  
4 music. That's really exactly the same situation as  
5 here. It's not something the Copyright Office has  
6 the authority in this rulemaking proceeding to say  
7 that that is not -- that a proprietary system is not  
8 valid and cannot be enforced under Section 1201.

9 Again, I think the market may well render that  
10 verdict. I'm not here to defend any particular type  
11 of model. I think it's clear that that steps far  
12 beyond what this proceeding was set up for.

13 I do have to raise the question about the  
14 indication of censorship. I think all of us know  
15 that that epithet has really been misused a great  
16 deal lately in conversations about copyright. I  
17 would be very cautious before saying a decision by a  
18 provider -- I don't know anything about the facts  
19 that were just raised about Apple, but I don't think  
20 that's censorship. I think that's a decision by a  
21 provider as to which application it wishes to allow.  
22 Although the proponents seem to be okay if those  
23 applications are pornographic or defamatory or  
24 something else in the judgment of the provider, if  
25 it's something else, some other reason that's being

1 used to keep them out, then that becomes censorship.  
2 I think people need to be very careful with how that  
3 phrase or that epithet is used in this debate about  
4 copyright policy.

5           Then finally I just want to mention two or  
6 three smaller but I think significant questions about  
7 the proposed exemption. One is the exemption that  
8 exist right now says that -- I don't have it right in  
9 front of me, but it says that you can circumvent the  
10 access controls if your sole purpose is to enable  
11 intraoperability of applications with computer  
12 programs. Now I see the word "sole" has fallen away.  
13 I don't know quite why that is or what the  
14 justification would be. In some of the scenarios we  
15 were talking about in the earlier panel where  
16 circumvention is carried out for one ostensible  
17 purpose and then used for another. I think that  
18 would be a bit of a concern.

19           The second is the word "tablet." I think I  
20 know what a tablet is, but I think you have to define  
21 that. In order to have an effective exemption, you  
22 would have to define what a tablet is the way a  
23 telephone handset was defined in some of the previous  
24 rounds, and the proponents have never put forward a  
25 definition of a tablet. One man's tablet may be



1 another person's something else, personal computer,  
2 and you can get an exemption for it and where is the  
3 dividing line. So I think that needs to be  
4 clarified.

5           Finally in terms of the impact on piracy,  
6 I'm not here to represent that this is the same as  
7 the situation with regard to exemption 3. Perhaps  
8 we're dealing here with a Jack Russell terrier rather  
9 than a Great Dane coming through the dog door, but I  
10 think there is certainly evidence that this exemption  
11 has had an impact on increasing piracy, and I think  
12 that needs to be taken into account along with all  
13 the other factors as the Copyright Office makes its  
14 recommendation.

15           Thank you.

16           MS. PALLANTE: Thank you, Steve.

17           We're going to jump right into our questions  
18 now.

19           MR. KASUNIC: Marcia, I would think it would  
20 be prudent to respond to the last report of what  
21 Steve just said regarding the scope of the exemption  
22 particularly the word "sole" being dropped and also  
23 clarify what you believe. So the floor is yours.

24           MS. HOFMANN: Sure. He has said quite a  
25 bit. I'm going to respond to the things I think are

1 the most important.

2           With respect to the dropping of the word  
3 "sole," quite frankly, we think "the sole purpose"  
4 and "the purpose" is the same thing. We just think  
5 it was a word that was superfluous, and we would have  
6 no problem with the Copyright Office recommending  
7 that it be put back in there. That's fine by us.  
8 We're not trying to gain the system or anything. We  
9 have drawn our exemption request narrowly so that we  
10 are talking about situations where people obtain  
11 intraoperability for the purpose of legitimate uses.  
12 We're not trying to sneak infringement in there in  
13 any way, shape, or form.

14           I also wanted to respond to the point that  
15 there are varying degrees of openness in this system,  
16 and that's true. The Android system, for example, is  
17 more open than Apple's system. Among Android devices  
18 there are varying degrees of openness. And so the  
19 argument is that there are market alternatives here  
20 because you can choose an Android phone with an  
21 unlocked loader, for example, if you feel that  
22 openness and intraoperability is very important for  
23 you in your use of your device.

24           MR. KASUNIC: By "openness" you mean the  
25 owner of the device has the ability to do what he

1 wants with that device in terms of the applications  
2 to run?

3 MS. HOFMANN: Exactly. Install third-party  
4 applications.

5 The Android platform allows people to  
6 install unauthorized apps. It doesn't raise the  
7 scope of the problem that the iPhone and the iPad do,  
8 but the problem is that phones with unlocked loaders  
9 still present some issues especially for developers.  
10 Brad Lassey, who did a tech demo last week, showed  
11 you why it's important for developers to have access  
12 to -- to have root access to the phone so that they  
13 can see how a program is running on the phone, and  
14 they can debug it and make sure that the program is  
15 running properly. So even devices with an unlocked  
16 loader don't have -- they don't give you full access  
17 to every component of the phone.

18 If you are a developer who is trying to  
19 develop an application that is going to work on  
20 multiple phones, one with unlocked boot loaders and  
21 one with locked boot loaders, you're going to have a  
22 very difficult time making sure that the program runs  
23 properly on a phone with a locked boot loader if  
24 you're not allowed to lock it. The idea that people  
25 who really care about this problem can just use a

1 phone with an unlocked boot loader have a solution in  
2 the market really isn't realistic especially for  
3 purposes of development.

4 MR. KASUNIC: Let's go back to some of the  
5 other issues about the scope of the exemption. Now,  
6 I believe it was raised -- and clarify if it  
7 wasn't -- that it's not only for tablets that are  
8 considered iPads, but it also includes readers like  
9 the Nook and the Kindle?

10 MS. HOFMANN: Yes.

11 MR. GOLANT: What's the adverse effects that  
12 you've demonstrated in the record for those people  
13 who want to so-called "jailbreak" those particular  
14 devices?

15 MS. HOFMANN: The reason we chose to focus  
16 on tablets, as I mentioned earlier, we feel like  
17 these are devices that have very similar  
18 characteristics to iPhones. The problem that we're  
19 trying to focus on here is the closed nature of the  
20 environment. The fact that many of these devices  
21 restrict what programs you're allowed to install and  
22 use. Also, the fact that there are these locks that  
23 restrict what you can do with the device. That's a  
24 problem that's certainly manifested first with  
25 smartphones, but it's something that continues in the

1 tablet environment because they are devices that are  
2 mobile and handheld and have many computing  
3 functions.

4           You purchase applications from a third  
5 party, often in the case of Apple, for example, the  
6 party that actually manufactures the device. That's  
7 not always the case, but that's often the case. So  
8 there's a closed system, and we feel like this is a  
9 situation where we've got devices that are very  
10 equivalent, and there's no principled reason to say,  
11 "Okay. It's all fine for you to jailbreak your  
12 smartphone, but your tablet is another beast  
13 entirely, and we're just not going to allow you to  
14 have any sort of access that you would otherwise have  
15 with your iPhone."

16           Now, as for smartphones, I think the problem  
17 is demonstrating harm in the last three years is kind  
18 of acute because, of course, we've had an exemption  
19 in the last three years. So I think that evidence of  
20 the flourishing of that market is important and the  
21 flourishing of alternative places to get applications  
22 and alternative development of applications.

23           The problem is for tablet owners, I think,  
24 the spectre of legal liability. I think we have a  
25 situation where they would like to make the same uses

1 of their devices as owners of smartphones, or they  
2 would like to make the same use of their iPad that  
3 they make of their iPhone, and legally it's unclear  
4 whether they can do that. I think that that has a  
5 chilling effect.

6 MR. GOLANT: Are the stores dedicated to  
7 eReaders and tablets as there are for iPhones and  
8 other mobile devices like it?

9 MS. HOFMANN: For eReaders and tablets?

10 MR. KASUNIC: If you go to Cydia, is that  
11 solely for iPhones, ones that were included in the  
12 last exemption, or can you get applications for other  
13 devices there too?

14 MS. HOFMANN: I know you can get  
15 applications there for iPhones, iPads, and the iTouch  
16 which is very similar to an iPhone, but it just  
17 doesn't have a calling capability. I don't believe  
18 you can get Android applications there.

19 Is that right, Jay.

20 MR. FREEMAN: There are alternatives to  
21 Cydia on Android.

22 MS. HOFMANN: There are alternatives to  
23 Cydia on Android.

24 MR. KASUNIC: Okay.

25 MS. PALLANTE: Steve, on Marcia's previous

1 point she said it's not really just about the fact  
2 that consumers have a choice when choosing a phone  
3 that has an open platform or not but the fact that  
4 developers need the access to produce better quality  
5 applications. Could you respond to that?

6 MR. METALITZ: Yes, I guess I'd respond in  
7 two ways. If that's the area where there are no  
8 alternatives, then the exemption should be limited to  
9 that, and it should be developers that would have the  
10 ability to do this or do it for the purpose of  
11 development as was shown in the tech demo.

12 The other point I think is -- I'm afraid  
13 I've just lost my other point. I guess my first one  
14 was so eloquent, but I will come right back to it.  
15 Sorry about that.

16 MR. GOLANT: Let's go back to the beginning  
17 as we did in the last session and get some  
18 clarification on some definitions.

19 I remember at tech day we had Dan discuss  
20 what jailbreaking is meaning it allows administrative  
21 access to the underlying system. For persons who are  
22 not computer literate, as I would love to be, what  
23 does "administrative access" mean?

24 MS. HOFMANN: It means full root access.  
25 Full root access. Access to the components of the

1 device.

2 MR. GOLANT: I read in the comments some  
3 people use the term "rooting" versus "jailbreaking."  
4 Is there a difference in what those terms mean?

5 MS. HOFMANN: The process is the same.  
6 "Jailbreaking" is the term people tend to use for  
7 iPhones, and "rooting" is a term that people tend to  
8 use for Android devices, but the basic idea is the  
9 same, and it is to get full administrative access to  
10 the device.

11 MR. GOLANT: We've heard about how easy it  
12 was to jailbreak a Wii at tech day. Is it as easy to  
13 jailbreak devices in this class as it was for video  
14 game systems?

15 MS. HOFMANN: Yes, it's a matter of  
16 downloading a tool that's distributed by another  
17 party and running the jailbreaking program on your  
18 device. As I mentioned before, many of the jailbreak  
19 programs work on multiple devices. For example,  
20 Absinthe, the jailbreak program I mentioned that's  
21 been produced and was released in January by the  
22 iPhone dev team, works on a certain operating system  
23 used by the iPhone and the iPad and the iTouch.

24 MR. GOLANT: We've learned in the last three  
25 years, at least, as we observed for Apple that they



1 oftentimes send updates that might eliminate whatever  
2 jailbroken software you might have downloaded.

3 Does Google or the carriers that work with  
4 Google do the same? Do they release updates that  
5 would obliterate any sort of jailbreak that was for  
6 that particular device?

7 MS. HOFMANN: That's my understanding, yes.

8 MR. GOLANT: So it's a race between the  
9 consumer and the company in terms of keeping up if  
10 they want to have a jailbroken device being open in a  
11 sense?

12 MS. HOFMANN: Right. I think that's a  
13 burden that the consumer takes on when the consumer  
14 decides this is what he or she wants to do with his  
15 or her device.

16 MR. KASUNIC: I would assume, as much, that  
17 Apple made clear that if you jailbreak, you void the  
18 warranty. Would the same go for an Android device  
19 that you know?

20 MS. HOFMANN: I believe so. I think that  
21 would likely void -- well, that would void the  
22 manufacturer's warranty if that's the position the  
23 manufacturer takes. My understanding is that Google  
24 doesn't have a position on that.

25 MR. GOLANT: Okay. I was trying to look in

1 the record to see, and that's why I'm asking these  
2 questions now.

3           Turning to Steve, I have a couple of  
4 questions, but do you want to respond to something  
5 first?

6           MR. METALITZ: I think I can respond to  
7 Maria's earlier question. I apologize for that  
8 lapse.

9           I think in terms of the market impact on the  
10 developer, I think that's a market question. There  
11 is no God-given right to sell a Chevy at a Ford  
12 dealer. Similarly, if you've got a great product and  
13 you want to be able to use it -- if you develop a  
14 great product and you want to be able to sell it to  
15 people who have an iPhone, just for example, if Apple  
16 decides not to do that, then you only have -- that  
17 means you only have -- I think the figure was  
18 68 percent of the market that you can reach, the  
19 non-Apple users. I think this is for the smartphone  
20 market. I'm not sure what the numbers are for  
21 tablets because I don't know what's included in the  
22 category of tablets.

23           That's still a pretty good market, and if  
24 you've got a great application, one of two things is  
25 going to happen: Either there will be market

1 pressure on Apple to allow that application to be  
2 installed on an iPhone, or if it's such a great  
3 application, people may say, "Gee, maybe I'm better  
4 off without an iPhone, and I should have a different  
5 type of phone that runs this application."

6 MS. PALLANTE: I think in fairness to the  
7 point, though, I think the point was we won't get the  
8 great applications in the first place. I think that  
9 was your point.

10 MS. HOFMANN: May I respond to his point? I  
11 think Mozilla is a very good example here to discuss.  
12 Mozilla produces the Firefox browser. In the  
13 personal computing space, they have a 25 percent  
14 market share. There is no Firefox browser for Apple  
15 because Apple doesn't allow other browsers. So  
16 Mozilla develops a version of Firefox for Android  
17 phones. If Mozilla could only develop that for a  
18 certain class of Android phones, those with unlocked  
19 boot loaders, then that would further limit the  
20 number of devices that could install and use that  
21 application. As Mozilla said in the tech demo last  
22 week, if they didn't have that full administrative  
23 access, they wouldn't be able to develop a high  
24 quality product for phones that may have an open  
25 platform but have restrictions on the hardware of the

1 device that manufacturer has installed.

2           So I think it's pretty clear that without  
3 this exemption, there's a very good market effect on  
4 developers like that, even developers who, in a freer  
5 environment, are able to have a very big market  
6 impact.

7           MR. METALITZ: Well, as we heard earlier  
8 this morning, Congress is aware of that. Congress is  
9 sensitive to that. Congress adopted 1201(f) to deal  
10 with that problem. Therefore, that's the place to  
11 look to solve that problem and not this proceeding.

12           MS. HOFMANN: But Congress did that almost  
13 15 years ago, and it created this safety valve in  
14 this proceeding, I think, exactly to address  
15 situations like this because Congress could not have  
16 foreseen them.

17           MR. METALITZ: I think what this panel --  
18 what the Office has said in the past is that when  
19 Congress has dealt with a subject and it doesn't  
20 address a particular point at issue, that's evidence  
21 that perhaps they didn't intend to cover it. It's  
22 not conclusive, and I'm not objecting to the Office  
23 looking at it, but it's a factor. If you're talking  
24 about developers and you have an exemption that goes  
25 way beyond developers, a proposed exemption, but you

1 also have 1201(f) to look at which clearly is  
2 targeted to developers.

3 MR. GOLANT: Hold on. I wanted to ask you,  
4 Marcia, you had said in your closing statements about  
5 the public interest, and knowing myself that that is  
6 sort of standard what the FCC has in determining  
7 broadcast rules, is that a particular standard that  
8 we should be paying attention to? Are we supposed to  
9 look at the public interest when entertaining  
10 exemption requests, or is that outside the scope of  
11 this proceeding?

12 MS. HOFMANN: I think that the Copyright Act  
13 is intended to serve certain goals, and I think one  
14 of them is the general benefit to the public of a  
15 certain use. I certainly know that that is relevant  
16 to a fair use analysis, particularly factor 1, the  
17 character and purpose of the use. I think that  
18 that's where this is most relevant here. I think  
19 that making it possible for users to install  
20 unauthorized third-party applications on their phones  
21 stimulates the creative market.

22 I think there are applications out there  
23 that wouldn't otherwise exist which are creative  
24 works with their own value. I think it enables the  
25 user to make innovative new uses of their phone that

1 perhaps weren't otherwise considered by the  
2 manufacturer. I think that that's where that factor  
3 really comes into this discussion.

4 MR. GOLANT: Okay. That leads into my last  
5 question for the panel here. Please describe for us  
6 what you meant when you said that we got it wrong in  
7 2010 with regard to the fair use analysis. I'd like  
8 to hear more about how that all worked out.

9 MR. METALITZ: Okay. While I look for what  
10 we said about that this time, I will just say that  
11 I'm not opposed to the -- it makes sense for the  
12 Office to take public interest into account. I think  
13 the public interest may be a little more -- a  
14 complete look at the public interest also includes  
15 the question of whether a government agency should be  
16 dictating to a private party that it must have an  
17 open platform. In effect, that's what grading this  
18 exemption does. It's taking way this particular  
19 tool, legal tool, for trying to maintain a  
20 proprietary environment. I recognize that's not the  
21 only tool. There are technological tools. There are  
22 a lot of other -- that's only part of the picture.  
23 But I think that has to be taken into account in the  
24 public interest analysis.

25 I think we've set out in footnote 32 of our

1 submission where we think the office went wrong on  
2 the fair use analysis last time. This is clearly not  
3 a transformative use. The firmware -- the operating  
4 system is being used precisely for the purpose for  
5 which it was designed. Obviously, use doesn't have  
6 to be transformative in order for it to be fair, but  
7 most of the modern jurisprudence does look at that as  
8 an important factor.

9 I think the treatment of operating system  
10 software which is fully protected under copyright but  
11 the way the Office approached it in its analysis two  
12 years ago really gives a very extremely limited -- I  
13 don't know what's left of the adaptation right in an  
14 operating system if what the Office says is the law.  
15 Basically someone can take 7,999,950 bytes, copy  
16 them, and change 50 bytes, and somehow that's a fair  
17 use, or rather I should say that doesn't even lead to  
18 a negative finding on the amount taken and on the  
19 nature of the work. I mean I understand that  
20 operating systems are functional works, but I think  
21 this analysis kind of drives the value of  
22 copyrighting an operating system pretty much down to  
23 the ground, and I think that's probably mistaken.

24 So we would encourage you to look, again, in  
25 this de novo proceeding at that question. I don't

1 know if the facts are different in tablets because I  
2 don't know what's encompassed in tablets, and we  
3 haven't heard anything about applications that are  
4 dying on the vine for eBook readers and Nook and  
5 Kindle and so forth. Maybe the record is there, and  
6 it hasn't been discussed today. But I just think  
7 this is an area where the Office should re-look at  
8 its analysis from last time.

9 MR. CARSON: Can I say something in response  
10 to that really quick? First of all, in regard to  
11 eBook readers and Nooks and Kindle Fire and things  
12 like that, Kindle Fire is actually a sort of flavor  
13 of Android for what it's worth, and there is sort of  
14 a different marketplace; so this exemption would  
15 certainly apply to independently created apps in that  
16 respect. When we're talking about the public  
17 interest -- Marcia and Steve both talked about the  
18 public interest. I think the fundamental thing to  
19 remember when you think about public interest is the  
20 basic purpose of U.S. Copyright Law, which comes from  
21 Article I, Section 8, which is all about promoting  
22 the progress of science and useful art.

23 And the reason I bring it up is because what  
24 it means is in the United States our goal, as the  
25 Supreme Court has reiterated over and over again, is



1 to get works produced. It's not solely about  
2 protecting a monopoly and a copyright-holder. It's  
3 about the utilitarian aspect of getting works  
4 produced. If you don't provide the jailbreak  
5 exemption, we've hurt this whole ecosystem that  
6 exists. You're cutting off that ecosystem. So in  
7 regards to public interest, you think about the  
8 fundamental place from which the Copyright Act  
9 springs which is Section I, Article 8.

10           Just one last thing to mention about, I  
11 actually am old enough to have used the very original  
12 PCs and Macs from the early '80s and late '70s, the  
13 original consumer-based computers that were  
14 available. Most of those came, as I very well  
15 remember, even though I was only three or four years  
16 old, most of those came with a blank prompt, right,  
17 just a blinking prompt, and you simply installed what  
18 software you wanted to those computers. So I would  
19 disagree with the history of computers. As the  
20 personal computer, the history is pretty clear out  
21 there in terms of how open those computers were from  
22 the beginning.

23           MR. METALITZ: I'm glad to see the return of  
24 the ecosystem here, and I guess the ecosystem means  
25 one this in exemption 3 where the proponents are

1 concerned about the effect on the video game  
2 ecosystem, and now it means something else in  
3 exemption 5 where the proponents are arguing for the  
4 application ecosystem. I certainly agree that the  
5 goal of copyright is to promote the development of  
6 works. But I don't know that that necessarily means  
7 that it is inconsistent with copyright or somehow  
8 anti-copyright for a company to choose to -- to  
9 choose which applications can run on its platform and  
10 which works it will make available to its users.

11 MR. NEILL: On the second part of that, they  
12 have all the right in the world, right, to make  
13 available what works they choose to make available in  
14 the Android market or in the iPhone app store. They  
15 make those decisions; right? They make those  
16 decisions in those marketplaces, and that's why there  
17 are other options. Nobody is forcing Apple to change  
18 their practices in their marketplace. This exemption  
19 has nothing to do with that. This exemption is all  
20 about simply providing alternative marketplaces for  
21 folks.

22 MR. CARSON: Just a couple questions. First  
23 of all, Marcia, Steve said -- and I assume it's true,  
24 but I just want confirmation. You've not offered any  
25 definition of what a tablet is. You've just sort of

1 used the word "tablet" and leave it undefined. Is  
2 that correct?

3 MS. HOFMANN: Yeah, to the extent that we  
4 tried to define the word "tablet," I think our papers  
5 lay out the types of devices that we think are  
6 encompassed here. You know, the word "tablet" is one  
7 that is, I think -- it doesn't have a defined term,  
8 and this is a market that's very much developing. I  
9 mean there are -- two years ago there was basically  
10 one tablet out there on the marketed which was  
11 extremely successful, and now there are about 70.  
12 New devices are being made all the time which I think  
13 might be a part of this class.

14 I think the thing that's important to focus  
15 on when we try to decide what is a tablet is what  
16 commonalities they share. I think what it comes down  
17 to at the end of the day is we're talking about these  
18 portable handheld computing devices that are subject  
19 to these locked down marketplaces for works. What  
20 we're asking for is for people to be able to go to  
21 these alternative marketplaces if that's what they so  
22 wish, and to the extent that they need to circumvent  
23 any sort of a technological protection measure on the  
24 device to do that, then we're asking that they be  
25 able to do that.

1 MR. CARSON: I've heard, for example,  
2 references to Kindle, and I know some of the newer  
3 Kindle devices are described, but for example, my  
4 Kindle is a Kindle DX. It's basically good for one  
5 thing, reading eBooks. You can't do anything else  
6 with it. I can well imagine there are very different  
7 considerations with respect to that particular device  
8 than there is to a tablet that I might off the top of  
9 my head define as a multipurpose mobile computing  
10 device for which there might arguably be stronger  
11 arguments than there would be with respect to a  
12 single-purpose device that has someone marketing  
13 eBooks which has particular access controls on them  
14 to prevent piracy. Off the top of my head, I can  
15 think of less compelling reasons much less think of  
16 any reasons why it's so important to be able to  
17 jailbreak those.

18 So if you could help us out, either off the  
19 top of your head or something you can give us in  
20 writing perhaps in the next week so we have an  
21 opportunity to test it at the next hearing whether  
22 it's a definition or a list of the characteristics  
23 that you think are those which are important so that  
24 we don't just -- if we were choose to issue an  
25 exemption along the lines of what you're requesting,

1 we don't just use the word  
2 "tablets." But we flesh it out a bit so everyone has  
3 an understanding of what is or isn't within the scope  
4 that. That would be very helpful.

5 MS. HOFMANN: I would certainly do that, but  
6 if I could respond just briefly, let me give you a  
7 use scenario. I have a Kindle which I enjoy very  
8 much and which is useful basically for reading books.  
9 What if I wanted to install an e-mail application on  
10 it so that every so often, if I wished to, I could  
11 interrupt my reading and check my e-mail.

12 Basically what we're asking for is for  
13 people to be able to install that kind of application  
14 on their device if they so wish to do that.

15 MR. CARSON: And then the one question that  
16 arises to me -- and maybe the answer is no one's come  
17 forward to oppose it, but I'm not quite sure how  
18 clear the implications have been made thus far --  
19 would be, well, if in jailbreaking it you could put  
20 that e-mail device on it without doing any harm to  
21 the protection measures there that protect the  
22 literary works that are on there which is the primary  
23 purpose of it, that might be one thing.

24 But if by jailbreaking you suddenly open up  
25 everything on it, there are some very important

1 copyright concerns that might be militating against  
2 that. I don't know that we've got a record in front  
3 of us that helps us understand the pros and cons of  
4 that. I'm not sure, as I said, whether in your  
5 initial proposal, which arguably was a bit vague with  
6 respect to how broad it was, whether it was made  
7 clear that that would -- that this proposal would  
8 affect what is essentially a single-purpose device  
9 and is designed to offer literary works in a  
10 protected atmosphere which, under your proposal,  
11 might jeopardize that protected atmosphere in a way  
12 that you may or may not care about but that  
13 publishers might care about.

14 MS. HOFMANN: I think it's as we discussed  
15 this morning. The exemption that we're asking for is  
16 for people to be able to jailbreak their devices, to  
17 make them intraoperable with independent third-party  
18 software, and use it for non-infringing uses. To the  
19 extent somebody decides to jailbreak a device for  
20 purposes of infringement, this simply wouldn't apply.  
21 It wouldn't apply.

22 MS. PALLANTE: When you're responding to the  
23 characteristics that David has asked you for, can you  
24 also talk about even within one manufacturing brand.  
25 The Kindle has different price points for different

1 products, and Kindle Fire does have many uses now,  
2 you can go to e-mail and get a whole lot more than  
3 just books. We would need to know what would be the  
4 perspective of the manufacturer on that with respect  
5 to their careful orchestrating of price points as  
6 well.

7 MS. HOFMANN: You're hoping I could respond  
8 to that?

9 MS. PALLANTE: No, when you define "tablet"  
10 for us, you can take that into account too.

11 MS. HOFMANN: Of course.

12 MR. CARSON: Steve, I have a question for  
13 you. I want to be sure I heard something you said  
14 clearly, and if I did, I'd like you to elaborate. I  
15 think I heard you say the existing exemption has had  
16 an impact with respect to increasing piracy. Is that  
17 what you said?

18 MR. METALITZ: I think it's enabled pirate  
19 applications to be used on these devices on the  
20 smartphones to which it applies now.

21 MR. CARSON: Maybe you've already presented  
22 stuff in the record that I haven't looked at, but  
23 what's the evidence of that?

24 MR. METALITZ: We have some links in the  
25 record, and as Ms. Hofmann pointed out, they're not

1 the most current, and we can certainly try to give  
2 you some more current information on that. But I  
3 think there has been that impact that needs to be  
4 taken into account.

5 MR. CARSON: This is the 1999 article?

6 MR. METALITZ: 2009. I went back and  
7 looked, and she's correct. They not only predate  
8 your -- your recommendation actually predated the  
9 hearing; so we need to update that.

10 MR. CARSON: Okay.

11 MR. KASUNIC: And I think following up on  
12 that in particular, you distinguished this proposal  
13 from the video game consoles in the last one because  
14 of the -- perhaps because of the extent of  
15 copyrighted works that are being implicated. If  
16 there's any distinction in or on either side in terms  
17 of information about distinctions between those works  
18 that are available on cellular phones like the iPhone  
19 or the Android versus some of the tablets and knowing  
20 exactly what the scope of those tablets are would be  
21 important to even understand that aspect of it. So  
22 if we're talking about an eBook reader specifically,  
23 there are certain issues that might arise from that.

24 I guess one thing to the extent there's any  
25 knowledge on it within -- how is this somewhat



1 resolved within the context of these particular kind  
2 of applications, the apps that are contained on, for  
3 instance, an iPad? So if you loaded onto your iPad a  
4 Kindle app, it would seem like even though you are  
5 adding -- you had enabled yourself to add new apps to  
6 the iPad, that it wouldn't necessarily affect any of  
7 the protections that are internal to the Kindle app.

8           Did anyone understand that? So the fact  
9 that the applications themselves in time sometimes  
10 protect the copyrighted work so we have more discreet  
11 protection going on within the overall device, and  
12 that was one of the problems we were seeing  
13 potentially in the video game console where there  
14 wasn't that kind of granular protection.

15           So are you aware of that? Is that something  
16 that you think would tend to decrease the adverse  
17 effects on various types of works that maybe are  
18 already within the safe ecosystem but then that would  
19 be jailbroken or breached. Would jailbreaking affect  
20 those in any way?

21           MS. HOFMANN: The exemption we're requesting  
22 would only let people jailbreak to get administrative  
23 access to the device. So it would have no effect on  
24 any technological protection measure that protects  
25 content on the device separately. So those would

1 absolutely be in place, and this exemption would not  
2 reach those. I think in that kind of situation that  
3 content would still be protected, and if somebody  
4 were to circumvent an access control at that point,  
5 that would be a violation of 1201.

6 MR. KASUNIC: I think that from the fact  
7 that we have different questions, that we'll probably  
8 be asking for certain follow-up and be putting these  
9 into specific questions we'll be sending out. One of  
10 the things that would be useful to know too is in  
11 distinguishing between those two types of devices. A  
12 lot of the record we had in the last rulemaking and a  
13 lot of the analysis was all based on the smartphones.  
14 So having some distinctions, I think we'll be sending  
15 out some questions in addition to define and have  
16 exactly what potential effects may be for particular  
17 types of tablets.

18 Just getting back to the -- since all of  
19 this would be based on -- any kind of exemption would  
20 be based on the question of whether the underlying  
21 use is non-infringing and given that we have some  
22 critiques of that analysis, I just want to clarify a  
23 little bit about the transformative argument and what  
24 you were taking issue with the last time around. It  
25 seems to me to be the case you were taking issue

1 primarily with a sentence that said because these --  
2 or two, that because are -- this use is for the same  
3 purpose for which the device was intended, so that  
4 would be something that would not be transformative  
5 because it's for the same purpose.

6           But aren't we also talking about in this  
7 context when -- and so the same purpose we're  
8 discussing is to be able to play apps on the iPhone  
9 or on the Droid or some other smartphone. Isn't  
10 another element of the transformative purpose,  
11 though, here the intraoperability issue? So the fact  
12 that yes, it's for the same purpose but for the fact  
13 that these are locking out certain types of works  
14 that are in furtherance of that particular purpose of  
15 being able to render apps that this is enabling  
16 intraoperability.

17           So isn't intraoperability a different  
18 purpose from the original purpose? So on one hand  
19 there's the same purpose of being able to play apps,  
20 but the exemption here and the non-infringing use  
21 being argued is a reverse engineering and  
22 intraoperability issues. So the two are both part of  
23 the same package; so your criticism is all directed  
24 at one part of that, the same use aspect.

25           MR. METALITZ: Yeah, I was reacting to what

1 you said last time which was "The proponents of the  
2 exemption make no claim of transformative use, and in  
3 light of the modest nature of the modification to the  
4 Apple firmware" -- remember there's only 50 bytes out  
5 of 8 million -- "it is unlikely that they would be  
6 considered transformative. However, use need not be  
7 transformative to be a fair use," which is true. I'm  
8 just highlighting the fact that increasingly we do  
9 look to transformativeness as an important aspect of  
10 the first factor.

11 MR. KASUNIC: And we have looked at that,  
12 too, in terms of reverse engineering and  
13 intraoperability issues. We've looked at that  
14 general framework, not putting aside.

15 MR. METALITZ: I'm not really able to  
16 respond comprehensively, but I think if you go back  
17 and look at the earlier intraoperability cases, they  
18 are finding it's not a transformative use.

19 MR. KASUNIC: We can look into it. It's not  
20 my recollection.

21 MR. METALITZ: You could be right.

22 MS. PALLANTE: So I think we're finished  
23 with the questions. Would the witnesses like to say  
24 anything in closing?

25 MR. GOLANT: Thank you for listening.

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012

1 Thank you, and we'll resume at 1:30.

2 (Luncheon recess taken at 11:53 p.m.)

3

4 ----oOo----

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1           First, let's talk about preserving the  
2 existing protections. As the record I think amply  
3 shows, the remix video continues to be an essential  
4 form of political and artistic expression, one that  
5 truly has hit the mainstream. Teenagers, young  
6 adults, and even a few of us older folks, 13 percent  
7 of Americans, are making and sharing remix videos for  
8 all kinds of criticism and commentary. 2- to 6,000  
9 videos continue to be uploaded to YouTube every day  
10 according to YouTube ethnographer -- I so envy that  
11 job -- Michael Wesch. Fan videos are being used in  
12 all kinds of circumstances such as educational forums  
13 to help students learn about the politics of gender  
14 and color in mass media.

15           We're seeing this form of culture has really  
16 hit the mainstream and also is currently being used  
17 in a political context. It seems to me you all and  
18 your predecessor Marybeth Peters should be commended  
19 for clearing the way and removing the legal cloud  
20 that was inhibiting and hanging over these uses,  
21 these clear fair uses. Let me say that first. I  
22 think that it is indisputable that the kinds of  
23 videos that I'm talking about are fair uses. We have  
24 many, many examples in the record of that.

25           I would just point to, to grab one, Joe

1 Sabia's "Primetime Terror." I think simply no  
2 question that that video created by the Lear Center  
3 is protected by the fair use doctrine and rightly so.  
4 I would point out critics of our proposed exemptions  
5 didn't manage to muster any evidence or argument that  
6 the examples we put into the record weren't fair  
7 uses. That's there. That's accomplished. We have  
8 evidence.

9           We also have evidence that removing that  
10 cloud has had a tremendously beneficial effect. The  
11 Organization of Transformative Works will tell you in  
12 greater detail next week that they're hearing from  
13 remixers who are saying we are no longer afraid to  
14 counternotify when we get a DMCA takedown notice,  
15 which is precisely what we talked about last time.  
16 We're not afraid to dispute a content ID flag. We  
17 are not afraid to defend our fair use rights. That's  
18 wonderful. That's exactly what these rulemaking  
19 proceedings are supposed to accomplish.

20           This is particularly important for  
21 marginalized communities such as people of color and  
22 LGBT community. What they are seeing is their speech  
23 is being affirmed as legitimate. I think we're going  
24 to hear more testimony next week about whether  
25 alternatives are available, but what we are hearing



1 is that alternatives are woefully insufficient, and  
2 we have that testimony in the record about that.

3           Opponents of renewing the exemption also  
4 suggest this is a false worry. They shouldn't have  
5 been afraid in the first place. Contact owners  
6 rarely target individual art. That may be true, but  
7 "rarely" is not "never." It could change at any  
8 time. If you had asked most people in 2002 whether  
9 the record companies were going to sue thousands of  
10 individual music fans, they would have said, "No, of  
11 course, not." But that changed, didn't it? Again,  
12 there's no evidence in the record, not one jot, that  
13 the existing exemption has in any way impeded the  
14 distribution of motion pictures. So let's keep that.

15           Let me turn now why we should build on that  
16 existing exemption in two ways. First, it should be  
17 clear to include works that have a commercial aspect.  
18 This is to accommodate the new reality. As the remix  
19 culture goes mainstream, professional remix artists  
20 are emerging such as Joe Sabia. He's a classic  
21 example. He was paid for his work for the Lear  
22 Center, but his work was still fair use. No question  
23 about that.

24           Other folks may, for example, make their  
25 videos and put them up on a blog, but they keep the

1 lights on by running a few ads. But if they get hit  
2 with a takedown cease and desist or some other legal  
3 challenge, that lawyer is going to have to tell him,  
4 "Well, because you didn't pass the digital literacy  
5 test, the DMCA literacy test" -- I'm sorry. That's  
6 another exemption. "Because there's a commercial  
7 aspect to your work, you failed the DMCA test, and  
8 you're at legal risk." This is not going to make any  
9 sense to most people because, if they read Campbell  
10 versus Acuff-Rose, they know they're still protected  
11 by fair use. This is counterintuitive. There's no  
12 logical reason this should be.

13           Remix videos, in this respect, aren't any  
14 different necessarily than documentaries.  
15 Documentaries can have a commercial aspect. That  
16 doesn't take them out of the fair use doctrine and  
17 currently doesn't take them out of the exemption. I  
18 would counsel that we should take guidance from the  
19 Supreme Court fair use analysis in Campbell versus  
20 Acuff-Rose. Section 107 and Section 1201 both  
21 contain a commitment to protecting commentary and  
22 criticism. In Section 107 it's embedded in the  
23 preamble, and in Section 1201 it's embedded in  
24 Statutory Factor 3.

25           In Campbell versus Acuff-Rose the Supreme

1 Court noted that presumption against commerciality in  
2 a fair use analysis would swallow commentary,  
3 criticism, and education if they were undertaken for  
4 profit because that's what a lot of commentary and  
5 criticism -- how it occurs in this country.

6 Similarly a presumption against fair use remix videos  
7 just because a creator relies on ads to keep its  
8 lights on would, it seems to me, undermine the  
9 purpose in Statutory Factor 3.

10 Third, let me turn to proposed Class C,  
11 which builds again on the previous exemption to  
12 accommodate a new reality of how works are being made  
13 available now. The fact is DVD source, while still  
14 an important source, is not always an option.  
15 Sometimes a work is not available promptly. There  
16 might be a current event. Sometimes a work will  
17 never be available. Say, an old season of  
18 "Survivor." Probably not going to make a whole  
19 season available; so if you want to comment on gender  
20 politics of "Survivor," you're going to have a hard  
21 time doing that.

22 Remix video artists are going to turn to the  
23 next best alternative source, and often that's going  
24 to be online distribution services such as iTunes or  
25 Amazon Video. Now, these are folks who are perfectly

1 willing to pay for this content. In fact, they're  
2 committed -- ethically committed to pay for content  
3 making sure original creators are compensated. But  
4 they're going to fail the digital literacy test. If  
5 they get hit with a takedown notice or a content ID  
6 flag and they talk to a lawyer -- probably they're  
7 not going to talk to a lawyer before then -- they're  
8 going to find out that from a 1201 perspective they  
9 should have gone to BitTorrent. That would have been  
10 safer for them.

11           That's, again, suddenly counterintuitive. I  
12 don't want to rehash arguments that are in our papers  
13 and that we've made before, but it seems to me the  
14 same analysis has to obtain. This is particularly  
15 unfortunate because we know that DVDs are still  
16 important but they're slowly being phased out as a  
17 source for new audiovisual works. It seems to me one  
18 of the reasons we come here every three years is to  
19 take account of technological developments. This is  
20 one of those technological developments that we  
21 should be paying attention to.

22           Finally, it seems to me that there is no  
23 evidence beyond mere speculation that we're going to  
24 have any adverse effect on the distribution of  
25 audiovisual works if this exemption is granted. Of

1 course, it's our burden to support our exemption, and  
2 it seems to me that what we can do is look over the  
3 past decade and learn from experience and treat it as  
4 circumstantial evidence. In 2003, -- 2000 tools are  
5 already available to break encryption on DVDs, but  
6 there was hesitation to grant an exemption because it  
7 wasn't yet clear what effect an exemption might  
8 cause. In 2006 we had an exemption. 2010 we have an  
9 exemption. What effect has that had on the DVD  
10 market? None whatsoever.

11 With respect to these new services,  
12 similarly tools already exist to break the encryption  
13 to allow people to access the source material for  
14 these limited purposes that we're talking about here.  
15 Based on our experience with DVDs, I think we can  
16 conclude that it's likely that just as the exemption  
17 has had no effect on the DVD markets and that  
18 thriving of those DVD markets and eventually  
19 saturation, so too it's highly unlikely that an  
20 exemption as we're proposing here limited to very  
21 limited purposes, short portions, non-infringing  
22 uses, primarily no commercials -- it's very unlikely  
23 to expect that there will be any effect there. We're  
24 not going to help pirates with this exemption.  
25 Pirates neither need it nor want it.

1           Let me conclude by quoting someone I didn't  
2 expect to be quoting today. Christian Genetski said  
3 this morning that, "These exemptions in this process  
4 is supposed to be a safety valve to allow citizens to  
5 criticize and comment on copyrighted works."

6 Proposed classes (7) (B) and (7) (C) do exactly that.

7           Thank you.

8           MS. PALLANTE: Thank you very much.

9           Art.

10           MR. NEILL: Good afternoon. My name is Art  
11 Neill. I'm the founder of New Media Rights and  
12 executive director. It's a nonprofit based in San  
13 Diego. We provide one-to-one assistance with a  
14 number of remix artists, video creators, folks who  
15 create and share their work online.

16           There's a number of reasons why we think the  
17 exemptions in (7) (B) and (7) (C) are necessary. We  
18 covered it really briefly. (7) (B) and (7) (C) are  
19 necessary because, number one -- or they're justified  
20 exemptions because, number one, they're very limited.  
21 They're very focused exemptions. In every way, like  
22 Corynne was mentioning, they're focused on actual  
23 legal reuses of content. They do nothing, in fact,  
24 to stem the copyright holders' ability to actually  
25 pursue real infringers. They still have the right to

1 pursue infringers.

2           Secondly, the exemptions simply protect what  
3 are, like I said, otherwise legal, fair uses of  
4 content, and that's the whole purpose of why we're  
5 here. The DMCA circumvention provisions in their  
6 original drafting didn't take account of fair use and  
7 sort of ran over the idea of fair use. That's why  
8 every three years we have it built into the statute  
9 that we get together, and we talk about what type of  
10 uses we need to provide a safety valve for, and this  
11 is one of those types of uses.

12           Creators also need, No. 3, high quality  
13 content to communicate their message. Jonathan will  
14 explain that in some more depth.

15           And, fourth, from a practical perspective,  
16 as Corynne mentioned, we deal with a lot of these  
17 folks one to one, and they have a difficult time  
18 understanding the anti-circumvention provision. Many  
19 times folks don't realize, even if they are making a  
20 fair use, in one way they may be violating  
21 anti-circumvention. Certainly if we were to pull the  
22 rug and suddenly make the exemption unavailable to  
23 folks who are already gathering content from DVDs,  
24 there would be confusion on that front as well.

25           On the second exemption, though,

1 particularly to (7) (C), the two reasons we support  
2 this, number one, there's a lot of content that's  
3 simply not available on DVD. The state of the  
4 industry is it's moving to online distribution for  
5 video. Number two, it's necessary to reuse content  
6 based on its timeliness. The timeliness of the work,  
7 we hear over and over again from artists, is as  
8 important as the message itself. I want to focus on  
9 the narrowness of the exemption, the need for high  
10 quality and timely content. Those are things I'm  
11 going to focus on.

12           First of all, as far as how narrow and  
13 limited this exemption is, it's focused on  
14 noncommercial, non-infringing use, particularly fair  
15 use which is transformative and noncommercial.  
16 Copyright holders, as I mentioned, have every  
17 available remedy. They can still sue. They can  
18 still send an DMCA takedown notice. They can still  
19 send cease and desist letters, and we see that happen  
20 on a day-to-day basis with copyright holders whether  
21 they're large media companies or smaller entities.  
22 They use these remedies on a day-to-day basis. It's  
23 a way of policing their copyrights; so providing this  
24 exemption certainly doesn't create any kind of new  
25 defense, doesn't create any kind of exception to the



1 copyright holders' rights to bring an infringement  
2 lawsuit. So creators were using content legally  
3 already face the DMCA takedown notices and formal  
4 takedown activity.

5 I want to talk about high quality content.  
6 We hear from folks on a day-to-day basis that high  
7 quality video and audio are necessary. You can just  
8 think about this from the general state of the  
9 commercial market. People expect high quality  
10 content. They expect high quality video and high  
11 quality audio, and there's no reason why remix  
12 artists or why a critic or another type of individual  
13 or video creator that is reusing content should be  
14 relegated to low quality copies or to some kind of  
15 secondary class of creativity simply because they  
16 want to reuse content but do it in a way that's fair  
17 use.

18 A filmmaker we work with, John Monday, has  
19 stated regarding video quality, "It is extremely  
20 important as the video quality directly translates to  
21 the watchability of the final product. American  
22 consumers are very quality conscious and will pay  
23 more attention to well-produced documentaries which  
24 include high quality video." So copyright law  
25 shouldn't limit creators to only low quality clips,

1 and essentially when you're talking about the fair  
2 use argument, if you're talking about a video such as  
3 you'll see from Jonathan or some of these other remix  
4 creators that have a great transformative argument,  
5 other great fair use arguments, the fact that the  
6 video is of a little bit better quality or the audio  
7 is of a little bit better quality does really not  
8 fundamentally change the fair use argument. It  
9 really doesn't have -- so this analysis of whether --  
10 they shouldn't be -- remix artists shouldn't be sort  
11 of have to choose between violating law to use high  
12 quality content or not violating the law to use  
13 substandard content.

14           The next point is about timely criticism,  
15 and this really goes to the exemption for online  
16 sources of video content, (7) (C). This is essential  
17 because obviously we're switching away from physical  
18 media to an online distribution system of video.  
19 This is things like Amazon Unbox, iTunes store,  
20 Hulu.com, legally streaming websites. What you may  
21 not realize about some of these remix artists is that  
22 some of these folks are the biggest fans of some of  
23 the work that they are actually commenting on or  
24 working on but depending on the circumstances. A lot  
25 of these artists want a legal way of accessing this

1 work. So this exemption allows them a way of legally  
2 accessing the work and, frankly, in a small way  
3 provides even a small boost to the legal market for  
4 those works as well because these folks will pay for  
5 access to the work.

6           So it's necessary to provide access to  
7 online content because humor, criticism, commentary  
8 that we're talking about relies on timeliness. It  
9 has to be viewed in the backdrop of current events.  
10 We talk to a gentleman name Martin Leduc, who's a  
11 video remix creator. He says, "Sometimes my online  
12 remixes respond to very specific events that are  
13 being covered in the media. In these cases I need to  
14 get my clips in as timely a manner as possible so I  
15 can contribute to the discussion about these events  
16 while they still are taking place."

17           So if the requested exemption is not  
18 extended to non-DVD material, I think in many ways  
19 creators can be precluded because of the delay in  
20 releasing DVDs from actually discussing current  
21 events, affecting current public discourse. In this  
22 century public discourse over the Internet about  
23 current events that's communicated through  
24 audiovisual needs is every bit as important as  
25 meeting up in a public space and discussing issues of

1 the day was in past centuries. I think it's  
2 highlighted by the fact that we have a political year  
3 coming up and the fact that people are going to want  
4 to use timely content to comment on what's going on  
5 in the election that's coming up.

6 So in sum, I'd like to say that the (7)(B)  
7 and (7)(C) exemptions are critical safety valves to  
8 any circumventions, limitations on fair use.

9 MS. PALLANTE: Thank you very much, Art.

10 Jonathan.

11 MR. McINTOSH: My name is Jonathan McIntosh.  
12 I'm a video remix artist and transformative  
13 storyteller. I'm going to be talking about Section B  
14 and C also, but I think it says D something. Just to  
15 clarify, B and C.

16 I've been producing remix videos and  
17 transformative works that I believe are fair use for  
18 over a decade. I started with VCRs. Now I've  
19 obviously moved into digital. That was before  
20 YouTube. That was a few years before YouTube, in  
21 fact. I put things on my website, and they were  
22 about the size of a postage stamp because that was  
23 all the video I could afford to put online. All my  
24 works are critical commentary so they all deal with  
25 some sort of socio-political issue whether that be

1 gender, race, economics, or the political race. They  
2 are all meant to foster debate and discussion online.  
3 I believe many of them do that.

4 All my works are noncommercial. I give them  
5 away for free and let people share them as they see  
6 fit. I also have people remix them in turn. If they  
7 don't like my message, they can change it to theirs.  
8 Many of my works have gone viral. When I say  
9 "viral," I mean more than a million views. Some of  
10 them much more. My works have also been covered in  
11 major media outlets. Stories that have been done  
12 about remix videos I've made have appeared in  
13 Entertainment Weekly, NPR, New York Times, L.A.  
14 Times, Boston Globe, Vanity Fair, Forbes Magazine,  
15 Wired Magazine, and many more. My video works are  
16 also used in high school and college programs in  
17 studies, media studies, and law schools as examples  
18 of fair use.

19 I'm also part of many other remix  
20 communities that do both image and video work. So I  
21 thought the way that I look at what I'm doing is I  
22 see we're having this -- the language we use to talk  
23 to each other is more and more audio/video language,  
24 audiovisual language. As citizens I think it's  
25 important to be able to speak in that audiovisual

1 language, and that's what I think remixing and  
2 transforming and quoting from mass media does or  
3 helps us do. It helps us participate more fully in a  
4 public debate.

5 I thought I'd show a very short clip, a  
6 two-and-a-half minute clip of something I made to  
7 give you a sense what we're talking about here. It  
8 feels very abstract. This is a piece I made a couple  
9 of years ago. It is six minutes long, but I'm just  
10 going to show you a little highlight. It's "Buffy,  
11 the Vampire Slayer" meets Edward Cullen from  
12 "Twilight." It's a popular book and movie franchise.  
13 You're going to see -- I took about four minutes from  
14 "Buffy," and I pulled from all seven seasons, all 140  
15 episodes. And then from "Twilight" about two minutes  
16 from the full film to create an interaction where you  
17 can see them interact. The idea was to talk about  
18 the gender dynamics going on in both these two  
19 series, compare them, and see what would happen if  
20 someone like Edward in the film tried to woo someone  
21 like Buffy especially considering that Edward's  
22 behavior can be classified as stalking. So I'm going  
23 to try to make this work.

24 (Video is played.)

25 MR. McINTOSH: So this gives you an idea of

1 what I was trying to do. I picked all the parts of  
2 Edward's performance that I felt were problematic in  
3 terms of gender dynamics, and I tried to build a  
4 response from a different source to compare and  
5 contrast those two sources and messages in those  
6 sources.

7           The two major things I'd like to talk about  
8 quickly are the importance of quality footage,  
9 specifically DVD footage, ripping DVDs. So one of  
10 the major reasons why I and other remixers in the  
11 communities I'm a part of think that's super  
12 important is because often there's cropping and  
13 zooming that happens. You need a large enough piece  
14 of footage to crop and zoom it and not have it be  
15 blurry or distorted or pixelated. You still need to  
16 be able to see what it is if you want to zoom in on  
17 something. It needs to be big enough to do that.

18           Many of the reasons you might want to do  
19 that is focus on someone's lips. The "Read my Lips"  
20 is one example of that which has been used over and  
21 over again. You might want to crop out other people  
22 in the frame so it's just one person in the frame if  
23 you're trying to focus on that person and what  
24 they're saying. Obviously in "Twilight" and "Buffy"  
25 there are many, many cast members. I cut them all

1 out. I often had to cut them out of the actually  
2 frame because I didn't want it to be about them. I  
3 wanted it to be about these specific lines and what  
4 those mean in our conversation. And then you might  
5 want to focus on a gesture or an action or an object;  
6 so you might need to crop or zoom on that thing for  
7 emphasis. So that's very important.

8           Also, credibility. What I found in putting  
9 my work online is that most people in public are very  
10 accustomed to a very high production quality probably  
11 because of professional media outlets, and so quality  
12 has become synonymous with credibility. If you put  
13 something online that's used with some sort of screen  
14 capture technique that isn't ripping from a DVD, then  
15 you lose your quality and you lose your legitimacy  
16 and you lose your credibility. And actually most of  
17 the comments tend be about why the quality isn't very  
18 good and not about the message you are trying to talk  
19 about or have a discussion about.

20           And then to touch on the timeliness part of  
21 it, when things aren't available on DVD like reality  
22 TV shows, for instance, or many of the broadcasting  
23 shows aren't available on DVD and never will be, Lou  
24 Dobbs or Anderson Cooper, so if you want to use them  
25 and comment on them, you have to have get that via



1 only services. In order to be part of that new cycle  
2 debate, it's also very important to be able to use  
3 things that you can only get on iTunes or Amazon or  
4 other streaming service like that.

5           Remixers definitely need those things. I  
6 think what I do and what other remixers do is try to  
7 engage in a healthy public debate. As a last  
8 example, this Buffy video I showed, I wanted it to be  
9 talked about and discussed among young people  
10 especially between the ages of 13 and 17, and that  
11 happened. That is the highest level of people that I  
12 tracked who watched this. It's been seen about  
13 5 million times online. By far the people watching  
14 it are young women between the ages of 13 and 17, and  
15 it's been featured on many, many of the blogs related  
16 to "Twilight," fan blogs. And so lots of fans of  
17 "Twilight," even though it's critical of "Twilight,"  
18 will put it and talk about it and say, "When someone  
19 breaks into your bedroom without asking, is that good  
20 or bad?" which is kind of what I wanted to happen.  
21 So I was very excited.

22           So thank you.

23           MS. PALLANTE: I think at this point if we  
24 can have the next group come up.

25           MR. DONALDSON: My name is Michael

1 Donaldson. I have a small boutique practice here in  
2 town. Since the '70s it's been focused strictly on  
3 independent film, everything, financing,  
4 distribution, production work. In the last few years  
5 it's increasingly about clearance work, and today we  
6 write opinion letters on about 100 items a week on  
7 average, all within whatever propriety it falls  
8 within. They are almost all documentaries. Our  
9 letters go to an E&O insurance carrier to get  
10 insurance to cover these films because nothing  
11 happens to a film without E&O insurance.

12           So I suppose you're a bit surprised that I'm  
13 here asking for an exemption for fictional films.  
14 Frankly, three years ago when I was here, I certainly  
15 didn't expect to be back asking for an exemption for  
16 fictional films, but I'm not surprised based upon  
17 what's happening in our own practice in just the last  
18 three years. In order to understand now, I'd like to  
19 go up 50,000 feet for just a minute because it's been  
20 a really amazing shift in attitude.

21           Fictional films have always used fair use.  
22 It's always historically been accidental. "Oops.  
23 Who didn't clear that? Yikes." Sometimes they could  
24 settle it, and sometimes they couldn't, and we all  
25 know the cases that found fair use in fictional

1 films. Jackson where Whoopi Goldberg kicked a  
2 painting on the wall, found to be fair use; Amsinck,  
3 where there's a mobile over a child's crib full frame  
4 for quite a while actually, found to be fair use.  
5 Other cases that lost those. None of them indie  
6 films that are my client base.

7           But in 2005 something began to happen that  
8 looked like it had nothing to do with fictional  
9 films, and it turned out, to a lot of people's  
10 surprise, that it had everything to do with fictional  
11 film. American University came out with their  
12 statement of best practices of fair use for  
13 independent filmmakers. Shortly thereafter I  
14 negotiated with the insurance companies to give fair  
15 use riders on E&O policies which sort of made  
16 everybody aware that this was possible to do in a  
17 safe way.

18           And what they require and what our firm does  
19 is we watch a film twice, once generally and one with  
20 a clearance log, and opine on everything that doesn't  
21 have a license or everything that raises a personal  
22 rights issue or anything like that, and then that  
23 letter goes to the insurance company. They look it  
24 over carefully, very carefully, and issue a policy.

25           You know how conservative insurance

1 companies are. So after it's gone through that  
2 process, I can assure you that it's likely to be fair  
3 use. In fact, more than likely to be fair use  
4 because these insurance companies are not in the  
5 business of taking on a lot of risk.

6           What's interesting is that that was  
7 documentary filmmakers, but in the independent world,  
8 somebody who works on a documentary one week is  
9 working on a fictional film the next week, back  
10 working on a documentary the next week, back on a  
11 fictional film the next week. These are all the same  
12 peeps. They got used to using fair use in  
13 documentary films. They knew what their rights were.  
14 They'd gone to seminars, but then they'd work on  
15 their feature films, and they'd say, "This certainly  
16 is something we should be able to access also."

17           Since the last hearing when I was before you  
18 in Washington, our firm has worked on about two dozen  
19 fictional works that used fair use and received  
20 insurance coverage. They're all over the place. One  
21 delightful one, a 25-minute film, used a dozen clips  
22 to tell the story of a projectionist who lived in the  
23 projection booth and all of a sudden noticed an extra  
24 character in a scene, and that extra character showed  
25 up in the next movie and the next movie. And pretty

1 soon they had this relationship, and they started  
2 talking and a happy end of the story. The whole  
3 thing liberated her, and she moved out of her  
4 projection booth to have a real life. \$25,000  
5 budget.

6           Such a budget clearly does not allow for the  
7 purchase of some expensive machinery or some  
8 expensive technician, if they can find them, to  
9 operate that machinery. This kind of a documentary  
10 or this kind of a fictional film really needs to have  
11 access to DVDs through the DMCA. We had another one.  
12 The budgets were just under \$2,000 for little shorts  
13 about a trailer family that liked to watch films on  
14 television, and the whole episode would be them  
15 riffing off the film that they had watched.

16           This is a trend that is growing. It's a  
17 trend that will continue, and the only thing that  
18 really stands in the way of this becoming a robust  
19 tool in the tool chest of independent fictional  
20 filmmakers is the DMCA. I don't think the Copyright  
21 Act ever intended to say, "If you're making a  
22 documentary about whatever, you can use fair use, but  
23 if you're making a similar documentary or a similar  
24 fictional film, you can't use fair use."

25           A great example came into our office last

1 year, a film called "Bellflower" where the electrical  
2 character was obsessed with Lord Humungus. The film  
3 started with a quote from Lord Humungus. As soon as  
4 the film starts, the character is making sketches of  
5 Lord Humungus, does it throughout the film. They  
6 even build the car from "Mad Max 2" with the flames  
7 coming out the end of the wings and everything.

8           If that had been a documentary, the  
9 documentary filmmaker could have easily shown why  
10 this main character was so obsessed with Lord  
11 Humungus. But it was a fictional film; so we were  
12 never able to see that. The fictional filmmaker has  
13 become a second class citizen to the documentary  
14 filmmaker. That's certainly not what the Copyright  
15 Act intend. If I read the background, the  
16 Congressional Reports and things on this act, I don't  
17 think the DMCA was designed to make second class  
18 citizens out of fictional filmmakers.

19           Thanks.

20           MS. PALLANTE: Thank you, Michael.

21           Laurence.

22           MR. THRUSH: My name is Laurence Thrush.  
23 I'm a writer and director of TV commercials,  
24 documentaries, and features. I'm here to talk to you  
25 about my fictional work. I've written, produced, and

1 directed two independent feature films that were  
2 self-financed, the first of which is called "Left  
3 Handed" and was a Japanese language film. It was  
4 based on the condition of "hikikomori," which is  
5 social withdrawal where teenage children lock  
6 themselves away in their bedroom and don't come out  
7 for many years. It's sort of a social phenomena in  
8 Japan.

9           My new film, "Pursuit of Loneliness," is an  
10 American film that's really about the disintegration  
11 of the family unit and how more and more people are  
12 living alone and ultimately what happens when people  
13 die alone with no next of kin. Both of these  
14 projects are obviously based on social issues and  
15 take their inspiration from news items I've read and  
16 research I conducted almost as a documentary  
17 filmmaker would, but I created like a script, a  
18 fictional story with characters that we cast. So the  
19 films are very much based in reality. We shoot on  
20 location, and we use real people. In the case of the  
21 Japanese film, the main actor had been through this  
22 condition, had suffered from this. In the new film,  
23 "Pursuit of Loneliness," we cast an elderly lady that  
24 lived alone.

25           So the fabric of reality is very important

1 to these projects. So obviously when it comes to the  
2 use of news clips or clips from television shows that  
3 the characters may watch or films they may watch,  
4 music they listen to, it's very important because it  
5 not only helps create this fabric of reality we are  
6 trying to create, but it also informs the viewer who  
7 these people are, what type of things they watch.  
8 And it goes to show what kind of social strata they  
9 fall into.

10 I'm currently working on two projects which  
11 are in the preproduction stage, the first of which is  
12 an Indian film called "Vessels," and it's about in  
13 vitro fertilization and surrogacy in India. And the  
14 second film is about -- titled "ELR," and it's about  
15 asylum seekers and the issue of immigration in the  
16 U.K. In both these films, film clips and news items  
17 play a very pivotal role in addressing the  
18 characters' plight that they face and helps me to  
19 conduct criticism on the society and on these issues.

20 For example, there's one very pivotal scene  
21 in the India project in "Vessels" where the main  
22 character in the film, a U.S. woman, has gone to  
23 Mumbai for the purposes of this in vitro  
24 fertilization treatment, and it's a very difficult  
25 process for her. It's all really about going to a



1 country as a tourist for one specific purpose. It's  
2 almost like medical tourism, and it's an ordeal for  
3 her. There's a very pivotal scene towards the end of  
4 her stay where in the hotel room she watches an  
5 American film on the hotel TV, and she gets very  
6 emotional. It's a film that she's watched many times  
7 previous; so it really needs to be a very popular,  
8 instantly recognizable Hollywood film with a bona  
9 fide movie star, and it's something that's familiar  
10 to the woman, the character clings to, watches, and  
11 gets emotional over.

12           Additionally there's another scene in the  
13 film where the U.S. couple are on the airplane going  
14 to India, and they're both watching the same movie on  
15 the in-flight entertainment system. It's really  
16 designed to show how even something you would think  
17 as communal as watching a movie together can be made  
18 quite isolated when they have their own personal  
19 screen and their own headset, and they're watching it  
20 perhaps at different times so you see different bits  
21 of the film they're watching. It's a device I'm  
22 using to comment on the type of isolation that the  
23 couple has and sort of what's happened to their  
24 relationship due to not being able to have a child  
25 together.

1           Also, the clip I would like to use in that  
2 scene is from a blockbuster "Mission Impossible,"  
3 which has a scene that's set in Mumbai. A large part  
4 of that film is set in Mumbai. The version of Mumbai  
5 that they present is very kind of grotesquely glossy  
6 and glamorous and completely at odds with the  
7 experience the couple is going to have in India. I'm  
8 using that clip very specifically as commentary for  
9 this.

10           The only way that I really know how to get  
11 access to these clips is through DVD or DVR because,  
12 for example, on the airplane it would be incredibly  
13 difficult to control what we're seeing on that  
14 screen. It would be very difficult to control that  
15 type of entertainment system. The only way to really  
16 do it successfully is to drop that clip in after  
17 photography and to do that in editing. Plus when  
18 you're seeing that screen very close up if that's  
19 filling frame on those in-flight screens, it's not  
20 ideal for us to control.

21           And the purposes of the "ELR" script, the  
22 London script, I'm using a lot of news footage, news  
23 material from the BBC to sort of give the audience a  
24 sense of the political climate and how the public  
25 opinion is shaped based on asylum seekers. I'm sort

1 of using the nationalistic news such as BBC and  
2 Capital Radio as sort of the voice of the empire.  
3 Again, using that for commentary and for how the main  
4 character in the film, who's an asylum seeker from  
5 Zimbabwe, sort of feels public opinion and how the  
6 U.K. thinks about this issue.

7           So in sort of conclusion and summary, it's  
8 important for me to be able to use these clips, and  
9 the DMCA ruling is harming me in that because I'm not  
10 able to film these scenes practically whether it's  
11 because of needing a special technician to help me  
12 control the TV monitors to overcome phasing issues  
13 which typically happens when filming these things on  
14 film. And also sometimes I want to re-edit the clips  
15 obviously with the news footage. I want to have the  
16 ability to shorten and condense those items and  
17 re-edit them for purposes of legibility and for time.

18           The quality of the material obviously has to  
19 be the highest source if I'm going to be putting it  
20 into screens such as an in-flight entertainment  
21 system. I need to have the best possible image I can  
22 have to put it in there when the lighting on a plane  
23 is typically going to be pretty grim, or in situation  
24 filming these scenes in a very independent guerilla  
25 fashion, sometimes you're not perfectly set up to get

1 the best registration from the monitors. So putting  
2 those screens in in post is the ideal way to do it.

3 So I would urge you to make the exemption  
4 for fictional filmmakers.

5 MS. PALLANTE: Laurence, thank you so much.

6 I think at this point we now have Clarissa,  
7 Dan, and Steve.

8 MS. WEIRICK: I'm Clarissa Weirick. I'm  
9 executive vice president and general counsel of  
10 Warner Brothers Home Entertainment Group. It's the  
11 legal group that provides services across home video,  
12 digital distribution, and our gaming group. I'm here  
13 as an opponent of Classes 7 and 10. I'd like to  
14 touch briefly upon clips and then upon the space  
15 shifting issue.

16 With respect to clips we have a department  
17 this is devoting to licensing clips and stills, four  
18 full-time people, and they handle all requests for  
19 clip licensing other than promotional and  
20 merchandising uses that are handled by our consumer  
21 products group. So this department is the department  
22 that handles requests for educational use,  
23 documentaries, talk shows, museums, feature films,  
24 and television shows. They get about 80 or 90  
25 requests per week, and most of them they answer in

1 about 48 hours unless additional research is  
2 required.

3           For educational and scholarly uses,  
4 classroom uses, uses by students and their projects,  
5 they issue no objection letters, and we've never  
6 denied such a use. Normally it's notable that the  
7 people requesting materials don't ask -- requesting  
8 to use our clips do not ask for materials which means  
9 that they do have access to these clips that they  
10 plan to use in their classrooms and their projects.  
11 This group also licenses documentary uses. That  
12 comes to about 10 percent of the requests that they  
13 get, and we deliver clips to documentary filmmakers  
14 in broadcast quality, HD.

15           We also have a digital clip licensing  
16 business. Several years ago we created a database  
17 with Partner Deluxe of 4,000 clips from over 400  
18 motion pictures. We licensed those to online  
19 ad-supported clip services such as AnyClips,  
20 MOVIECLIPS, and YouTube. We have also licensed to  
21 Hark for audio clips and, U-Star is a company that  
22 permits users to buy clips and insert themselves into  
23 the video.

24           A lot of materials made available through  
25 these services that can be used for educational

1 purposes and for creative uses like mash-ups because  
2 when you're viewing clips on a service like AnyClips  
3 or MOVIECLIPS there are tools right in the viewing  
4 box that allows users to shorten the clips, to post  
5 them on Facebook and Twitter, e-mail them to friends,  
6 or embed links to the clips in materials like  
7 PowerPoint. So, for instance, a teacher could create  
8 a PowerPoint for educational use and embed links to  
9 these clips in their PowerPoint, and as long as the  
10 classroom had an Internet connection, then when they  
11 went through their PowerPoint, the clip could be  
12 streamed and viewed by the classroom.

13           This is a growing business area for us.  
14 It's a new channel that was created over the last  
15 three years. All of these licenses are in the last  
16 several years, and we're doing more research to add  
17 more titles to our clips database, hundreds of new  
18 titles. It's free to users and convenient to use.  
19 We encrypt our content, but we do not require any  
20 kind of access controls in our licenses with these  
21 clips providers.

22           So now moving on to digital distribution of  
23 our film and television content, we have a lot of  
24 digital distribution models that permit space  
25 shifting. I know that's not been the topic so far,

1 but I'm addressing that here as well. Just to back  
2 up and make sure that we're on the same page with all  
3 the nomenclature, we enter into digital distribution  
4 licenses for our film and TV product that enable the  
5 following business models: One is what we call EST,  
6 Electronic-Sell-Through, which is the basically  
7 ownership business model. There's Video-On-Demand,  
8 which is the rental business model. There's  
9 Subscription Video-On-Demand, which is the payment of  
10 a monthly fee for access to content like on Netflix,  
11 and then there's something we call  
12 Manufacture-On-Demand, which is a product where we've  
13 taken very old films that were never put out on DVD  
14 and made them available to customers. We burn them  
15 on demand and deliver DVDs to them.

16 We have many many licenses in the U.S. with  
17 various large and small partners companies like  
18 Apple, Amazon, VUDU, Netflix, all of the cable  
19 companies. We also license to lesser known start-up  
20 companies like Whodi, Flick.me, Digiboo, Project  
21 Concord, who are developing new business models. So  
22 we regularly work with companies that come to us. We  
23 have a business development team that actively seeks  
24 to find opportunities to license our content. We've  
25 done it through kiosks, advertising-supported models,

1 Facebook models, et cetera.

2 All of our licenses allow our content to be  
3 delivered by streaming or download; so the rental or  
4 purchase model depends on what the service supports.  
5 iTunes until very recently was solely a download  
6 model. Then they came out with iCloud, and now they  
7 allow streaming as well. Amazon's has always been  
8 streaming and downloading, and VUDU is a streaming  
9 model. But we make it available in both streaming  
10 and download, and we allow our content to be  
11 delivered to abroad away, consumer electronic devices  
12 including set-top boxes, personal computers, gaming  
13 consoles like PS3, Xbox, and Wii, Internet-connected  
14 televisions, Internet-connected Blu-ray players,  
15 DVRs, and an array of mobile devices including  
16 cellphones, tablets, and personal media players.

17 We license all of our content in these  
18 different business models using access control  
19 technologies, and we constantly are adding new, what  
20 we call, DRMs, digital rights management solutions  
21 that are proposed by our licensees. So we have  
22 license through MS-DRM, FairPlay, Widevine, Verbix,  
23 Dolby Flash, Dolby RTMP, Marlin, AAC, et cetera, and  
24 we're adding more all the time as our licensees are  
25 coming up with new forms of access control.



1           So far we've made about 3,000 film titles  
2 available to our digital licensees. All of our new  
3 release films are made available digitally when they  
4 are released, and we have about 2,850 catalog titles  
5 available as well. We have made about 8,000  
6 television episodes available including 490 seasons  
7 of 212 different series.

8           Just real briefly, three different business  
9 models which we have been supporting and working on  
10 for a while, I think, offers to demonstrate the  
11 ability to facilitate space shifting. One is Digital  
12 Copy. You may be familiar with the program whereby  
13 you buy the disk, and it comes with the right to have  
14 an electronic version of that movie. We first  
15 offered that in 2007. We've been adding titles ever  
16 since. The offer has sort of evolved over time.  
17 We've released about 220 titles with Digital Copy  
18 offers, and the titles are available through iTunes,  
19 Windows media for the PC and for portable devices.

20           Commencing last quarter of 2011 we started  
21 releasing UV-enabled, ultraviolet-enabled, digital  
22 copies with our DV titles, and that will allow  
23 streaming as well as downloading -- before, it was a  
24 download model to obtain your digital copy.

25           So ultraviolet, as a nice segue, is the next

1 initiative I wanted to mention. I know you've heard  
2 something about that in prior hearings. But it's  
3 basically a consortium initiative that we've been  
4 working on for many years designed to enhance  
5 intraoperability and sharing of electronic ownership  
6 among family and friends by allowing consumers to  
7 purchase content from multiple retailers and use it  
8 consistently. Right now the ecosystem is divided by  
9 the retailer, and each retailer, like Apple or  
10 Amazon, determines what the usage rules are for the  
11 content purchased there, which is confusing to  
12 consumers. So we're trying to create an ecosystem  
13 where the content you buy from one retailer is  
14 intraoperable across all of them.

15           We also feel like this UV will enhance  
16 consumer confidence in the digital product because it  
17 enables ownership rights in the cloud, and so people  
18 don't have to worry about storing large quantities of  
19 content on a hard disk that could crash, or they  
20 could lose all the value of the content that they  
21 have collected.

22           UV was designed to be easy to use. You  
23 register for a free account. You can include up to  
24 six friends and family members and register 2 devices  
25 to which content can be streamed down to. The

1 consortium is composed of 60 companies, a little over  
2 60 and growing, that are online retailers, CE  
3 companies, IT companies, and content providers.  
4 Again, because there were no digital retailers in the  
5 market when we initially launched our product last  
6 fall on the Digital Copy, now there is a retailer in  
7 the market, Wal-Mart VUDU, and we hope to see many  
8 more this year. Currently there have been over 2,000  
9 UV accounts established to date since it was  
10 released.

11           And the final business model that really  
12 demonstrates our support for space shifting is the  
13 Disc-to-Digital model. This was just recently  
14 announced by Wal-Mart. You may have seen some  
15 advertising as it's started to hit the prime time  
16 media blitz. It's an initiative that allows  
17 consumers to convert their physical DVDs into digital  
18 ownership. It provides a way for consumers to  
19 convert their physical film and television history  
20 into the digital realm. We've released about 3,500  
21 DVDs to date, and we're working to make them all  
22 available on this Disc-to-Digital service.

23           The current way the service is being  
24 provided through Wal-Mart is what we call in-store  
25 redemption where a consumer brings disks into the

1 store and goes to the Wal-Mart photo kiosk and gets  
2 copies -- signs up to have copies delivered to an  
3 online account that they registered with VUDU. In  
4 the next coming months, certainly later in the year,  
5 we hope that -- we're negotiating and hope that there  
6 will be online services available so that consumers  
7 can do in-home redemption by taking their DVDs and  
8 inserting them into either their PC or connected  
9 Blu-ray player and then having an offer made to them  
10 to have a digital copy of that film or television  
11 show be placed in a UV account.

12           And then the final way that we have  
13 envisioned this service rolling out and we're in  
14 discussions with various partners about is through  
15 conversion of an order history. So that would be  
16 with a partner like Amazon who has a record of all of  
17 your DVD purchases, and they would be able to make an  
18 offer saying, "Here's the 20 films you've purchased  
19 from Amazon over the last several years. If you  
20 would like a digital copy of these films, we're happy  
21 to put one in our Amazon locker for you."

22           So anyway that's a very -- something we're  
23 very excited about. 2 million UV accounts were  
24 created today, not 2,000. Thank you. Sorry about  
25 that. Got my numbers wrong. A little off. Thank

1 you.

2           And let's see. So I guess in conclusion  
3 really a key to support all of these varying business  
4 models is that they have access controls as I  
5 mentioned earlier. We require all of our licensees  
6 to complete a technical questionnaire and negotiate  
7 with them about what DRMs will enable the business  
8 models they want to support and the devices to which  
9 they want to deliver content. But we think that if  
10 we didn't have access controls to support the  
11 flexible uses of our content, that there might be  
12 that same kind of mass piracy we've seen with  
13 unprotected music.

14           We support, as I said earlier, a larger  
15 array of access controls and are constantly  
16 investigating new ones as they're developed. We  
17 believe that DRM-free is not a viable business model  
18 for us or for any other partners in the chain, the  
19 online retailers, us or our participants, and we  
20 think that too many exemptions being created will  
21 sort of lead to the perception that content is  
22 DRM-free. But in the meantime we believe these  
23 access controls help us to deliver a broader array of  
24 more flexible uses like incremental versus inertia.

25           That concludes my remarks.

1 MS. PALLANTE: Thank you.

2 MR. MACKECHNIE: Good afternoon. My name is  
3 Dan Mackechnie. I'm the senior VP of finance for  
4 20th Century Fox Home Entertainment. I'm filling in  
5 for Simon Swart today who was scheduled to speak but  
6 unfortunately had a serious medical issue. So I will  
7 present his testimony and do the best to answer  
8 questions. However, if I'm unable to do so, I'll try  
9 to follow up after the hearing.

10 My job at Fox is to oversee the finance  
11 function for the home entertainment division. Our  
12 division is the distributor of Fox movies and  
13 television shows via physical distribution such as  
14 DVD and Blu-ray and digital distribution such as  
15 Pay-Per-View, Video-On-Demand and Electronic  
16 Sell-Through. 20th Century Fox is a major  
17 entertainment studio that produces and distributes  
18 major mainstream movies such as "Avatar," "Alvin and  
19 the Chipmunks," "Ice Age," and "X-men."

20 And also through our Searchlight division we  
21 produce and acquire indie motion pictures typically  
22 with a smaller budget. We've distributed "The  
23 Descendants," "Slumdog Millionaire," "Little Miss  
24 Sunshine," and "Juno." We produce and distribute  
25 television content such as "Simpsons," "Glee,"

1 "Family Guy," "Modern Family" and "The New Girl."

2 Right now we're faced with a really  
3 challenging business model as our production costs  
4 are increasing and the marketing costs associated  
5 with releasing our content are increasing. One  
6 aspect of this, as a media company Fox must pay for  
7 all the content we feature in our shows, for example,  
8 any third-party music used in our shows or any clips,  
9 which must be -- those fees must be negotiated with  
10 the appropriate licensor and rights-holder.

11 We can only have 2,400 active titles on DVD,  
12 463 titles on Blu-ray including our movies and our  
13 television shows. We also evaluate new technologies  
14 and develop new business models based on our  
15 evaluations of new means of distribution. So we use  
16 the primary criteria of consumer experience, is it  
17 reliable, quality and ease of use, scale, will there  
18 be enough consumers to consume media in a new way,  
19 will it be accepted, and also protection. Does the  
20 model or technology adequately protect the content  
21 thereby preserving its value.

22 In the media distribution world the  
23 landscape is changing quickly, and our business  
24 models are changing to meet the demand. Consumer  
25 access has changed. For example, in 2004 when the

1 physical DVD market was close to its peak, there were  
2 6.7 million households with DVRs and TIVOs. Now  
3 there are more than 55 million. There were  
4 5.1 million HDTVs. Now there are 80 million. There  
5 were no Blu-ray households. Now there are more than  
6 35 million. There were no smartphones. Now there  
7 are over 100 million. There were no tablets or  
8 iPads. We now have over 30 million. Movies On  
9 Demand had an estimated 45 million paid transactions,  
10 and now we see in excess of 330 million paid  
11 transactions.

12           So in this rapidly changing environment, Fox  
13 is always seeking ways to distribute our content via  
14 digital methods while at the same time preserving a  
15 reasonable rate of return on our investment. Our  
16 goal is to provide the consumer with legal access for  
17 our content for whatever device they choose to use.  
18 In order to do so, we need to use content protection  
19 to prevent unauthorized and viral distribution which  
20 would undermine the value of the content and the  
21 consumer experience. We now offer different  
22 technical specs and configurations that will appear  
23 to many consumers.

24           For example, in 2007 with the release of  
25 "Live Free or Die Hard" we launched Digital Copy.



1 When the consumer purchased the disk, they would get  
2 a bundled digital copy, and they could transfer that  
3 film to any Microsoft compatible device within  
4 minutes. With our next release we added Digital Copy  
5 with Apple iTunes, and today we've released 126  
6 titles with the Digital Copy feature, sold 30 million  
7 disks with that feature and of which 5 million have  
8 been redeemed.

9           Today almost all of our movies can be  
10 purchased as a basic DVD, a feature-enhanced DVD, a  
11 basic Blu-ray, a feature enhanced Blu-ray, or a  
12 complete bundle with all features that include the  
13 DVD, Blu-ray, and Digital Copy. The range in cost  
14 the consumer -- which allows each consumer to choose  
15 the combination or price and features that suits them  
16 best. The multiformat bundle has been well received  
17 by consumers so far and still makes up the majority  
18 of our Blu-ray sales. We also offer a single-copy  
19 option for consumers who do not want to pay for  
20 access of multiple services or multiple levels of  
21 quality. So access controls allow us to  
22 technologically implement these choices. We'd have  
23 to charge more for one-size-fits-all offerings that  
24 many consumers would not prefer.

25           For the past three years 100 percent of our

1 release titles have been made available digitally and  
2 usually at the same time as our physical disks. We  
3 currently have 700 titles available to our digital  
4 services including Apple, Amazon, VUDU, CinemaNow,  
5 cable operators, and we also plan to add an  
6 additional 125 titles this year. In addition, we  
7 just launched a program that we just heard about with  
8 Wal-Mart. Their VUDU service, Disc-to-Digital where  
9 consumers can bring in an authenticated disk they own  
10 for a nominal fee, have the rights instantly unlocked  
11 to the movie so they can access it freely from any  
12 Internet-connected device through VUDU. Right now we  
13 have 400 titles that are included in that service,  
14 and we plan to add at least 300 more in the coming  
15 year.

16 We also have ultraviolet which is already  
17 available via a few retailers like VUDU and Flickster  
18 with many more to come that offers consumers the  
19 ability to store an access or to license content in  
20 data cloud. Our goal is to provide more consumers  
21 with more access to more content in more formats as  
22 the rapidly changing technology enables us to do  
23 while maintaining copyright protections and obtaining  
24 adequate returns on significant investments made. We  
25 require all licensees to provide industry-leading DRM

1 for downloads including FairPlay and PlayReady and  
2 also streaming including Widevine, PlayReady,  
3 Silverlight, and Flash Access. We require  
4 geo-filtering which ensures customers are within the  
5 license territory to prevent misuse. We also require  
6 stream download and register device limits that,  
7 again, prevents misuse and piracy.

8           Finally, we require output protection to  
9 ensure content does not get illegally recorded.  
10 We're able to negotiate these deals based on the  
11 value of our content and an assurance to all of our  
12 partners that the content's value will be maintained.  
13 For example, we are the first studio to make HD  
14 content available to the PC in a secure manner by  
15 partnering with Intel and cutting-edge,  
16 hardware-based DRM called Intel Insider. Access  
17 controls are so important to successful content  
18 delivery that Fox would be stymied in its licensing  
19 practices if online services could not promise  
20 adequate security measures would be in place. We  
21 must ensure that paying customers get full benefit of  
22 the content services provided and to exclude free  
23 riders. In scenarios in which we are distributing  
24 the content of others, our licensors demand this of  
25 us as well.

1           So the trend is toward broader availability  
2 and more interactive availability. This trend is  
3 supported by the availability of access controls and  
4 the legal protection thereof. It is also supported  
5 by the ability to charge consumers for access to  
6 content because it costs money to create content and  
7 to roll out new methods of distribution. Access  
8 control technologies are an integral part of our  
9 efforts to offer consumers the widest possible choice  
10 of platforms and terms at a corresponding range of  
11 price points to enjoy our movies and TV programs. We  
12 hope the Office will bear this in mind as it carries  
13 out the job Congress assigned to it and is receiving.  
14 At some point the proliferation of broad exceptions  
15 allowing a broad range of users to circumvent these  
16 access controls for a long list of ostensible  
17 purposes undermines the security and predictability  
18 that we and our numerous licensees depend on to do  
19 our job.

20           The end result is the consumers would enjoy  
21 less access to high quality content, not more. I  
22 know there are a number of complex legal issues and  
23 agreements involved, and I cannot speak to those  
24 issues, but I hope this statement helps provide some  
25 of the real and practical business contexts that will

1 better inform your recommendations.

2 MS. HOFMANN: Thank you, Dan.

3 Steve?

4 MR. METALITZ: Good afternoon. I'm Steve  
5 Metalitz, here representing the joint creators and  
6 copyright owners, seven national and global groups  
7 that are listed in our filing.

8 This is a little bit of an asymmetric panel.  
9 I'm not going to add much on the space shifting,  
10 No. 10 issue. I think Dan and Clarissa have really  
11 outlined how if space shifting were ever a  
12 justifiable basis for an exemption, it's not today  
13 when the industry is really meeting the demand for  
14 such a diversity of methods for accessing their  
15 content. Obviously, there will be more discussion of  
16 this back in Washington next month.

17 So I'm going to focus mostly on No. 7. I  
18 think one of the advantages of a de novo proceeding,  
19 which this is, is that you don't have to unscramble  
20 an egg when you're presented with a scrambled egg on  
21 your plate, and that's what we've got right now in  
22 exemption 7. We've got really three exemptions in  
23 one. We've got one for the educational usage,  
24 classroom usage. We've got one for documentarian,  
25 and we've got one for noncommercial video, and these

1 are very different in a lot of critical ways. So  
2 they should actually be treated separately, we  
3 believe.

4 I think the most important way is in  
5 deciding do they meet the standard that the Office  
6 applies, which is whether the use that would be made  
7 through circumvention is, in fact, non-infringing.  
8 It's not a question of whether it's likely to be  
9 infringing. That's a temporal question about uses  
10 that are coming in the future. The standard is, is  
11 it, in fact, non-infringing. For the classroom uses  
12 we can pretty clearly say yes. This is specific  
13 provision Section 110. Obviously, there could be  
14 questions around the edges, but there's a lot of area  
15 where we can say, yeah, that's non-infringing.

16 For the documentarians I think Michael  
17 Donaldson's presentation said it better than I could.  
18 It's more than likely to be fair use because it's  
19 insured. A lawyer's looked at it, given an opinion  
20 letter. Errors and omissions insurance has been  
21 issued. When that's the case, I think we can -- it's  
22 not always going to be non-infringing, but it  
23 certainly gives us a high level of confidence.

24 For the world of noncommercial video as it  
25 stands in the current exemption, particularly as it

1 would be expanded, I don't think we can have any such  
2 confidence. Corynne said at the outset it's  
3 indisputable that this is all non-infringing. I'm  
4 here to dispute it. It is not all non-infringing. A  
5 lot of it perhaps is, but a lot of it isn't as well.  
6 I mean misconceptions and ignorance about the nature  
7 of fair use that's replete in their filing in the  
8 discussions that people have about whether  
9 noncommercial uses, per else, non-infringing, whether  
10 criticism and commentary, per else, are  
11 non-infringing -- there's a lot of misconceptions  
12 there, and I don't think we can have quite that high  
13 degree of confidence that we can have certainly in  
14 the classroom area and to a great extent with the  
15 documentarians. So that's one big difference that I  
16 think requires some different treatment for these  
17 three areas. That's not the only one.

18           Take also the threat of litigation, for  
19 example. Michael knows. They cited a number of  
20 cases, and all those cases some filmmaker got sued  
21 for infringement because the right-holder thought  
22 there was an infringing use. In many cases the  
23 right-holder lost. In some cases -- and we cited  
24 some in our brief including documentarians -- the  
25 right-holder wins. That's why people get insurance,

1 right, because there's a risk of litigation.

2 I don't think you can find anything in the  
3 record that shows that kind of risk for the  
4 noncommercial videos. And without going through the  
5 entire issue about how this part of the DMCA relates  
6 to the other part of the DMCA, Section 512, and the  
7 notice of takedown process, I think a lawyer who's  
8 advising the client that it's better to go to bat for  
9 to get something is not just being counterintuitive.  
10 They're committing malpractice. If that's the kind  
11 of advice that people are getting, then it's not  
12 surprising that they don't really understand fair use  
13 of the DMCA.

14 Finally, on the issue of quality, again, I'm  
15 not going to go into this a lot because the  
16 documentarians presented a tech demo and there will  
17 be further hearings on this. But their argument is  
18 that they have a gatekeeper that requires very high  
19 quality, and they can't get their -- they can't  
20 really serve their market without very high quality.

21 Now, I do have a little trouble reconciling  
22 this with the statement in the legislative history  
23 that says, "Adverse impacts that flow from other  
24 sources, including changes in the roles of libraries,  
25 distributors, or other intermediaries, are outside



1 the scope of the rulemaking." So maybe that isn't a  
2 relevant consideration, but it certainly makes sense  
3 to me that that's why -- it's some objective  
4 justification for the need for high quality.

5           In the noncommercial video area, of course,  
6 the creators want the highest possibly quality. We  
7 expect that from people that take their craft  
8 seriously. But taking your craft seriously is not  
9 coextensive with avoiding copyright infringement and  
10 it's not coextensive with demonstrating a need to  
11 circumvent in order to make the use that you want to  
12 make. No one wants to say, "Oh, it's good enough to  
13 do screen capture" or "It's good enough to do  
14 recording off the screen" or all the different  
15 methods that were shown to you in the technical  
16 demonstration. It's not surprising that no one wants  
17 to say that but because of that -- and I don't think  
18 you'll find a single instance in the filings in  
19 support of this where somebody says, "Oh, yeah, that  
20 would be fine. I don't really need to rip it from a  
21 DVD." I think inevitably you have a limitation that  
22 doesn't really act as an limitation.

23           So those are some of the problems with the  
24 existing exemption. I just want to talk about a few  
25 of the proposed expansions, particularly having to do

1 with the formats, the eBook authors, the expansion of  
2 fictional films, and the expansion of primarily  
3 noncommercial video, quote, unquote.

4           The format expansion is disturbing. I think  
5 Corynne and the others were correct that if you look  
6 at how this panel approached the DVD situation in  
7 2000, 2002, and in that time period when it was a  
8 fledgling medium, I think they appropriately said  
9 we've got to give it time to establish itself. I  
10 think a lot of the online services and streaming  
11 services and all the things that Dan and Clarissa  
12 talked about are in a comparable position now. That  
13 needs to be taken into account.

14           Basically if you look at all these together,  
15 audiovisual material in every single format that is  
16 protected by access controls would be subject to  
17 circumvention. I don't know of one that isn't  
18 included somewhere in this list. I notice one of the  
19 people quoted in the EFF submission says, "I really  
20 need to get access to what's in the theaters today."  
21 So I guess she's going in with a camcorder to get  
22 that. It's probably not a circumvention involved; so  
23 it's outside the scope of this proceeding. Every  
24 single format is subject to this.

25           We're really getting very close to an

1 exemption where the class of work says, "Audiovisual  
2 works." And we're also getting very close to a class  
3 where the user is just about everybody that's putting  
4 together some type of video. Again, some of these  
5 will be non-infringing. Some people will take their  
6 responsibility seriously, but a lot of them certainly  
7 won't, and we're back to the problem we talked about  
8 this morning of whether you've designed an exemption  
9 that is roughly commensurate with the likelihood that  
10 non-infringing uses will be made.

11 I just want to stick to this question of  
12 primarily noncommercial video. As that's defined in  
13 the EFF submission, it is everything but an  
14 advertisement. Everything. It's an informercial  
15 because that does more than simply propose a  
16 commercial transaction. It includes a lot of brand  
17 awareness things, material that you see on  
18 television. It's the kind of thing you get up and  
19 leave because it's the ad, or you want to skip it  
20 because it's the ad. It's not commercial speak by  
21 their definition because it doesn't -- it does  
22 something beyond propose a commercial transaction.

23 So basically this expansion would bring  
24 virtually every video production of every kind that  
25 isn't itself an ad -- "Go to Joe's and buy this for

1 2.99" -- within the scope of this. That really  
2 brings us to the points that I think the witnesses  
3 from the studios were stressing here. At some point  
4 you get exemptions that are so broad and get to so  
5 many aspects of this that you really start to  
6 undermine the system that depends on access controls  
7 in order to reach so many people.

8 I'm not going to talk much about the  
9 alternatives to circumvention here. I've already  
10 mentioned -- that is something worth discussing, and  
11 probably when we get back with the documentarians in  
12 Washington, we should talk about that because I'm not  
13 sure that the situation is quite as dire as they  
14 presented it. I think the important point for this  
15 hearing is simply it's just not a -- it doesn't seem  
16 to be a viable method of cabining the exemption for  
17 noncommercial video because there will always be the  
18 view that you need higher quality, you need better,  
19 and so forth.

20 And finally on the point that Corynne also  
21 mentioned about that this only applies to  
22 non-infringing uses, fair use is built into the  
23 exemption, we talked about that this morning. I  
24 think there's only so much you can accomplish by  
25 defining it in that way if you have a situation where

1 you're going to have a big range of uses that are, in  
2 fact, infringing where you can't be confident in  
3 advance that they will all be, in fact,  
4 non-infringing. Unlike the classroom use and to some  
5 extent unlike the documentary use. So it's really  
6 certainly a logical stopping point for this.

7           We seem to be -- if we are broadening the  
8 particular classes -- for example, we're now talking  
9 about every form of audiovisual material that is  
10 protected by access controls in the U.S. market and  
11 if we start talking about, well, we can say anything.  
12 We can allow any circumvention for any purpose as  
13 long as we exclude the infringing uses. We're really  
14 getting very close to saying all works can be  
15 circumvented for non-infringing use. If there's one  
16 thing that we know that Congress did not want, it's  
17 that. Because they were offered that. They were  
18 presented with that. They debated with that, and  
19 they rejected that. So that's clearly beyond the  
20 scope of what this proceeding can do, and I think we  
21 need to be careful as we unscramble this egg or put  
22 the eggs in a little better arrangement on the plate,  
23 whatever your metaphor, that we not step cross that  
24 line.

25           Thank you.

1 MS. PALLANTE: Thank you, Steve. I think we  
2 would like to consult for a few minutes. We're going  
3 to take a break. When we come back, we're going to  
4 ask Corynne, Art, Jonathan, Laurence, and Michael to  
5 come back. But we can take ten minutes and come  
6 back. That would be great.

7 (Recess taken.)

8 MS. PALLANTE: Corynne, I'm going to start  
9 with you. You did a nice job of explaining the  
10 criticism and commentary that goes into commercial  
11 film. The question is very basic. How do you  
12 respond to the observation that was made just before  
13 the break that just because some films have comments,  
14 criticism, and non-infringing standard, not all will  
15 especially those that have not yet been made? How  
16 would you respond to that?

17 MS. McSHERRY: Of course, there are some  
18 uses that are infringing. We know this. I feel like  
19 I'm being a bit of a broken record that if it's  
20 non-infringing, it doesn't apply. I'm sorry. If it  
21 is infringing, it doesn't apply. One of the things  
22 that the previous exemption cleared the way for and  
23 the renewed exemption will clear the way for to the  
24 extent that's contested, we'll have a chance to have  
25 a court weigh in on that and have further development

1 if there is jurisprudence which I think would be  
2 great. I know Mr. von Lohmann talked about this last  
3 time -- and it hasn't happened yet, and I will  
4 concede that probably because so many of these uses  
5 are so obviously fair that no one wants to litigate  
6 over them. Nonetheless it's only been a couple of  
7 years, and I think it's actually quite important to  
8 keep the door open.

9           It seems to me I really have to respond to  
10 this idea that there's this whole world of  
11 non-infringing issues that this exemption would clear  
12 the way for. First of all, I would defy any  
13 copyright lawyer to look at the uses that we've put  
14 in the record and tell me that those were infringing.  
15 I think it's extremely telling that we haven't had a  
16 presentation of evidence. Let's look at this. Let's  
17 talk about that. I'm not seeing that. So I'm very  
18 concerned about that. I have more things I could  
19 say, but I'm focused on responding to your question.

20           MR. RUWE: Corynne, you requested the  
21 exemption for the creation of primarily noncommercial  
22 videos. You state that's needed in order to copy the  
23 commission's work. How do you react to the  
24 proposition that the examples that are cited -- and  
25 that's, as far as I can tell on the record, is Joe

1 Sabia's videos for the Lear Center -- that those  
2 could be accurately described as documentary works  
3 that are the subject of a separate exemption, one  
4 that at least in part is for nonprofit standards?

5 MS. McSHERRY: I'm happy to have Joe's work  
6 covered by whatever it can be covered by so it's  
7 legal. That's a good thing.

8 MR. RUWE: But it's enough --

9 MR. KASUNIC: Yeah --

10 MR. GOLANT: -- for primarily  
11 noncommercial --

12 MS. McSHERRY: Understood. I'm not sure it  
13 would fall under documentary. I'm not sure that that  
14 would be true. I think part of what we're here to do  
15 is to try to remove legal clouds where it's  
16 appropriate to do.

17 I'm also worried about situations where  
18 you've got a video maker who wants -- their videos  
19 might have a smack of commerciality in some way or  
20 another. They're commercial artists. I pointed to  
21 another commissioned work done for Greenpeace where,  
22 again, it was a commissioned work. Someone's getting  
23 paid somewhere. The fact there's simply some  
24 commercial aspect doesn't seem to me that it should  
25 create a presumption that would exclude it from this



1 exemption.

2           That's really what we're talking about. I  
3 would say we are really talking here about works that  
4 are focused very much on criticism, commentary, and  
5 education. We figured our exemption request was long  
6 enough, but if it made everyone more comfortable, we  
7 could build that in. We wouldn't have any objections  
8 to building that language in as an additional  
9 limitation to make it very clear that's the kinds of  
10 uses we're talking about.

11           MS. PALLANTE: Thank you.

12           To our filmmakers, tell us about your  
13 experiences in trying to license clips frustrations,  
14 experiences, expense, haven't tried. Give us some  
15 context on that.

16           MR. THRUSH: The most obvious example that  
17 springs to my mind is during the Japanese film I was  
18 working with a producer on that film. I wanted to  
19 use a TV show that one of the characters was  
20 watching. It was kind of a key point in the film  
21 where she's waiting for her son to come down. It's  
22 in the early stages where he's started to shut  
23 himself away in his room. She's waiting for him to  
24 come down; so she's watching this program for a long  
25 time.

1           The producer was too nervous about trying to  
2 license a show so I had to shoot around that and not  
3 see the show she was watching. It was very awkward  
4 and didn't -- I wasn't able to construct the scene as  
5 I wanted to, and I think it suffered because of it.

6           MS. PALLANTE: Just to be clear, your  
7 producer didn't want to go down the road of  
8 exploring --

9           MR. THRUSH: Exactly.

10          MS. PALLANTE: Do you think it was because  
11 of the complexity? The cost?

12          MR. CARSON: I think it was just the  
13 uncertainty of whether he would be able to get the  
14 rights, and it was not something that he wanted to  
15 explore. It was my first film; so I was a little  
16 less experienced and less insistent than I think I  
17 would be now.

18          MS. PALLANTE: It affected your creative --

19          MR. THRUSH: Oh, absolutely.

20          MS. HOFMANN: Jonathan, have you had that  
21 happen?

22          MR. McINTOSH: All my works are done -- some  
23 of them take a long time. Buffy -- that took six  
24 months to make, but I work on a budget of zero. It's  
25 just my time. It's a lot of my time, but I'm not --

1 I don't have a budget; so there's no way I can clear  
2 anything, any clips.

3 MS. PALLANTE: So to put you in the hot seat  
4 for just a moment, suppose there was a royalty-free  
5 license available for what you do. How would you do  
6 it?

7 MR. McINTOSH: For clips that are owned  
8 by --

9 MS. PALLANTE: I think you said your budget  
10 is zero. Therefore, exploring licenses can't enter  
11 into your business plan for what you do. I think we  
12 also heard that the market is changing rapidly. The  
13 consumer friendly models and licensing options are  
14 changing, pressure from those who want them.  
15 Conceivably, I suppose even with a budget of zero  
16 permission might be possible and maybe -- I'm just  
17 extrapolating here. Maybe there would be some  
18 agreement, some kind of access on your films in  
19 return, a transaction that might make sense, for  
20 example.

21 MR. McINTOSH: I think what I do is a  
22 critical part of discourse. What I do is an  
23 important part of being -- engaging citizens in  
24 media, and I think it's fair use; so I would ask  
25 permission. I don't think they would give it in many

1 cases because they're very hypercritical of the  
2 media.

3 MR. DONALDSON: Could I weigh in just  
4 because we work with so many -- I'm not a filmmaker,  
5 but we work with so many. In the documentary area  
6 we, I would say, almost weekly obtain "no objection"  
7 letters. You'll never obtain a permission. That's  
8 not going to happen. But, you know, no objection is  
9 just as good. The problem often is that the clips  
10 are simply not available. Take "This Film is Not Yet  
11 Rated," which criticized the rating system. All  
12 studio films have -- license agreements have in them  
13 that you can't use this clip to criticize the  
14 industry or this film or the studios, a long list of  
15 things you can't criticize. Beyond that many things  
16 are not available.

17 Yoko Ono never would have agreed to license  
18 15 seconds of "Imagine" in the film "Expelled." We  
19 used it pursuant to fair use, and that case turned  
20 out well as you know. There are a lot of simply  
21 unavailable, but the conversation is always worth  
22 having.

23 What's interesting is we do have a case in  
24 the office now where we're seeking permission, and  
25 there's a lot of pushback because it's a fictional

1 film. That's what we do for a living, and if we want  
2 to use these clips in a fictional film, there's just  
3 a lot of pushback. Who knows how long it will take  
4 to shift. There's been a shift in clips for  
5 documentary films. There's been no question the  
6 studio attitudes have changed immensely over the last  
7 five years.

8 MR. RUWE: To Jonathan, I know you stated  
9 that the comments -- you're concerned about the  
10 comments being subsumed by the discussion of low  
11 quality, but I do want to hear more about any  
12 experience you've had with screen capturing as an  
13 alternative and along those lines -- well, I'll let  
14 you answer first.

15 MS. PALLANTE: About screen capturing?

16 MR. GOLANT: Yes.

17 MR. McINTOSH: So there's much ways to do  
18 it. Often expensive. So you need software, and you  
19 need tools.

20 MR. RUWE: What kind of expenses?

21 MR. McINTOSH: Software that captures and  
22 records your screen, that can be between \$50 and  
23 \$700. If you need to record it from camera onto a  
24 screen, that also can be -- the expense of a camera,  
25 the flat screen, and all that. There's all that

1 expenses. I think even when you do that and you do  
2 it the best way you can, my experience has been it's  
3 not usable because even when you're screencapping  
4 with the screencapping software, it's choppy. It  
5 doesn't come through. The audio is -- you'll lose  
6 quality. Then your computer has to go really, really  
7 fast to connect to a fast connection, and you lose  
8 that. It drops, and you have to start all over  
9 again. There's a whole bunch of them. I've tried  
10 it. It doesn't work. I don't know any remixers that  
11 use that.

12 MR. RUWE: You did mention the notion of  
13 wanting to capture a particular portion of the frame  
14 and degradation coming along in that process. With  
15 screen capture, as I understand the tech  
16 demonstration, you can choose the particular portion  
17 up front to capture so you're not starting with a  
18 larger portion that's been captured. You can focus  
19 on that character from the point of capture.

20 Do you follow that I'm saying?

21 MR. McINTOSH: Yes, but again, the quality  
22 of the capture itself would be bad.

23 MR. RUWE: You've used the screen capturing  
24 material?

25 MR. McINTOSH: I have used screen capture.

1 It doesn't work. It's choppy. You lose frames. It  
2 skips. When you do it up front and rip from a DVD --  
3 let's say you make a project. Projects are rarely  
4 the size of DVDs; so web projects are smaller often  
5 because they want to be able to crop. You have  
6 854 by 480 frame pixels. I would use 700 by 360, and  
7 then I can crop things out. So I'm actually using a  
8 smaller piece than the DVD is because I want to be  
9 able to crop something out of the frame.

10 MR. RUWE: I follow that. That's what I was  
11 getting at, but the degradation of quality with  
12 screen capture, if you were to initially take the  
13 focused portion, say, the bottom right-hand third of  
14 the screen --

15 MS. PALLANTE: But you're saying not -- so  
16 it's the process of taking it through the screen  
17 capture system that creates degradation. So it  
18 doesn't matter you do. You'll always come out with a  
19 bad.

20 MR. RUWE: I thought you were saying there's  
21 another layer of degradation when you're cropping out  
22 and enlarging. I thought that was part of the  
23 problem.

24 MR. McINTOSH: When you need to zoom in on  
25 someone's lips or something like, then yes. Then, of

1 course, you want the highest quality video you can  
2 get so you can do that and zoom with less  
3 degradation. That's pixelation. That's just an  
4 argument for trying to start with the best footage  
5 you can so you do those effects.

6 MS. PALLANTE: You spoke about the  
7 timeliness. Actually i forget which one of you did  
8 or maybe both of you did.

9 MR. McINTOSH: I mentioned it.

10 MS. HOFMANN: Raise your hand if you spoke  
11 about timeliness.

12 Could you just follow up on that, both of  
13 you, if you don't mind. Here's the question: As we  
14 understood it because DVDs are not often released  
15 quickly enough, that affects your ability to comment  
16 and criticize a number of online published  
17 (unintelligible) as you described it, in an effective  
18 way. Is that something that could be -- that gap,  
19 could that be closed in the future? And if so, would  
20 it change your view?

21 MR. NEILL: I think there's two steps.  
22 There's situations where the content will eventually  
23 be on DVD, but it's still needed in a more timely  
24 manner for the criticism and commentary that's taking  
25 place. Also, if you back up a little bit, there's



1 more and more content that simply doesn't become  
2 available on DVD. I think that's going to be more  
3 and more true over time. You can see them popping up  
4 on services like Netflix now. You can see series  
5 that have gone directly from YouTube directly to  
6 Netflix. So it sort of deals with that idea that  
7 there are many shows and news programs and other  
8 kinds of work that will never be available on DVD.

9 MR. McINTOSH: Just add to that, I think  
10 things are probably moving in the direction of not  
11 being on DVD. That's especially true for shows that  
12 are canceled because then they're obviously never  
13 going to be on DVD or rarely are as well as  
14 newscasting and reality TV. Reality TV never goes to  
15 DVDs.

16 MR. KASUNIC: If it's not available on DVD,  
17 how are you capturing it?

18 MR. McINTOSH: For my projects? I think I  
19 feel a little uncomfortable answering that question  
20 because of the legal confusion. I try to be as legal  
21 as I can possibly be.

22 MS. PALLANTE: I guess the question is you  
23 have found a way to capture it?

24 MR. McINTOSH: No capturing. It doesn't  
25 work. But otherwise.

1 MR. LERNER: I was going to ask if we can  
2 speak to the licensing issue but if you want to  
3 follow that up.

4 MR. RUWE: Absolutely.

5 MS. PALLANTE: I think that would be great.

6 MR. RUWE: State your name so we can put it  
7 on the record.

8 MR. METALITZ: My name is Brendan Charney.  
9 I'm with the USC Intellectual Property Clinic in  
10 support of (7) (D) and (7) (E).

11 We would submit that licensing should not be  
12 considered by the Copyright Office to be an  
13 alternative to circumvention for several reasons.  
14 First, this rulemaking was created by Congress  
15 expressly in order to prevent what they call a  
16 pay-for-use regime in which rights-holders would  
17 essentially be able to monetize fair use by requiring  
18 payment for use that has been considered  
19 non-infringing unless outside of the exclusive right  
20 of the copyright applicant to the rights-holders.

21 Second, as Mr. Donaldson stated and as our  
22 clients submitted in the comments, licensing  
23 agreements are restrictive and do not provide the  
24 freedom of expression that our creators are entitled  
25 to, and the Supreme Court recognized this in Campbell

1 versus Acuff-Rose when they said that rights-holders  
2 unlikely to license for critical purposes unless  
3 there is no critical market. There is no driven  
4 market for critical uses.

5           Finally, even if licensing were to be  
6 considered an alternative, it would not be sufficient  
7 to remove a potential liability for fair users  
8 because any individual licensor can't necessarily  
9 convey all of the rights against circumvention that  
10 might be held by other parties, for instance, guilds  
11 and others.

12           So for those reasons we would request,  
13 again, that licensing not be considered as an  
14 alternative to circumvention.

15           Thank you.

16           MS. HOFMANN: Thank you very much.

17           MR. RUWE: Can I follow up? How do some  
18 people obtain content that is not available on DVDs,  
19 in other words, streaming material?

20           MR. McINTOSH: There are a number of  
21 programs that will allow you to circumvent the DRM.  
22 You can take a file and pretty much losslessly remove  
23 what prevents you from -- you bought the file. You  
24 downloaded it. It's yours. The question is how do I  
25 then edit this? It's locked. It's lock in the

1 player. You can't get it out of the player that it's  
2 locked to. So if it's Apple's player, it's iTunes,  
3 it has to be there. It can't move. It can't be  
4 played anywhere else. I certainly can't bring it  
5 into my edit program. It won't do it. There are  
6 programs that will remove that block and say, okay,  
7 now this video file is already purchased. You can  
8 now do it.

9 MR. KASUNIC: What if it's not downloaded  
10 material? What if it's streaming content?

11 MR. McINTOSH: There are also ways you can  
12 capture the stream. It happens in the back end.  
13 It's not like it shows it on your screen and you grab  
14 it. It's not like -- there's data coming through,  
15 and you can decrypt that data and then create the  
16 file which is coming through without showing it and  
17 recording it. Does that make sense?

18 MR. KASUNIC: So we might be dealing here  
19 with a whole host of different type technological  
20 protection measures. In the current exemption, for  
21 instance, there's an exemption for DVDs protected by  
22 a content scrambling system. Are any of these other  
23 forms of downloaded or streaming content? There's a  
24 whole host of --

25 MR. McINTOSH: There are many, and there

1 are -- I can't speak to them. I'm sure the industry  
2 folks could. As far as I understand, there are  
3 various different kinds. I think many people are  
4 afraid to even do that.

5 MR. KASUNIC: So in order to include that  
6 into an exemption, one of the ways the previous  
7 exemption or the existing exemption has been tailored  
8 with respect to the type of technological protection  
9 measure that was employed, that would seem to not be  
10 possible in order to grant an exemption that you're  
11 talking about since this -- you couldn't refer to a  
12 specific type of protection measure; right?

13 MS. McSHERRY: Can I answer that? I think  
14 that that's right. I think that that's right. I  
15 think that the proposed classes are tailored in many,  
16 many ways, but there's a practical reality which  
17 there isn't sort of just one TPM that we can point  
18 to. Believe me if there was, that would be nice  
19 because we could tailor it even more, but that is the  
20 practical reality.

21 MR. KASUNIC: So then that, by necessity,  
22 becomes an enormously larger exemption since that  
23 tailoring is not being done in terms of relating it  
24 to a particular type of content.

25 MS. McSHERRY: I still think we're thinking

1 about a Jack Russell terrier. It's going to be -- I  
2 think that that's right. That particular form of  
3 tailoring does not apply with respect to Class C. I  
4 would suggest that many, many other forms of  
5 tailoring do still apply such as, for example, that  
6 the work not be available on DVD which worked  
7 perfectly well for our community because the remix  
8 community not only would like to buy the original  
9 DVD, they'd like to buy the DVD with the extra  
10 features. They'd like to buy the DVD set. This is  
11 their best customers.

12 MR. COHEN: Hi there. My name is Alex  
13 Cohen. I'm also with the USC IP and Technology Law  
14 Clinic. We wanted to briefly speak to the question  
15 of functional definitions of the format classes.

16 We have the opportunity to speak to the  
17 Class (7)(D) that we are proposing. What we have  
18 done in that to limit the functional definition is  
19 that we've clearly delineated two tests that allow a  
20 reasonable user to understand what is going to be  
21 circumvented. There has to be either encryption or  
22 an authentication protocol. Both those tests have  
23 been affirmed by various top courts to be considered  
24 covered by the DMCA.

25 Secondly, the librarian actually granted

1 multiple exemptions the last time around. They were  
2 considered functional in the sense they did not  
3 specify a specific format, and if the panel is  
4 interested, we can submit those specific exemption  
5 classes. They covered things that are very similar  
6 to what we're talking about, in particular, two  
7 classes that related to computer programs and related  
8 to wireless telephone applications and handsets and  
9 something that related to video games.

10           And in both those cases, similar to what is  
11 happening right now, it had to do with software in  
12 which there was a wide range of software that was  
13 constantly changing, and, in fact, earlier the  
14 opposite side mentioned a wide range of ways in which  
15 they are licensing their content and that those types  
16 of technologies are rapidly changing.

17           To conclude, with digital locks at every  
18 turn and with the need to be able to access materials  
19 that are only available on digitally transmitted  
20 video sources such as news content, a functional  
21 definition, we believe, would be very appropriate.

22           Thank you.

23           MS. PALLANTE: Thank you.

24           Could the studios come forward again.

25           MR. NIMMER: I have one question.

1 MS. HOFMANN: Nobody should move very far.

2 MR. CARSON: Question for Mr. Thrush.

3 I'm a little confused by the two examples  
4 you gave of the cases where you say you need to be  
5 able to circumvent in order to get high quality video  
6 content. Two cases you mentioned, one where you're  
7 showing what's on the video screen on the back of  
8 chair in front you on an airplane and the other where  
9 you're showing people watching television. At least  
10 as I'm understanding it, and really clarify this,  
11 what you're saying is you need the best possible  
12 quality image so you can present in your film an  
13 image that in real life is going to be much lower  
14 than that quality. So why do you need such great  
15 quality image to show something that, in fact, in  
16 everyday experience is not going to be such great  
17 quality?

18 MR. THRUSH: Yeah, it's quite bizarre, but  
19 it comes down to sort of a post process in post  
20 production where, for example, if you're shooting on  
21 an airplane, it's dark. The screen actually might  
22 almost be indecipherable. You might not be able to  
23 see what is on that screen. If you get the right  
24 exposure for the subject sitting in the seat, the  
25 screen might be so dim you don't really get any good



1 recognition on this. Whereas in post if they put the  
2 clip you want, if they take a high resolution clip,  
3 they can adjust it so that you're kind of cheating  
4 what you would shoot naturally but make it sharper  
5 than it is so you get recognition of that.

6 MR. CARSON: Why can't they do that with a  
7 clip that is used with a free sample screen capture?  
8 That is still going to be pretty good quality.

9 MR. THRUSH: It kind of, you know -- that's  
10 one example I'm giving you, like, if you're in a  
11 wider shot and it's dimly lit. But another example  
12 might be -- for example, I was imagining that scene  
13 would be you'd open with that filling frame so it  
14 looks huge so that it looks as if you're in an IMAX  
15 theater on screen, and then you pull back, and you  
16 realize they're watching it very small. So to get  
17 something that's really big, and we might want Tom  
18 Cruise's face as he's going through an explosion or  
19 something like that, some detail within the scene,  
20 then you would need the highest possible quality  
21 source so that you can zoom in without it becoming  
22 just mush really.

23 Without access -- essentially without access  
24 to the highest possible quality source, there are  
25 many countless instances where your options on what

1 you can do with that scene are inherently limited.

2 MR. DONALDSON: I was laughing when you  
3 asked the question because I asked that same question  
4 to a QC guy in Germany last year, and finally we got  
5 it straightened out, but we had to get completely out  
6 of the quality control people and get executives  
7 talking to each other because their television  
8 standards say it doesn't meet our standards. And  
9 then to make matters worse, a lot of CIS countries  
10 and smaller countries tend to defer to Germany, and  
11 if it doesn't pass QC in Germany, they don't bother.  
12 They don't even bother testing it. It's very  
13 frustrating. That was the reason for my laughter  
14 when you were asking the question. Identical  
15 wording.

16 MR. THRUSH: Even with some of the  
17 commercial projects I've done recently where we were  
18 trying to shoot something that looked very  
19 old-fashioned, it looked like it was shot years ago,  
20 still the effects company ask for the very best  
21 quality original material, and then they put effects  
22 on it and gray and degrade that, and it gives them  
23 just more control than if they're working from  
24 something which you shot on an old camera or with old  
25 lenses.

1           So it is something from the effects side of  
2 things people are always asking for the highest  
3 resolution, highest quality source material to work  
4 for no matter what you end up doing with it, no  
5 matter even if you do want it to look fuzzy and kind  
6 of crappy on a motel room TV screen.

7           MR. CARSON: If I were Steve Metalitz, I  
8 probably would say, "Well, of course, people always  
9 say they want the best quality." What I'm not sure  
10 I've heard from you is that you need the best  
11 quality.

12           MR. CARSON: They insist. They insist.

13           MR. RUWE: Their insistence -- is this about  
14 the broadcast requirement? Because we heard about in  
15 the tech hearing about upconverting material that  
16 wasn't the highest resolution. Even some of the  
17 original material was produced in the '50s. So it  
18 was not to the standard originally. If that's what  
19 we're talking about, what do you respond to, both of  
20 you, about the possibility of just upconverting  
21 material so it does meet the broadcast standards?

22           MR. CARSON: It's twofold really. One is a  
23 creativity standpoint and how you want your work to  
24 look and what you want to be able to do with this  
25 footage and your options, you know, having the full

1 range of options. From a directorial point of view,  
2 that's my strongest suit.

3 And the second part is more of a technical  
4 standard which is not something I profess to  
5 understand entirely. It's to meet broadcast stands  
6 which Michael spoke about.

7 MR. DONALDSON: Upconverting is way beyond  
8 me, but as I understand it, it requires expensive  
9 equipment, and there are not all that many people  
10 that can operate it anyway which puts it way past  
11 many independent filmmakers. Not all of them but  
12 90 percent of them.

13 MR. THRUSH: On the last film I did at  
14 Sundance we actually did that. Some of the material  
15 I shot at low resolution, they upraised it. When it  
16 was screened, when it was exhibited, you could really  
17 tell. There was a softness to that material which  
18 doesn't appear on the material that was shot properly  
19 at high res.

20 Obviously, because I'm an independent  
21 filmmaker and self-financing these projects, that was  
22 not -- that was sort of not a way I wanted to go, but  
23 I had to go. Moving forward in the future, it's  
24 certainly not -- I don't want to keep having my work  
25 compromised like that because it does put you at an

1 extreme disadvantage to your colleagues and other  
2 people in the festival.

3 MS. PALLANTE: What is your point?

4 MR. CHARNEY: I'd like to just amplify what  
5 was said and reiterate that in this sort of context  
6 when a filmmaker is commenting on an original work,  
7 audience recognition is key. It's very important  
8 that there be a level of quality in the first  
9 instance that allows the editor in post production to  
10 edit it down so the work is still recognizable.

11 If, in the case of Laurence's film, if he is  
12 using a scene from MI2 or whatever the most recent  
13 "Mission Impossible" film is that shows Mumbai, the  
14 audience needs to recognize that that is the film or  
15 else the whole criticism and commentary that the fair  
16 use involves will not be understood. As we saw in  
17 the May 11 hearing, the screen capture and  
18 upconversion processes are not sufficient to allow  
19 that.

20 Screen capture, even with video enhancement  
21 software, is not going to remove the poor black  
22 levels and poor contrast. When you take that and  
23 edit it further and shrink it down, you're going to  
24 end up with an audience that's not recognizing that  
25 clip.

1           And, finally, with upconversion when you're  
2   commenting on an original work, you want use that  
3   original work. You want to use something that has  
4   fidelity to that work just as you want to use an  
5   actually quote from Shakespeare if you were  
6   commenting on Shakespeare. Upconversion creates a  
7   process called interpolation as Mr. Morris had talked  
8   about. That creates a different work that does not  
9   have fidelity to the original. It's putting  
10  basically fake lines in between.

11           And so in addition to all the quality  
12  issues, in addition to all the broadcast standards  
13  hat cannot be met, we're also talking about changing  
14  the filmmaking progress to commenting on an original  
15  to commenting on something different, and so that's  
16  not going to be sufficient in order to allow for this  
17  creative vision and this commentary process.

18           MS. McSHERRY: Can I speak very briefly to  
19  quality? I just want to be clear because it seems to  
20  me there is a suggestion that remix artists are in a  
21  special class, and they don't need as high quality as  
22  everybody else, and I have to take umbrage at the  
23  notion that these folks are somehow second class  
24  citizens. I think that's fundamentally wrong as many  
25  of them have -- there's plenty of testimony in the

1 record from a variety of remix artists who will  
2 explain we have an increasingly sophisticated  
3 cultural context. If people do not take your video  
4 seriously, if you're commenting on mainstream media,  
5 you need to match it with quality. That's how you  
6 are taken seriously by an audience. So they have the  
7 same need for high quality source material as  
8 documentarians do and as mainstream filmmakers do.

9 Thank you.

10 MS. PALLANTE: Steve and Clarissa and Dan.  
11 The IP clinic has said that the Copyright Office  
12 should not be considering licensing, and Jonathan,  
13 our remix artist, has said that licensing is  
14 restrictive and affects free speech especially in  
15 what he does criticizing and commenting on society  
16 and work. What's your response to that?

17 MR. METALITZ: I think licensing is part of  
18 the solution. It's certainly not the whole solution.  
19 What we tried to present from the studios was the  
20 fact that they both -- well, I think it was mostly  
21 from Warner Brothers who explained how the licensing  
22 process works. First, there can be an expense  
23 involved; so if you have a budget of zero, then  
24 clearly clip licensing is not an option for you.  
25 There's a lot of other things that probably are not

1 options for you either.

2           I think it's also worth stressing the fact  
3 there are now a lot of secondary clip licensing  
4 services or indirect licensing, I guess is the best  
5 way to put it, where the studio makes available a  
6 whole library of clips that's distributed through  
7 AnyClip or MOVIECLIPS and these other services that  
8 Clarissa mentioned. Those are free to the user, and  
9 to the extent those -- and there's the ability to  
10 edit those down. So that may be part of the solution  
11 also in some cases. Obviously, not every film is  
12 available through one of those services, but I think  
13 if you look at the trend, it's getting to be more and  
14 more films.

15           I think the reaction -- for example, I think  
16 Michael mentioned this. The reaction to fictional  
17 filmmaking from a lot of the studios is "Wait a  
18 minute. That's our business and what we do." While  
19 I recognize they don't always license everything and  
20 they make fair use determinations and they also make  
21 omissions where something gets through that maybe  
22 should have been licensed, but that's the business  
23 they are in and part of the cost they have.

24           I think Dan's testimony mentioned this is  
25 part of the cost of making a film where you're



1 re-using material from another work is the licensing  
2 of that. So it's not just for the studios, of  
3 course. I think Clarissa and others can give more  
4 detail about this, but it also has to do with the  
5 residuals that are paid to talent, to the actors and  
6 other guild members, and so all the activities that  
7 we're talking about that would be covered by the  
8 exemption, they would see zero. So it's not just the  
9 studios that have an interest.

10 MS. HOFMANN: And to the other point that  
11 was made that if one is criticizing or a license is  
12 not going to be proffered, what would you say?

13 MR. METALITZ: As far as I know, at least  
14 the studios I'm familiar with, some of them do have  
15 that provision in their licensing agreements, that it  
16 doesn't include criticism of the studio, for example.

17 MR. CARSON: It does?

18 MR. METALITZ: It does not. They would not  
19 license on that basis. I don't know if that's  
20 universally true, but it's certainly true in some  
21 cases.

22 MR. McINTOSH: I just wanted to respond to  
23 this notion there are these free clip archive things  
24 out there which, as far as I know, there are really  
25 not. One of the projects I worked on was to take the

1 entire "Transformers 2" movie and pull out every clip  
2 with a female transformer in the movie and put them  
3 back to back. It's called super cut.

4 MR. KASUNIC: Are there any?

5 MS. PALLANTE: Are there any?

6 MR. KASUNIC: Are there any other female  
7 transformers?

8 MS. PALLANTE: There is one. Her name is  
9 RC. She was supposed to star but they reduced her --  
10 this is what the criticism was about -- they reduced  
11 her role to 38 seconds. You needed to look at the  
12 entire film to grab those little bits -- one second  
13 here, one second here, one second here -- to make the  
14 38 seconds and then put it up. So it wouldn't be  
15 okay just to take one clip. To make it work, you  
16 need to say here's the entire time she's on screen.

17 MR. COHEN: We just want to make one quick  
18 clarifying point. Our understanding is that AnyClip  
19 is a streaming-only service that that allows  
20 consumers to view online and that it would actually  
21 be completely not appropriate for filmmakers or  
22 people who are creating new works because in order to  
23 do that, you actually would need to then take the  
24 piece of work and then incorporate it into a  
25 completely different format. And our understanding

1 from our research and from what has been discussed,  
2 this is meant to be linked or embedded in the sense  
3 that it's embedded in another website with Internet  
4 access and would not be appropriate for creating a  
5 new audiovisual work such as a film which has to be  
6 self-standing and cannot rely on Internet access or  
7 access to other third-party websites.

8 MR. CARSON: Let me ask Clarissa.

9 Clarissa, you heard what Laurence would like  
10 to do with motion pictures produced by studios, and  
11 you heard what Jonathan would like to do. Do you  
12 license those kind of uses?

13 MS. WEIRICK: It is my understanding that we  
14 do license those kind of uses. That's what I meant  
15 by we license for films and television uses.

16 MR. CARSON: Would you ever do it without  
17 any royalty charge at all?

18 MS. WEIRICK: We charge a royalty for those  
19 uses. We do not charge any royalty for educational  
20 uses. We charge a reduced rate for documentary  
21 films, but we charge our standard royalty, which I  
22 don't know what that is, for fictional film uses.

23 MR. CARSON: What would the neighborhood be  
24 of what Laurence would have to pay?

25 MS. WEIRICK: I really don't know. I'm not

1 a member of the clip license department. I could get  
2 back to you on that point.

3 MR. CARSON: That might be helpful. The  
4 same for the kind of uses that Jonathan is making.

5 MS. WEIRICK: I think, just briefly, because  
6 we were having a discussion with the clip licensing  
7 person, it depends on the length of the clip and  
8 number of clips, but I think -- I don't know exactly  
9 what the rates are.

10 MR. RUWE: Would you include a criticism  
11 clause in that?

12 MS. WEIRICK: I do believe that in our film  
13 licenses there is generally -- but this is for  
14 fictional film use. There is a no disparagement  
15 clause.

16 MR. KASUNIC: You said there is different  
17 pricing for certain uses versus documentary use in a  
18 documentary film. How do you define that line?

19 MS. WEIRICK: Again, I don't know. She has  
20 standard -- our clip licensing department has  
21 standards for what they consider documentary versus  
22 feature films.

23 MR. KASUNIC: Can I put that to you, Steve,  
24 because you mentioned with education and documentary  
25 films and the non-infringing uses that would be one

1 thing, but this is something else. Where is that  
2 line between the two, between documentary filmmakers  
3 and noncommercial or --

4 MS. WEIRICK: I am sorry. I guess I do know  
5 that documentary means non-fiction. We're talking  
6 about fictional uses on the one side and documentary  
7 is non-fiction. That's my understanding of the  
8 difference. I don't know what exact rules that are  
9 applied, but I think there's pretty clear --

10 MR. KASUNIC: So we don't have a line  
11 between noncommercial --

12 MS. WEIRICK: I don't know what  
13 "noncommercial" means in the context of this.

14 MR. KASUNIC: That's a new issue as well  
15 now.

16 MS. WEIRICK: This is no such distinction in  
17 our clip licensing department.

18 MR. KASUNIC: Would it be between --

19 MS. WEIRICK: Documentary.

20 MR. KASUNIC: -- non-fiction and fiction.

21 MS. WEIRICK: Correct.

22 MR. RUWE: Okay.

23 MS. WEIRICK: And educational, again, is  
24 fair use and no charge.

25 MR. CARSON: One quick question to Mike, and

1 then I want to get to Steve's response.

2 I think it's implicit in what you said, but  
3 I just want to make sure. The kinds of uses that  
4 Laurence said he'd like to make of motion pictures  
5 produced by major studios are uses you think are fair  
6 use; is that correct?

7 MR. DONALDSON: Yes.

8 MR. CARSON: Steve, any response?

9 MR. METALITZ: I'm afraid I haven't seen any  
10 of these pictures.

11 MR. CARSON: But as described. You've heard  
12 a description.

13 MR. METALITZ: Yeah. Oh, no, I think in a  
14 lot of cases they will be fair use, and I think as  
15 Michael described, increasingly -- obviously not all  
16 the time -- there is going to be sort of an  
17 independent validation of that or at least validation  
18 it's likely to be fair use for insurance. If you  
19 look at that category of users, I think it's very  
20 different than the broader category of users that are  
21 not seeking that type of validation.

22 MR. DONALDSON: You have to work with the  
23 filmmaker and see how it turns out finally. You  
24 can't just blanket say it's going to be without  
25 seeing an application. But I'm pretty sure that

1 we're going to end up with Laurence being well within  
2 the law.

3 MS. PALLANTE: Michael, I have a question  
4 for you as well. You obviously work with business  
5 transactions in your experience and you have known  
6 insurers. What advice would you give the remix video  
7 artist who may not even be thinking about what an  
8 insurer has to say about his work and is going to do  
9 what he does because it's commentary? How do you get  
10 out of the insurer box?

11 MR. DONALDSON: When he was testifying, I  
12 was trying to think if any of the vidders had been  
13 into the office, and they haven't. We would,  
14 however, if someone did come in, we'd analyze it  
15 under the fair use standards like we'd analyze  
16 anything else. Even if they weren't going to get  
17 insurance or didn't think they needed it, we would  
18 apply the same rigorous standard because we don't --  
19 then it would even be -- if anything, we would  
20 probably be more cautious in our analysis because  
21 they're going naked and don't have insurance to cover  
22 the "oops." So we'd have to be very cautious about  
23 it.

24 MR. LERNER: Could I supplement?

25 MS. HOFMANN: Certainly.

1           MR. LERNER: I haven't written any letters  
2 for remixers, but I have been approached and had  
3 conversations with remixers who were concerned about  
4 the same things and thinking about the same things.  
5 The analysis isn't actually that different. If you  
6 look at transformative use, if you look at criticism  
7 and commentary and how they're used, was the  
8 appropriate amount used, the analysis is not  
9 necessarily that far off.

10           We feel that our clients and these classes  
11 are highly qualified in terms of the amount of rigor  
12 they've gone through, the amount of counsel they  
13 customarily go through, and also the amount of  
14 education that they go through and the amount of  
15 outreach there is to these communities.

16           So we feel good about those, but that  
17 doesn't mean that remixers don't consider the same  
18 factors, don't seek counsel -- you may disagree.  
19 Many don't obviously, and kids are doing what they're  
20 doing. I'll let those folks talk about that, but I  
21 will say -- the point of coming up here is to tell  
22 you we do have -- I have been approached by folks who  
23 have looked into this and considered getting  
24 insurance who would quantify as a remix or vidder.

25           MR. DONALDSON: We did have one feature



1 documentary that was a remix and had 10,000 items.  
2 So we used a little different approach in terms of  
3 the insurance company. It was about video games, and  
4 they used video games to talk about all their  
5 subjects. It actually turned out it had about  
6 12,000. The standards were the same, and they  
7 actually had no problem getting insurance for that.  
8 Very low deductible and low premium.

9 MR. KASUNIC: Just briefly, as we've said in  
10 our testimony, I think the bad news is many folks in  
11 the room and in the studio community don't have  
12 access to counsel. We're talking about often  
13 immature folks who can't afford it. But that doesn't  
14 mean there isn't a commitment to fair use. I think  
15 quite the contrary. I think there is a strong  
16 commitment and strong belief that their activities  
17 are and should be sheltered by the fair use doctrine,  
18 and I think there's an effort to make that happen.  
19 What we've talked about is what happens if they do go  
20 and seek legal counsel if they have used the wrong  
21 technology to make their fair use.

22 Just by the way, I'm not suggesting that any  
23 counsel will tell them go back to BitTorrent.  
24 Obviously no one is going to do that. I'm suggesting  
25 something quite different. One thing I would say it

1 goes to the issue of I think you've heard a lot about  
2 confusion out there. I will tell you EFF and the  
3 Organization of Transformative Works and a number of  
4 other nonprofits work very hard to educate people  
5 about these issues that are here today and also about  
6 the limits of fair use. There are resources out  
7 there that are available, and I know that people work  
8 very hard to take advantage of those.

9 MR. CARSON: Steve, you observed a couple of  
10 years ago we expanded some of these classes relating  
11 to use of video material in ways you think went too  
12 far. I think that's a fair characterization, isn't  
13 it? So in the past two years have you learned of any  
14 issues that have arisen because of that that created  
15 any problems for your clients that you'd like to  
16 bring to our attention?

17 MR. METALITZ: Well, I think one of the  
18 issues we've encountered has been there is a lot of  
19 misinformation in public about what these exemptions  
20 mean, not just in this area, but also I think you'll  
21 concede this in the one up to your decision on the  
22 video console area. There's a lot of material out  
23 there that says this is great because pretty soon  
24 we're going to be able to use all these tools to hack  
25 the operating systems. I think there certainly has

1 been that kind of effect.

2           If you're talking about instances of --  
3 first of all, we don't know -- I'm not sure how we  
4 would know how much people are using this exemption,  
5 the existing exemption for the noncommercial videos,  
6 allowing the hack of CSS for that purpose. I'm not  
7 sure there's any way that we would know how much that  
8 is happening. I assume from some of what we've seen  
9 here that it is happening a lot. I think there is  
10 evidence in the record that says it is being used a  
11 lot.

12           I think it's also clear on the record, and I  
13 think this is an important distinction between the  
14 documentarian and the feature film issue and the  
15 noncommercial video is that there are not lawsuits  
16 being filed about this, and people say there's a  
17 threat of risk or risk of a threat of liability under  
18 Section 1201. I think that is -- I don't see the  
19 practical evidence of that.

20           MR. CARSON: Corynne pointed out that no  
21 opponents of the proposed exemption pointed to any  
22 examples that they have brought forward of cases of  
23 non-infringement which you contested in terms of  
24 whether or not --

25           MR. METALITZ: I think we contested in our

1 comments. We cast out on some of them. We're not  
2 trying to make a definitive determination of whether  
3 a particular use is fair use or not. Our view is  
4 that's obviously a decision for courts on a  
5 case-by-case basis, and people can have different  
6 opinions about that. I think you will find some  
7 examples in our filing where we question whether  
8 stringing together a lot of material from different  
9 James Bond films, I believe it was, and adding a  
10 musical soundtrack is fair use. It's obviously a  
11 compilation of copyrighted materials and a  
12 copyrighted sound track, and it wasn't evident to us.  
13 Reasonable minds can differ on that, but that was  
14 certainly our view. The idea that it's incumbent on  
15 us to come forward with examples of uses that are  
16 being made that are not fair I think kind of puts  
17 the -- turns the burdens here on their head.

18 MR. CARSON: I'm not trying to tell you who  
19 has any burden. I'm just wondering whether you had  
20 any observations you can give us that might help us  
21 out.

22 MR. METALITZ: I thought we had a couple in  
23 our comments. I think they were responded to.

24 MR. CARSON: We'll look at it.

25 One more thing. I've got several places in

1 my notes from when you were talking about the various  
2 kinds of activities we've been hearing about. You  
3 say a lot of it is non-infringing. At the end of the  
4 day, my impression of what you're saying is "Yeah,  
5 there's all sorts of stuff that's non-infringing, but  
6 that shouldn't be enough to lead to an exemption."  
7 I'm with you there.

8 I guess where I'm not sure where you're  
9 leading me to is -- or leading us to is, is it just  
10 that there's so much non-infringement going on that  
11 we should stop issuing exemptions? That can't be the  
12 answer; so what's our task here?

13 When we see there are various areas in which  
14 non-infringing activities are going on and where -- I  
15 think you probably accept the fact that if people  
16 take the prohibition on circumvention seriously,  
17 they're not going to be able to do all of this  
18 non-infringing activity. Maybe you don't accept  
19 that. If not, tell me why you don't. But if that is  
20 the case, then how are we to evaluate when the  
21 non-infringing activity is something that -- I hate  
22 to use the word but deserves, shall we say, an  
23 exemption when it is?

24 MR. METALITZ: That's a good question. Let  
25 me respond in two points. First, the whole issue of

1 alternatives which has come up here as to whether  
2 this type of activity could go on without  
3 circumvention, we think a lot of it could. I  
4 understand why the creators in this case or the remix  
5 artists in this case want the best quality material  
6 or the filmmakers want the best quality material. It  
7 completely stands to reason.

8 I think what we just heard was that it would  
9 reduce our options, it would be more difficult, it  
10 would mean only certain ways to do things. The  
11 standard that you have set in the preceding  
12 rulemakings is that there is no entitlement to access  
13 to a particular work on a particular platform of your  
14 choosing or of our preference that would be most  
15 convenient to you. All these things -- that's not  
16 real the touchstone.

17 The touchstone is, is there a practical  
18 ability to use alternatives and alternative  
19 technologies, alternative sources to make these kinds  
20 of uses. I think our view is that there is a lot  
21 more of that. Of course, the proponents of the  
22 exemption say that that's obviously a decision, you  
23 know, you have to be persuaded one way or the other  
24 on that.

25 In terms of the standard, the standard you

1 set is, is the use, in fact, non-infringing? When  
2 you're talking about a huge range of uses and  
3 particularly when it's -- the touchstone is fair use,  
4 which is inherently case by case rather than another  
5 exception like 110, classroom use, where you have a  
6 little more specificity, let's say, in the statute, I  
7 think you do have a balancing job to perform. And I  
8 think to treat the documentarians with insurance,  
9 people who have had it validated, the same way as  
10 people who haven't is actually not the way you should  
11 proceed.

12 I don't know what -- you have to decide what  
13 the point is, but at some point the proportion of  
14 potentially infringing uses or likely infringing  
15 uses -- I should put it the other way. The  
16 proportion of uses that are, in fact, non-infringing  
17 is sufficiently small that it's not justified to  
18 issue an exemption even though you say it only  
19 applies if you're making a non-infringing use. I  
20 just don't think that will save the validity of an  
21 exemption where so much of the use is going to be  
22 infringing. I can't put a percentage on it or  
23 anything like that.

24 But I can say when it involves fair use,  
25 which is inherently case by case, and when it

1 involves a vast range of activity, any video  
2 production literally would be under the exemption as  
3 proposed to be expanded except an actual commercial.  
4 Everything else would be covered in every format in  
5 which access controls are used. I think it's  
6 unmanageable for you to make that decision.

7           So I would encourage you to focus it more on  
8 the areas where this is the strongest case that a  
9 significant, quantum, non-infringing use is being  
10 prevented by the prohibition, and that's the job  
11 Congress gave you.

12           MR. RUWE: Steve you spoke to the  
13 alternatives available. Is the use of screen capture  
14 software a violation of 1201?

15           MR. METALITZ: Our view, as I think we've  
16 expressed, is we're not going to opine on a  
17 particular technology, but when it records an  
18 unprotected output, an unencrypted output, we don't  
19 see that that's necessarily circumvention.

20           MR. GOLANT: You did point to a specific  
21 piece of software.

22           MR. METALITZ: We did?

23           MR. RUWE: I believe you did. The software  
24 you presented last week.

25           MR. METALITZ: We didn't present that. The



1 DVD-CTA presented that.

2 MR. RUWE: I think we're going to ask a  
3 direct question about it. So whether you're prepared  
4 to answer it today, they're not here.

5 MR. METALITZ: I don't represent them.

6 MR. RUWE: You might get a direct question  
7 about that.

8 MR. METALITZ: Well, I think I did get a  
9 direct question, and I think I gave you a direct  
10 answer. The best answer I can give today is if it is  
11 recording unencrypted output, then I think it's  
12 circumvention.

13 MR. RUWE: Maybe you can give a direct  
14 question to this point. There is a serious question.  
15 What size dog door is this, and what I'm saying is it  
16 goes to a serious point. It goes to what the  
17 potential harm may be in the Class 7 proposals. You  
18 did present a useful analogy, followed up on Class 7  
19 proposals here.

20 MR. METALITZ: Pardon?

21 MR. RUWE: How big is the door?

22 MR. METALITZ: I think the door is a lot  
23 better sized in some areas, classroom use and the  
24 documentarians and professional filmmakers that are  
25 getting insurance, I think it's better sized there

1 than it is for the broad category of noncommercial  
2 video and certainly even the broader category of  
3 primarily noncommercial video.

4 MR. KASUNIC: Is there some other way that  
5 you would suggest that would more properly tailor  
6 what -- I think what we were thinking about last time  
7 around in terms of noncommercial. You seem to be  
8 suggesting now this has been interpreted in an  
9 extremely broad way. Is that just the nature of that  
10 realm?

11 MR. METALITZ: Well, it's not a very clearly  
12 defined category the way you decided it or the way  
13 you recommended it, and the proposal is to broaden it  
14 even further which, of course, is of great concern to  
15 us. I'd be glad to consult with my clients and see  
16 if we can give you any proposals for narrowing it.

17 I do think one element that I think has been  
18 very well presented here today is that we now have  
19 some -- this is actually similar to one thing that we  
20 discussed in the last cycle and not adopted by the  
21 Office which is some type of credentialing through  
22 this type of independent validation. I think that's  
23 a very -- it's a reasonable factor to take into  
24 account.

25 MR. NIMMER: Could I follow up on that with

1 Michael?

2 MS. HOFMANN: Yes.

3 MR. NIMMER: If I understand Steve's  
4 proposal -- and we did -- last time around we tried  
5 to figure out how do you decide what is or isn't a  
6 documentary film and who is or isn't documentary a  
7 filmmaker? Is there some credential or something,  
8 and we were very uncomfortable with that. Steve  
9 seems to be suggesting, well, if you sort of go  
10 through the E&O process and you've got E&O insurance  
11 and agree to insurers, that's sort of like you've got  
12 a seal of approval of someone who's probably done a  
13 pretty decent job of figuring out whether there's  
14 likely to be infringement there. That might be good  
15 enough.

16 As a practical matter -- I don't know  
17 whether we go for this or not but I'm just putting it  
18 out to get your reaction. If we were to say, in  
19 respect to whether we're talking about a documentary  
20 film or a fictional film, to make a requirement to  
21 enter into this class that you obtained E&O  
22 insurance, would that be a practical problem, or is  
23 that too late in the process for you, for example, or  
24 is that something that could be workable?

25 MR. DONALDSON: I'll think about it and, of

1 course, see you in Washington in two weeks. That's  
2 the very last thing that happens.

3 MR. NIMMER: That's why I'm asking.

4 MR. DONALDSON: Some -- like in "This Film  
5 is Not Yet Rated" we got insurance real early. There  
6 are other films we do, but it hardly ever happens.  
7 It always happens as soon as you get some sort of  
8 distribution, and part of the distribution agreement  
9 is you have insurance. It received to be very  
10 standard, three years, \$10,000 deductible. Now the  
11 deductabilities are shifting, and sometimes the  
12 length is being required a little differently under  
13 contracts. So it's the last thing that happens. My  
14 gut is that that's not going to work, but let me  
15 think about it a bit, and I'll see you in Washington.

16 MS. PALLANTE: Jonathan, just to follow up  
17 with that, do you want to talk for just 30 seconds  
18 about how you disseminate work?

19 MR. McINTOSH: I put things for free on the  
20 Internet to download and watch on YouTube. I think  
21 many, many and more and more of us are not producing  
22 films for distribution through distribution platforms  
23 that are difficult. We're producing films to be seen  
24 by peers, seen by the Internet, e-shared, YouTube,  
25 video, and many other places. The insurance thing.

1 MS. PALLANTE: Before we close, I'd like to  
2 give our artists and then our students the last word.  
3 So if any of you have anything to say and thank you  
4 for participating.

5 MR. McINTOSH: I just think there's a  
6 reality here which is that many, many young people  
7 are learning these tools. They're using the media  
8 that is the language that they speak whether that be  
9 the TV shows or movies that they're watching or video  
10 games, and they want to speak back to it. They  
11 notice something, and they want to talk about it. I  
12 think in many cases they're very careful about fair  
13 uses. Again, the more we can do to make them feel  
14 okay that their criticism and their commentary and  
15 they're entering into a public debate about mass  
16 media, make them feel comfortable with that and that  
17 it's legally okay, the better.

18 MR. CARSON: I just want to say thank you  
19 for listening to my testimony. I think this whole  
20 question of what defines a fiction film and a  
21 documentary film is really tricky, and I think it's  
22 going to continue to get more murky as the means of  
23 production for making films becomes more accessible  
24 for more people. You're going to have more people  
25 out on the street making films, and they're not going

1 to adhere to those traditional genres. I think  
2 you're seeing that all over the world, and I think  
3 one of the more interesting aspects of modern cinema  
4 is that blend of using more real people and using  
5 real locations. And I think that's going to be  
6 something that continues, and I think any  
7 clarification you can get on this issue would be  
8 enormously helpful.

9 MS. PALLANTE: Does the IP clinic have  
10 anything?

11 MR. COHEN: I think our last point we just  
12 want to go to the question about how does the -- how  
13 could the Copyright Office decide whether a class is  
14 deserving, as Mr. Carson said, or not. Our view is  
15 that Copyright Office should continue with the  
16 standard they that announced in the 2010  
17 recommendation that the non-infringing use is likely  
18 to be non-infringing and the substantial adverse  
19 effect is or is likely to be a substantial adverse  
20 effect and that the statute as a way to evaluate that  
21 is to look at how narrowly tailored is both the class  
22 definition and the uses in practice.

23 We feel that by both of those standards both  
24 documentary and fictional filmmakers well exceed that  
25 standard by having a narrowly tailored class that

1 includes an incremental approach that distinguishes  
2 between DVD and Blu-ray and digitally transmitted  
3 video and furthermore, as you've discussed  
4 extensively today, a very widespread and growing  
5 practice of errors and omission insurance that  
6 involves rigorous vetting of the fair use process by  
7 multiple third parties.

8 And thank you for your time.

9 MS. PALLANTE: Thank you. That concludes  
10 our hearing.

11 (Whereupon at 4:30 p.m. the Rulemaking  
12 Hearing was concluded.)

13

14 ---oOo---

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATION OF DEPOSITION OFFICER

2

3 I, LISA MOSKOWITZ, RPR, CSR, hereby  
4 certify that said Rulemaking Hearing was taken at the  
5 time and place therein stated; that the testimony of  
6 said panelists was thereafter transcribed by means of  
7 computer-aided transcription; and that the foregoing  
8 is a full, complete, and true record of said  
9 testimony.

10 I further certify that I am not of  
11 counsel or attorney for either or any of the parties  
12 in the foregoing Rulemaking Hearing and caption named  
13 or in any way interested in the outcome of this cause  
14 named in said caption.

15

16

17

\_\_\_\_\_  
Lisa Moskowitz  
CSR No. 10816, RPR, CLR

18

19

20

21

22

23

24

25



Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012

<u>\$</u>	57:3 62:24 64:9	<b>2.99</b> 180:1	<b>30,000</b> 90:23
<b>\$10,000</b> 228:10	70:8,14 71:5	<b>20</b> 38:14 83:18	<b>300</b> 170:14
<b>\$100</b> 21:14	93:19 94:24 95:8	164:18	<b>31</b> 83:21
<b>\$2,000</b> 149:12	122:5 130:20,23	<b>2000</b> 133:4 178:7	<b>32</b> 76:13 110:25
<b>\$200</b> 84:17	132:8 219:18	<b>2002</b> 129:8 178:7	<b>330</b> 168:10
<b>\$25</b> 17:19	224:14	<b>2003</b> 133:4	<b>35</b> 168:6
<b>\$25,000</b> 149:4	<b>1201(3</b> 8:12	<b>2004</b> 167:25	<b>360</b> 46:3 191:6
<b>\$50</b> 189:22	<b>1201(5</b> 75:14	<b>2005</b> 147:7	<b>37</b> 32:14
<b>\$500</b> 84:19	<b>1201(7)(A</b> 126:5	<b>2006</b> 133:8	<b>38</b> 210:11,14
<b>\$600</b> 84:17,19	<b>1201(a</b> 93:5,9	<b>2007</b> 161:15	<b>3D</b> 11:24 63:6
<b>\$700</b> 189:23	<b>1201(f</b> 13:10	168:24	<u>4</u>
<u>1</u>	27:18,21 28:3,21	<b>2009</b> 76:15 82:4,8	<b>4</b> 15:22
<b>1</b> 5:23 15:20 20:23	29:2 31:8,14,15	120:6	<b>4,000</b> 157:17
29:16,17 51:17	38:24 65:8	<b>2010</b> 10:8 75:20	<b>4:30</b> 231:11
65:20,21 90:23	66:9,20,21	82:5,11 92:19	<b>400</b> 157:17 170:13
109:16	73:1,7,10,11	110:7 133:8	<b>405</b> 1:20
<b>1:30</b> 4:20 125:1	74:12,15 91:9	230:16	<b>45</b> 168:9
126:2	108:9 109:1	<b>2011</b> 161:20	<b>463</b> 167:12
<b>10</b> 38:14 156:13	<b>1201(f)(1</b> 29:9	<b>2012</b> 1:16 7:3	<b>48</b> 157:1
157:12 173:10	30:10,11	20:25 126:2	<b>480</b> 191:6
<b>10)(A</b> 126:5	39:9,10,25 65:25	<b>20th</b> 3:2 166:4,16	<b>490</b> 161:6
<b>10)(B</b> 126:5	<b>1201(f)(2</b> 65:10	<b>212</b> 161:7	<u>5</u>
<b>10,000</b> 217:1	<b>1201's</b> 18:24	<b>220</b> 161:17	<b>5</b> 4:13 75:19 79:8
<b>10:30</b> 4:11 75:13	<b>1242</b> 1:21	<b>25</b> 76:14 107:13	83:13 84:17
<b>100</b> 146:6 168:7	<b>125</b> 170:6	<b>250</b> 20:24 73:25	114:3 145:13
169:25	<b>126</b> 4:20 169:5	<b>25-minute</b> 148:21	169:7
<b>102</b> 42:11	<b>13</b> 127:6 145:10,14	<b>27,000</b> 79:5	<b>5.1</b> 168:4
<b>107</b> 130:20,22	<b>140</b> 142:14	<b>28</b> 21:17	<b>50</b> 76:10,12 78:21
<b>10816</b> 1:24 232:18	<b>15</b> 108:13 188:18	<b>29</b> 21:16	83:16,17 111:16
<b>10A</b> 6:20	<b>17</b> 1:16 7:3 42:11	<u>3</u>	124:4
<b>10B</b> 6:23	126:2 145:10,14	<b>3</b> 4:7 8:4,18 17:5	<b>50,000</b> 146:19
<b>11</b> 205:17	<b>18</b> 76:25	18:3,4 19:21	<b>50s</b> 203:17
<b>11:53</b> 125:2	<b>1999</b> 120:5	23:19 37:11 79:6	<b>512</b> 176:6
<b>110</b> 174:13 223:5	<u>2</u>	97:7 113:25	<b>55</b> 168:3
<b>117</b> 65:3	<b>2</b> 5:24 9:9 15:20	130:24 131:9	<b>56</b> 24:21
<b>12,000</b> 217:6	16:25 127:8	135:12	<u>6</u>
<b>1201</b> 1:8 7:8,21	150:6 162:24	<b>3,000</b> 161:1	<b>6,000</b> 127:8
28:24 31:10	164:23 210:1	<b>3,500</b> 163:20	
55:5,22 56:1	<b>2,000</b> 163:8 164:24	<b>30</b> 76:22 168:8	
	<b>2,400</b> 167:11	169:6 228:17	
	<b>2,850</b> 161:4		

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012

<p><b>6.7</b> 168:2  <b>60</b> 163:1,2  <b>68</b> 106:18</p> <hr/> <p>7</p> <hr/> <p>7 7:16 16:6 156:13  173:17,22  225:17,18</p> <p><b>7(B)</b> 126:16  <b>7(C)</b> 126:17  <b>7)(B)</b> 126:5  134:6,17,18  140:6  <b>7)(C)</b> 126:5  134:6,17,18  136:1 138:16  140:7  <b>7)(D)</b> 126:5 194:10  198:17  <b>7)(E)</b> 126:5 194:10  <b>7)(F)</b> 126:5  <b>7)(G)</b> 126:5  <b>7,999,950</b> 111:15  <b>70</b> 115:11  <b>700</b> 170:3 191:6  <b>70s</b> 113:12 146:2  <b>75</b> 4:11  <b>7A</b> 4:22  <b>7B</b> 5:5  <b>7C</b> 5:10  <b>7D</b> 5:16  <b>7E</b> 6:1  <b>7F</b> 6:8  <b>7G</b> 6:15</p> <hr/> <p>8</p> <hr/> <p><b>8</b> 4:5 16:6 112:21  113:9 124:5  <b>8,000</b> 161:5  <b>80</b> 156:24 168:4</p>	<p><b>80s</b> 113:12  <b>854</b> 191:6</p> <hr/> <p>9</p> <hr/> <p><b>9:00</b> 1:18 4:5 7:3  8:3  <b>90</b> 156:24 204:12  <b>90095</b> 1:21</p> <hr/> <p>A</p> <hr/> <p><b>a)(1)</b> 29:10 65:13  <b>a)(2)</b> 29:11  65:12,18  <b>a.m</b> 1:18 4:5,11  7:3 75:13  <b>AAA</b> 21:12  <b>AAC</b> 160:23  <b>Aaron</b> 12:6 61:12  <b>ability</b> 9:13 10:13  11:7,12 21:25  56:4 79:10 80:20  88:7,15 89:23  90:2 92:5  93:6,19 98:25  103:10 134:24  155:16 161:11  170:19 172:5  192:15 208:9  222:18  <b>able</b> 9:18 11:5  19:8 23:24 26:2  44:24 47:20,21  48:21 52:2 57:5  59:11 71:20 72:6  73:6 79:20  80:1,3,16,19  84:8 86:2,3,12  94:2 106:13,14  107:23 108:5  115:20,25  116:16 117:13  118:16  123:8,15,19  124:15 141:25  143:16 145:2  148:16 150:12</p>	<p>153:24 155:8,10  164:17 171:10  186:4,13 191:5,9  194:17 199:18  200:5,22 203:24  218:24 221:17  <b>abroad</b> 61:16  160:11  <b>Absinthe</b> 77:21  78:6,16 104:20  <b>absolutely</b> 122:1  186:19 194:4  <b>abstract</b> 142:8  <b>accept</b> 32:4 35:14  92:6 221:15,18  <b>accepted</b> 167:19  <b>access</b> 5:17 6:25  8:20 15:8,9,17  16:18 17:10  21:12 24:13  29:18 33:21 34:3  36:20 40:25 41:1  42:2 44:5,7  62:23 71:2,3  72:13 77:18 82:1  83:22 84:5  86:12,15 89:2  93:6,13 96:10  99:11,12,16  101:14  103:4,21,23,24,2  5 104:9 107:23  116:13 121:23  122:4 133:13  139:5,6 148:16  149:11 154:11  157:9 158:20  159:10  160:18,25  165:4,10,15,23  167:25 168:16  169:20,21  170:11,19,21  171:3,16  172:3,5,7,16,21  178:16,20 180:6  181:10 187:18</p>	<p>199:18 201:23  211:4,6,7 217:12  222:12 224:5  <b>accessed</b> 88:3  93:18  <b>accessible</b> 229:23  <b>accessing</b> 20:1  138:25 139:2  173:14  <b>accidental</b> 146:22  <b>Accolade</b> 31:9,16  <b>accommodate</b>  19:5 23:20 30:14  129:18 131:12  <b>accomplish</b> 4:24  6:10,21 48:8,10  58:9 60:1 128:19  180:24  <b>accomplished</b> 4:23  5:20  6:4,10,17,21  17:8 58:2 128:7  <b>according</b> 127:10  <b>account</b> 33:13  57:13,16,20,22  58:1 97:12  110:12,23  119:10 120:4  126:24 132:19  135:6 162:23  164:3,11 178:13  226:24  <b>accounts</b> 163:9  164:23  <b>accurate</b> 41:6  <b>accurately</b> 184:2  <b>accustomed</b>  144:10  <b>achievable</b> 25:7  <b>achieve</b> 29:6 36:23  37:10,19  <b>achieving</b> 27:19  29:19 30:12,17</p>
--	---	---	--

<p><b>acknowledge</b> 54:12</p> <p><b>acknowledged</b> 25:13</p> <p><b>acknowledgment</b> 51:2</p> <p><b>acknowledgments</b> 50:25</p> <p><b>acquire</b> 26:8 166:21</p> <p><b>acquired</b> 4:7,8,14,22 5:5,11,16 6:1,9,16,20,23 8:22 12:20,21,25 13:14</p> <p><b>across</b> 69:10 156:11 162:14</p> <p><b>act</b> 1:1 14:25 15:5 24:3 54:19 55:3,4 65:16,17 109:12 113:8 149:21 150:15,16 177:22</p> <p><b>action</b> 144:5</p> <p><b>actions</b> 60:20 66:16</p> <p><b>active</b> 12:24 13:12 167:11</p> <p><b>actively</b> 26:16 159:23</p> <p><b>activities</b> 13:6 25:6 26:22 51:24 52:6 209:6 217:16 221:2,14</p> <p><b>activity</b> 26:6,24 27:23 28:3,20 30:9 31:12 35:1 65:20 66:2 137:4 221:18,21 222:2 224:1</p> <p><b>actor</b> 151:21</p> <p><b>actors</b> 43:1 209:5</p>	<p><b>actual</b> 54:24 82:9 134:22 224:3</p> <p><b>actually</b> 30:2 36:25 37:2,18 44:25 47:2 48:25 51:14,17 54:18 55:16 59:2 62:9,19 63:11 66:13 73:6 76:21 81:13 82:7,25 83:5,25 84:24 85:1,14 87:5 88:8,19,21 89:16,19,20 90:3,11 101:6 112:12 113:11 120:8 134:24 138:23 139:20 144:1,16 147:4 174:2 183:7 191:7 192:7 198:25 200:21 204:14 206:5 210:20,23 216:5 217:5,7 223:10 226:19</p> <p><b>Acuff-Rose</b> 130:10,20,25 195:1</p> <p><b>acute</b> 101:18</p> <p><b>ad</b> 179:19,20,25</p> <p><b>adaptation</b> 111:13</p> <p><b>add</b> 41:3,13 65:1 70:22 75:21 121:5 158:16 170:5,14 173:9 193:9</p> <p><b>added</b> 77:5 169:4</p> <p><b>adding</b> 14:2 121:5 160:19,24 161:15 220:9</p> <p><b>addition</b> 47:15 61:23 122:15 170:6 206:11,12</p> <p><b>additional</b> 49:6 157:1 170:6</p>	<p>185:8</p> <p><b>Additionally</b> 153:12</p> <p><b>address</b> 39:14 45:3 64:19 108:14,20</p> <p><b>addressed</b> 30:12 66:1,5</p> <p><b>addressing</b> 17:2 152:17 159:1</p> <p><b>adequate</b> 48:25 170:24 171:20</p> <p><b>adequately</b> 167:20</p> <p><b>adhere</b> 230:1</p> <p><b>adjudicate</b> 40:3</p> <p><b>adjust</b> 201:3</p> <p><b>administrative</b> 8:20 103:20,23 104:9 107:22 121:22</p> <p><b>admission</b> 46:3</p> <p><b>adopted</b> 108:9 226:20</p> <p><b>ads</b> 130:1 131:7</p> <p><b>ad-supported</b> 157:19</p> <p><b>adults</b> 127:6</p> <p><b>advance</b> 181:3</p> <p><b>Advanced</b> 5:17</p> <p><b>advantage</b> 9:18 62:21 77:2 218:8</p> <p><b>advantages</b> 173:18</p> <p><b>adverse</b> 19:25 24:17 28:1 43:11 45:14,22 46:22 51:3 64:5 100:11 121:16 132:24 176:23 230:18,19</p> <p><b>adversely</b> 9:12 26:25</p> <p><b>advertisement</b> 179:14</p>	<p><b>advertising</b> 163:15</p> <p><b>advertising-supported</b> 159:25</p> <p><b>advice</b> 86:10 176:11 215:6</p> <p><b>advising</b> 176:8</p> <p><b>advisor</b> 7:25</p> <p><b>advocate</b> 87:2</p> <p><b>affect</b> 118:8 121:6,19</p> <p><b>affected</b> 9:13 11:15 26:25 186:18</p> <p><b>affecting</b> 139:21</p> <p><b>affects</b> 66:2 192:15 207:14</p> <p><b>affirmed</b> 128:23 198:23</p> <p><b>afford</b> 140:23 217:13</p> <p><b>afraid</b> 103:12 128:13,16,17 129:5 197:4 214:9</p> <p><b>afternoon</b> 4:18 126:2,18 134:10 166:2 173:4</p> <p><b>against</b> 12:2 60:7,16,20 61:13,14 81:4 118:1 131:1,6 195:9</p> <p><b>age</b> 43:17 166:19</p> <p><b>agency</b> 110:15</p> <p><b>ages</b> 145:10,14</p> <p><b>ago</b> 7:7 30:25 62:7 70:25 86:25 108:13 111:12 115:9 126:20 142:9 146:14 157:16 202:19 218:10</p>
---	---	---	--

<p><b>agreed</b> 188:17</p> <p><b>agreement</b> 187:18 228:8</p> <p><b>agreements</b> 64:15,24 172:23 188:12 194:23 209:15</p> <p><b>ahead</b> 50:23 85:24</p> <p><b>aid</b> 47:25 49:4</p> <p><b>airplane</b> 153:13 154:12 200:8,21</p> <p><b>alarm</b> 11:23</p> <p><b>Alex</b> 3:5 126:10 198:12</p> <p><b>alleged</b> 22:12 23:5</p> <p><b>allegedly</b> 25:6</p> <p><b>alleging</b> 12:3</p> <p><b>Alliance</b> 91:1</p> <p><b>all-in-one</b> 22:18</p> <p><b>allow</b> 12:17 20:5 29:15 51:19 53:8 90:14 95:21 101:13 107:1,15 133:13 134:4 149:6 160:2,7,10 161:22 169:21 181:12 195:21 198:19 205:18 206:16</p> <p><b>allowed</b> 75:25 87:3,16 99:24 100:21</p> <p><b>allowing</b> 52:7 67:2 83:14 162:6 172:15 219:6</p> <p><b>allows</b> 37:11,13,18 56:9 62:5 83:11 84:22,23 85:21 90:1 99:5 103:20 139:1 158:4 163:16 169:14 205:9 210:19</p> <p><b>alluded</b> 52:17</p>	<p><b>alone</b> 19:13 70:7 151:12,13,24</p> <p><b>already</b> 17:8 20:19 23:10 24:1 27:13 31:13 33:16 54:10 56:11 119:21 121:18 133:5,12 135:23 137:3 170:16 180:9 196:7</p> <p><b>alternate</b> 10:10</p> <p><b>alternative</b> 26:5 58:3 60:17 84:21 85:12 86:14,17 101:21,22 114:20 115:21 131:23 189:13 194:13 195:6,14 222:18,19</p> <p><b>alternatives</b> 21:15 25:8 45:15,22 52:1 57:8 58:6,8 91:23 92:10,16 98:19 102:20,22 103:8 128:25 129:1 180:9 222:1,18 224:13</p> <p><b>Alvin</b> 166:18</p> <p><b>am</b> 60:19 75:17 76:6 113:11 126:14 213:4 232:10</p> <p><b>amazing</b> 146:20</p> <p><b>Amazon</b> 131:25 138:19 145:3 159:18 162:10 164:16,19,21 170:4</p> <p><b>Amazon's</b> 160:7</p> <p><b>American</b> 18:2 24:21 137:21 147:11 151:10 153:5</p> <p><b>Americans</b> 76:10,22 83:18 127:7</p>	<p><b>among</b> 10:6 12:3 47:1 61:22 64:6 75:24 98:17 145:9 162:6</p> <p><b>amount</b> 81:15 111:18 216:8,11,12,13,1 4</p> <p><b>amplify</b> 205:4</p> <p><b>amply</b> 127:2</p> <p><b>Amsinck</b> 147:2</p> <p><b>analogized</b> 18:9</p> <p><b>analogy</b> 35:16 225:18</p> <p><b>analysis</b> 13:20 27:16 29:1,24,25 31:17 32:7,23,25 38:24 39:12,16 51:1,7,13 91:13 109:16 110:7,24 111:2,11,21 112:8 122:13,22 130:19 131:2 132:14 138:9 215:20 216:5,8</p> <p><b>analyze</b> 30:2 215:14,15</p> <p><b>analyzed</b> 73:10</p> <p><b>analyzing</b> 36:22</p> <p><b>Anderson</b> 144:24</p> <p><b>Andrew</b> 63:18 79:4</p> <p><b>Android</b> 76:12 79:13 80:16 81:8 88:16,17,20 90:3,8 92:4 98:16,17,20 99:5 102:18,21,23 104:8 105:18 107:16,18 112:13 114:14 120:19</p> <p><b>Angeles</b> 1:21</p> <p><b>announced</b> 76:13</p>	<p>163:14 230:16</p> <p><b>answer</b> 28:9 45:3 46:11 69:10 117:16 156:25 166:7 189:14 197:13 221:12 225:4,10</p> <p><b>answered</b> 43:14</p> <p><b>answering</b> 27:7 28:5,6 193:19</p> <p><b>anti-</b> <b>circumvention</b> 13:7 18:24 50:6 61:25 83:10 135:18,21</p> <p><b>anti-copyright</b> 114:8</p> <p><b>anti-piracy</b> 20:22</p> <p><b>anti-utilities</b> 22:22</p> <p><b>anybody</b> 84:7</p> <p><b>AnyClip</b> 208:7 210:18</p> <p><b>AnyClips</b> 157:19 158:2</p> <p><b>anyone</b> 55:2 81:13 121:8</p> <p><b>anything</b> 40:2 41:3 55:10 66:22 95:18 98:8 112:3 116:5 124:24 147:22 176:2 181:11 187:2 215:16,19 223:23 229:3 230:10</p> <p><b>anyway</b> 10:18 28:16 38:6 164:22 204:10</p> <p><b>anywhere</b> 25:14 53:16 196:4</p> <p><b>apologize</b> 106:7</p> <p><b>app</b> 75:24 77:15 78:18 83:2 85:11,12,16</p>
---	---	--	---

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012

<p>87:1,3,4,5,7,9 114:14 121:4,7 <b>apparently</b> 87:12 <b>appear</b> 46:8 168:22 204:18 <b>appeared</b> 141:12 <b>appearing</b> 17:15 <b>appears</b> 41:14 47:1,4 <b>Apple</b> 76:13,17 77:15 78:20,25 80:9 81:7 85:21 86:2,7 87:5,13 88:8,13,14 95:19 101:5 104:25 105:17 106:15 107:1,14,15 114:17 124:4 159:18 162:9 169:5 170:4 <b>Apple's</b> 85:10,16 87:16,19 88:7 98:17 196:2 <b>applicable</b> 58:24 91:9 <b>applicant</b> 194:20 <b>application</b> 33:19,22 34:5 74:5 82:23 86:16 87:23 92:15,17 95:21 99:19 106:24 107:1,3,5,21 114:4 117:9,13 214:25 <b>applications</b> 4:8,9,14,15 14:18 22:20,24 26:12 77:14 78:19 79:14 92:1,6,8,11 95:23 96:11 99:1,4 101:4,21,22 102:12,15,18 103:5 107:8</p>	<p>109:20,22 112:3 114:9 119:19 121:2,9 199:8 <b>applied</b> 50:3 55:16 66:9 213:9 <b>applies</b> 29:10,11 66:10 78:14 119:20 174:6 180:21 223:19 <b>apply</b> 12:23 13:11 35:11 37:23 38:6,22 39:25 46:8 50:2,6 53:12,23 54:1,2,17 55:1,8,18 58:25 66:12 67:6 73:17 74:12 112:15 118:20,21 182:20,21 198:3,5 215:18 <b>appreciate</b> 62:18 86:11 <b>appreciated</b> 48:24 <b>approach</b> 217:2 231:1 <b>approached</b> 49:2 111:11 178:6 216:2,22 <b>appropriate</b> 74:6 167:10 184:16 199:21 210:21 211:4 216:8 <b>appropriately</b> 178:8 <b>approval</b> 85:16,17 227:12 <b>approve</b> 35:20 92:15 <b>approved</b> 92:7 <b>apps</b> 26:10 46:2 76:14 83:1 84:22 85:15 87:14,16,25 88:3 99:6 112:15</p>	<p>121:2,5 123:8,15,19 <b>apt</b> 67:17 <b>arbitrary</b> 86:24 <b>archival</b> 15:23 <b>archive</b> 209:23 <b>archivist</b> 16:2 <b>area</b> 34:24 70:24 94:11 103:7 112:7 158:13 174:14 175:14 177:5 188:5 218:20,22 <b>areas</b> 175:17 221:13 224:8 225:23 <b>aren't</b> 10:19 123:6 130:13 144:21,23 <b>arguably</b> 56:11 116:10 118:5 <b>argue</b> 35:23 <b>argued</b> 123:21 <b>arguing</b> 114:3 <b>argument</b> 20:13 39:13,14 40:1 98:19 122:23 128:5 138:2,4,8 176:17 192:4 <b>arguments</b> 40:6 59:16 116:11 132:12 138:5 <b>arise</b> 120:23 <b>arisen</b> 70:23 218:14 <b>arises</b> 30:11 117:16 <b>Army</b> 80:6,11 <b>arrangement</b> 181:22 <b>array</b> 17:17 160:15</p>	<p>165:15,23 <b>art</b> 2:15 75:15 82:19 90:18 112:22 126:7 129:6 134:9,10 140:9 182:4 <b>article</b> 112:21 113:9 120:5 <b>articles</b> 82:3 <b>articulate</b> 27:14 41:12 <b>artificial</b> 10:5 <b>artist</b> 2:19 140:12 207:13 215:7 <b>artistic</b> 63:2 126:21 127:4 <b>artists</b> 10:23 63:9 129:19 131:22 134:14 136:7 137:12 138:10,21,25 184:20 206:20 207:1 222:5 229:2 <b>aside</b> 56:3 124:14 <b>aspect</b> 93:24 113:3 120:21 123:24 124:9 129:17 130:7,15 167:6 184:24 <b>aspects</b> 18:7 74:2 180:5 230:3 <b>assert</b> 34:15 <b>asserting</b> 56:15 <b>assertion</b> 65:5 93:8 <b>asserts</b> 22:5,21 <b>assigned</b> 172:13 <b>assist</b> 49:16 <b>assistance</b> 82:22 134:13 <b>assistant</b> 7:24</p>
--	--	--	--

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012

<b>assistants</b> 6:18	132:17,25	195:18 198:6	136:6 146:16
<b>Associate</b> 3:8	139:24	199:19 208:5,12	151:4,14,19
<b>associated</b> 167:4	141:24,25	218:7 224:13	154:25 167:14
<b>association</b> 2:13	178:15 179:1	<b>Avatar</b> 166:18	171:10
17:15 20:10 27:5	181:9 211:5	<b>Avenue</b> 1:20	<b>basic</b> 40:7,12
<b>assume</b> 70:13 73:3	<b>authenticated</b>	<b>average</b> 146:7	104:8 112:20
74:14 105:16	170:9	<b>avoid</b> 25:4 31:12	169:10,11
114:23 219:8	<b>authentication</b>	<b>avoided</b> 28:5	182:11
<b>assumed</b> 39:13	5:20 6:4 44:4,8	<b>avoiding</b> 177:9	<b>basically</b> 37:11
<b>assumes</b> 39:12	45:1 53:25 61:20	<b>aware</b> 16:1 47:23	43:21 59:13
<b>assurance</b> 171:11	70:5 198:22	48:13 49:13 57:7	65:16 71:1 72:5
<b>assure</b> 148:2	<b>authority</b> 95:6	60:13,15,19	77:11 82:8
<b>astrophysics</b> 10:5	<b>authorization</b>	78:10 108:8	111:15 115:9
<b>asylum</b> 152:15	25:20	121:15 147:16	116:4 117:8,12
154:25 155:4	<b>authorize</b> 13:5	<b>awareness</b> 179:17	159:6 162:3
<b>asymmetric</b> 173:8	14:24 42:25	<b>away</b> 34:11 96:12	178:14 179:23
<b>atmosphere</b>	<b>authorized</b> 13:9	138:17 141:5	206:10
118:10,11	25:22 28:3 51:21	151:6 160:11	<b>basis</b> 27:24 31:10
<b>attempt</b> 23:3	<b>authorizes</b>	185:23	34:1 55:3 65:4
<b>attempting</b> 60:17	36:18,24,25 37:8	<b>awkward</b> 186:3	74:4 77:9 93:21
<b>attempts</b> 25:22	<b>authors</b> 178:1		136:20,22 137:6
<b>attendance</b> 27:6	<b>authorship</b> 6:7		173:12 209:19
<b>attention</b> 109:8	<b>automatically</b> 90:8	<hr/> B <hr/>	220:5
132:21 137:23	<b>availability</b> 15:22	<b>backdrop</b> 139:9	<b>bat</b> 176:8
218:16	23:14 34:14,23	<b>background</b>	<b>battery</b> 79:19 90:1
<b>attitude</b> 146:20	172:1,2,3	150:15	<b>BBC</b> 52:21 154:23
<b>attitudes</b> 189:6	<b>available</b> 5:15,18	<b>backup</b> 22:23	155:1
<b>attorney</b> 7:25 8:16	6:2,3 16:20 25:8	<b>back-up</b> 6:25	<b>bear</b> 13:21 91:21
232:11	26:6 51:16,22	<b>bad</b> 145:20 190:22	172:12
<b>attract</b> 32:15	52:1,5 54:4,19	191:19 217:10	<b>bears</b> 41:8
<b>attractive</b> 11:14	57:9 58:6,7 59:8	<b>balance</b> 26:20 57:4	<b>beast</b> 101:12
<b>audience</b> 154:23	85:13,15 94:24	86:1	<b>beauty</b> 28:12
205:7,14,24	113:14	<b>balanced</b> 57:19	<b>became</b> 15:25
207:6	114:10,13	<b>balancing</b> 57:4,12	<b>become</b> 81:1
<b>audio</b> 70:11	120:18 128:25	223:7	144:12 150:13
137:7,11 138:6	131:13,15,17,19	<b>barrier</b> 62:24	193:1
157:21 190:5	133:5 136:3,17	<b>barriers</b> 23:7	<b>becomes</b> 96:1
<b>audio/video</b>	144:21,23	<b>base</b> 80:6,11 147:6	197:22 229:23
141:23	157:24 159:14	<b>based</b> 20:14 34:22	<b>becoming</b> 90:12
<b>audiovisual</b>	160:9	60:14 71:18	149:18 201:21
5:5,10,19 6:3,15	161:2,3,5,6,18	82:3,21	<b>bedroom</b> 145:19
	163:22 164:6	122:13,19,20	151:6
	170:1,3,17	133:15 134:12	<b>begin</b> 7:17
	171:14 187:5		<b>beginning</b> 65:10
	188:10,16		
	193:2,8,16		

<p>103:16 113:22  <b>begs</b> 46:11  <b>behalf</b> 17:15 27:11  <b>behavior</b> 142:22  <b>behind</b> 88:22  <b>beholden</b> 88:23  <b>belief</b> 217:16  <b>believe</b> 51:12 53:8              54:24 64:18              72:10 83:13              97:23 100:6              102:17 105:20              140:17 141:3              165:17,22 174:3              197:18 199:21              212:12 220:9              224:23  <b>believes</b> 4:25              5:8,13,22 6:6,12  <b>believing</b> 5:1,9,14              6:12  <b>Bellflower</b> 150:1  <b>Ben</b> 2:8 7:24 58:21  <b>beneficial</b> 10:13              15:2 69:14 79:10              80:13,25 128:10  <b>benefit</b> 22:21              51:11 109:14              171:21  <b>benefits</b> 10:14              47:13 67:25 85:3  <b>best</b> 23:19 35:17              48:8 86:5 131:23              147:12 155:21              156:1 166:7              169:16 190:2              192:4 198:11              200:11 202:20              203:9,10 208:4              222:5,6 225:10  <b>better</b> 84:23 103:4              107:3 138:6,7              173:1 174:17              176:8 180:18</p>	<p>181:22              225:23,25              229:17  <b>beyond</b> 19:25              41:18 95:12              108:25 132:23              179:22 181:19              188:15 204:7  <b>bigger</b> 51:10  <b>biggest</b> 47:1              138:22  <b>billion</b> 17:19              76:14,16  <b>bit</b> 9:7 13:22 21:17              36:15 62:3 86:25              92:24 96:18              97:25 117:2              118:5 122:23              138:6,7 139:24              146:12 173:8              182:19 192:25              228:15  <b>bits</b> 153:20 210:12  <b>BitTorrent</b> 132:9              217:23  <b>bizarre</b> 200:18  <b>black</b> 205:21  <b>blank</b> 113:16  <b>blanket</b> 214:24  <b>blend</b> 230:4  <b>blinking</b> 113:17  <b>blitz</b> 163:16  <b>block</b> 70:12 196:6  <b>blockbuster</b> 154:2  <b>blog</b> 129:25  <b>blogs</b> 145:15,16  <b>Blu-ray</b> 5:17,18,19              160:14 164:9              166:14 167:12              168:5              169:11,13,18              231:2</p>	<p><b>blurry</b> 143:15  <b>body</b> 62:6  <b>bomb</b> 22:15  <b>bona</b> 153:8  <b>Bond</b> 220:9  <b>book</b> 142:12  <b>books</b> 117:8 119:3  <b>boost</b> 139:3  <b>boot</b> 99:20,21,23              100:1 107:19  <b>booth</b> 148:23              149:4  <b>booting</b> 40:25 44:5              72:14  <b>Boston</b> 141:14  <b>bother</b> 202:11,12  <b>bottom</b> 191:13  <b>bought</b> 49:6              195:23  <b>boutique</b> 146:1  <b>box</b> 19:5 48:9              53:13,15 54:12              55:25 58:16,21              59:2 70:10 72:6              158:4 215:10  <b>boxes</b> 47:24 59:25              160:12  <b>Brad</b> 99:10  <b>brand</b> 118:24              179:16  <b>BRANDON</b>              126:10  <b>breached</b> 121:19  <b>break</b> 75:10              133:5,12              182:3,13  <b>breaks</b> 145:19  <b>Brendan</b> 3:3 194:8  <b>brief</b> 86:23 126:19              175:24  <b>briefed</b> 13:21</p>	<p>27:14  <b>briefly</b> 45:3 50:22              76:7 81:3 91:3              117:6 134:18              156:14 161:8              198:14 206:18              212:5 217:9  <b>bring</b> 52:11              112:23 137:1              170:9 179:23              196:4 218:16  <b>brings</b> 23:18              163:25 180:2  <b>broad</b> 34:23 40:22              45:18 118:6              172:14,15 180:4              226:1,9  <b>broadcast</b> 53:14              109:7 157:14              203:14,21 204:5              206:12  <b>broadcasting</b>              144:22  <b>broaden</b> 226:13  <b>broadening</b> 181:7  <b>broader</b> 45:4,11              88:14 165:23              172:1 214:20              226:2  <b>broadly</b> 51:24              69:14  <b>broken</b> 54:11              63:19,21 182:19  <b>Brothers</b> 2:23              156:10 207:21  <b>brought</b> 93:11,12              219:22  <b>browser</b> 107:12,14  <b>browsers</b> 107:15  <b>browsing</b> 77:11  <b>budget</b> 149:5,6              166:22 186:24              187:1,9,15</p>
---	--	---	--

<p>207:23</p> <p><b>budgets</b> 21:13 149:12</p> <p><b>Buffy</b> 142:10,14,21 143:24 145:8 186:23</p> <p><b>build</b> 129:15 143:3 150:6 185:7</p> <p><b>building</b> 1:21 35:18 185:8</p> <p><b>builds</b> 131:11</p> <p><b>built</b> 135:8 180:22</p> <p><b>bunch</b> 40:20 190:9</p> <p><b>bundle</b> 169:12,16</p> <p><b>bundled</b> 22:17 169:2</p> <p><b>bunnie</b> 79:4</p> <p><b>burden</b> 19:12 23:15 27:21 28:6,19 30:8 33:6 41:8 45:14,21 51:1 74:10,13 91:14,22 105:13 133:1 220:19</p> <p><b>burdens</b> 220:17</p> <p><b>burn</b> 159:14</p> <p><b>Bush's</b> 87:11</p> <p><b>business</b> 68:12,22 86:7 91:1 92:20 94:12,25 148:5 157:16 158:13 159:5,7,8,21,23 160:18 161:8 163:11 165:3,7,17 167:3,14,23 172:25 187:11 208:18,22 215:4</p> <p><b>button</b> 89:16,19,21</p> <p><b>buy</b> 48:25 157:22 161:13 162:13</p>	<p>179:25 198:8,9,10</p> <p><b>buying</b> 68:5 77:1</p> <p><b>bytes</b> 32:14 111:15,16 124:4</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p><b>cabin</b> 56:19</p> <p><b>cabining</b> 180:16</p> <p><b>cable</b> 53:13,14 59:1,25 93:15 159:18 170:5</p> <p><b>calculations</b> 68:12 69:22</p> <p><b>calculators</b> 11:23</p> <p><b>California</b> 1:12,21</p> <p><b>camcorder</b> 178:21</p> <p><b>camera</b> 62:14 189:23,24 202:24</p> <p><b>campaign</b> 9:20</p> <p><b>Campbell</b> 130:9,19,25 194:25</p> <p><b>canceled</b> 193:12</p> <p><b>capabilities</b> 83:25</p> <p><b>capability</b> 102:17</p> <p><b>capable</b> 9:16</p> <p><b>Capital</b> 155:2</p> <p><b>caption</b> 232:12,14</p> <p><b>capture</b> 40:23 144:14 177:13 190:13,15,17,19, 22,25 191:12,17 193:23 196:12 201:7 205:17,20 224:13</p> <p><b>captured</b> 190:18</p> <p><b>captures</b> 189:21</p> <p><b>capturing</b> 189:12,15 190:23</p>	<p>193:17,24</p> <p><b>car</b> 18:10 150:6</p> <p><b>care</b> 99:25 118:12,13</p> <p><b>careful</b> 96:2 119:5 181:21 229:12</p> <p><b>carefully</b> 147:24</p> <p><b>carried</b> 65:17,22 91:22 96:16</p> <p><b>carrier</b> 79:15 88:19,24 90:5,6,10 146:9</p> <p><b>carriers</b> 81:11 86:19 105:3</p> <p><b>carries</b> 25:5 172:12</p> <p><b>carry</b> 45:14 77:8</p> <p><b>carrying</b> 45:21</p> <p><b>cars</b> 8:24</p> <p><b>Carson</b> 2:7 7:11,24 48:13 49:5,8,12,20 54:6 71:7,16 72:4,11,16,25 73:18 74:14 112:9 114:22 116:1 117:15 119:12,21 120:5,10 186:12 200:2 201:6 203:7,12,22 209:17 211:8,16,23 212:3 213:25 214:8,11 218:9 219:20 220:18,24 229:18 230:14</p> <p><b>case</b> 19:3 21:18 30:8 31:4,19 32:4 48:17 49:14 51:11 54:4 60:12 66:19 67:23 73:17,18 74:23 81:4 83:10 92:13</p>	<p>94:18 101:5,7 122:25 151:20 174:21 188:19,23 205:11 221:20 222:4,5 223:4,25 224:8</p> <p><b>case-by-case</b> 220:5</p> <p><b>cases</b> 13:24 14:20 24:1,19 31:5,18 32:7,10 33:25 48:3,13 54:13 60:11,15 64:7 69:5 71:19 84:25 124:17 139:13 146:25 147:5 175:20,22,23 188:1 199:10 200:4,6 208:11 209:21 214:14 219:22 229:12</p> <p><b>cast</b> 23:3 143:25 151:18,23 220:1</p> <p><b>casting</b> 35:16</p> <p><b>catalog</b> 161:4</p> <p><b>categories</b> 46:22</p> <p><b>category</b> 106:22 214:19,20 226:1,2,12</p> <p><b>causal</b> 93:4</p> <p><b>cause</b> 133:8 232:13</p> <p><b>cautious</b> 95:17 215:20,22</p> <p><b>CE</b> 163:2</p> <p><b>cease</b> 130:2 136:19</p> <p><b>ceiling</b> 38:10</p> <p><b>cell</b> 83:22</p> <p><b>cellphones</b> 160:16</p> <p><b>cellular</b> 83:20 120:18</p> <p><b>ensorship</b> 85:1 86:18 95:14,20</p>
--	--	--	--



<p>96:1  <b>Center</b> 128:2                  129:22 184:1  <b>central</b> 33:11  <b>centrality</b> 33:9  <b>centuries</b> 140:1  <b>century</b> 3:2 139:22                  166:4,16  <b>certain</b> 41:17                  43:16 45:19 48:3                  50:17 58:9,10,15                  59:24 60:1 68:2                  84:9 86:11                  104:22 107:18                  109:13,15                  120:23 122:8                  123:13 212:17                  222:10  <b>certainly</b> 16:13                  41:23,25 61:3                  72:15 86:23                  94:11 97:10                  100:24 109:15                  112:15 114:4                  117:5 120:1                  135:21 136:24                  146:14 148:15                  150:14 164:4                  174:23 175:13                  177:2 179:6                  181:6 196:4                  204:24 207:18                  209:20 215:25                  218:25 220:14                  226:2  <b>CERTIFICATIO                  N</b> 232:1  <b>Certified</b> 1:23  <b>certify</b> 232:4,10  <b>cetera</b> 160:1,23  <b>chain</b> 86:20                  165:18  <b>chair</b> 200:8  <b>challenge</b> 81:23,24                  82:1 130:3</p>	<p><b>challenges</b> 16:4  <b>challenging</b> 167:3  <b>chance</b> 182:24  <b>change</b> 31:20                  38:16                  89:13,14,20                  111:16 114:17                  129:7 138:8                  141:7 192:20  <b>changed</b> 38:13                  76:3,9,19 89:19                  129:11 167:25                  189:6  <b>changes</b> 38:12                  176:24  <b>changing</b>                  167:23,24                  168:12 170:22                  187:12,14                  199:13,16                  206:13  <b>channel</b> 22:19                  26:17 56:7                  158:14  <b>channels</b> 52:5  <b>character</b> 13:24                  14:3 32:6 109:17                  148:24                  150:2,4,10                  152:22 153:10                  155:4 190:19  <b>characteristics</b>                  100:18 116:22                  118:23  <b>characterization</b>                  52:12 218:12  <b>characters</b> 151:18                  152:3,18 185:19  <b>charge</b> 169:23                  172:5                  211:17,18,19,20,                  21 213:24  <b>Charney</b> 3:3                  126:10 194:8                  205:4</p>	<p><b>chart</b> 24:22 52:19  <b>cheating</b> 201:3  <b>check</b> 117:11  <b>checks</b> 44:5,8  <b>chest</b> 149:19  <b>Chevy</b> 106:11  <b>Chihuahua</b> 35:17  <b>Chihuahuas</b> 35:24  <b>child</b> 153:24  <b>children</b> 11:25                  63:10 151:5  <b>child's</b> 147:3  <b>chill</b> 12:4 61:7  <b>chilling</b> 102:5  <b>Chipmunks</b>                  166:19  <b>choice</b> 12:18 20:2                  82:13 89:9 90:16                  103:2 172:9  <b>choices</b> 169:22  <b>choose</b> 24:14 86:4                  88:11 98:20                  114:8,9,13                  116:24 138:11                  168:17 169:14                  190:16  <b>choosing</b> 103:2                  222:14  <b>choppy</b> 190:4                  191:1  <b>chose</b> 100:15  <b>chosen</b> 7:10  <b>Christian</b> 2:12                  8:13 17:13 27:8                  32:2 33:8,16                  35:6 41:2 44:10                  50:21 60:5 134:2  <b>cinema</b> 230:3  <b>CinemaNow</b> 170:4  <b>circumscribed</b>                  81:22</p>	<p><b>circumstance</b>                  13:12  <b>circumstances</b>                  19:2 30:16,18                  127:12 138:24  <b>circumstantial</b>                  133:4  <b>circumvent</b> 29:3                  36:19 39:4                  54:7,10 59:7,11                  71:10 93:15 96:9                  115:22 122:4                  172:15 177:11                  195:21 200:5  <b>circumvented</b>                  55:21 181:15                  198:21  <b>circumventing</b>                  54:21 55:13,17                  82:1  <b>circumvention</b>                  4:8,14,23,25                  5:1,6,8,9,11,13,1                  4,20,22                  6:4,6,7,10,12,13,                  16,21 12:3 13:4                  20:16 21:4 27:25                  29:18 33:19                  34:17 35:2,9                  44:25 45:2 53:9                  55:4,8,22                  56:5,11 60:21                  65:16,17,21                  70:17 91:23,25                  92:11 96:16                  135:5 174:7                  178:17,22 180:9                  181:12 194:13                  195:9,14 221:16                  222:3 224:19                  225:12  <b>circumventions</b>                  140:8  <b>circumvents</b> 12:24                  13:12 53:24  <b>CIS</b> 202:9</p>
--	---	--	---

<p><b>cited</b> 22:25 25:10  46:6 51:3 56:23  58:24 60:12 65:9  69:15,19  175:19,23  183:24</p> <p><b>citizen</b> 150:13</p> <p><b>citizens</b> 134:4  141:24 150:18  187:23 206:24</p> <p><b>claim</b> 31:11 61:24  65:3 124:2</p> <p><b>claims</b> 12:4 20:13  60:9</p> <p><b>clarification</b> 40:8  43:10 103:18  230:7</p> <p><b>clarified</b> 97:4</p> <p><b>clarify</b> 52:15 97:23  100:6 122:22  140:15 200:10</p> <p><b>clarifying</b> 210:18</p> <p><b>Clarissa</b> 2:23  126:9 156:6,8  173:10 178:11  207:10 208:8  209:3 211:8,9</p> <p><b>class</b> 4:6,12  8:11,18 17:5  18:3,4 19:21  23:19 41:15  42:18 73:5,8,13  75:13,19 77:5  79:8 81:14 83:13  104:13 107:18  115:13 131:10  137:15  150:13,17  179:1,2 198:3,17  206:21,23  225:17,18  227:21  230:13,21,25</p> <p><b>classes</b> 4:21  126:4,16 134:6  156:13 181:8</p>	<p>197:15 198:15  199:5,7 216:10  218:10</p> <p><b>classic</b> 129:20</p> <p><b>classified</b> 142:22</p> <p><b>classroom</b> 157:4  158:10,12  173:24 174:11  175:14 181:4  223:5 225:23</p> <p><b>classrooms</b> 157:10</p> <p><b>clause</b> 212:11,15</p> <p><b>clean</b> 72:7</p> <p><b>clear</b> 11:11 13:2  18:24 19:19  20:17 24:24  25:18,21 26:11  29:13 34:8 39:1  44:17 49:12,21  51:20 53:21  55:17 61:24  71:8,9 73:3,9  92:24 93:2 95:11  105:17 108:2  113:20 117:18  118:7 127:21  129:17 133:7  146:23 182:23  183:11 185:9  186:6 187:1  206:19 213:9  219:12</p> <p><b>clearance</b> 146:5  147:20</p> <p><b>cleared</b> 182:22</p> <p><b>clearer</b> 39:7</p> <p><b>clearest</b> 28:24</p> <p><b>clearing</b> 127:19</p> <p><b>clearly</b> 24:19  25:15 26:5 38:20  70:16 109:1  111:2 119:14  149:6 174:12  181:19 198:19  207:24 226:11</p>	<p><b>client</b> 147:6 176:8</p> <p><b>clients</b> 57:14  75:2,3 82:10  194:22 216:10  218:15 226:15</p> <p><b>climate</b> 154:24</p> <p><b>clings</b> 153:10</p> <p><b>clinic</b> 3:4,6,9 194:9  198:14 207:11  230:9</p> <p><b>Clinical</b> 3:8</p> <p><b>clip</b> 142:5,6  154:1,8,16  156:19  157:15,19  158:11 188:13  201:2,7 205:25  207:24 208:3  209:23 210:1,15  212:1,6,7,20  213:17</p> <p><b>clips</b> 5:7,12 137:25  139:14 148:21  152:2,16 154:11  155:8,14  156:14,16,17  157:8,9,13,17,21  ,22  158:2,4,6,9,17,2  1 167:8 185:13  187:2,7 188:9  189:2,4 208:6  212:8</p> <p><b>clock</b> 87:10</p> <p><b>clocks</b> 11:23</p> <p><b>close</b> 28:17 30:19  60:22 154:18  168:1 178:25  179:2 181:14  229:1</p> <p><b>closed</b> 83:12  100:19 101:8  192:19</p> <p><b>closing</b> 109:4  124:24</p>	<p><b>cloud</b> 80:24  126:21 127:19  128:10 162:17  170:20</p> <p><b>clouds</b> 184:15</p> <p><b>CLR</b> 1:24 232:18</p> <p><b>code</b> 7:16 15:14  32:16 42:5</p> <p><b>codify</b> 31:8</p> <p><b>coextensive</b>  177:9,10</p> <p><b>cogent</b> 40:6</p> <p><b>Cohen</b> 3:5 126:10  198:12,13  210:17 230:11</p> <p><b>collaborative</b>  25:20</p> <p><b>colleagues</b> 205:1</p> <p><b>collected</b> 162:21</p> <p><b>college</b> 5:2,3  6:13,14,17 60:16  141:16</p> <p><b>color</b> 127:14  128:21</p> <p><b>combatting</b> 33:11  85:1</p> <p><b>combination</b>  169:15</p> <p><b>comes</b> 25:11 57:23  76:11 87:22 92:4  110:3 112:20  115:16 152:1  157:12 161:13  200:19</p> <p><b>comfortable</b> 185:6  229:16</p> <p><b>coming</b> 97:9  140:3,5 150:7  160:25 164:4  170:14 174:10  190:14  196:14,16  216:21</p>
--	---	--	---

<p><b>Commencing</b> 161:20</p> <p><b>commended</b> 127:18</p> <p><b>commensurate</b> 179:9</p> <p><b>comment</b> 4:25 6:11,19 24:5,7 32:8 131:19 134:5 140:4 144:25 153:22 192:15</p> <p><b>commentary</b> 60:22 127:8 130:21 131:2,4 139:7 140:24 154:8 155:3 175:10 182:10 185:4 192:24 205:15 206:17 215:9 216:7 229:14</p> <p><b>commenters</b> 81:20</p> <p><b>commenting</b> 138:23 205:6 206:2,6,14,15 207:4,15</p> <p><b>comments</b> 18:6,8 19:10 20:12 21:5 22:7,21,25 25:15 31:22 44:11,15,16,17 46:9,17 47:2,5 51:15 52:18 61:10 64:19 79:8,12,21,25 93:8 104:2 126:19 144:17 182:13 189:9,10 194:22 220:1,23</p> <p><b>commercial</b> 129:17 130:6,15 137:9 179:16,20,22 182:10 184:20,24 202:17 224:3</p>	<p><b>commerciality</b> 131:1 184:19</p> <p><b>commercials</b> 133:22 150:23</p> <p><b>commissioned</b> 184:21,22</p> <p><b>commission's</b> 183:23</p> <p><b>commit</b> 22:6</p> <p><b>commitment</b> 84:18 130:21 217:14,16</p> <p><b>committed</b> 132:2</p> <p><b>committing</b> 176:10</p> <p><b>commonalities</b> 77:24 115:16</p> <p><b>communal</b> 153:17</p> <p><b>communicate</b> 135:13</p> <p><b>communicated</b> 139:23</p> <p><b>communities</b> 16:20 128:21 141:20 143:11 216:15</p> <p><b>community</b> 10:21 11:15,16,17 12:2,5 16:16 22:25 46:4,10,13,17,25 47:3,7,10 51:2,10 57:17,18 59:21 61:15 62:10 63:15 71:14 87:12,13 128:22 198:7,8 217:11</p> <p><b>companies</b> 42:20 49:2 57:21 91:2 129:9 136:21 147:14 148:1,4 159:17,19,20,22 163:1,3</p>	<p><b>company</b> 42:21,23 48:4 80:18 105:9 114:8 147:23 157:21 167:6 202:20 217:3</p> <p><b>comparable</b> 20:20 178:12</p> <p><b>compare</b> 142:19 143:4</p> <p><b>compares</b> 32:16</p> <p><b>compatible</b> 169:3</p> <p><b>compelling</b> 116:15</p> <p><b>compensated</b> 132:3</p> <p><b>competing</b> 10:3 85:11</p> <p><b>competition</b> 82:13 83:6,11 85:7,20</p> <p><b>competitive</b> 92:12</p> <p><b>compilation</b> 220:11</p> <p><b>complete</b> 110:14 165:6 169:12 232:8</p> <p><b>completely</b> 14:21 58:24 66:21 70:6 154:6 202:5 210:21,25 222:7</p> <p><b>complex</b> 32:19 172:22</p> <p><b>complexity</b> 186:11</p> <p><b>complicated</b> 44:1</p> <p><b>component</b> 52:22 99:17</p> <p><b>components</b> 103:25</p> <p><b>composed</b> 163:1</p> <p><b>comprehensively</b> 124:16</p> <p><b>compromised</b> 204:25</p> <p><b>computer</b></p>	<p>4:7,9,13,15 12:20 16:9,17 25:16 27:20 29:5 30:13 37:7 41:16,21,22 42:2,10 45:8 52:3,4 58:13 62:12 75:22 84:8,10 94:3,11 96:11 97:1 103:22 113:20 190:6 199:7</p> <p><b>computer-aided</b> 232:7</p> <p><b>computers</b> 17:9 19:7 23:25 24:11 26:8 58:9,10 67:16 77:11 84:2 90:13,17 94:9,14 113:13,18,19,21 160:12</p> <p><b>computing</b> 9:16 10:17 52:15 67:10 101:2 107:13 115:18 116:9</p> <p><b>concede</b> 183:4 218:21</p> <p><b>conceivably</b> 50:17 187:15</p> <p><b>concern</b> 25:17 56:2,3 96:18 226:14</p> <p><b>concerned</b> 61:7 70:17 92:25 114:1 183:18 189:9 216:3</p> <p><b>concerns</b> 20:14 70:20 75:7 118:1</p> <p><b>conclude</b> 33:5,7 73:4 133:16 134:1 199:17</p> <p><b>concluded</b> 231:12</p> <p><b>concludes</b> 165:25 231:9</p> <p><b>conclusion</b> 155:7</p>
--	---	--	---

<p>165:2  <b>conclusive</b> 94:16  108:22  <b>conclusively</b> 65:24  <b>Concord</b> 159:21  <b>concrete</b> 45:23  <b>condense</b> 155:16  <b>condition</b> 151:4,22  <b>conditions</b> 39:8  <b>conduct</b> 50:11  73:5 152:19  <b>conducted</b> 7:8  151:16  <b>conducting</b> 54:16  <b>conference</b> 61:19  <b>confidence</b> 162:16  174:23 175:2,13  <b>confident</b> 73:10  181:2  <b>configurations</b>  168:22  <b>configured</b> 94:4  <b>confined</b> 32:5  <b>confirmation</b>  114:24  <b>confused</b> 200:3  <b>confusing</b> 162:11  <b>confusion</b> 12:15  50:15 135:24  193:20 218:2  <b>Congress</b> 16:3  18:23 24:3 28:13  30:12 31:7 33:3  38:9,11,16  39:14,17  66:21,24  67:10,18 92:25  93:20  108:8,9,12,15,19  172:13 181:16  194:14 224:11  <b>Congressional</b></p>	<p>150:16  <b>conjecture</b> 20:15  <b>connect</b> 190:7  <b>connected</b> 164:8  <b>connection</b> 62:13  158:10 190:7  <b>Connectix</b> 14:20  31:4 32:4  <b>cons</b> 118:3  <b>conscious</b> 137:22  <b>consent's</b> 171:12  <b>conservative</b>  147:25  <b>consider</b> 212:21  216:17  <b>consideration</b> 36:7  39:24 177:2  <b>considerations</b>  116:7  <b>considered</b> 100:8  110:1 124:6  194:12,18  195:6,13 198:23  199:2 216:23  <b>considering</b> 28:7  47:15 142:21  207:12  <b>consistent</b>  34:19,20  <b>consistently</b> 17:9  162:8  <b>console</b> 4:9  13:13,25 14:4,6  15:15 17:25 18:7  19:12  20:16,18,20,24  21:5,15,19,24  22:1,16 23:6,12  24:8,9 25:25  26:5,14,16,21,25  31:25 42:23  43:18 44:2  46:9,13 48:7  49:15 51:25</p>	<p>52:2,5,20 55:20  56:5 58:12,14  63:20,23  68:12,20 121:13  218:22  <b>consoles</b> 4:7 8:21  9:12,14,15 10:18  11:1,6,19,20,21  12:19,21 16:22  17:8 18:15 19:9  20:7  24:2,10,22,24  26:13,22 33:10  38:18 41:17  42:18 43:16,24  45:10,12,24  46:2,11 47:21  48:15,21,23 51:5  52:19 59:24  60:8,14 61:9  63:19 64:14,16  67:24  68:1,4,7,16  69:3,4 71:20  120:13 160:13  <b>console's</b> 17:6  21:25 72:1  <b>consortium</b> 162:3  163:1  <b>conspicuous</b> 81:6  <b>constantly</b> 160:19  165:15 199:13  <b>constitute</b> 29:7  <b>constituting</b> 37:23  <b>construct</b> 186:4  <b>consult</b> 182:2  226:15  <b>consume</b> 52:23  167:18  <b>consumed</b> 34:10  <b>consumer</b> 82:12  88:7 105:9,13  156:20 160:11  162:16 163:25  167:16,24  168:16,21</p>	<p>169:1,14 187:13  <b>consumer-based</b>  113:13  <b>consumers</b> 8:23  17:19 18:2  67:14,15 82:22  83:1,14,21  84:15,21,22,24  88:1 103:2  137:22 162:6,12  163:17,18 164:6  167:18 168:23  169:17,19,24  170:9,18,20  172:5,9,20  210:20  <b>consumption</b>  18:16 24:25  68:18  <b>Contact</b> 129:5  <b>contain</b> 130:21  <b>contained</b> 6:22  64:13 121:2  <b>contains</b> 41:22  <b>content</b> 4:23  5:6,17 6:2,9,21  9:14 20:6 27:2  52:25 54:1 57:21  59:12 68:21  78:23 86:13 88:1  121:25 122:3  128:16 132:1,2,5  134:23  135:4,13,23  136:2,5,10  137:2,5,10,13,16  138:12,13,16  139:7 140:4  158:19,23  159:10,24  160:2,10,17  162:7,11,13,19,2  0,25 163:3  165:9,11,21  166:25  167:5,7,20  168:13,17,18,20</p>
--	---	---	--

<p>170:19,21                  171:9,11,14,17,2                  2,24 172:6,21                  173:15 192:22                  193:1 195:18                  196:10,22,23                  197:24                  199:15,20 200:6</p> <p><b>content-holders</b>                  54:2</p> <p><b>contested</b> 182:24                  219:23,25</p> <p><b>context</b> 23:4 30:24                  56:24 61:4 64:22                  121:1 123:7                  127:17 185:15                  205:5 207:3                  213:13</p> <p><b>contexts</b> 64:12                  172:25</p> <p><b>continue</b> 10:13                  12:10 21:8 24:4                  32:1 51:21,23                  127:9 149:17                  229:22 230:15</p> <p><b>Continued</b> 3:1</p> <p><b>continues</b> 100:25                  127:3 230:6</p> <p><b>continuing</b> 10:22</p> <p><b>continuum</b> 70:16</p> <p><b>contours</b> 9:3</p> <p><b>contract</b> 88:18</p> <p><b>contracts</b> 228:13</p> <p><b>contrary</b> 93:7                  217:15</p> <p><b>contrast</b> 143:5                  205:22</p> <p><b>contribute</b> 139:15</p> <p><b>contributed</b> 79:23</p> <p><b>control</b> 12:24                  13:13 29:18 42:2                  44:5 62:23                  71:2,4 84:16                  88:11 89:5 90:1</p>	<p>93:13 122:4                  154:13,14,20                  155:12                  160:18,25 172:8                  202:6,23</p> <p><b>controlled</b> 36:20</p> <p><b>controller</b> 62:7</p> <p><b>controlling</b> 31:16</p> <p><b>controls</b> 16:18                  21:12 33:22 34:4                  40:25 44:7,19                  72:13 77:18 82:2                  93:6 96:10                  116:13 158:20                  165:4,10,15,23                  169:21 171:17                  172:3,16 178:16                  180:6 181:10                  224:5</p> <p><b>convenience</b> 17:11                  23:21</p> <p><b>convenient</b> 158:18                  222:15</p> <p><b>conversation</b>                  144:4 188:21</p> <p><b>conversations</b>                  95:16 216:3</p> <p><b>converse</b> 46:18</p> <p><b>conversion</b> 164:15</p> <p><b>convert</b> 163:17,19</p> <p><b>convey</b> 195:9</p> <p><b>convoluted</b> 30:6</p> <p><b>Cooper</b> 144:24</p> <p><b>coordinates</b> 72:14</p> <p><b>copied</b> 32:20</p> <p><b>copies</b> 6:25 15:24                  16:12 56:10                  137:14 161:22                  164:2</p> <p><b>copy</b> 15:7,16 32:13                  111:15                  161:12,17,24                  163:6 164:10,20</p>	<p>168:25                  169:2,4,6,13                  183:22</p> <p><b>copying</b> 27:1                  31:18,20,23                  32:11</p> <p><b>copyright</b> 1:1,9                  2:14 5:8,13                  7:8,12 14:14,25                  15:5 17:23,24                  18:5,21 19:4,22                  20:17 22:8,9                  27:12 32:15 41:9                  50:5 54:19 55:6                  67:19 70:20 74:2                  82:2 90:22                  92:21,25                  93:1,10,17 94:20                  95:5,16 96:4                  97:13 98:6                  109:12 111:10                  112:20 113:8                  114:5,7 118:1                  134:24                  136:16,20                  137:1,24 149:20                  150:14 170:23                  173:6 177:9                  183:13                  194:12,20                  207:11                  230:13,15</p> <p><b>copyrightable</b>                  42:11</p> <p><b>copyrighted</b> 17:17                  18:13,17,23                  21:19 24:5,8                  25:1,16 33:18                  34:8,9,15,16,18                  52:9,24 53:2                  68:18 120:15                  121:10 134:5                  220:11,12</p> <p><b>copyright-holder</b>                  113:2</p> <p><b>copyrighting</b>                  111:22</p>	<p><b>copyrights</b> 136:23</p> <p><b>core</b> 23:22 70:20</p> <p><b>correct</b> 49:18                  91:10 115:2                  120:7 178:5                  213:21 214:6</p> <p><b>correctly</b> 94:4</p> <p><b>corresponding</b>                  172:10</p> <p><b>Corynne</b> 2:17                  126:6,12,14                  134:22 135:16                  175:2 178:5                  180:20 182:4,8                  183:20 219:20</p> <p><b>cost</b> 68:7 84:19                  169:13 186:11                  208:23,25</p> <p><b>costs</b> 167:3,4 172:6</p> <p><b>counsel</b> 2:20                  7:23,24,25 17:14                  27:14 44:15                  130:18 156:9                  216:12,18                  217:12,20,23                  232:11</p> <p><b>counsel's</b> 8:1</p> <p><b>counted</b> 87:10</p> <p><b>counterintuitive</b>                  130:11 132:11                  176:9</p> <p><b>counternotify</b>                  128:14</p> <p><b>countless</b> 201:25</p> <p><b>countries</b> 202:9,10</p> <p><b>country</b> 131:5                  153:1</p> <p><b>couple</b> 9:5 27:15                  33:7 50:24 54:8                  62:7 64:10 70:25                  83:5 86:25 89:4                  91:19 106:3                  114:22 142:8                  153:13,23 154:7</p>
--	---	---	--

<p>183:6 218:9 220:22 <b>course</b> 7:19 23:3 28:10,15 30:21 39:9 49:24 54:17 62:24 88:14 90:24 101:18 119:11 129:11 133:1 177:5 182:17 192:1 203:8 209:3 222:21 226:14 228:1 <b>court</b> 32:16 40:4 54:23,24 55:15 75:4 112:25 130:19 131:1 182:25 194:25 <b>Courtroom</b> 1:21 <b>courts</b> 74:3 198:23 220:4 <b>cover</b> 12:19 19:24 61:2 65:12 108:21 146:10 215:21 <b>coverage</b> 148:20 <b>covered</b> 13:9 20:9 27:23,24 28:3,20 30:4 31:13 45:9 58:23 65:25 66:16,18 134:18 139:13 141:10 184:6 198:24 199:5 209:7 224:4 <b>craft</b> 177:7,8 <b>crappy</b> 203:6 <b>crash</b> 162:19 <b>create</b> 14:3,10 22:3 26:3,9 37:9,14 50:7,9 56:24 63:6 66:14,22 67:13 71:24 80:16 134:15 136:24,25</p>	<p>142:16 152:5,6 158:7 162:12 172:6 184:25 196:15 <b>created</b> 12:22 16:22 19:6 24:2 29:5 37:2,7,18,20 38:9,19 40:21 57:13,14,23 62:23 63:5,10 67:11 75:21 85:15 92:19 108:13 112:15 128:2 151:17 157:16 158:14 164:24 165:20 194:14 218:14 <b>creates</b> 19:21 62:4 191:17 206:6,8 <b>creating</b> 14:17 47:11 67:9 83:6 210:22 211:4 <b>creation</b> 18:16,23 67:2 85:11 183:21 <b>creative</b> 44:12,13 75:25 109:21,23 158:1 186:18 206:17 <b>creativity</b> 80:22 137:15 203:23 <b>creator</b> 131:7 137:13 139:11 <b>creators</b> 2:14 27:11 82:24 90:21 132:3 134:14 135:12 137:2,25 138:4 139:19 173:5 177:6 194:24 222:4 <b>credential</b> 227:7 <b>credentialing</b> 226:21 <b>credibility</b></p>	<p>144:8,12,16 <b>crib</b> 147:3 <b>cries</b> 23:16 <b>criminal</b> 60:20 <b>criteria</b> 39:22 167:16 <b>critic</b> 137:12 <b>critical</b> 18:11,22 19:17 40:15 91:12 140:7,24 145:17 174:1 187:22 195:2,3,4 <b>critically</b> 27:4 <b>criticism</b> 4:25 6:11,19 123:23 127:8 130:22 131:3,5 138:14 139:7 152:19 175:10 182:10,14 185:4 192:24 205:15 209:16 210:10 212:10 216:6 229:14 <b>criticize</b> 24:5,7 134:5 188:13,15 192:16 <b>criticized</b> 85:17 188:11 <b>criticizing</b> 207:15 209:11 <b>critics</b> 128:4 <b>critiques</b> 122:22 <b>crop</b> 143:14,21 144:6 191:5,7,9 <b>cropping</b> 143:12 191:21 <b>cross</b> 181:23 <b>Cruise's</b> 201:18 <b>crunch</b> 69:21 <b>CSR</b> 232:3,18 <b>CSS</b> 219:6</p>	<p><b>Cube</b> 43:3 <b>Cullen</b> 142:11 <b>cultural</b> 16:11 207:3 <b>culture</b> 127:15 129:19 <b>curiosity</b> 25:3 <b>current</b> 24:22 45:21 88:22 120:1,2 131:16 139:9,20,21,23 163:23 174:25 196:20 <b>currently</b> 16:8 83:19 127:16 130:17 152:10 163:8 170:3 <b>customarily</b> 216:13 <b>customers</b> 159:14 171:4,21 198:11 <b>customize</b> 89:24 90:2 <b>customizes</b> 89:25 <b>cut</b> 143:25 144:1 210:3 <b>cutting</b> 113:6 <b>cutting-edge</b> 171:15 <b>cycle</b> 91:13 145:1 226:20 <b>cycles</b> 70:25 <b>Cydia</b> 78:18,21 85:11,14,20 86:16 102:10,21,23 <hr/><p style="text-align: center;">D</p><hr/><b>damage</b> 23:6 <b>Dan</b> 3:2 103:19 126:9 156:7 166:3 173:2,10 178:11 207:10</p>
---	--	---	---

<p><b>Dane</b> 36:2 97:9</p> <p><b>Dan's</b> 208:24</p> <p><b>dark</b> 200:21</p> <p><b>data</b> 170:20 196:14,15</p> <p><b>database</b> 157:16 158:17</p> <p><b>date</b> 1:16 163:9,21</p> <p><b>David</b> 2:7 7:6,11,18,19,23 118:23</p> <p><b>day</b> 43:17 56:8,22 75:1,4 79:21 103:19 104:12 115:17 127:9 140:1 221:4</p> <p><b>days</b> 78:9,12</p> <p><b>day-to-day</b> 77:9 136:20,22 137:6</p> <p><b>de</b> 28:12 33:4 51:13 111:25 173:18</p> <p><b>deaf</b> 79:13</p> <p><b>deal</b> 63:2 80:22 95:16 108:9 135:16 140:24</p> <p><b>dealer</b> 106:12</p> <p><b>dealing</b> 97:8 196:18</p> <p><b>deals</b> 171:10 193:6</p> <p><b>dealt</b> 108:19</p> <p><b>debate</b> 96:3 141:2 142:4 145:2,7 229:15</p> <p><b>debated</b> 181:18</p> <p><b>debug</b> 99:14</p> <p><b>decade</b> 133:3 140:18</p> <p><b>decent</b> 227:13</p> <p><b>decide</b> 48:4,6,9 54:8 115:15 223:12 227:5</p>	<p>230:13</p> <p><b>decided</b> 226:12</p> <p><b>decides</b> 84:10,11 105:14 106:16 118:19</p> <p><b>deciding</b> 174:5</p> <p><b>decimated</b> 21:7</p> <p><b>decision</b> 32:9,12 86:7 87:6 93:3 94:19,20 95:17,20 218:21 220:4 222:22 224:6</p> <p><b>decisions</b> 114:15,16</p> <p><b>declaration</b> 12:6 48:19 61:11</p> <p><b>declarations</b> 11:9</p> <p><b>decrease</b> 121:16</p> <p><b>decrypt</b> 196:15</p> <p><b>dedicated</b> 102:6</p> <p><b>deductabilities</b> 228:11</p> <p><b>deductible</b> 217:8 228:10</p> <p><b>defamatory</b> 87:15 95:23</p> <p><b>default</b> 22:17 67:3</p> <p><b>defend</b> 95:10 128:17</p> <p><b>defense</b> 136:25</p> <p><b>defer</b> 202:10</p> <p><b>define</b> 45:16 96:20,22 115:4 116:9 119:9 122:15 212:18</p> <p><b>defined</b> 92:23 93:1 96:23 115:7 179:12 226:12</p> <p><b>defines</b> 229:20</p> <p><b>defining</b> 34:25 35:10 180:25</p>	<p><b>definitely</b> 47:6 145:5</p> <p><b>definition</b> 96:25 114:25 116:22 179:21 198:18 199:21 230:22</p> <p><b>definitional</b> 40:10</p> <p><b>definitions</b> 103:18 198:15</p> <p><b>definitive</b> 220:2</p> <p><b>defy</b> 183:12</p> <p><b>degradation</b> 190:14 191:11,17,21 192:3</p> <p><b>degrade</b> 202:22</p> <p><b>degree</b> 35:15 175:13</p> <p><b>degrees</b> 92:5 98:15,18</p> <p><b>delay</b> 139:19</p> <p><b>delighted</b> 7:10</p> <p><b>delightful</b> 148:21</p> <p><b>delineated</b> 198:19</p> <p><b>deliver</b> 157:13 159:15 165:9,23</p> <p><b>delivered</b> 160:3,11 164:2</p> <p><b>delivery</b> 171:18</p> <p><b>Deluxe</b> 157:17</p> <p><b>demand</b> 53:14 159:15 167:24 168:9 171:24 173:13</p> <p><b>demise</b> 16:14</p> <p><b>demo</b> 99:10 103:11 107:21 176:16</p> <p><b>demonstrate</b> 161:10</p> <p><b>demonstrated</b> 26:7 100:12</p>	<p><b>demonstrates</b> 163:12</p> <p><b>demonstrating</b> 101:17 177:10</p> <p><b>demonstration</b> 22:11,15 24:23 26:7 52:18 177:16 190:16</p> <p><b>denied</b> 48:16,18 157:6</p> <p><b>deny</b> 74:17</p> <p><b>denying</b> 25:19</p> <p><b>department</b> 156:16,21 212:1,20 213:17</p> <p><b>depend</b> 18:1 172:18</p> <p><b>depending</b> 63:24 138:24</p> <p><b>depends</b> 63:21 160:4 180:6 212:7</p> <p><b>DEPOSITION</b> 232:1</p> <p><b>depth</b> 135:14</p> <p><b>deputy</b> 7:23</p> <p><b>derived</b> 68:22</p> <p><b>Descendants</b> 166:23</p> <p><b>describe</b> 110:5</p> <p><b>described</b> 30:16 65:20 92:9 116:3 184:2 192:17 214:11,15</p> <p><b>describes</b> 32:2</p> <p><b>description</b> 41:6 214:12</p> <p><b>deserves</b> 221:22</p> <p><b>deserving</b> 230:14</p> <p><b>design</b> 62:21</p> <p><b>designate</b> 73:8</p> <p><b>designed</b> 11:3</p>
---	---	---	---

<p>12:17 18:11,20  20:8 53:1,3 69:7  70:18 94:9 111:5  118:9 150:17  153:16 162:4,22  179:8</p> <p><b>desirable</b> 60:1</p> <p><b>desire</b> 25:1 90:15</p> <p><b>desist</b> 130:2  136:19</p> <p><b>detail</b> 9:11 13:21  72:24 91:7  128:12 201:19  209:4</p> <p><b>details</b> 19:14 64:1  80:3 91:16</p> <p><b>determination</b>  93:20 220:2</p> <p><b>determinations</b>  208:20</p> <p><b>determine</b> 73:16</p> <p><b>determines</b> 162:10</p> <p><b>determining</b> 74:5  109:6</p> <p><b>dev</b> 77:20 78:6  104:22</p> <p><b>develop</b> 26:13 37:5  39:17 80:19 83:3  99:19 106:13  107:17,23  167:14</p> <p><b>developed</b> 62:11  165:16</p> <p><b>developer</b> 29:24  80:14 87:7 99:18  106:10</p> <p><b>developers</b> 11:17  26:17 75:25 79:2  83:2 87:18,20,21  99:9,11 103:4,9  108:4,24,25  109:2</p> <p><b>developing</b> 14:12  115:8 159:21</p>	<p><b>development</b>  12:10 52:5 67:9  100:3 101:22  103:11 114:5  159:23 182:25</p> <p><b>developments</b>  132:19,20</p> <p><b>develops</b> 80:18  107:16</p> <p><b>device</b> 10:18 14:7  23:8 24:14 32:11  42:6,7,8,18 54:3  59:5,13 64:17  69:17,25  70:2,6,11,19  71:11 77:1,6  80:21 81:7  84:3,23  86:1,3,19  88:12,19 89:24  98:23,25 99:1  100:23 101:6  104:1,10,18  105:6,10,15,18  108:1 115:24  116:7,10,12  117:14,20  118:8,19  121:11,23,25  123:3 153:21  168:17 169:3  170:12 171:6</p> <p><b>devices</b> 9:16,21  10:3,9 11:22,24  15:13 19:21  25:12 40:21  42:15,17  52:14,15,23  53:11 59:9,25  61:21 64:12,13  68:17,25 75:22  77:8,13,19,25  78:11,20,22  79:11 80:16  83:15 84:16,24  85:13 89:5 90:14  98:17 99:15  100:14,17,20</p>	<p>101:1,9  102:1,8,13  104:8,13,19  107:20  115:5,12,18  116:3 118:16  119:19 122:11  160:11,15  161:19 162:24  165:8</p> <p><b>devoting</b> 156:17</p> <p><b>dictating</b> 110:16</p> <p><b>die</b> 151:13 168:25</p> <p><b>Diego</b> 82:21  134:13</p> <p><b>differ</b> 220:13</p> <p><b>difference</b> 32:17  41:19 84:1 104:4  175:15 213:8</p> <p><b>differences</b> 64:12</p> <p><b>different</b> 14:3  28:16 40:21  43:24 44:2,3,18  61:21 62:12 66:7  69:20 70:6 74:1  78:21 92:4,5  94:16 107:4  112:1,14 116:6  118:25 122:7  123:17 130:14  143:4 153:20  160:18 161:7,8  168:21 174:1  175:16 177:14  196:19 197:3  206:8,15 210:25  212:16 214:20  216:5 217:2,25  220:5,8</p> <p><b>differential</b> 68:3</p> <p><b>differently</b> 40:21  228:12</p> <p><b>difficult</b> 32:23  33:5 56:17 99:22  135:17 152:24  154:13,14 222:9</p>	<p>228:23</p> <p><b>Digiboo</b> 159:20</p> <p><b>digital</b> 1:1 6:23  16:1 19:23 53:4  130:4 132:4  140:19 156:12  157:15  158:22,24 159:3  160:20  161:2,11,17,21,2  4 162:16  163:4,6,17,20  164:10,20  166:14  168:14,25  169:2,4,6,13  170:3 199:17</p> <p><b>digitally</b> 5:19 6:3  161:3 170:1  199:19 231:2</p> <p><b>dim</b> 200:25</p> <p><b>diminished</b> 21:7  22:1,4</p> <p><b>dimly</b> 201:11</p> <p><b>dire</b> 180:13</p> <p><b>direct</b> 14:9 15:18  225:3,6,9,13</p> <p><b>directed</b> 123:23  151:1</p> <p><b>direction</b> 89:18  193:10</p> <p><b>directly</b> 29:12 62:1  82:24 137:20  193:5</p> <p><b>director</b> 2:22  126:15 134:12  150:23</p> <p><b>directorial</b> 204:1</p> <p><b>disabled</b> 51:18  55:23</p> <p><b>disabling</b> 52:8</p> <p><b>disadvantage</b>  205:1</p> <p><b>disagree</b> 113:19</p>
--	--	--	--



<p>216:18 <b>disarm</b> 25:2 <b>disaster</b> 63:9 <b>disavowed</b> 23:1 <b>discourse</b> 139:21,22 187:22 <b>discreet</b> 121:10 <b>discs</b> 5:17 6:15 <b>Disc-to-Digital</b> 163:13,22 170:8 <b>discuss</b> 103:19 107:11 <b>discussed</b> 4:6,12,21 8:11 14:16 45:11,13 61:5,19 75:13 112:6 118:14 126:4 145:9 211:1 226:20 231:3 <b>discussing</b> 43:25 123:8 139:20,25 180:10 <b>discussion</b> 13:22 23:1 43:11,15 60:19 64:21 110:3 139:15 141:2 144:19 173:15 189:10 212:6 <b>discussions</b> 44:11 164:14 175:8 <b>disfavored</b> 18:25 <b>disintegration</b> 151:10 <b>disk</b> 161:13 162:19 169:1 170:9 <b>disks</b> 163:25 169:7 170:2 <b>disparagement</b> 212:14 <b>displayed</b> 24:23</p>	<p><b>dispute</b> 128:16 175:4 <b>disseminate</b> 228:18 <b>distinct</b> 16:18 36:18 <b>distinction</b> 31:17 34:3,6 92:20 93:21 120:16 213:16 219:13 <b>distinctions</b> 120:17 122:14 <b>distinguish</b> 94:15 <b>distinguished</b> 120:12 <b>distinguishes</b> 231:1 <b>distinguishing</b> 122:11 <b>distorted</b> 143:15 <b>distribute</b> 37:12,16 66:15 166:24 168:13 <b>distributed</b> 104:16 166:22 208:6 <b>distributes</b> 166:17 <b>distributing</b> 27:2 61:25 171:23 <b>distribution</b> 5:11 13:7 18:16 129:14 131:24 132:24 136:4 138:18 146:4 156:12 158:22,24 159:3 166:13,14 167:15,22 168:19 172:7 228:8,22 <b>distributor</b> 166:12 <b>distributors</b> 176:25 <b>disturbing</b> 178:4</p>	<p><b>divergence</b> 53:11 <b>diversity</b> 173:14 <b>divided</b> 162:8 <b>dividing</b> 97:3 <b>divine</b> 56:4 <b>division</b> 166:11,12,20 <b>DMCA</b> 12:3 18:20 23:9 27:19 34:14 36:13 38:19 56:12 128:14 130:5,7 135:5 136:18 137:3 149:11,20 150:17 155:9 176:5,6,13 198:24 <b>DMCA's</b> 21:25 <b>Dobbs</b> 144:24 <b>doctrine</b> 128:3 130:16 217:17 <b>documentarian</b> 173:24 219:14 <b>documentarians</b> 174:16 175:15,24 176:16 180:11 207:8 223:8 225:24 <b>documentaries</b> 130:14,15 137:23 146:8 150:24 156:23 <b>documentary</b> 5:3,23 148:7,8,10,13 149:9,22,23 150:8,9,13 151:16 157:11,13 181:5 184:2,13 188:5 189:5 211:20 212:17,18,21,24 213:2,5,6,19 217:1 227:6,19</p>	<p>229:21 230:24 <b>dog</b> 35:18,20 36:2 97:9 225:15 <b>dogs</b> 80:12 <b>Dolby</b> 160:23 <b>dollars</b> 25:4 <b>dominant</b> 50:1 <b>Donaldson</b> 2:20 126:8 145:25 146:1 188:3 194:21 202:2 204:7 214:7,22 215:11 216:25 227:25 228:4 <b>Donaldson's</b> 174:17 <b>done</b> 23:6 30:10 35:12 76:18 78:4 81:18 141:11 159:25 184:21 186:22 197:23 198:18 202:17 227:12 <b>doom</b> 16:13 <b>door</b> 7:9 35:18,20 36:2 97:9 183:8 225:15,21,22 <b>doubt</b> 11:7 12:12 <b>download</b> 56:10 160:3,5,10 161:24 171:6 228:20 <b>downloaded</b> 19:6 21:16 22:17 78:8 105:2 195:24 196:9,23 <b>downloading</b> 104:16 160:8 161:23 <b>downloads</b> 6:16 20:19,23 21:23 78:15,21 171:1 <b>dozen</b> 148:18,21</p>
---	--	--	---

<p><b>Dr</b> 11:10,11 48:18</p> <p><b>drafted</b> 66:21</p> <p><b>drafting</b> 28:22 135:6</p> <p><b>draw</b> 93:21</p> <p><b>drawing</b> 92:20</p> <p><b>drawn</b> 22:13 58:22 59:20 98:9</p> <p><b>DreamBoard</b> 89:25</p> <p><b>drive</b> 26:4 68:6</p> <p><b>driven</b> 68:19 195:3</p> <p><b>driver</b> 62:11 63:16</p> <p><b>drives</b> 111:21</p> <p><b>DRM</b> 170:25 171:16 195:21</p> <p><b>DRM-free</b> 165:17,22</p> <p><b>DRMs</b> 160:20 165:7</p> <p><b>Droid</b> 123:9</p> <p><b>drop</b> 154:16</p> <p><b>dropped</b> 97:22</p> <p><b>dropping</b> 98:2</p> <p><b>drops</b> 190:8</p> <p><b>dual</b> 21:20</p> <p><b>due</b> 48:1 63:14 85:16 87:12 153:24</p> <p><b>during</b> 24:23 185:17</p> <p><b>DV</b> 161:22</p> <p><b>DVD</b> 5:15,18,19 6:3 131:13 133:9,17,18 136:3 143:9 144:14,21,23 154:11 159:13 164:17 166:14 167:11 168:1 169:10,13 177:21 178:6</p>	<p>191:2,8 192:23 193:2,8,11,13,16 198:6,9,10 231:2</p> <p><b>DVD-CTA</b> 225:1</p> <p><b>DVDs</b> 4:22 5:5,16 6:1,8,20 132:15 133:5,15 135:23 139:20 143:9 149:11 159:15 163:17,21 164:7 191:4 192:14 193:15 195:18 196:21</p> <p><b>DVR</b> 154:11</p> <p><b>DVRs</b> 160:15 168:2</p> <p><b>dwarfs</b> 20:20</p> <p><b>DX</b> 116:4</p> <p><b>dying</b> 112:4</p> <p><b>dynamic</b> 17:21</p> <p><b>dynamics</b> 142:18 143:3</p> <p><b>dynamism</b> 83:6</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p><b>E&amp;O</b> 146:9,11 147:15 227:10,21</p> <p><b>earlier</b> 77:21 96:15 100:16 106:7 108:7 124:17 165:5,14 199:13</p> <p><b>early</b> 113:12 185:22 228:5</p> <p><b>ease</b> 167:17</p> <p><b>easier</b> 84:3</p> <p><b>easily</b> 150:9</p> <p><b>East</b> 80:7</p> <p><b>easy</b> 94:6 104:11,12 162:22</p> <p><b>e-book</b> 6:7</p>	<p><b>eBook</b> 95:3 112:4,11 120:22 178:1</p> <p><b>e-Book</b> 59:10</p> <p><b>e-books</b> 6:24</p> <p><b>eBooks</b> 116:5,13</p> <p><b>economics</b> 141:1</p> <p><b>economy</b> 17:19</p> <p><b>ecosystem</b> 113:5,6,24 114:2,4 121:18 162:8,12</p> <p><b>edges</b> 174:14</p> <p><b>edit</b> 195:25 196:5 205:10,23 208:10</p> <p><b>editing</b> 154:17</p> <p><b>editor</b> 205:9</p> <p><b>educate</b> 218:4</p> <p><b>education</b> 131:3 185:5 212:24 216:14</p> <p><b>educational</b> 5:2 6:13 15:24 127:12 156:22 157:3,25 158:8 173:23 211:19 213:23</p> <p><b>Edward</b> 142:11,20</p> <p><b>Edward's</b> 142:21 143:2</p> <p><b>EFF</b> 12:14 18:4 20:13 22:5,8,21 24:23 25:7 26:15,22 28:4 31:22 93:8 178:19 179:13 218:2</p> <p><b>effect</b> 10:11 47:9 64:5 82:1 102:5 108:3 110:17 114:1 121:23 128:10 132:24 133:7,9,17,23</p>	<p>219:1 230:19,20</p> <p><b>effective</b> 68:4,7 96:21 192:17</p> <p><b>effectively</b> 36:20</p> <p><b>effects</b> 43:11 46:22 50:8 100:11 121:17 122:16 192:5 202:20,21 203:1</p> <p><b>efficient</b> 68:14</p> <p><b>effort</b> 217:18</p> <p><b>efforts</b> 172:9</p> <p><b>EFF's</b> 22:10,25 25:12 52:18</p> <p><b>egg</b> 173:20 181:21</p> <p><b>eggs</b> 181:22</p> <p><b>eight</b> 42:5</p> <p><b>either</b> 39:11 75:4 106:25 116:18 120:16 164:8 198:21 208:1 232:11</p> <p><b>elaborate</b> 119:14</p> <p><b>elderly</b> 151:23</p> <p><b>election</b> 140:5</p> <p><b>electrical</b> 150:1</p> <p><b>electronic</b> 2:11,17 8:17 75:18 126:15 160:11 161:14 162:5 166:15</p> <p><b>Electronic-Sell-Through</b> 159:6</p> <p><b>element</b> 15:6 42:1 93:5 123:10 226:17</p> <p><b>elements</b> 15:6,9,17 36:22 44:18</p> <p><b>elevate</b> 70:11</p> <p><b>eliminate</b> 105:1</p> <p><b>eloquent</b> 103:14</p> <p><b>ELR</b> 152:14</p>
---	--	--	--

<p>154:21  <b>else</b> 14:11 37:19  54:22 68:6,9  95:24,25 97:1  114:2 116:5  175:9,10 196:4  205:15 206:22  213:1 215:16  224:4  <b>elucidate</b> 44:14  <b>e-mail</b> 117:9,11,20  119:2 158:5  <b>embed</b> 158:6,8  <b>embedded</b>  130:22,23  211:2,3  <b>embraced</b> 62:25  <b>embraces</b> 14:14  <b>emergency</b> 63:9  <b>emerging</b> 129:20  <b>emotional</b>  153:6,11  <b>emphasis</b> 144:7  <b>empire</b> 155:2  <b>employ</b> 21:3,11  29:2 37:5  39:2,3,4 65:9  <b>employed</b> 58:4  197:9  <b>employing</b> 16:12  <b>enable</b> 4:7,13  12:20,24 17:7  26:21,23 34:4  35:8 36:4 40:23  41:16 43:1 50:10  69:23 96:10  159:4 165:7  <b>enabled</b> 63:1  119:18 121:5  <b>enables</b> 34:8 44:20  92:2 109:24  162:17 170:22  <b>enabling</b> 4:9,15</p>	<p>29:4 37:6 39:5  82:12 123:15  <b>enacting</b> 31:8  <b>encompassed</b>  112:2 115:6  <b>encounter</b> 80:12  <b>encountered</b> 33:20  218:18  <b>encourage</b> 11:8  20:6 26:14 28:17  30:19,25 33:2  36:6 52:6 53:8  56:20 79:11  111:24 224:7  <b>encourages</b> 14:14  <b>encrypt</b> 158:19  <b>encryption</b> 5:20  6:4 44:4,8 53:24  61:20 133:5,12  198:21  <b>enforce</b> 22:1 93:19  94:25  <b>enforced</b> 95:8  <b>enforcement</b> 62:17  <b>enforcing</b> 94:21  <b>engage</b> 44:25  145:7  <b>engaging</b> 4:25  5:8,13,22 6:6,12  47:12 187:23  <b>engine</b> 44:19  <b>engineer</b> 37:9,14  <b>engineering</b>  36:13,24  37:1,6,15  38:6,7,21  66:12,14 67:8  123:21 124:12  <b>engineers</b> 80:15  <b>enhance</b> 162:4,15  <b>enhanced</b> 169:11  <b>enhancement</b></p>	<p>205:20  <b>enjoy</b> 117:7  172:11,20  <b>enjoyed</b> 90:16  <b>enlarging</b> 191:22  <b>enormously</b>  197:22 230:8  <b>ensure</b> 12:8 53:1  171:9,21  <b>ensures</b> 171:4  <b>entangled</b> 22:12  <b>enter</b> 159:3 187:10  227:21  <b>entering</b> 229:15  <b>entertain</b> 17:18  <b>entertaining</b> 109:9  <b>entertainment</b>  2:13,23 3:2  17:14 52:14  57:21 141:13  153:15 154:15  155:20 156:10  166:4,11,17  <b>entire</b> 176:5  210:1,12,16  <b>entirely</b> 73:3  101:13 204:5  <b>entities</b> 136:21  <b>entitled</b> 194:24  <b>entitlement</b> 222:12  <b>environment</b>  100:20 101:1  108:5 110:20  168:12  <b>environments</b> 63:6  <b>envisioned</b> 164:13  <b>envy</b> 127:10  <b>episode</b> 149:14  <b>episodes</b> 142:15  161:6  <b>epithet</b> 95:15 96:3</p>	<p><b>equipment</b> 204:9  <b>equivalent</b> 21:18  25:8 101:10  <b>e-Reader</b> 76:22  <b>eReaders</b> 102:7,9  <b>errors</b> 174:20  231:5  <b>ESA</b> 52:13 91:11  <b>ESA's</b> 20:22  <b>e-shared</b> 228:24  <b>especially</b> 25:5  99:9 100:2  142:21 145:10  182:15 193:11  207:14  <b>essential</b> 40:17  127:3 138:16  <b>essentially</b> 8:23  54:13 68:1 83:5  118:8 138:1  194:17 201:23  <b>EST</b> 159:5  <b>establish</b> 178:9  <b>established</b> 163:9  <b>establishing</b> 41:9  <b>estimated</b> 168:9  <b>et</b> 160:1,23  <b>ethically</b> 132:2  <b>ethnographer</b>  127:10  <b>evaluate</b> 167:13  221:20 230:20  <b>evaluations</b>  167:15  <b>event</b> 25:18 131:16  <b>events</b>  139:9,12,15,21,2  3  <b>eventually</b> 87:5  133:18 192:22  <b>everybody</b> 7:5</p>
---	--	--	--

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012  
Page 20

<p>15:25 78:24 81:18 147:16 179:3 206:22 <b>everyday</b> 200:16 <b>everyone</b> 117:2 185:6 <b>everything</b> 9:21 49:4 68:14 70:1 117:25 146:3 147:10,20,21 150:7 179:13,14 208:19 224:4 <b>evidence</b> 10:1 20:15 22:7 24:16 49:1,25 56:13 81:17 82:6,9 97:10 101:19 108:20 119:23 128:5,8,9 129:12 132:23 133:4 183:16 219:10,19 <b>evident</b> 220:12 <b>evolved</b> 161:16 <b>evolving</b> 126:24 <b>exact</b> 56:3 59:9 213:8 <b>exactly</b> 12:16 29:13,21 40:13 43:5 73:11 74:15,16 95:4 99:3 108:14 120:20 122:16 128:18 134:6 186:9 212:8 <b>examined</b> 55:11 <b>example</b> 14:5 20:22 29:22 32:9 45:23 60:15 63:4 65:21 70:24 77:15,19 79:11 85:8,9 86:23 87:9 90:5 92:14 95:2 98:16,21 101:5 104:19 106:15 107:11</p>	<p>116:1,3 129:21,24 143:20 145:8 149:25 152:20 154:12 167:7,25 168:24 171:13 175:19 181:8 185:16 187:20 198:5 200:20 201:10,11,12 208:15 209:16 227:23 <b>examples</b> 24:18 25:9 86:5 127:24 128:6 141:17 183:24 200:3 219:22 220:7,15 <b>exceed</b> 230:24 <b>except</b> 224:3 <b>exception</b> 20:3 36:13,17 66:16 67:11 136:25 223:5 <b>exceptional</b> 19:1,2 <b>exceptions</b> 172:14 <b>excess</b> 168:10 <b>excited</b> 145:21 164:23 <b>exciting</b> 63:14 75:6 77:2 <b>exclude</b> 171:22 181:13 184:25 <b>excludes</b> 87:16 <b>exclusive</b> 194:19 <b>exclusively</b> 22:9 <b>excuse</b> 22:8 <b>excused</b> 56:12 <b>excusing</b> 18:13 <b>execute</b> 4:7,14 12:21 <b>executive</b> 16:6 134:12 156:9 <b>executives</b> 202:6</p>	<p><b>exempt</b> 73:13 <b>exempted</b> 56:12 <b>exemption</b> 8:19 9:2,3,6,10,23 10:16 12:8,14,17,19 13:11,19 14:22 16:15,23 17:6 18:3 19:13,21 20:5,9 21:4 22:6,22 23:3,16,20 24:7,20 25:24 26:1 27:17,19,25 28:7,12,16 34:1 35:10 36:3,7 38:20 39:11 41:8 42:13 43:4,20 44:24 45:9,18 46:8 49:23 50:2 51:4,11 53:7,12,22 54:17,25 55:7,16 56:19,21,25 58:2,23 59:19 60:24 64:6 66:11 67:17 74:17 75:20 76:4,5,8 78:1 79:3,6 80:24 81:2,4,16 82:5,7,11,14 83:10,12 88:12 91:5,10,20 96:7,21 97:2,7,10,21 98:9 100:5 101:18 102:12 103:8 108:3,24,25 109:10 110:18 112:14 113:5,25 114:3,18,19 116:25 118:15 119:15 121:21 122:1,19 123:20 124:2 126:23 129:3,13,16 130:6,17 131:11 132:25</p>	<p>133:1,6,7,8,9,16, 20,24 135:22,25 136:9,13,24 138:15 139:1,17 146:13,15 156:3 173:12,22 174:25 177:24 179:1,8 180:16,23 182:22,23 183:11,21 184:3 185:1,5 196:20,21 197:6,7,10,22 199:4 209:8 219:4,5,21 221:6,23 222:22 223:18,21 224:2 <b>exemptions</b> 18:24 50:12 51:8 83:7 128:4 134:3,17,20,21 135:2 140:7 165:20 173:22 180:4 199:1 218:19 221:11 <b>exercised</b> 86:21 <b>Exhibit</b> 22:6 <b>exhibited</b> 204:16 <b>exist</b> 96:8 109:23 133:12 <b>existed</b> 70:1 <b>existing</b> 72:4,5 119:15 127:2 129:13,16 177:24 197:7 219:5 <b>exists</b> 69:4 113:6 <b>expanded</b> 76:6 82:14 126:24 175:1 218:10 224:3 <b>expansion</b> 178:1,2,4 179:23 <b>expansions</b> 177:25</p>
---	---	--	---

<p><b>expansive</b> 43:13</p> <p><b>expect</b> 70:2 133:23 134:2 137:9,10 146:15 177:7</p> <p><b>expecting</b> 67:6</p> <p><b>Expelled</b> 188:18</p> <p><b>expense</b> 185:14 189:24 207:22</p> <p><b>expenses</b> 189:20 190:1</p> <p><b>expensive</b> 149:7,8 189:18 204:8</p> <p><b>experience</b> 85:23 86:2,11 88:8,9 89:13 133:3,15 154:7 167:16 168:21 189:12 190:2 200:16 215:5</p> <p><b>experienced</b> 186:16</p> <p><b>experiences</b> 185:13,14</p> <p><b>experiencing</b> 75:8</p> <p><b>explain</b> 19:16 30:9 74:15 135:14 207:2</p> <p><b>explained</b> 19:10 21:5 207:21</p> <p><b>explaining</b> 182:9</p> <p><b>explains</b> 32:25</p> <p><b>explanation</b> 30:15</p> <p><b>exploded</b> 76:20</p> <p><b>exploit</b> 22:16</p> <p><b>explore</b> 186:15</p> <p><b>explored</b> 28:8</p> <p><b>exploring</b> 186:8 187:10</p> <p><b>explosion</b> 201:18</p> <p><b>exposure</b> 200:24</p> <p><b>expressed</b> 74:1</p>	<p>224:16</p> <p><b>expression</b> 47:13,14 126:22 127:4 194:24</p> <p><b>expressive</b> 15:7 17:17</p> <p><b>expressly</b> 194:15</p> <p><b>extend</b> 41:17 85:3</p> <p><b>extended</b> 32:10 83:14 139:18</p> <p><b>extending</b> 43:22</p> <p><b>extension</b> 23:13</p> <p><b>extensive</b> 32:20</p> <p><b>extensively</b> 231:4</p> <p><b>extent</b> 68:2 115:3,22 118:19 120:14,24 175:14 181:5 182:24 208:9</p> <p><b>extra</b> 148:23,24 198:9</p> <p><b>extracting</b> 5:7,12</p> <p><b>extrapolating</b> 187:17</p> <p><b>extreme</b> 205:1</p> <p><b>extremely</b> 32:6,19 111:12 115:11 137:19 183:15 226:9</p> <p><b>eye</b> 60:22</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p><b>f)(1</b> 66:2</p> <p><b>f)(2</b> 29:11,13</p> <p><b>fabric</b> 151:25 152:5</p> <p><b>face</b> 40:20 137:3 152:18 201:18</p> <p><b>Facebook</b> 158:5 160:1</p> <p><b>faced</b> 167:2</p>	<p><b>faces</b> 16:17</p> <p><b>facilitate</b> 161:11</p> <p><b>facilitated</b> 48:2</p> <p><b>facing</b> 30:15 59:22</p> <p><b>fact</b> 11:6 12:7 21:15 25:21 28:13 57:8 63:14 77:18 81:6,18 90:24 92:14 93:10 94:15 100:20,22 103:1,3 121:8 122:6 123:11,12 124:8 131:13 132:1 134:23 138:5 140:2,3,21 148:3 174:7,11 181:2,3 184:23 199:13 200:15 207:20 208:2 221:15 223:1,16</p> <p><b>factor</b> 9:9 13:23 15:4,20,22 16:25 33:12 34:14 108:23 109:16 110:2 111:8 124:10 130:24 131:9 226:23</p> <p><b>factors</b> 9:5 13:18 33:2 57:3,12 81:25 91:12 97:13 216:18</p> <p><b>facts</b> 32:5 74:6 95:18 112:1</p> <p><b>factual</b> 54:23 74:4</p> <p><b>faculty</b> 6:17</p> <p><b>fail</b> 132:4</p> <p><b>failed</b> 130:7</p> <p><b>fails</b> 63:22</p> <p><b>failure</b> 19:24</p> <p><b>fair</b> 5:21 6:6 9:5 15:4,8,19 31:5,17 32:11,23,25 33:2,6 38:3,4</p>	<p>44:3 50:11 59:16 65:4 81:24 91:12 109:16 110:7 111:2,6,16 124:7 127:21,23 128:3,6,17 129:22 130:11,16,19 131:2,6 135:3,6,7,20 136:14 137:16 138:1,5,8 140:8,17 141:14,18 146:21,25 147:2,4,12,14 148:2,3,12,19 149:22,24 174:18 175:7 176:12 180:22 183:5 187:24 188:19 194:17 195:7 205:15 208:20 213:24 214:5,14,18 215:15 217:14,17,21 218:6,12 220:3,10,16 223:3,24 229:12 231:6</p> <p><b>fairly</b> 94:11</p> <p><b>fairness</b> 107:6</p> <p><b>FairPlay</b> 160:22 171:1</p> <p><b>fake</b> 206:10</p> <p><b>fall</b> 30:9 39:8,10 90:4 152:9 163:6 184:13</p> <p><b>fallen</b> 96:12</p> <p><b>falls</b> 34:6 73:6 146:7</p> <p><b>false</b> 129:4</p> <p><b>familiar</b> 90:3 153:9 161:12 209:14</p>
--	--	--	--

<p><b>family</b> 149:13  151:11 162:6,24  167:1  <b>fan</b> 127:11 145:16  <b>fans</b> 129:10 138:22  145:16  <b>fantastic</b> 79:10  <b>fashion</b> 155:25  <b>fast</b> 190:7  <b>favor</b> 16:25  <b>favored</b> 14:10,25  47:9  <b>FCC</b> 109:6  <b>fear</b> 64:6  <b>feature</b> 51:16,17  89:7,12,14  148:15 151:1  156:23 167:7  169:6,7,11  212:22 216:25  219:14  <b>featured</b> 145:15  <b>feature-enhanced</b>  169:10  <b>features</b> 150:24  169:12,15  198:10  <b>federal</b> 7:16 73:9  <b>fee</b> 159:10 170:10  <b>feel</b> 74:19,23  75:2,3 86:9  98:21 100:16  101:8 162:15  182:18 193:19  216:10,16  229:13,16  230:23  <b>feeling</b> 74:18  <b>feelings</b> 74:22  <b>feels</b> 142:8 155:5  <b>fees</b> 167:9  <b>feet</b> 146:19</p>	<p><b>felt</b> 143:2  <b>female</b> 210:2,6  <b>fertilization</b>  152:13,24  <b>festival</b> 205:2  <b>fiction</b> 16:5,10  213:20 229:20  <b>fictional</b> 5:24  146:13,16,21,25  147:8,10  148:9,11,19  149:10,19,24  150:11,12,18,25  151:18 156:4  178:2 188:25  189:2 208:16  211:22 212:14  213:6 227:20  230:24  <b>fide</b> 153:9  <b>fidelity</b> 206:4,9  <b>field</b> 79:22  <b>figure</b> 76:11,23  106:17 227:5  <b>figured</b> 185:5  <b>figuring</b> 227:13  <b>file</b> 195:22,23  196:7,16  <b>filed</b> 12:1 19:10  21:6 60:14,16  79:8 219:16  <b>filing</b> 22:10 44:16  173:7 175:7  220:7  <b>filings</b> 177:18  <b>filled</b> 22:7  <b>filling</b> 154:19  166:4 201:13  <b>film</b> 2:20,22 5:3  6:14 142:16,20  146:3,11  147:11,19  148:9,11,21</p>	<p>149:10,15,24  150:1,2,4,5,11  151:3,9,10,21,22  152:12,14,16,22  153:5,6,8,13,21  154:4  155:4,10,14  158:23 159:4  161:1 163:19  164:10 169:3  182:11  185:17,18,20  186:15  188:10,14,18  189:1,2 200:12  204:13  205:11,13,14  208:11,25  210:12 211:5,22  212:12,14,18  219:14 227:6,20  228:4 229:20,21  <b>filming</b> 155:13,24  <b>filmmaker</b> 137:18  150:9,12,14  151:17 175:20  188:4 204:21  205:6 214:23  227:7  <b>filmmakers</b>  147:13 148:7  149:20 150:18  156:4 157:13  185:12 204:11  207:8 210:21  213:2 222:6  225:24 230:24  <b>filmmaking</b>  5:4,23,24 206:14  208:17  <b>films</b>  146:10,13,16,21  147:1,6,9  148:13,15  149:13 151:1,19  152:3,16 156:23  159:13 161:3  164:18,20 178:2</p>	<p>182:13 187:18  188:12 189:5  208:14  211:15,21  212:22,25 220:9  228:6,22,23  229:23,25  <b>final</b> 137:21  163:11 164:12  <b>finally</b> 9:7 15:1,21  25:24 26:11  34:25 37:15 81:3  96:5 97:5 132:22  171:8 176:14  180:20 195:5  202:4 206:1  214:23  <b>finance</b> 166:3,10  <b>financing</b> 146:3  <b>finding</b> 33:24 77:2  111:18 124:18  <b>fine</b> 98:7 101:11  177:20  <b>finger</b> 56:3  <b>finished</b> 124:22  <b>Fire</b> 112:11,12  119:1  <b>Firebox</b> 80:18  <b>Firefox</b>  107:12,14,16  <b>firm</b> 147:18  148:18  <b>firmware</b> 10:8  13:25 14:2,9  15:12,16 18:7,18  19:16 24:8 31:21  32:11,13,20  40:13,24  41:7,14,16,20,21  ,23,25  42:1,4,9,10  43:23  44:3,12,18,24  45:1,10 53:25  61:21</p>
---	---	---	--

72:5,9,11,13,17 91:25 111:3 124:4 <b>first</b> 9:1,10 13:23 19:19 20:5,24 25:10 27:18 32:15 33:16 36:18 40:12 55:22,24 57:11 62:15 68:1 70:23 81:5 89:5,15 91:6,20 95:2 100:24 103:13 106:5 107:8 112:10 114:22 124:10 127:1,21 129:5,16 136:12 151:2 152:11 161:14 171:13 183:12 186:15 189:14 194:14 205:8 207:22 219:3 221:25 <b>first-party</b> 68:20,23 <b>fit</b> 71:4 141:6 <b>fits</b> 35:19 <b>five</b> 189:7 <b>flag</b> 128:16 132:6 <b>flames</b> 150:6 <b>Flash</b> 86:6,9,12,13,14, 15 160:23 171:3 <b>flashlight</b> 80:8 <b>flat</b> 189:25 <b>flavor</b> 112:12 <b>flavors</b> 92:4 <b>flaws</b> 88:25 <b>fledgling</b> 178:8 <b>flesh</b> 117:2 <b>flexible</b> 165:11,24 <b>Flick.me</b> 159:20 <b>Flickster</b> 170:17	<b>floor</b> 38:9 97:23 126:12 <b>flourish</b> 12:10 <b>flourished</b> 75:24 <b>flourishing</b> 101:20,21 <b>flow</b> 176:23 <b>focus</b> 18:6 29:25 42:24 47:8 67:24 100:15,19 115:14 136:8,11 143:19,23 144:5 173:17 190:18 224:7 <b>focused</b> 134:21,22 136:13 146:2 183:19 185:4 191:13 <b>folks</b> 82:24 83:17 86:20 88:21 89:19,20 114:21 127:6 129:24 131:25 134:14 135:17,19,23 137:6 138:22 139:4 197:2 206:23 216:20,22 217:10,13 <b>follow-up</b> 122:8 <b>footage</b> 143:8,9,14 154:22 155:15 192:4 203:25 <b>footnote</b> 32:24 110:25 <b>Forbes</b> 141:14 <b>forbid</b> 49:5 <b>forcing</b> 114:17 <b>Ford</b> 106:11 <b>foreclosed</b> 51:25 <b>foregoing</b> 232:7,12 <b>foremost</b> 81:5 <b>foresaw</b> 67:12	<b>foresee</b> 66:25 67:1 <b>foreseeing</b> 67:18 <b>foreseen</b> 38:17 108:16 <b>forget</b> 192:7 <b>form</b> 19:23 98:13 126:21 127:4,15 181:9 198:2 <b>formal</b> 137:3 <b>format</b> 6:25 178:4,15,24 198:15 199:3 210:25 224:4 <b>formats</b> 170:21 178:1 <b>former</b> 92:22 <b>forms</b> 160:25 196:23 198:4 <b>forth</b> 112:5 180:19 <b>forums</b> 127:12 <b>forward</b> 17:2 27:6 40:9 68:16 82:15 96:24 117:17 199:24 204:23 219:22 220:15 <b>foster</b> 13:5 141:2 <b>Foundation</b> 2:11,17 8:17 75:18 126:15 <b>founder</b> 82:19 134:11 <b>fourth</b> 135:15 <b>Fox</b> 3:2 166:4,10,12,16 167:6 168:12 171:18 <b>frame</b> 143:22 144:2 147:3 154:19 190:13 191:6,9 201:13 <b>frames</b> 191:1 <b>framework</b> 124:14	<b>franchise</b> 142:12 <b>frankly</b> 9:25 12:11 64:23 98:3 139:2 146:14 <b>fraught</b> 81:1 <b>free</b> 43:21 141:5 158:18 162:23 168:25 171:22 201:7 207:14 208:8 209:23 228:19 <b>freedom</b> 87:10 90:15 194:24 <b>freely</b> 170:11 <b>Freeman</b> 78:17 85:12 102:20 <b>freer</b> 108:4 <b>frequently</b> 21:16 38:16 <b>friendly</b> 187:13 <b>friends</b> 158:5 162:6,24 <b>front</b> 36:14 96:9 118:2 135:24 190:17 191:2 200:8 <b>Frontier</b> 2:11,17 8:17 75:18 126:15 <b>frustrated</b> 31:10 <b>frustrating</b> 202:13 <b>frustrations</b> 185:13 <b>fulfill</b> 5:1,9,14 6:13 <b>fulfilling</b> 79:24 <b>full</b> 8:20 54:3,20 99:16 103:24,25 104:9 107:22 126:18 142:16 147:3 171:21 203:25 232:8 <b>full-time</b> 156:18
--	--	--	---

<p><b>fully</b> 84:24 111:10 142:3</p> <p><b>function</b> 50:10 166:11</p> <p><b>functional</b> 15:5,9,12,16 18:6 111:20 198:15,18 199:2,20</p> <p><b>functionality</b> 49:11,13 56:9</p> <p><b>functions</b> 40:25 101:3</p> <p><b>fundamental</b> 112:18 113:8</p> <p><b>fundamentally</b> 138:8 206:24</p> <p><b>furtherance</b> 123:14</p> <p><b>furthermore</b> 14:23 231:3</p> <p><b>future</b> 38:18 43:6 86:8 174:10 192:19 204:23</p> <p><b>fuzzy</b> 203:5</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p><b>gain</b> 84:22 98:8</p> <p><b>gaining</b> 83:24</p> <p><b>gains</b> 76:18</p> <p><b>game</b> 4:7 8:21 9:12,15 10:11 12:21 17:6,7,16,21,23, 25 18:15 19:9 20:7,15 21:6,15 24:2,10,22 26:2,4,17,25 27:2 34:24 42:18,22 43:3 45:10,24 52:2,4 54:9 57:2,7,9 58:12 59:24 66:4 104:14 114:1 120:13 121:13</p>	<p><b>games</b> 9:24 11:19 14:6,13 16:4,9,17,22 18:1 20:11,20,21,24 21:2,9,11,13,17, 21 22:20 23:9 24:9 25:25 26:12 32:1 33:12 36:4 43:6 44:20 46:5 47:12 52:24 53:13 54:11,14 56:11 57:23 70:3 86:14 199:9 217:3,4 229:10</p> <p><b>gaming</b> 4:9 10:18,22,24 11:1,21 12:19 14:6 16:21 38:17 42:20,21 47:25 48:7 60:6 156:12 160:12</p> <p><b>gap</b> 37:21 192:18</p> <p><b>gatekeeper</b> 176:18</p> <p><b>gatekeeping</b> 86:21</p> <p><b>gathering</b> 135:23</p> <p><b>Gee</b> 107:3</p> <p><b>gender</b> 127:13 131:19 141:1 142:18 143:3</p> <p><b>general</b> 2:20 7:23,24,25 8:1 17:14 34:18 41:5 91:18 109:14 124:14 137:8 156:9</p> <p><b>generally</b> 14:24 41:7 68:16 147:19 212:13</p> <p><b>generated</b> 17:19 68:22</p> <p><b>generation</b> 24:22</p> <p><b>Genetski</b> 2:12 8:13 17:5,13 41:5 44:14 45:6 50:22,24 51:12</p>	<p>52:17 56:2 57:15 60:12 64:18 68:11 70:9 134:2</p> <p><b>Genetski's</b> 75:1</p> <p><b>genres</b> 230:1</p> <p><b>gentleman</b> 139:10</p> <p><b>geo-filtering</b> 171:4</p> <p><b>George</b> 60:10 61:13,23</p> <p><b>Germany</b> 61:19 202:4,10,11</p> <p><b>gesture</b> 144:5</p> <p><b>gesturing</b> 63:7</p> <p><b>gets</b> 87:7 153:5,11 164:1 208:21</p> <p><b>getting</b> 15:9 68:8 78:23 113:3 122:18 176:11 178:25 179:2 181:14 184:22 191:11 208:13 216:23 217:7 225:25</p> <p><b>Girl</b> 167:1</p> <p><b>given</b> 9:11 57:1,7 64:4 78:2 84:21 85:3 88:19 92:23 122:21 174:19</p> <p><b>gives</b> 111:12 142:25 174:23 202:22</p> <p><b>giving</b> 89:4 201:10</p> <p><b>glad</b> 35:3 74:22 113:23 226:15</p> <p><b>glamorous</b> 154:6</p> <p><b>Glee</b> 166:25</p> <p><b>global</b> 55:3 173:6</p> <p><b>Globe</b> 141:14</p> <p><b>glossy</b> 154:5</p> <p><b>goal</b> 69:3 92:16 112:24 114:5 168:16 170:20</p>	<p><b>goals</b> 109:13</p> <p><b>God</b> 74:18</p> <p><b>God-given</b> 106:11</p> <p><b>Golant</b> 2:8 7:24 40:5 41:2,19 42:4,9,13 43:2,6,10,22 44:9 45:5 46:15 50:20,23 51:6 52:11 53:10,19 60:4 61:6 63:17 64:4 100:11 102:6 103:16 104:2,11,24 105:8,25 109:3 110:4 124:25 184:10 189:16 224:20</p> <p><b>Goldberg</b> 147:1</p> <p><b>gone</b> 76:17 132:9 141:8 148:1,14 152:22 193:5 216:12</p> <p><b>Google</b> 79:1 81:8 105:3,4,23</p> <p><b>go-round</b> 28:11 65:2</p> <p><b>gotten</b> 49:3</p> <p><b>government</b> 110:15</p> <p><b>grab</b> 127:25 196:13 210:12</p> <p><b>grade</b> 80:20</p> <p><b>grading</b> 110:17</p> <p><b>grant</b> 133:6 197:10</p> <p><b>granted</b> 18:3 36:3 49:24 60:24 75:20 76:4 81:2,17 82:7 132:25 198:25</p> <p><b>granting</b> 20:3 21:4 27:25 34:1 45:17 51:8</p>
---	--	--	--



<p><b>granular</b> 121:14</p> <p><b>graphics</b> 44:19</p> <p><b>gray</b> 202:22</p> <p><b>great</b> 9:11,17          10:23 34:8 36:2          63:1 74:19 80:22          91:7 92:8 95:15          97:9          106:12,14,24          107:2,8 138:4,5          149:25 175:14          182:6 183:2          194:5 200:14,16          218:23 226:14</p> <p><b>greater</b> 84:16          88:11 128:12</p> <p><b>Greenpeace</b>          184:21</p> <p><b>grim</b> 155:23</p> <p><b>grotesquely</b> 154:5</p> <p><b>ground</b> 83:1          111:23</p> <p><b>grounds</b> 5:1,8,13          6:12</p> <p><b>group</b> 51:7 91:2          145:24          156:10,11,12,21          157:11</p> <p><b>groups</b> 173:6</p> <p><b>growing</b> 149:16          158:13 163:2          231:4</p> <p><b>growth</b> 17:21</p> <p><b>guarantee</b> 75:3</p> <p><b>guarantees</b> 75:1</p> <p><b>guerilla</b> 155:24</p> <p><b>guess</b> 34:5 39:2          64:14 67:25          87:18 90:23          91:18 103:6,13          113:24 120:24          165:2 178:21          193:22 208:4</p>	<p>213:4 221:8</p> <p><b>guidance</b> 130:18</p> <p><b>guild</b> 209:6</p> <p><b>guilds</b> 195:10</p> <p><b>gut</b> 17:6 228:14</p> <p><b>guy</b> 167:1 202:4</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p><b>hack</b> 23:5 26:9          30:3 51:19          218:24 219:6</p> <p><b>hacked</b> 23:6 33:22</p> <p><b>hacking</b> 18:14          20:8 28:11 30:24          34:3</p> <p><b>Hackmii</b> 22:16</p> <p><b>half</b> 78:15</p> <p><b>hand</b> 8:8 36:1          85:21 123:18          192:10</p> <p><b>Handed</b> 151:3</p> <p><b>handheld</b> 77:8          101:2 115:18</p> <p><b>handle</b> 156:18</p> <p><b>handled</b> 156:20</p> <p><b>handles</b> 156:22</p> <p><b>hands</b> 67:14 88:21</p> <p><b>handset</b> 4:16          96:23</p> <p><b>handsets</b> 4:13          199:8</p> <p><b>handshake</b> 70:4</p> <p><b>hanging</b> 127:20</p> <p><b>happen</b> 49:10          106:25 136:19          142:19 145:20          147:7 186:21          188:8 217:18</p> <p><b>happened</b> 62:20          87:2 145:11          153:23 183:3</p>	<p><b>happens</b> 55:10          143:13 146:11          151:12 155:13          196:12 217:19          228:2,6,7,13</p> <p><b>happy</b> 28:23 64:3          149:2 164:20          184:5</p> <p><b>hard</b> 31:12,15          68:6 70:15          71:1,4 84:7          131:20 162:19          168:25 218:4,8</p> <p><b>harder</b> 94:14</p> <p><b>hardly</b> 228:6</p> <p><b>hardware</b> 67:25          68:9          69:4,6,17,20          70:7 72:12          107:25</p> <p><b>hardware-based</b>          171:16</p> <p><b>Hark</b> 157:21</p> <p><b>harm</b> 19:22 20:4          81:15,18          82:6,8,10 101:17          117:20 225:17</p> <p><b>harming</b> 155:9</p> <p><b>harness</b> 44:21</p> <p><b>harnessing</b> 25:15</p> <p><b>hat</b> 206:13</p> <p><b>hate</b> 221:21</p> <p><b>haven't</b> 49:18 66:5          81:10,12 112:3          119:22 183:15          185:14 214:9          215:13 216:1          223:10</p> <p><b>having</b> 19:6 28:1          78:1 86:15 87:3          122:14 141:22          164:9 177:25          188:22 203:25          204:24 212:6</p>	<p>230:25</p> <p><b>HBO</b> 52:22</p> <p><b>HD</b> 157:14 171:13</p> <p><b>HDTVs</b> 168:4</p> <p><b>head</b> 33:2 43:21          116:9,14,19          220:17</p> <p><b>headset</b> 153:19</p> <p><b>healthcare</b> 87:2</p> <p><b>healthy</b> 145:7</p> <p><b>hear</b> 35:3 110:8          128:24 136:7          137:6 189:11</p> <p><b>heard</b> 18:8 20:12          27:13 28:2 36:11          48:17 49:18          50:24 51:1 59:20          64:11 66:8 80:14          92:3 104:11          108:7 112:3          116:1 119:13,15          162:1 170:7          187:12          203:10,14          211:9,11 214:11          218:1 222:8</p> <p><b>hearing</b> 1:8,12 7:8          26:1 53:21 79:23          116:21 120:9          128:12,25          148:17 166:9          180:15 203:15          205:17 221:2          231:10,12          232:4,12</p> <p><b>hearings</b> 162:2          176:17</p> <p><b>heartland</b> 18:20</p> <p><b>heavy</b> 19:12</p> <p><b>he'd</b> 64:3 214:4</p> <p><b>held</b> 195:10</p> <p><b>help</b> 38:8 47:25          49:3 71:14          73:20,22 116:18</p>
--	--	---	---

<p>127:13 133:24                  155:11 165:23                  220:20</p> <p><b>helped</b> 79:22</p> <p><b>helpful</b> 72:25 75:6                  85:1 117:4 212:3                  230:8</p> <p><b>helps</b> 85:7 118:3                  142:3 152:5,18                  172:24</p> <p><b>Henry</b> 7:15</p> <p><b>hereby</b> 232:3</p> <p><b>here's</b> 164:18                  192:13 210:16</p> <p><b>he's</b> 48:8 80:11                  129:20 185:22                  201:18</p> <p><b>hesitation</b> 33:24                  133:6</p> <p><b>Hi</b> 198:12</p> <p><b>high</b> 8:5 41:6                  60:10 80:19                  107:23 135:12                  136:9                  137:5,6,9,10,24                  138:11 141:16                  144:10 172:21                  174:23 175:12                  176:18,20 177:4                  200:5 201:2                  204:19 206:21                  207:7</p> <p><b>high-budget</b> 21:13</p> <p><b>higher</b> 21:21,22                  180:18</p> <p><b>highest</b> 145:11                  155:19 177:6                  192:1 201:20,24                  203:2,3,16</p> <p><b>highlight</b> 27:15                  142:10</p> <p><b>highlighted</b> 140:2</p> <p><b>highlighting</b> 124:8</p> <p><b>highly</b> 13:25 14:21</p>	<p>15:1,12,15 17:17                  44:12,13 133:19                  216:11</p> <p><b>high-quality</b> 21:13</p> <p><b>hikikomori</b> 151:4</p> <p><b>Hilgard</b> 1:20</p> <p><b>historically</b> 146:22</p> <p><b>history</b> 28:18                  29:16,17 65:19                  90:7 113:19,20                  163:19 164:15                  176:22</p> <p><b>hit</b> 8:25 127:5,16                  130:1 132:5                  163:15</p> <p><b>hobbyists</b> 19:6</p> <p><b>Hofmann</b> 2:11                  8:9,13,15,16                  28:2 35:1 36:12                  40:18 41:21                  42:7,12,16                  43:5,9,15 44:1                  46:24 48:17                  49:7,9,18,22                  53:18,20 54:15                  55:7 57:11 58:7                  61:11 63:24                  66:10,24 67:5                  69:8,18 71:13,18                  72:9,12,19 74:21                  75:15,17 97:24                  99:3 100:10,15                  102:9,14,22                  103:24 104:5,15                  105:7,12,20                  107:10 108:12                  109:12 115:3                  117:5 118:14                  119:7,11,25                  121:21 173:2                  186:20 192:10                  195:16 200:1                  209:10 215:25                  227:2</p> <p><b>Hold</b> 109:3</p> <p><b>holders</b> 134:24</p>	<p>136:16,20 137:1</p> <p><b>Hollywood</b> 153:8</p> <p><b>home</b> 2:23 3:2                  58:18 89:25                  156:10,11                  166:4,11</p> <p><b>homebrew</b> 11:16                  12:2,5 20:21                  22:19,25 25:25                  26:10                  46:2,4,17,23,25                  47:3 51:1,2 56:7                  57:6,17 60:15                  61:15 62:10                  63:15 71:14</p> <p><b>honest</b> 64:1</p> <p><b>hood</b> 18:9</p> <p><b>hoods</b> 8:23</p> <p><b>hope</b> 33:14 163:7                  164:5 172:12,24</p> <p><b>hoping</b> 119:7</p> <p><b>host</b> 85:14                  196:19,24</p> <p><b>hosting</b> 7:19</p> <p><b>hosts</b> 85:14</p> <p><b>hot</b> 187:3</p> <p><b>hotel</b> 153:4,5</p> <p><b>Hotz</b> 60:10                  61:13,23</p> <p><b>hours</b> 7:14 157:1</p> <p><b>households</b> 24:21                  168:2,5</p> <p><b>HTC</b> 81:10</p> <p><b>HTML5</b> 86:8</p> <p><b>Huang</b> 79:4</p> <p><b>huge</b> 201:14 223:2</p> <p><b>Hughes</b> 79:25</p> <p><b>Hulu.com</b> 138:20</p> <p><b>humanity</b> 10:15</p> <p><b>humor</b> 139:7</p> <p><b>Humungus</b></p>	<p>150:2,3,5,11</p> <p><b>hundred</b> 79:7</p> <p><b>hundreds</b> 17:18                  158:17</p> <p><b>hurt</b> 113:5</p> <p><b>hypercritical</b>                  188:1</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p><b>Ice</b> 166:19</p> <p><b>iCloud</b> 160:6</p> <p><b>I'd</b> 7:6,10 8:8 9:1                  15:3 27:15 36:10                  54:9 81:3 91:18                  103:6 110:7                  119:14 140:6                  142:5 143:7                  146:18 156:13                  205:4 226:15                  229:1</p> <p><b>ID</b> 128:16 132:5</p> <p><b>idea</b> 46:21 48:22                  59:18 99:24                  104:8 135:7                  142:17,25                  183:10 193:6                  220:14</p> <p><b>ideal</b> 154:20 156:2</p> <p><b>Identical</b> 202:14</p> <p><b>identically</b> 77:19</p> <p><b>identification</b>                  29:24</p> <p><b>identified</b> 20:22                  26:15</p> <p><b>identify</b> 19:25 30:2                  45:7</p> <p><b>identifying</b> 36:21</p> <p><b>ignorance</b> 175:6</p> <p><b>ignores</b> 18:10</p> <p><b>ii</b> 5:3</p> <p><b>iii</b> 5:4</p> <p><b>I'll</b> 19:24 25:8</p>
--	---	--	---

<p>40:12 76:5 85:2 166:8 189:13 216:20 227:25 228:15</p> <p><b>illegally</b> 171:9</p> <p><b>illegitimate</b> 55:14</p> <p><b>illusory</b> 23:4 56:23</p> <p><b>illustration</b> 63:18</p> <p><b>I'm</b> 7:6,21 8:16,25 9:2,4,7 13:17,19 17:13,15 19:15 27:10,11 28:23 29:9,10 31:1 35:3,18 36:14 40:6 45:13 47:17,22,23 48:24 60:13,15 62:2 63:17 64:2 65:24 71:8 76:2,3 82:19,24 91:6,24,25 94:4,7 95:10 97:6,25 103:12 106:1,20 107:3 108:22 110:11 113:23 117:17 118:4 124:7,15 127:23 130:5 134:11 136:10 140:12,13 141:19,21 142:9,22 143:11 146:12,16 150:23,24 152:10 153:21 154:7,22,25 155:9,19 156:8,12 159:1 166:3,4,8 173:4,9,17 175:3 176:14 180:8,12 182:8,19,20 183:17,19 184:5,12,13,17 186:25 187:16 188:4 190:20 191:7 194:9 197:1 198:13</p>	<p>200:3,10 201:10 203:9 204:20 209:14 211:25 214:9,25 217:22,24 219:3,6 220:18,19 221:7,8 225:15 227:17 228:3</p> <p><b>image</b> 141:20 155:21 200:12,13,15</p> <p><b>imagine</b> 70:9 84:8 94:1,6 116:6 188:18</p> <p><b>imagining</b> 201:12</p> <p><b>IMAX</b> 201:14</p> <p><b>immature</b> 217:13</p> <p><b>immensely</b> 189:6</p> <p><b>immigration</b> 152:15</p> <p><b>impact</b> 18:12 19:25 24:17 28:1 34:22 35:7 36:5 41:10 45:15 47:14 51:13 97:5,11 106:9 108:6 119:16 120:3</p> <p><b>impacts</b> 45:22 51:3 176:23</p> <p><b>impaired</b> 10:12</p> <p><b>impeded</b> 129:13</p> <p><b>impediment</b> 25:11</p> <p><b>implement</b> 169:22</p> <p><b>implicate</b> 55:25 70:14,20</p> <p><b>implicated</b> 72:2 120:15</p> <p><b>implicates</b> 70:8</p> <p><b>implications</b> 35:6 117:18</p> <p><b>implicit</b> 214:2</p>	<p><b>importance</b> 143:8</p> <p><b>important</b> 13:19 14:15,19 27:4,16 29:23 32:7 40:11,23 42:19,24 44:23 47:7 50:8 51:6 63:1 80:10 84:13 98:1,22 99:11 101:20 111:8 115:14 116:16,23 117:25 120:21 124:9 126:21 128:20 131:14 132:16 136:8 137:20 139:24 141:25 143:12 144:7 145:2 151:25 152:4 155:8 171:17 174:4 180:14 183:7 187:23 205:7 219:13</p> <p><b>importantly</b> 51:24</p> <p><b>impossible</b> 10:9 154:2 205:13</p> <p><b>impression</b> 221:4</p> <p><b>improvements</b> 88:25 89:2</p> <p><b>inability</b> 16:10</p> <p><b>inappropriate</b> 86:10</p> <p><b>Inc</b> 2:23</p> <p><b>incentive</b> 22:2</p> <p><b>incentives</b> 21:8</p> <p><b>include</b> 76:6 82:15 129:17 137:24 162:23 169:12 197:5 209:16 212:10</p> <p><b>included</b> 43:7 61:24 90:8 102:11 106:21 170:13 178:18</p>	<p><b>includes</b> 91:2 100:8 110:14 179:16 231:1</p> <p><b>including</b> 6:17 44:19 160:12,15 161:6 167:12 170:4 171:1,2 175:24 176:24</p> <p><b>inclusion</b> 5:7,12</p> <p><b>inconsistent</b> 114:7</p> <p><b>inconveniences</b> 20:1 24:18</p> <p><b>incorporate</b> 5:21 6:5,18 210:24</p> <p><b>incorporation</b> 4:24 6:10</p> <p><b>incorrect</b> 61:3</p> <p><b>increases</b> 85:7</p> <p><b>increasing</b> 97:11 119:16 167:4,5</p> <p><b>increasingly</b> 52:25 124:8 146:5 207:2 214:15</p> <p><b>incredibly</b> 9:22 75:5 77:2 154:12</p> <p><b>incremental</b> 165:24 231:1</p> <p><b>incumbent</b> 41:12 220:14</p> <p><b>indecipherable</b> 200:22</p> <p><b>independent</b> 2:20 11:18,19 12:9 14:12,17 26:10,17 46:1 47:12 52:4 58:17 71:21 75:24 78:18,19 79:2 82:23 87:21 118:17 146:3 147:13 148:7 149:19 151:1 155:24 204:11,20</p>
--	--	---	--

<p>214:17 226:22</p> <p><b>independently</b> 12:22 16:22 29:5 37:7,20 55:11 57:22 75:21 83:3 85:15 112:15</p> <p><b>India</b> 152:13,21 153:14 154:7</p> <p><b>Indian</b> 152:12</p> <p><b>indication</b> 95:14</p> <p><b>indications</b> 81:19</p> <p><b>indie</b> 46:5 147:5 166:21</p> <p><b>indirect</b> 208:4</p> <p><b>indisputable</b> 127:22 175:3</p> <p><b>individual</b> 19:12 24:19 37:12 48:6 53:24 55:13,17 58:12,16 62:8,20 66:17 67:16 72:21,22 129:6,10 137:12 195:8</p> <p><b>individuals</b> 24:4 47:16 57:15 58:8 59:23 60:7 66:13 67:6</p> <p><b>industries</b> 83:21</p> <p><b>industry</b> 17:22 67:10 136:4 173:13 188:14 197:1</p> <p><b>industry-leading</b> 170:25</p> <p><b>industry's</b> 60:7</p> <p><b>ineffectual</b> 66:22</p> <p><b>inertia</b> 165:24</p> <p><b>inevitable</b> 35:3</p> <p><b>inevitably</b> 177:21</p> <p><b>in-flight</b> 153:15 154:19 155:20</p>	<p><b>inform</b> 173:1</p> <p><b>information</b> 9:8 64:2 120:2,17</p> <p><b>informercial</b> 179:14</p> <p><b>informs</b> 152:6</p> <p><b>infringe</b> 5:7,13 54:18</p> <p><b>infringement</b> 13:3 18:19 20:7 22:10 29:8 37:24 38:4 53:22 93:4,5 98:12 118:20 137:1 175:21 177:9 227:14</p> <p><b>infringers</b> 134:25 135:1</p> <p><b>infringing</b> 13:6 19:17 20:20,23 21:17,23 32:13 35:1,2,11,22 39:9,11,12 55:5,18 56:10 174:9 175:22 181:2,13 182:18,21 183:14 223:14,22</p> <p><b>inherently</b> 202:1 223:4,25</p> <p><b>inhibiting</b> 40:2 127:20</p> <p><b>in-home</b> 164:7</p> <p><b>initial</b> 89:6 118:5</p> <p><b>initially</b> 69:7 163:5 191:12</p> <p><b>initiative</b> 162:1,3 163:16</p> <p><b>innards</b> 70:10</p> <p><b>innovate</b> 26:13</p> <p><b>innovation</b> 75:24 80:23 82:12</p> <p><b>innovative</b> 62:22</p>	<p>109:25</p> <p><b>inoperative</b> 55:5</p> <p><b>input</b> 62:13</p> <p><b>insert</b> 157:22</p> <p><b>inserting</b> 164:8</p> <p><b>Insider</b> 171:16</p> <p><b>insist</b> 203:12</p> <p><b>insistence</b> 203:13</p> <p><b>insistent</b> 186:16</p> <p><b>insisting</b> 94:22</p> <p><b>inspiration</b> 151:15</p> <p><b>install</b> 12:18 19:8 23:8 24:10 56:7 71:23 84:9 85:24 94:5 99:3,6 100:21 107:20 109:19 117:9,13</p> <p><b>installed</b> 25:12 79:15 107:2 108:1 113:17</p> <p><b>installing</b> 10:3 25:11</p> <p><b>instance</b> 49:19 55:22,24 57:5 121:3 144:22 158:7 177:18 195:10 196:21 205:9</p> <p><b>instances</b> 5:2,23 25:19 201:25 219:2</p> <p><b>instantly</b> 153:8 170:10</p> <p><b>instead</b> 24:9,11,17 34:7</p> <p><b>in-store</b> 163:24</p> <p><b>instructed</b> 28:14</p> <p><b>instructions</b> 22:18</p> <p><b>insufficient</b> 24:19 129:1</p> <p><b>insurance</b> 146:9,10,11</p>	<p>147:14,23,25 148:4,20 174:20 175:25 214:18 215:17,21 216:24 217:3,7 223:8 225:25 227:10,22 228:5,9,25 231:5</p> <p><b>insured</b> 174:19</p> <p><b>insurer</b> 215:8,10</p> <p><b>insurers</b> 215:6 227:11</p> <p><b>integral</b> 172:8</p> <p><b>Intel</b> 171:15,16</p> <p><b>intellectual</b> 3:4,6,8 16:7 126:14 194:9</p> <p><b>intelligence</b> 10:6</p> <p><b>intend</b> 108:21 150:15</p> <p><b>intended</b> 23:22 24:3 32:22 109:13 123:3 149:21</p> <p><b>intensive</b> 79:14,18</p> <p><b>intent</b> 56:4</p> <p><b>interact</b> 63:11 142:17</p> <p><b>interaction</b> 142:16</p> <p><b>interactions</b> 80:4</p> <p><b>interactive</b> 16:5,10 17:17 172:2</p> <p><b>interest</b> 10:22 20:2 24:15 82:12 93:17 109:5,9 110:12,13,14,24 112:17,18,19 113:7 209:9</p> <p><b>interested</b> 20:21 199:4 232:13</p> <p><b>interesting</b> 10:21 40:19 76:23 77:24 81:21</p>
---	---	---	--

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012  
Page 29

<p>83:19 148:6 188:23 230:3</p> <p><b>interests</b> 17:24 18:5 23:22 82:2 92:20,21 93:2</p> <p><b>intermediaries</b> 176:25</p> <p><b>intermediate</b> 31:18 32:6</p> <p><b>internal</b> 121:7</p> <p><b>Internet</b> 23:12 82:22 83:22 139:22 158:10 211:3,6 228:20,24</p> <p><b>Internet- connected</b> 160:13,14 170:12</p> <p><b>interoperability</b> 4:9,15</p> <p><b>interpolation</b> 206:7</p> <p><b>interpreted</b> 226:8</p> <p><b>interrupt</b> 117:11</p> <p><b>intraoperability</b> 12:25 14:10 15:19 27:20 29:4,7,20 30:13,17 31:5 36:23 37:7,10,15,20 38:1,2 39:6 50:11 65:23 67:9,15 74:24 96:11 98:11,22 123:11,16,17,22 124:13,17 162:5</p> <p><b>intraoperable</b> 8:21 11:4 13:14 15:10 33:20 48:10 58:16 71:21,25 118:17 162:14</p> <p><b>introduce</b> 7:22</p> <p><b>introductory</b> 18:8</p>	<p><b>invented</b> 43:18</p> <p><b>invested</b> 87:22</p> <p><b>investigating</b> 165:16</p> <p><b>investment</b> 18:22 168:15</p> <p><b>investments</b> 170:24</p> <p><b>invoked</b> 93:9</p> <p><b>involved</b> 47:8,16 94:20 172:23 178:22 207:23</p> <p><b>involves</b> 205:16 223:24 224:1 231:6</p> <p><b>involving</b> 19:20</p> <p><b>iOS</b> 85:10,13 86:18</p> <p><b>IP</b> 198:13 207:11 230:9</p> <p><b>iPad</b> 77:16 84:19 89:15,17 99:7 102:2 104:23 121:3,6</p> <p><b>iPads</b> 77:22 78:14,16 100:8 102:15 168:8</p> <p><b>iPhone</b> 50:1,3 64:21 77:16,20 78:6 80:2,8 84:17,20 86:6 89:5 90:8 99:7 101:15 102:3,16 104:22,23 106:15 107:2,4 114:14 120:18 123:8</p> <p><b>IPhones</b> 77:22 78:14 100:18 102:7,11,15 104:7</p> <p><b>IQ</b> 90:5,6</p> <p><b>irrelevant</b> 94:18</p>	<p><b>iSingle</b> 87:1</p> <p><b>isn't</b> 10:17 16:15 38:7 58:23 67:24 80:24 81:2 100:2 117:3 123:9,17 144:14,17 175:5 177:1 178:17 179:25 197:17 216:5 217:14 218:12 227:5,6</p> <p><b>isolated</b> 24:18 153:18</p> <p><b>isolation</b> 153:22</p> <p><b>issue</b> 11:2 18:11,17 27:4 30:12 33:17 41:9 44:7 57:2 62:16 81:7 89:6,9 93:25 108:20 116:24 122:24,25 123:11 140:25 147:22,24 152:15 155:6 156:15 157:5 166:6 173:10 176:5,14 194:2 213:14 218:1 219:14 221:25 223:18 230:7</p> <p><b>issued</b> 174:21</p> <p><b>issues</b> 64:11 91:4,6,8,19 99:9 100:5 120:23 123:22 124:13 139:25 151:14 152:19 155:12 172:22,24 183:11 206:12 218:5,14,18</p> <p><b>issuing</b> 221:11</p> <p><b>items</b> 146:6 151:15 152:16 155:16 217:1</p> <p><b>iTouch</b> 77:22 78:15 102:15</p>	<p>104:23</p> <p><b>it's</b> 9:19 10:20 14:6,15 15:8 18:21 27:20 30:4,8,10 31:11,15 32:8,20,22 33:5 34:20,22 35:3,14,18 37:22 38:3 39:2,3,9,10,12,1 7 40:2,4,16,18 41:11,16 44:3 45:21 46:14 47:7 48:2 50:16 51:12,21 52:22 54:10 55:12 56:23 58:22 62:3 65:15 66:21,24 67:21 70:11,12,15,23 71:1,4,8 72:16 73:2 74:6 78:13 80:4 81:5,21 83:9 84:3,7 88:5,14 90:14,23 91:10 92:13,24 93:2,7,16 94:14,16,18 95:5,11,25 99:11 100:7,25 101:11 102:3 103:1 104:15 105:8 107:2 108:2,21,23 110:18 112:13 113:1,2 114:23 116:4,16,22 118:14 119:18 123:5,12 124:18,19 130:22,23 133:1,16,19,22 134:12 136:4,5,13,22 139:6 140:1 141:24 142:10,12 143:22</p>
---	--	--	--

145:2,12,15,17 146:2,5,19,22 148:1,2 149:16 151:7 152:4,12,14,24,25 153:1,2,6,9,15,21 154:19 155:7,10 156:10 157:6 158:14,18 162:2 163:15,16 173:12 174:8,18,21 175:2 176:8,11 177:3,10,12,13,16 178:22,23 179:14,18,19,20 180:15 181:5,16 182:19 183:6,7,15 184:6,8,15 185:21 186:24,25 187:24 188:25 190:2,4 191:1,16 192:23 193:16 195:24,25 196:1,2,9,10,13,14 198:1 200:18,21 201:11 202:12 203:22 204:5,23 205:7 206:9 207:18 208:2,13 209:2,8,20 210:3 211:3 214:2,18,19,24 215:9 219:12 220:10,14 223:3,17 224:5 225:11,25 226:11,23 228:13 229:17,21  <b>itunes</b> 160:5  <b>iTunes</b> 131:24 138:19 145:3 161:18 169:5 196:2	<b>I've</b> 15:24 35:16 103:13 116:1 140:16,18 141:12 150:25 151:15 180:9 190:9 202:17 203:10 220:25  <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;"><b>J</b></p> <hr style="width: 20%; margin: auto;"/> <b>Jack</b> 3:7 35:20 97:8 126:11 198:1  <b>Jackson</b> 147:1  <b>jailbreak</b> 13:25 56:6 63:20 66:14,18 67:22 77:20 78:14 79:11 83:15 90:11 100:13 101:11 104:12,13,18,20 105:5,17 113:4 116:17 118:16,19 121:22  <b>jailbreaking</b> 19:20 37:3 46:10,12 60:7,14,25 64:22 75:23 77:18 78:5,7 83:4,8 84:13,15,21,25 85:6,9 89:3,14,22,23 92:1 103:20 104:3,6,17 117:19,24 121:19  <b>jailbroken</b> 20:18 31:25 56:5,6 78:11,20,22 80:2,8 85:13 105:2,10 121:19  <b>James</b> 220:9  <b>January</b> 76:21 78:7 104:21  <b>Japan</b> 151:8  <b>Japanese</b> 11:23	151:3,21 185:17  <b>Jay</b> 78:17 85:12 102:19  <b>jeopardize</b> 118:11  <b>job</b> 59:12 73:16 127:11 166:10 172:13,19 182:9 223:7 224:10 227:13  <b>Joe</b> 127:25 129:20 183:25  <b>Joe's</b> 179:25 184:5  <b>John</b> 137:18  <b>joint</b> 2:14 16:1 27:11 81:20 90:21 173:5  <b>Jonathan</b> 2:18 126:7 135:13 138:3 140:10,11 182:4 186:20 189:8 207:12 211:11 212:4 228:16  <b>jot</b> 129:12  <b>judgment</b> 87:17,20 95:24  <b>jump</b> 97:17  <b>Juno</b> 166:24  <b>jurisprudence</b> 111:7 183:1  <b>justifiable</b> 173:12  <b>justification</b> 96:14 177:4  <b>justified</b> 134:19 223:17  <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;"><b>K</b></p> <hr style="width: 20%; margin: auto;"/> <b>Kasunic</b> 2:7 7:12,23 38:23 55:2,19 57:1,25 58:20 64:10 65:7 66:6,19 67:1,23 69:2,12,24 97:19 98:24 100:4	102:10,24 105:16 120:11 122:6 124:11,19 184:9 193:16 196:9,18 197:5,21 210:4,6 212:16,23 213:10,14,18,20 217:9 226:4  <b>Kevin</b> 79:12  <b>key</b> 65:19 165:3 185:20 205:7  <b>key-logged</b> 90:6  <b>keys</b> 51:22  <b>Khanna</b> 11:10 48:18  <b>kicked</b> 147:1  <b>kids</b> 216:19  <b>kin</b> 151:13  <b>Kindle</b> 100:9 112:5,11,12 116:2,3,4 117:7 118:25 119:1 121:4,7  <b>kinds</b> 65:21 127:8,12,22 185:9 193:8 197:3 214:3 221:2 222:19  <b>Kinect</b> 10:25 62:5,12,22 63:3,5,13  <b>kiosk</b> 164:1  <b>kiosks</b> 159:25  <b>knew</b> 148:13  <b>knowledge</b> 40:9 120:25  <b>known</b> 20:10 75:23 159:19 215:5  <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;"><b>L</b></p> <hr style="width: 20%; margin: auto;"/> <b>L.A</b> 141:13
---	---	--	---

<p><b>lack</b> 45:15,22  <b>lacking</b> 24:16  <b>lady</b> 151:23  <b>laid</b> 91:15  <b>lamp</b> 32:18  <b>landscape</b> 167:23  <b>language</b> 11:23              65:8              141:22,23,24              142:1 151:3              185:8 229:8  <b>lapse</b> 106:8  <b>large</b> 47:10 136:21              143:13 154:3              159:17 162:18  <b>largely</b> 21:10              68:22  <b>larger</b> 47:9 165:14              190:18 197:22  <b>largest</b> 92:3  <b>Lasley</b> 99:10  <b>last</b> 17:20 22:11              24:24 25:13              28:11 29:1 30:1              33:1 39:16 49:24              52:18 65:2 73:25              76:9,15 78:5,9              80:14 83:5 85:4              90:4 91:13 97:20              99:10 101:17,19              102:12 103:17              104:24 107:21              110:4 111:2              112:8 113:10              120:13              122:12,24 124:1              128:15 145:7              146:4,17 148:17              149:25              158:14,15              161:20 163:5              164:19 183:2              189:6 199:1              202:4 204:13              224:24 226:6,20</p>	<p>    227:4 228:2,13              229:2 230:11  <b>late</b> 80:11 113:12              227:23  <b>lately</b> 95:16  <b>later</b> 23:8 31:2              41:4 164:4  <b>latter</b> 92:21  <b>laughing</b> 202:2  <b>laughter</b> 202:13  <b>launched</b> 163:5              168:25 170:7  <b>Laurence</b> 2:21              126:8 150:21,22              156:5 182:4              211:9,24 214:4              215:1  <b>Laurence's</b> 205:11  <b>law</b> 1:20,21              3:4,6,8,9 7:7,9              32:5 48:11 55:6              62:17 73:20,21              74:2 111:14              112:20 137:24              138:11,12              141:17 198:13              215:2  <b>lawful</b> 12:25 25:8              26:12  <b>lawfully</b>              4:7,8,14,22              5:5,10,16              6:1,9,16,20 8:22              12:20,21              13:13,14 58:13  <b>laws</b> 16:8 50:5,6              74:5 83:10  <b>lawsuit</b> 12:1              61:13,18,24              137:2  <b>lawsuits</b> 60:13              219:15  <b>lawyer</b> 130:3              132:6,7 176:7</p>	<p>    183:13  <b>lawyer's</b> 174:19  <b>lay</b> 115:5  <b>layer</b> 191:21  <b>lead</b> 111:17 165:21              221:6  <b>leading</b> 31:5 221:9  <b>leads</b> 110:4  <b>Lear</b> 128:2 129:21              184:1  <b>learn</b> 127:13 133:3  <b>learned</b> 104:24              218:13  <b>learning</b> 11:23              229:7  <b>least</b> 47:23 51:4              104:25 170:14              184:4 200:9              209:13 214:17  <b>leave</b> 19:15 115:1              179:19  <b>leaving</b> 34:7  <b>led</b> 85:10  <b>ledger</b> 34:7  <b>Leduc</b> 139:10  <b>legal</b> 50:15 54:4              60:25 62:16 75:7              80:20 84:5              85:14,25 86:13              88:2 101:24              110:19 126:20              127:19 130:2,8              134:23 135:3              138:25 139:3              156:11 168:16              172:4,22              184:7,15 193:20              217:20  <b>legally</b> 6:23 81:1              84:25 102:3              137:2 138:20              139:1 229:17  <b>legibility</b> 155:17</p>	<p><b>legislative</b> 28:18              29:16,17 65:19              176:22  <b>legitimacy</b> 144:15  <b>legitimate</b> 9:13              14:18 15:18              55:9,14 58:15              60:1 61:8 67:21              98:11 128:23  <b>length</b> 212:7              228:12  <b>lenses</b> 202:25  <b>LERNER</b> 3:7              126:11 194:1              215:24 216:1  <b>less</b> 26:18 51:16              65:6 92:24              116:15 172:21              186:16 192:2  <b>lesser</b> 159:19  <b>lets</b> 11:21  <b>let's</b> 7:22 12:13              14:5 20:17 46:24              69:12 71:16 73:3              74:14 75:10 79:3              84:17 86:6              88:15,17 100:4              103:16 127:1              129:14 165:2              183:16 191:3              223:6  <b>letter</b> 22:15 147:23              174:20  <b>letters</b> 136:19              146:6,9 157:5              188:7 216:1  <b>letting</b> 8:6,23  <b>level</b> 41:6 79:22              145:11 174:23              205:8  <b>levels</b> 169:20              205:22  <b>Lexmark</b> 32:9,16  <b>LGBT</b> 128:22</p>
---	--	--	--

<b>liability</b> 101:24 195:7 219:17 <b>liberated</b> 149:3 <b>librarian</b> 75:20 126:20 198:25 <b>libraries</b> 16:10 176:24 <b>library</b> 16:3 208:6 <b>license</b> 1:24 147:21 159:19,24 160:17,22 170:19 171:5 185:13 186:2 187:5 188:12,17 195:2 208:19 209:11,19 211:12,14,15 212:1 <b>licensed</b> 157:18,20 208:22 <b>licensees</b> 160:21,24 161:2 165:5 170:25 172:18 <b>licenses</b> 157:11 158:15,20 159:4,16 160:2 187:10 212:13 <b>licensing</b> 25:4 26:19 64:15,20,24 68:24 156:17,19 157:15 171:18 187:13 194:2,11,22 195:5,13 199:15 207:12,13,17,21, 24 208:3,4 209:1,15 212:6,20 213:17 <b>licensor</b> 167:10 195:8 <b>licensors</b> 171:24 <b>lieu</b> 7:14	<b>life</b> 79:24 149:4 200:13 <b>lifeblood</b> 52:10 <b>light</b> 20:3 23:11 124:3 <b>lighting</b> 155:22 <b>lights</b> 130:1 131:8 <b>likelihood</b> 51:8 179:9 <b>likely</b> 50:14 105:21 133:16 148:2,3 174:8,18 214:18 223:14 227:14 230:17,19 <b>likewise</b> 22:3 <b>limit</b> 45:10,12 107:19 137:25 198:18 <b>limitation</b> 177:21,22 185:9 <b>limitations</b> 140:8 <b>limited</b> 11:7 43:13,15 91:11 103:8 111:12 133:14,20,21 134:20 136:13 202:1 <b>limits</b> 171:6 218:6 <b>line</b> 9:21 22:13 97:3 181:24 212:18 213:2,10 <b>linear</b> 53:14 <b>lines</b> 42:5 60:6 61:6 116:25 144:3 189:13 206:10 <b>linked</b> 211:2 <b>links</b> 119:24 158:6,8 <b>Linux</b> 10:3 11:12 19:7 23:24 25:11,14 46:1	47:20 48:22 49:10 <b>lips</b> 143:19 191:25 <b>Lisa</b> 1:23 232:3,17 <b>list</b> 2:10 3:1 116:22 172:16 178:18 188:14 <b>listed</b> 27:13 173:7 <b>listen</b> 152:4 <b>listening</b> 124:25 229:19 <b>lit</b> 201:11 <b>literacy</b> 130:4,5 132:4 <b>literally</b> 224:2 <b>literary</b> 117:22 118:9 <b>literate</b> 103:22 <b>litigate</b> 183:5 <b>litigation</b> 93:11 175:18 176:1 <b>little</b> 9:7 13:22 25:5 33:24 36:15 58:22 62:3 63:5 71:4 77:11 85:6 110:13 122:23 138:6,7 142:10 149:12 163:1 164:25 166:23 173:8 176:21 181:22 186:15 192:25 193:19 200:3 210:12 217:2 223:6 228:12 <b>live</b> 61:16 168:25 <b>lived</b> 148:22 151:24 <b>lives</b> 77:3 <b>living</b> 70:13 151:12 189:1 <b>loaded</b> 121:3 <b>loader</b> 98:21	99:16,23 100:1 <b>loaders</b> 99:8,20,21 107:19 <b>location</b> 1:20 90:7 151:20 <b>locations</b> 230:5 <b>lock</b> 99:24 151:5 195:25 <b>locked</b> 89:17,18 99:21,23 115:19 195:25 196:2 <b>locked-down</b> 47:24 <b>locker</b> 164:21 <b>locking</b> 123:13 <b>lockout</b> 15:14 32:16 <b>locks</b> 43:23 100:22 199:17 <b>log</b> 147:20 <b>logical</b> 90:14 130:12 181:6 <b>Lohmann</b> 183:2 <b>London</b> 154:22 <b>Loneliness</b> 151:9,23 <b>long</b> 26:22 142:9 158:9 172:16 181:13 185:5,24 186:23 188:14 189:3 <b>longer</b> 11:13 55:23 71:3 128:13 <b>Lord</b> 150:2,3,5,10 <b>Los</b> 1:21 <b>lose</b> 18:2 144:15,16 162:20 190:5,7 191:1 <b>losslessly</b> 195:22 <b>lost</b> 23:10 87:25 103:13 147:5
---	--	--	--



<p>175:23  <b>lot</b> 41:14 50:15                  52:1 53:21 73:24                  74:1 78:23                  79:7,19 82:21                  87:22,25 89:9                  94:7 110:22                  119:2 122:12,13                  131:4 135:16                  136:2 138:24                  147:9 148:5                  154:22 157:24                  158:23 174:1,14                  175:5,11 176:15                  178:10 179:6,16                  186:25                  188:20,25 189:3                  202:9 207:25                  208:3,17 214:14                  218:1,18,22                  219:9,11 220:8                  221:3 222:3,20                  225:22  <b>lots</b> 77:1 145:16  <b>Lou</b> 144:23  <b>love</b> 103:22  <b>low</b> 137:14,25                  189:10 204:15                  217:8  <b>lower</b> 200:13  <b>Luncheon</b> 125:2  <b>lying</b> 56:15</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p><b>machine</b> 24:14                  32:22 41:1 42:3                  44:6  <b>machinery</b> 149:7,9  <b>machines</b> 63:3                  80:17  <b>Mackechnie</b> 3:2                  126:9 166:2,3  <b>Macs</b> 113:12  <b>Mad</b> 150:6  <b>Magazine</b></p>	<p>141:14,15  <b>main</b> 36:3 67:24                  92:16 150:10                  151:21 152:21                  155:3  <b>mainstream</b>                  127:5,16 129:19                  166:18 207:4,8  <b>maintain</b> 85:22,23                  86:2 88:7 110:19  <b>maintained</b> 88:8                  171:12  <b>maintaining</b>                  170:23  <b>maintains</b> 86:1  <b>major</b> 141:11                  143:7,10                  166:16,18 214:5  <b>majority</b> 88:9                  93:12 169:17  <b>maker</b> 84:11                  184:18  <b>makers</b> 17:25                  26:14,16,21 52:6                  68:20 84:4                  86:18,19  <b>malpractice</b>                  176:10  <b>man</b> 79:13  <b>manage</b> 128:5  <b>management</b>                  160:20  <b>managers</b> 22:23  <b>mandate</b> 35:19  <b>manifested</b> 100:24  <b>manner</b> 139:14                  171:14 192:24  <b>man's</b> 96:25  <b>manufacture</b>                  57:21  <b>Manufacture-On-Demand</b> 159:12</p>	<p><b>manufacturer</b>                  43:21 50:6,13                  84:10 88:4 92:14                  105:23 108:1                  110:2 119:4  <b>manufacturers</b>                  42:21 47:25 54:3                  78:25 81:9 84:4                  86:20  <b>manufacturer's</b>                  105:22  <b>manufactures</b>                  101:6  <b>manufacturing</b>                  118:24  <b>maps</b> 11:24 63:6  <b>Marcia</b> 2:11                  8:9,13,16 36:10                  41:6 75:15,17                  83:16 97:19                  109:4 112:17                  114:23  <b>Marcia's</b> 45:3                  102:25  <b>marginalized</b>                  128:21  <b>Maria</b> 2:4 7:11,21  <b>Maria's</b> 106:7  <b>market</b> 18:7,13                  21:6,10 23:13                  50:2,8,16,19                  53:2 76:4,12,17                  92:3 94:10,18,19                  95:9 98:19 100:2                  101:20                  106:9,10,18,20,2                  3,25 107:14                  108:3,5 109:21                  114:14 115:8                  133:10 137:9                  139:3 163:5,7                  168:1 176:20                  181:10 187:12                  195:3,4  <b>marketed</b> 9:20</p>	<p>94:9 115:10  <b>marketing</b> 116:12                  167:4  <b>marketplace</b> 46:5                  60:20 78:18 83:6                  85:7 86:15 92:12                  112:14 114:18  <b>marketplaces</b>                  77:15 78:24                  84:22 85:9 86:17                  114:16,20                  115:19,21  <b>markets</b> 94:15                  133:17,18  <b>Marlin</b> 160:23  <b>Martin</b> 139:10  <b>Marybeth</b> 127:18  <b>mesh-ups</b> 158:1  <b>mass</b> 127:14 142:2                  165:12 229:15  <b>match</b> 207:5  <b>material</b> 93:18                  133:13 139:18                  154:23 155:18                  178:15 179:17                  181:9 190:24                  195:19 196:10                  202:21                  203:3,15,17,21                  204:14,17,18                  207:7 209:1                  218:11,22 220:8                  222:5,6  <b>materials</b> 16:12,14                  157:7,8,24 158:6                  199:18 220:11  <b>matter</b> 11:6 17:11                  23:5 26:24 35:15                  104:15 191:18                  203:4,5 227:16  <b>matters</b> 202:9  <b>Max</b> 150:6  <b>may</b> 1:16 7:3                  14:11 28:25 29:2</p>
---	--	--	---

<p>30:6 37:1,4                  39:2,3,8 45:20                  47:10 53:20                  56:13 63:25                  64:19 66:16                  86:5,8 87:17,25                  95:9 96:25                  107:3,10,24                  110:13 118:12                  122:16 126:2                  129:6,24 135:20                  138:20 152:3                  161:12 163:14                  205:17 208:10                  215:7 216:18                  225:17</p> <p><b>maybe</b> 28:8 35:21                  59:1 63:21 66:4                  71:8 84:17,19                  94:6 107:3 112:5                  117:16 119:21                  121:17 177:1                  187:16,17 192:8                  208:21 221:18                  225:13</p> <p><b>McCleod</b> 79:12</p> <p><b>mcintosh</b> 2:18                  126:7 140:11                  142:25 186:22                  187:7,21                  189:17,21                  190:21,25                  191:24 192:9                  193:9,18,24                  195:20                  196:11,25                  209:22 228:19                  229:5</p> <p><b>McIntosh</b> 140:11</p> <p><b>mcherry</b> 2:17                  126:6,13 182:17                  184:5,12                  197:13,25                  206:18</p> <p><b>McSherry</b> 126:14</p> <p><b>MDY</b> 93:3</p> <p><b>mean</b> 36:24 43:18</p>	<p>67:4 87:25                  88:24,25 95:2                  98:24 103:23                  104:4 111:19                  115:9 141:9                  144:4 175:6                  216:17 217:14                  218:20 222:10</p> <p><b>meaning</b> 103:20</p> <p><b>meaningful</b> 22:13                  34:2 45:15</p> <p><b>means</b> 29:3,6                  36:16 37:5 39:4                  40:17 43:2 44:13                  51:7,19 83:23                  87:18,20,21,23                  88:1,23 92:15                  103:24 106:17                  112:24 113:24                  114:2,6 157:8                  167:15 213:5,13                  229:22 232:6</p> <p><b>meant</b> 14:6 52:16                  110:6 141:2                  211:2,14</p> <p><b>meantime</b> 165:22</p> <p><b>measure</b> 20:21                  21:23 29:3 30:3                  36:19 39:5 55:24                  115:23 121:24                  197:9,12</p> <p><b>measures</b> 16:13                  33:10 61:21                  117:21 171:20                  196:20</p> <p><b>media</b> 2:16 5:3                  6:14,16,23 82:20                  127:14 134:11                  136:21 138:18                  139:13                  141:11,17 142:2                  144:11 160:16                  161:19 163:16                  167:6,18,22                  187:24 188:2                  207:4 229:7,16</p> <p><b>medical</b> 153:2</p>	<p>166:6</p> <p><b>medium</b> 178:8</p> <p><b>meet</b> 39:22 46:21                  74:12 167:24                  174:5 202:8                  203:21 204:5</p> <p><b>meeting</b> 139:25                  173:13</p> <p><b>meets</b> 142:11</p> <p><b>member</b> 63:15                  212:1</p> <p><b>members</b> 2:6 7:12                  12:2 17:16 27:5                  61:15 62:10 91:1                  143:25 162:24                  209:6</p> <p><b>memory</b> 16:11</p> <p><b>mention</b> 49:22                  96:5 113:10                  162:1 190:12</p> <p><b>mentioned</b> 45:25                  78:6,13 83:16                  100:16                  104:18,20                  135:16 136:16                  165:5 180:10,21                  192:9 199:14                  200:6                  208:8,16,24                  212:24</p> <p><b>mentioning</b> 134:22</p> <p><b>mentions</b> 48:20                  61:12</p> <p><b>merchandising</b>                  156:20</p> <p><b>mere</b> 19:25 24:18                  132:23</p> <p><b>message</b> 87:4                  89:7,8,10 135:13                  136:8 141:7                  144:18</p> <p><b>messages</b> 89:11                  143:5</p> <p><b>messaging</b> 77:12</p>	<p><b>met</b> 19:11 28:19                  33:6 39:8 74:10                  206:13</p> <p><b>Metalitz</b> 2:14 8:14                  19:15 27:10,11                  38:25 41:13                  65:1,14 70:22                  73:15,24 75:16                  81:21 90:20,21                  103:6 106:6                  108:7,17 110:9                  113:23                  119:18,24 120:6                  123:25                  124:15,21                  173:4,5 194:8                  203:7 207:17                  209:13,18                  214:9,13 218:17                  219:25 220:22                  221:24                  224:15,22,25                  225:5,8,20,22                  226:11</p> <p><b>Metalitz's</b> 37:25                  57:14 75:2</p> <p><b>metaphor</b> 181:23</p> <p><b>method</b> 180:16</p> <p><b>methods</b> 20:9 22:8                  168:14 172:7                  173:14 177:15</p> <p><b>metronomes</b> 11:22</p> <p><b>MI2</b> 205:12</p> <p><b>Michael</b> 2:20                  126:8 127:11                  145:25 150:20                  174:16 175:19                  182:4 204:6                  208:16 214:15                  215:3 227:1</p> <p><b>Microsoft</b>                  62:4,19,25 169:3</p> <p><b>Microsoft's</b> 62:15</p> <p><b>Middle</b> 80:7</p> <p><b>Mike</b> 213:25</p>
---	--	--	---

<b>military</b> 10:6 <b>militating</b> 118:1 <b>MILLENNIUM</b> 1:1 <b>million</b> 20:23 21:14 78:8,10,12,21 124:5 141:9 145:13 164:23 168:2,3,4,6,7,8,9 ,10 169:6,7 <b>Millionaire</b> 166:23 <b>millions</b> 17:18 18:1 21:14 <b>mind</b> 14:15 91:21 172:12 185:17 192:13 <b>minds</b> 220:13 <b>minimis</b> 51:13 <b>minimize</b> 18:5 <b>minor</b> 81:22 <b>minute</b> 85:2 142:6 146:19 208:18 <b>minutes</b> 8:5,7 36:10 142:9,13,15 169:4 182:2,5 <b>mirror</b> 22:2 <b>misconceptions</b> 175:6,11 <b>misheard</b> 28:4 <b>misinformation</b> 218:19 <b>Miss</b> 166:23 <b>Mission</b> 154:2 205:13 <b>mistake</b> 93:22 <b>mistaken</b> 111:23 <b>misuse</b> 171:5,7 <b>misused</b> 95:15 <b>MIT</b> 63:4	<b>mixed</b> 55:12 74:21 <b>mobile</b> 82:23 83:2 101:2 102:8 116:9 147:3 160:15 <b>model</b> 94:8,13 95:1,11 159:7,8 160:4,6,9 161:24 163:11,13 165:17 167:3,20 <b>models</b> 50:17 158:24 159:5,21,25 160:1,18 161:9 165:4,8 167:14,24 187:13 <b>moderately</b> 126:24 <b>Moderator</b> 2:3 <b>modern</b> 111:7 167:1 230:3 <b>modest</b> 124:3 <b>modification</b> 19:16 124:3 <b>modified</b> 10:8 80:7 <b>modify</b> 15:14 <b>modifying</b> 13:24 14:9 <b>moment</b> 13:17 15:3 56:5 187:4 <b>Monday</b> 137:18 <b>monetize</b> 194:17 <b>money</b> 87:23 172:6 <b>monitors</b> 155:12 156:1 <b>monopoly</b> 113:2 <b>month</b> 76:24 90:25 173:16 <b>monthly</b> 159:10 <b>months</b> 164:4 186:24	<b>Moot</b> 1:21 <b>mooted</b> 60:24 <b>morning</b> 7:5 8:2,15,25 20:13 27:4,6,10 31:2 76:3 82:18 108:8 118:15 134:3 179:8 180:23 <b>Morris</b> 12:6 61:12 206:7 <b>Moskowitz</b> 1:23 232:3,17 <b>mostly</b> 49:25 173:17 207:20 <b>motel</b> 203:6 <b>motion</b> 4:22,24 5:16,18,21,23 6:1,2,5,7,8,11,20 ,22,24 10:25 129:14 157:18 166:21 211:10 214:4 <b>motion-sensing</b> 62:6 <b>motivated</b> 86:25 <b>motivation</b> 45:20 <b>Motorola</b> 81:10 <b>move</b> 23:24 196:3 200:1 <b>moved</b> 140:19 149:3 <b>movie</b> 52:25 142:12 148:25 153:9,14,17 161:14 170:11 210:1,2 <b>MOVIECLIPS</b> 157:20 158:3 208:7 <b>movies</b> 166:12,18 167:12 168:8 169:9 172:11 229:9 <b>moving</b> 26:4 44:10	136:4 158:22 193:10 204:23 <b>Mozilla</b> 80:15,18 107:11,12,16,17, 21 <b>MS-DRM</b> 160:22 <b>multiformat</b> 169:16 <b>multiMAN</b> 22:24 <b>multimedia</b> 6:7 <b>multiplayer</b> 21:11 <b>multiple</b> 41:22 99:20 104:19 162:7 169:20 199:1 231:7 <b>multipurpose</b> 56:9 116:9 <b>Mumbai</b> 152:23 154:3,4 205:13 <b>murkiness</b> 75:7 <b>murky</b> 229:22 <b>museums</b> 156:23 <b>mush</b> 201:22 <b>music</b> 59:10 95:4 129:10 152:4 165:13 167:8 <b>musical</b> 220:10 <b>muster</b> 128:5 <b>mute</b> 89:19 <b>myself</b> 109:5 <hr/> N <hr/> <b>naked</b> 215:21 <b>narrative</b> 41:18 <b>narrow</b> 13:11 17:7 136:12 <b>narrowing</b> 226:16 <b>narrowly</b> 58:22 93:1 98:9 230:21,25 <b>narrowness</b> 136:9
--	---	---	--

<b>national</b> 173:6	152:2,16 154:22	<b>non-infringing</b>	206:23 209:23
<b>nationalistic</b> 155:1	155:1,15 193:7	9:14 12:23 13:15	<b>Notwithstanding</b>
<b>naturally</b> 201:4	199:20 217:10	20:21 25:6 30:23	65:11
<b>nature</b> 15:4	<b>newscasting</b>	31:11 55:3,10,21	<b>novo</b> 28:12 33:4
100:19 111:19	193:14	59:6 65:4 91:15	111:25 173:18
124:3 175:6	<b>nice</b> 161:25 182:9	118:18 122:21	<b>NPR</b> 141:13
226:9	197:18	123:20 133:21	<b>numerous</b> 172:18
<b>nearly</b> 76:12	<b>Nielsen</b> 76:11	136:14	<b>nurse</b> 80:1
78:8,21	<b>night</b> 80:11	174:7,11,15,22	<b>nutshell</b> 126:23
<b>necessarily</b> 74:25	<b>Nimmer</b> 7:5,6,19	175:3,4,9,11	
114:6 121:6	199:25 226:25	179:5,10 180:22	<hr/> <b>O</b> <hr/>
130:14 195:8	227:3 228:3	181:4,15	<b>object</b> 144:5
216:9 224:19	<b>Nintendo</b> 42:15	182:14,20	<b>objecting</b> 108:22
<b>necessary</b>	<b>nobody</b> 81:6	183:11 194:19	<b>objection</b> 157:5
5:1,9,14,23	114:17 200:1	212:25	188:6,8
6:7,13 15:10	<b>nomenclature</b>	221:3,5,14,18,21	<b>objectionable</b>
19:14 29:6 36:23	159:3	223:1,16,19	87:17 88:5
38:20 63:20,25	<b>nominal</b> 170:10	224:9 230:17,18	<b>objections</b> 82:3
134:17,19 136:5	<b>non-Apple</b> 106:19	<b>nonprofit</b> 15:23	185:7
137:7 139:6	<b>noncommercial</b>	82:20 134:12	<b>objective</b> 177:3
<b>necessity</b> 197:21	5:4,7,12 6:22	184:4	<b>obliterate</b> 105:5
<b>negative</b> 34:6	14:24 136:14,15	<b>nonprofits</b> 218:4	<b>obscene</b> 87:14
111:18	141:4 173:25	<b>Nook</b> 100:9 112:4	<b>observation</b>
<b>negotiate</b> 165:6	174:24 175:9	<b>Nooks</b> 112:11	182:12
171:10	176:4 177:5	<b>noon</b> 8:3	<b>observations</b>
<b>negotiated</b> 147:14	178:3 179:12	<b>nor</b> 133:25	220:20
167:9	180:17 183:21	<b>Normally</b> 157:6	<b>obsessed</b> 150:2,10
<b>negotiating</b> 164:5	184:11	<b>Nostrand</b> 80:6	<b>obstacles</b> 16:9
<b>neighborhood</b>	213:3,11,13	<b>notable</b> 157:6	<b>obtain</b> 5:23 6:7
211:23	219:5,15	<b>note</b> 10:21 51:15	67:15 84:22
<b>Neill</b> 2:15 75:15	226:1,3,7	<b>noted</b> 131:1	98:10 132:14
82:18,19 94:1,7	<b>non-DVD</b> 139:18	<b>notes</b> 89:4 221:1	161:24 188:6,7
114:11 126:7	<b>none</b> 24:6 37:22	<b>nothing</b> 23:19 32:2	195:18
134:10,11	47:20 133:10	114:19 134:23	<b>obtained</b> 227:21
192:21	147:5	146:10 147:8	<b>obtaining</b> 170:23
<b>Neilsen</b> 52:20	<b>Nonetheless</b> 183:6	<b>notice</b> 73:9 128:14	<b>obvious</b> 46:12
<b>neither</b> 46:7	<b>non-exploitive</b>	132:5 136:18	92:25 185:16
133:25	14:18	176:7 178:18	<b>obviously</b> 27:24
<b>nervous</b> 186:1	<b>non-fiction</b>	229:11	44:15 56:16 61:1
<b>Netflix</b> 159:10,18	213:5,7,20	<b>noticed</b> 148:23	71:5 80:13 111:5
193:4,6	<b>non-infringement</b>	<b>notices</b> 137:3	138:17 140:19
<b>newer</b> 116:2	22:12 219:23	<b>noting</b> 37:22 78:13	143:24 151:14
<b>news</b> 151:15	221:10	<b>notion</b> 190:12	

<p>152:1 155:15,18 173:15 174:13 183:5 193:12 204:20 208:11 214:15 215:4 216:19 217:24 220:4,10 222:22</p> <p><b>occur</b> 53:9</p> <p><b>occurred</b> 17:22 34:17</p> <p><b>occurs</b> 131:5</p> <p><b>odd</b> 39:17,19</p> <p><b>odds</b> 90:24 154:6</p> <p><b>offensive</b> 87:15</p> <p><b>offer</b> 94:23 118:9 161:16 164:9,18 168:21 169:18 172:9</p> <p><b>offered</b> 114:24 161:15 181:17</p> <p><b>offerings</b> 169:23</p> <p><b>offers</b> 26:17 161:10,18 170:18</p> <p><b>office</b> 1:9 7:8,12 8:1 14:14 17:9 19:4,11 20:17 21:3,6 22:8 24:12 35:12 67:20 74:7 91:13 92:23 93:20 94:20 95:5 97:13 98:6 108:18,22 110:12 111:1,11,14 112:7 149:25 172:12 174:5 188:24 194:12 207:11 215:13 226:21 230:13,15</p> <p><b>OFFICER</b> 232:1</p> <p><b>official</b> 85:16</p> <p><b>oftentimes</b> 105:1</p> <p><b>Oh</b> 74:18</p>	<p>177:12,19 186:19 214:13</p> <p><b>old</b> 113:11,16 131:17 159:13 202:24</p> <p><b>older</b> 94:7 127:6</p> <p><b>old-fashioned</b> 202:19</p> <p><b>omission</b> 231:5</p> <p><b>omissions</b> 174:20 208:21</p> <p><b>ones</b> 49:6 102:11 165:16</p> <p><b>one's</b> 117:16</p> <p><b>one-size-fits-all</b> 169:23</p> <p><b>one-tenth</b> 51:16</p> <p><b>one-to-one</b> 82:21 134:13</p> <p><b>online</b> 5:11 21:11 53:13 77:14 131:24 134:15 136:4 138:15,18 139:7,11 140:23 141:2 144:9,13 145:13 157:18 163:2 164:3,6 165:19 171:19 178:10 192:16 210:20</p> <p><b>Ono</b> 188:17</p> <p><b>onto</b> 76:20 121:3 189:23</p> <p><b>oOo</b> 1:2 8:10 75:12 125:4 126:1 231:14</p> <p><b>oops</b> 146:22 215:22</p> <p><b>open</b> 8:23 11:3 19:4 54:13 62:11,13,21 63:16 98:17 103:3 105:10 107:24 110:17</p>	<p>113:21 117:24 183:8 201:13</p> <p><b>opening</b> 18:9 47:5 52:17 66:9</p> <p><b>openness</b> 92:5 98:15,18,22,24</p> <p><b>operate</b> 11:21 149:9 204:10</p> <p><b>operating</b> 10:3,10 32:17 33:10,18 41:1 42:3 44:6 60:17 63:22 69:20,22 71:23 72:1,5,7 77:17 84:4,11 85:10 86:18 88:4,15 89:1 94:3 104:22 111:3,9,14,20,22 218:25</p> <p><b>operative</b> 55:23</p> <p><b>operators</b> 170:5</p> <p><b>opine</b> 58:25 147:20 224:16</p> <p><b>opinion</b> 74:7 146:6 154:25 155:5 174:19</p> <p><b>opinions</b> 74:1 220:6</p> <p><b>opponent</b> 156:13</p> <p><b>opponents</b> 9:23 10:16 40:16 129:3 219:21</p> <p><b>opportunities</b> 159:24</p> <p><b>opportunity</b> 26:18 116:21 126:17 198:16</p> <p><b>oppose</b> 117:17</p> <p><b>opposed</b> 43:1 59:24 68:5,8 81:6,7,9,10,12,2 0 110:11</p> <p><b>opposite</b> 199:14</p> <p><b>opposition</b> 34:21</p>	<p>76:8 81:22 94:22</p> <p><b>opt</b> 23:8</p> <p><b>optical</b> 6:15</p> <p><b>option</b> 131:14 169:19 207:24</p> <p><b>options</b> 114:17 187:13 201:25 203:25 204:1 208:1 222:9</p> <p><b>orchestrating</b> 119:5</p> <p><b>ordeal</b> 153:2</p> <p><b>order</b> 4:23 5:21 6:5,10,18,21 21:22 54:7 58:17 63:20 64:7 69:21 71:10 79:13 80:16 92:11 94:24 96:21 111:6 145:1 146:18 164:15 168:18 177:11 180:7 183:22 194:15 197:5,10 200:5 206:16 210:22</p> <p><b>organization</b> 8:17 82:20 128:11 218:3</p> <p><b>organizations</b> 16:11 27:12</p> <p><b>original</b> 14:2 69:22 72:1 89:21 113:11,13 123:18 132:3 135:6 198:8 202:21 203:17 205:6 206:2,3,9,14</p> <p><b>originally</b> 203:18</p> <p><b>OS</b> 10:11 51:15,22 88:24</p> <p><b>ostensible</b> 96:16 172:16</p> <p><b>others</b> 46:14 50:7</p>
--	---	---	--

61:22 171:24 178:5 195:11 209:3 <b>otherwise</b> 80:9 83:12 84:5 85:25 86:13 88:2 90:4 101:14 109:23 110:1 135:3 193:25 <b>outcome</b> 94:17 232:13 <b>outcry</b> 87:6,7 <b>outlet</b> 70:12 84:13 <b>outlets</b> 141:11 144:11 <b>outlined</b> 173:11 <b>output</b> 171:8 224:18 225:11 <b>outreach</b> 216:15 <b>outset</b> 175:2 <b>outside</b> 13:8 31:15 70:21 109:10 176:25 178:23 194:19 <b>overall</b> 51:6 121:11 <b>overcome</b> 155:12 <b>overriding</b> 56:23 <b>oversee</b> 166:10 <b>overwhelmingly</b> 24:25 <b>owned</b> 58:14 59:5 69:25 76:22,24 187:7 <b>owner</b> 93:10 98:25 <b>owners</b> 2:14 27:12 90:22 92:25 93:2 101:23 102:1 129:5 173:6 <b>ownership</b> 64:11,20 65:5 83:17 159:7 162:5,17 163:18	<b>owns</b> 13:13 58:12 <hr/> P <hr/> <b>p.m</b> 4:20 125:2 126:2 231:11 <b>package</b> 22:18 123:23 <b>page</b> 4:4 159:2 <b>pages</b> 16:6 73:25 <b>paid</b> 129:21 168:9,10 184:23 209:5 <b>painting</b> 11:24 147:2 <b>Pallante</b> 2:4 7:11,18,22 17:4 27:8 36:9 58:5 75:9 90:18 97:16 102:25 107:6 118:22 119:9 124:22 126:12 134:8 140:9 145:23 150:20 156:5 166:1 182:1,8 185:11 186:6,10,18 187:3,9 189:15 191:15 192:6 193:22 194:5 199:23 205:3 207:10 210:5,8 215:3 228:16 229:1 230:9 231:9 <b>Pandora's</b> 19:5 <b>panel</b> 1:9 2:6 8:4 75:10 91:6 95:2 96:15 108:17 110:5 173:8 178:6 199:3 <b>panelists</b> 2:10 3:1 8:13 75:15 126:6 232:6 <b>panels</b> 8:2 <b>papers</b> 41:14 69:19 115:4	132:12 <b>paradigm</b> 71:5 <b>paragraph</b> 29:16,17 <b>Pardon</b> 225:20 <b>participants</b> 165:19 <b>participate</b> 142:3 <b>participating</b> 229:4 <b>particular</b> 24:14 25:3 33:23 36:20 43:12 44:10 48:14 53:17 57:9 59:13 61:9 64:15,25 65:20 67:20 69:8,24,25 74:5 92:15 94:2,5 95:10 100:13 105:6 108:20 109:7 110:18 116:7,13 120:12 121:1 122:16 123:14 181:8 190:13,16 197:24 198:2 199:6 220:3 222:13 224:17 <b>particularly</b> 9:6 13:18 16:17,21 23:16 60:9 67:17 78:2 93:3,15 97:22 109:16 128:20 132:14 136:1,14 174:25 177:25 223:3 <b>parties</b> 195:10 231:7 232:11 <b>partner</b> 157:17 164:16 <b>partnering</b> 171:15 <b>partners</b> 159:17 164:14 165:18 171:12 <b>party</b> 101:5,6	104:17 110:16 <b>pass</b> 43:21 130:4 202:11 <b>past</b> 9:15,20 10:4 12:1 17:11 33:13 36:5 47:19 78:22 81:16 108:18 133:3 140:1 169:25 204:10 218:13 <b>patients</b> 80:4 <b>Patrick</b> 7:15 <b>pay</b> 132:1,2 137:22 139:4 167:6 169:19 211:24 <b>Payer</b> 87:1 <b>pay-for-use</b> 194:16 <b>paying</b> 109:8 132:21 171:21 <b>payment</b> 159:9 194:18 <b>Pay-Per-View</b> 166:15 <b>PC</b> 21:2,6,10,12,17, 18,21 22:2 26:3 161:19 164:8 171:14 <b>PCs</b> 113:12 <b>peak</b> 168:1 <b>peeps</b> 148:12 <b>peers</b> 79:23 228:24 <b>people</b> 15:18 22:5 23:24 35:25 43:17 47:8,11 51:14 61:7,14 62:9 63:7 64:7 68:3 70:25 74:15 77:1,6,10 78:10,12,18,23 79:8 89:11 90:2 93:14,17 96:2
---	---	---	---

<p>98:10 99:5,24 100:12 104:3,6,7 106:15 107:3 115:20 117:13 118:16 121:22 128:21 129:8 130:9 133:13 137:9 140:3 141:5,6 143:21 144:9 145:9,11,13 151:11,12,20 152:7 156:18 157:7 162:17 175:8,25 176:11 177:7 178:19 179:5 180:7 195:18 197:3 200:9 202:6 203:2,8 204:9 205:2 207:3 210:22 218:4,7 219:4,16 220:5 221:15 223:9,10 229:6,24 230:4</p> <p><b>people's</b> 89:11 147:9</p> <p><b>per</b> 41:25 69:17 156:25 175:9,10</p> <p><b>percent</b> 24:21 51:17 76:10,12,13,22,2 5 83:16,17,18,21 106:18 107:13 127:6 157:12 169:25 204:12</p> <p><b>percentage</b> 223:22</p> <p><b>perception</b> 61:3 165:21</p> <p><b>perfectly</b> 28:23 74:6 131:25 155:25 198:7</p> <p><b>perform</b> 14:8 26:9 37:1,5 48:23 50:9 66:13,18 223:7</p> <p><b>performance</b> 80:3</p>	<p>143:2</p> <p><b>performing</b> 10:4 14:16 47:11 67:7</p> <p><b>perhaps</b> 7:15 30:3,15 32:10 52:21 58:9 65:18 97:7 108:21 110:1 116:20 120:14 153:20 175:5</p> <p><b>period</b> 178:7</p> <p><b>peripheral</b> 11:1</p> <p><b>permanent</b> 31:19,20</p> <p><b>permissible</b> 59:19</p> <p><b>permission</b> 48:16 49:15 187:16,25 188:7,24</p> <p><b>permit</b> 13:3 48:11 158:24</p> <p><b>permits</b> 29:18,23 73:11 74:15 157:22</p> <p><b>permitted</b> 20:17 30:17 71:10</p> <p><b>person</b> 4:25 5:8,13,22 6:6,11 29:2 36:19 37:2,4,9 39:2,3 48:18 54:18 58:14 143:22,23 212:7</p> <p><b>personal</b> 6:24 17:8 19:5 23:21 84:2,8 90:13,16 94:11 97:1 107:13 113:20 147:21 153:18 160:12,16</p> <p><b>persons</b> 103:21</p> <p><b>person's</b> 58:13 97:1</p> <p><b>perspective</b> 73:14 119:4 132:8</p>	<p>135:15</p> <p><b>persuade</b> 39:23</p> <p><b>persuaded</b> 222:23</p> <p><b>pertaining</b> 68:15</p> <p><b>pertinent</b> 73:23</p> <p><b>Peters</b> 127:18</p> <p><b>petition</b> 79:4</p> <p><b>phased</b> 132:16</p> <p><b>phasing</b> 155:12</p> <p><b>phenomena</b> 151:7</p> <p><b>philosophical</b> 45:18</p> <p><b>phone</b> 79:13,18,19 83:22 88:4,16,17 98:20 99:12,13,17,23 100:1 103:2 107:5 109:25</p> <p><b>phones</b> 76:1 81:9 88:17,20 99:8,20 107:17,18,24 109:20 120:18</p> <p><b>photo</b> 164:1</p> <p><b>photography</b> 154:17</p> <p><b>phrase</b> 29:23 96:3</p> <p><b>physical</b> 138:17 163:17,19 166:13 168:1 170:2</p> <p><b>pick</b> 33:8</p> <p><b>picked</b> 143:1</p> <p><b>picture</b> 5:18,23 6:2,7,22 110:22</p> <p><b>pictures</b> 4:22,24 5:16,21 6:1,5,8,11,20,24 129:14 157:18 166:21 211:10 214:4,10</p> <p><b>piece</b> 142:8 143:13 191:8 210:24</p>	<p>224:21</p> <p><b>Pinto</b> 11:11</p> <p><b>piracy</b> 17:6 19:23 20:10,14,15,18 21:1,7,20 22:2,6,12,22 23:2,7,12 25:2 26:23 33:11 46:14 51:20 52:9 53:22 56:20 57:2,7 82:4 93:16 97:5,11 116:14 119:16 165:12 171:7</p> <p><b>pirate</b> 20:11 23:9 27:2 32:1 34:9 119:18</p> <p><b>pirated</b> 20:6 22:19 36:4 53:3,5 54:1,9,11,14 70:19</p> <p><b>pirates</b> 133:24,25</p> <p><b>pivotal</b> 152:17,20 153:3</p> <p><b>pixelated</b> 143:15</p> <p><b>pixelation</b> 192:3</p> <p><b>pixels</b> 191:6</p> <p><b>placed</b> 164:11</p> <p><b>places</b> 35:13 101:21 220:25 228:25</p> <p><b>plain</b> 70:13</p> <p><b>plainly</b> 20:2 26:20</p> <p><b>plan</b> 157:10 170:5,14 187:11</p> <p><b>plane</b> 155:22</p> <p><b>plate</b> 173:21 181:22</p> <p><b>platform</b> 20:1 21:2,20 22:1 23:13,15 25:3 26:5 33:23 34:4 44:21 52:10 68:19,25 81:8</p>
---	---	---	--

<p>92:2 94:6 99:5  103:3 107:25  110:17 114:9  222:13</p> <p><b>platforms</b> 17:11  18:15 22:3 25:25  58:3 59:8 68:21  92:13 93:25  94:22 172:10  228:22</p> <p><b>platform-shifting</b>  23:20 33:17,25</p> <p><b>plausible</b> 30:7,15  39:20,21</p> <p><b>play</b> 11:19 18:2  20:6 22:19  26:10,12 32:1  36:4 54:9,14  56:10,13 57:5  59:10 70:3,19  87:24 95:3  123:8,19 152:17</p> <p><b>playable</b> 26:3</p> <p><b>played</b> 21:2 57:10  142:24 196:4</p> <p><b>player</b> 50:1,17  164:9 196:1,2</p> <p><b>players</b> 160:14,16</p> <p><b>playing</b> 9:24 14:6  27:1 54:11 79:22</p> <p><b>PlayReady</b>  171:1,2</p> <p><b>plays</b> 53:13</p> <p><b>pleadings</b> 40:16</p> <p><b>please</b> 36:16 110:5</p> <p><b>plenty</b> 206:25</p> <p><b>plight</b> 152:18</p> <p><b>plug</b> 62:12</p> <p><b>Plus</b> 154:17</p> <p><b>point</b> 11:13 12:11  23:18 34:12,25  41:7 47:21 52:11  53:19 58:11 63:8</p>	<p>70:2 71:15  76:10,12,20,21  78:2,11 86:22  92:18 98:14  103:1,12,13  107:7,9,10  108:20 122:4  127:25 128:4  138:14 145:23  156:6 172:14  180:3,14,20  181:6 185:20  190:19 197:17  204:1 205:3  209:10 210:18  212:2 216:21  223:13 224:20  225:14,16  230:11</p> <p><b>pointed</b> 119:25  184:20  219:20,21</p> <p><b>pointing</b> 63:7</p> <p><b>points</b> 8:25 19:17  27:15 32:9  33:8,15 50:24  118:25 119:5  172:11 180:2  221:25</p> <p><b>policies</b> 147:15</p> <p><b>policing</b> 136:23</p> <p><b>policy</b> 96:4 147:24</p> <p><b>political</b> 87:4,9  126:22 127:4,17  140:2 141:1  154:24</p> <p><b>politically</b> 86:25</p> <p><b>politics</b> 127:13  131:20</p> <p><b>Pong</b> 19:7 26:2  57:5</p> <p><b>poor</b> 205:21,22</p> <p><b>popping</b> 193:3</p> <p><b>popular</b> 21:24  142:12 153:7</p>	<p><b>pornographic</b>  87:15 95:23</p> <p><b>portable</b> 115:18  161:19</p> <p><b>portion</b> 28:22  29:10 36:20  190:13,16,18  191:13</p> <p><b>portions</b> 4:24 5:21  6:5,10,18 133:21</p> <p><b>position</b> 38:1 48:9  105:22,24  178:12</p> <p><b>positive</b> 35:24</p> <p><b>possibility</b> 203:20</p> <p><b>possible</b> 20:19  38:17 62:11  66:24 72:16,20  109:19 139:14  147:16 155:21  172:9 187:16  197:10 200:11  201:20,24</p> <p><b>possibly</b> 28:1,4  44:13 177:6  193:21</p> <p><b>post</b> 32:18 156:2  158:4 200:19  201:1 205:9</p> <p><b>postage</b> 140:22</p> <p><b>potential</b> 9:17 20:4  122:16 195:7  225:17</p> <p><b>potentially</b> 16:19  72:19 121:13  223:14</p> <p><b>power</b> 25:16 79:19  86:21</p> <p><b>powerful</b> 90:13</p> <p><b>PowerPoint</b>  158:7,8,9,11</p> <p><b>practical</b> 26:23  135:15 172:25  197:16,20</p>	<p>219:19 222:17  227:16,22</p> <p><b>practically</b> 155:10</p> <p><b>practice</b> 78:5  146:1,17 230:22  231:5</p> <p><b>practices</b> 114:18  126:25 147:12  171:19</p> <p><b>preamble</b> 130:23</p> <p><b>preceding</b> 222:11</p> <p><b>precisely</b> 18:21  111:4 128:15</p> <p><b>precluded</b> 139:19</p> <p><b>predate</b> 82:4 120:7</p> <p><b>predated</b> 120:8</p> <p><b>predecessor</b>  127:18</p> <p><b>predictability</b>  172:17</p> <p><b>predominant</b> 94:8</p> <p><b>preeminent</b> 85:8</p> <p><b>prefer</b> 169:24</p> <p><b>preference</b> 222:14</p> <p><b>preferences</b> 19:5  23:21</p> <p><b>preferred</b> 17:10</p> <p><b>premium</b> 217:8</p> <p><b>prepared</b> 64:25  65:24 225:3</p> <p><b>preproduction</b>  152:11</p> <p><b>present</b> 32:8 45:14  56:4 99:9 154:5  166:7 200:12  207:19 224:25  225:18</p> <p><b>presentation</b> 61:18  92:9 174:17  183:16</p> <p><b>presentations</b> 40:6</p>
--	--	--	--



<p><b>presented</b> 49:25  119:21 173:20  176:16 180:14  181:18 224:24  225:1 226:18</p> <p><b>preservation</b>  15:23  16:4,9,12,20</p> <p><b>preserving</b> 127:1  167:21 168:14</p> <p><b>president</b> 87:11  156:9</p> <p><b>pressure</b> 107:1  187:14</p> <p><b>presumption</b>  131:1,6 184:25</p> <p><b>pretty</b> 67:7 106:23  108:2 111:22  113:20 148:25  155:23 174:12  195:22 201:8  213:9 214:25  218:23 227:13</p> <p><b>prevent</b> 18:19 20:8  52:8 70:18  116:14 168:19  171:5 194:15</p> <p><b>prevented</b> 224:10</p> <p><b>preventing</b> 74:11</p> <p><b>prevents</b> 171:7  195:23</p> <p><b>Preview</b> 89:7</p> <p><b>previous</b> 92:9  96:23 102:25  131:11 153:7  182:22 197:6</p> <p><b>price</b> 68:3 118:25  119:5 169:15  172:11</p> <p><b>pricing</b> 212:17</p> <p><b>primarily</b> 5:7,12  26:1 52:24 123:1  133:22 178:2  179:12 183:21</p>	<p>184:10 226:3</p> <p><b>primary</b> 45:25  53:1 69:3 117:22  167:16</p> <p><b>prime</b> 163:15</p> <p><b>Primetime</b> 128:1</p> <p><b>principal</b> 51:3</p> <p><b>principled</b> 77:25  101:10</p> <p><b>principles</b> 31:9</p> <p><b>prior</b> 19:20 34:19  162:2</p> <p><b>privacy</b> 89:6</p> <p><b>private</b> 14:24  58:18 110:16</p> <p><b>probably</b> 35:19  43:7 54:14  70:3,14,20 71:14  85:21 93:12  94:10 111:23  122:7 131:18  132:6 144:10  178:22 180:11  183:4 193:10  203:8 207:25  215:20 221:15  227:12</p> <p><b>problem</b> 33:21  49:8 62:24 69:25  73:14 92:19 98:6  99:7,8,25  100:18,24  101:16,23  108:10,11 179:7  188:9 191:23  217:7 227:22</p> <p><b>problematic</b> 143:2</p> <p><b>problems</b> 16:16  40:19 43:19  56:18 121:12  177:23 218:15</p> <p><b>proceed</b> 223:11</p> <p><b>proceeding</b> 11:3  23:22 25:18  28:12 29:12 33:4</p>	<p>38:3,11 45:17,24  61:2 70:21 74:3  76:15 88:13  92:22 95:6,12  108:11,14  109:11 111:25  173:18 178:23  181:20</p> <p><b>proceedings</b> 24:3  70:24 128:19</p> <p><b>process</b> 25:5 26:19  75:22 85:17  104:5 134:3  148:2 152:25  176:7 190:14  191:16 200:19  206:7,17 207:22  227:10,23 231:6</p> <p><b>processes</b> 205:18</p> <p><b>processor</b> 68:6</p> <p><b>produce</b> 17:16  103:4 166:21,24</p> <p><b>produced</b> 104:21  113:1,4 150:25  203:17 211:10  214:5</p> <p><b>producer</b> 185:18  186:1,7</p> <p><b>produces</b> 42:22  107:12 166:17</p> <p><b>producing</b> 140:16  228:21,23</p> <p><b>product</b> 57:23  62:18,21  106:12,14  107:24 137:21  159:4,12 162:16  163:5</p> <p><b>production</b> 144:10  146:4 167:3  179:24 200:20  205:9 224:2  229:23</p> <p><b>productive</b> 61:15</p> <p><b>products</b> 119:1</p>	<p>156:21</p> <p><b>profess</b> 204:4</p> <p><b>professional</b> 79:24  80:19 129:19  144:11 225:24</p> <p><b>Professor</b> 3:8</p> <p><b>professors</b> 5:3  6:14 60:16</p> <p><b>proffered</b> 25:7  56:14 64:22  209:12</p> <p><b>profile</b> 60:11</p> <p><b>profit</b> 88:1 131:4</p> <p><b>program</b> 15:11  22:17 29:5 36:22  37:3,8,21  41:20,22 42:10  77:20 78:7  90:5,6,7,11  94:2,5  99:13,14,22  104:17,20  161:12 170:7  185:24 196:5</p> <p><b>programmers</b>  67:13</p> <p><b>programming</b>  52:21</p> <p><b>programs</b>  4:7,9,13,15  11:24 12:20,22  13:1 15:13 19:8  23:25 27:20 29:6  30:13 37:8  41:16,23 42:2  45:8 72:13 75:22  77:18 84:5,6  85:25 96:12  100:21 104:19  141:16 172:11  193:7 195:21  196:6 199:7</p> <p><b>progress</b> 112:22  206:14</p> <p><b>prohibition</b> 27:25</p>
---	---	---	--

<p>40:1,3 67:3 74:11 221:16 224:10 <b>project</b> 152:21 159:20 191:3 <b>projection</b> 148:23 149:4 <b>projectionist</b> 148:22 <b>projects</b> 151:14 152:1,10 157:4,10 191:3,4 193:18 202:17 204:21 209:25 <b>proliferation</b> 85:8 172:14 <b>promise</b> 126:19 171:19 <b>promote</b> 94:25 114:5 <b>promoting</b> 112:21 <b>promotional</b> 156:19 <b>prompt</b> 113:16,17 <b>promptly</b> 131:15 <b>proof</b> 56:17 <b>properly</b> 99:15,23 204:18 226:5 <b>property</b> 3:4,6,8 16:8 126:14 194:9 <b>proponent</b> 8:18 18:4 19:11 23:23 25:24 41:8 45:7 75:19 <b>proponents</b> 19:4,24 23:15 25:10 27:22 28:19 29:14,21 30:8,22 31:3 33:5 39:23 40:16 56:19 64:23 66:1 68:15 71:6 73:5 74:10 91:8,22</p>	<p>95:22 96:24 113:25 114:3 124:1 126:16 222:21 <b>proportion</b> 223:13,16 <b>proportionality</b> 51:9 <b>proposal</b> 39:25 41:15 46:16 118:5,7,10 120:12 126:22 226:13 227:4 <b>proposals</b> 225:17,19 226:16 <b>propose</b> 179:15,22 <b>proposed</b> 4:6,12,21 8:11,18 9:3 11:10 17:5 18:3 19:21 20:5,9 24:6 27:16 28:7,16 36:7 41:15 43:20 75:13,19 79:8 81:13 83:13 91:20 96:7 108:25 126:4,16 128:4 131:10 134:6 160:21 177:25 197:15 219:21 224:3 <b>proposing</b> 133:20 198:17 <b>proposition</b> 183:24 <b>proprietary</b> 93:25 94:22 95:7 110:20 <b>propriety</b> 146:7 <b>pros</b> 118:3 <b>prosecutions</b> 60:23 <b>protect</b> 15:5</p>	<p>18:12,20 23:23 24:9 93:6 117:21 121:10 135:2 167:20 <b>protected</b> 4:22 5:5,16,17,19 6:1,4,9,20 15:7 16:17 24:15 77:17 111:10 118:10,11 122:3 128:3 130:10 178:16 181:10 196:21 <b>protecting</b> 53:25 59:12 71:4 113:2 130:21 <b>protection</b> 16:13 32:15 33:9 34:10 52:8 55:24 115:23 117:21 121:11,14,24 167:19 168:18 171:8 172:4 196:20 197:8,12 <b>protections</b> 17:7,23 18:22 23:9 25:2 121:7 127:2 170:23 <b>protective</b> 30:3 <b>protects</b> 121:24 <b>protocol</b> 5:20 6:4 198:22 <b>provide</b> 64:3 72:24 82:21 88:9,10 113:4 134:13 135:10 139:6 168:16 170:20,25 172:24 194:23 <b>provided</b> 15:24 23:9 85:20 89:23 163:24 171:22 <b>provider</b> 92:7 95:18,21,24 <b>providers</b> 93:13 158:21 163:3</p>	<p><b>provides</b> 24:17 81:8 84:15 139:3 156:11 163:18 <b>providing</b> 86:17 114:20 136:23 <b>province</b> 70:21 <b>proving</b> 19:12 <b>provision</b> 18:25 30:1,6 36:25 37:13,16,17 38:6,7,21 39:18 65:11,15 135:18 174:13 209:15 <b>provisions</b> 37:23 65:11 66:7 74:8 135:5 <b>proxies</b> 23:2 <b>prudent</b> 97:20 <b>PS2</b> 43:3 <b>PS3</b> 9:20 10:9,17 11:18 25:23 42:15 43:25 46:18,19 47:4,17,18 49:10 61:22 68:15 160:13 <b>PS3s</b> 11:11 <b>PS4</b> 43:6 <b>public</b> 15:2 62:16 79:7,9 82:12 87:6,7 109:5,9,14 110:12,13,14,24 112:16,18,19 113:7 139:21,22,25 142:4 144:9 145:7 154:24 155:5 218:19 229:15 <b>published</b> 23:14 44:21 68:24 192:16 <b>publishers</b> 17:16,23,25 21:8</p>
---	--	--	---

<p>68:20 118:13</p> <p><b>publisher's</b> 21:22</p> <p><b>pull</b> 135:21 201:15 210:1</p> <p><b>pulled</b> 83:20 142:14</p> <p><b>puppet</b> 63:10</p> <p><b>puppets</b> 63:11</p> <p><b>purchase</b> 101:4 149:7 160:4 162:7</p> <p><b>purchased</b> 84:16 162:11 164:18 169:1,10 196:7</p> <p><b>purchases</b> 164:17</p> <p><b>purpose</b> 4:8,15,24 5:1,6,9,12,14,21 6:5,11,13,18 13:23 14:3,9,10,11 15:19 23:5 25:23 29:4,19 36:21 37:6 39:5,13 50:10 54:16,21,24 55:9,14,18 56:24 68:13 70:7 96:10,17 98:3,4,11 103:10 109:17 111:4 112:20 117:23 123:3,5,7,10,12, 14,18,19 131:9 135:4 153:1 181:12 219:6</p> <p><b>purpose-driven</b> 56:21</p> <p><b>purposes</b> 6:24 10:6 11:8,14 12:23 13:5,15,19 14:13,16,19 15:24 16:21 23:7 38:2 40:10 42:25 45:19 46:19 48:7 49:6,17 53:25 58:10,15 60:2</p>	<p>61:8 65:22 67:8 69:6 71:17 72:2 80:2 100:3 118:20 133:14,21 152:23 154:21 155:17 158:1 172:17 195:2</p> <p><b>pursuant</b> 188:19</p> <p><b>pursue</b> 134:25 135:1</p> <p><b>Pursuit</b> 151:9,23</p> <p><b>pushback</b> 188:25 189:3</p> <p><b>puts</b> 204:10 220:16</p> <p><b>putting</b> 26:3 94:21 122:8 124:14 144:8 155:19 156:1 179:3 206:9 227:17</p> <p><b>puzzling</b> 65:15</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p><b>QC</b> 202:4,11</p> <p><b>qualified</b> 216:11</p> <p><b>quality</b> 5:19 6:3 80:19 103:4 107:24 135:12 136:10 137:5,7,9,10,11, 14,19,20,22,24,2 5 138:6,7,12 143:8 144:10,11,15,17 155:18 157:14 167:17 169:21 172:21 176:14,19,20 177:4,6 180:18 189:11 190:6,21 191:11 192:1 200:5,12,14,15,1 7 201:8,20,24 202:6,21 203:3,9,11 205:8</p>	<p>206:11,19,21 207:5,7 222:5,6</p> <p><b>quantify</b> 216:24</p> <p><b>quantities</b> 162:18</p> <p><b>quantum</b> 224:9</p> <p><b>quarter</b> 20:24 161:20</p> <p><b>question</b> 5:15 28:5,8,10 30:11,20,21,24 31:12 34:13 40:12,19 43:14,22 44:2,11 45:4 46:11,15 54:20,23 55:12 56:17 58:5,21 60:5 65:6 66:2 69:9 70:23 73:1 74:9 92:10 95:13 106:7,10 110:5,15 111:25 117:15 119:12 122:20 128:2 129:22 174:8,9 179:11 182:11 183:19 189:5 192:13 193:19,22 195:24 198:14 199:25 200:2 202:3,14 213:25 215:3 220:7 221:24 225:3,6,9,14 229:20 230:12</p> <p><b>questionnaire</b> 165:6</p> <p><b>questions</b> 8:7 17:2 27:7 28:15 40:8 41:3 50:21 63:18 64:10 82:16 91:19 96:6 97:17 106:2,4 114:22 122:7,9,15 124:23 166:8 174:14</p> <p><b>quick</b> 112:10</p>	<p>210:17 213:25</p> <p><b>quickly</b> 49:23 80:9 90:12 143:8 167:23 192:15</p> <p><b>quite</b> 51:4 73:9 81:19 91:10 96:13 97:24 98:3 117:17 147:4 153:18 175:12 180:13 183:7 200:18 217:15,25</p> <p><b>quote</b> 7:15 150:3 178:3 206:5</p> <p><b>quoted</b> 178:19</p> <p><b>quoting</b> 94:4 134:1,2 142:2</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p><b>race</b> 105:8 141:1</p> <p><b>Radio</b> 155:2</p> <p><b>raise</b> 52:12 60:4 91:5 95:13 99:6 192:10</p> <p><b>raised</b> 91:4 95:19 100:6</p> <p><b>raises</b> 147:21</p> <p><b>rampant</b> 20:16</p> <p><b>ran</b> 135:7</p> <p><b>range</b> 34:23 54:3,20 169:13 172:10,15 181:1 199:12,14 204:1 223:2 224:1</p> <p><b>rapid</b> 16:14</p> <p><b>rapidly</b> 168:12 170:22 187:12 199:16</p> <p><b>rarely</b> 129:6,7 191:3 193:13</p> <p><b>rate</b> 168:15 211:20</p> <p><b>Rated</b> 188:11 228:5</p>
---	---	--	--

<p><b>rates</b> 21:1,20 22:2 212:9</p> <p><b>rather</b> 30:6 97:8 111:17 223:4</p> <p><b>rating</b> 188:11</p> <p><b>rationale</b> 35:13,14 59:14,17 64:23</p> <p><b>RC</b> 210:9</p> <p><b>re</b> 5:5</p> <p><b>reach</b> 42:1,23 106:18 122:2 180:7</p> <p><b>reaches</b> 69:10</p> <p><b>react</b> 183:23</p> <p><b>reacting</b> 123:25</p> <p><b>reaction</b> 208:15,16 227:18</p> <p><b>reader</b> 44:14 59:10 120:22</p> <p><b>readers</b> 100:8 112:4,11</p> <p><b>readily</b> 5:15 25:7</p> <p><b>reading</b> 29:9,10 30:5 38:5 39:20,21 116:5 117:8,11</p> <p><b>real</b> 18:12 19:22 23:11,15 35:5 45:22 74:9 134:25 149:4 151:20 161:8 172:25 200:13 222:16 228:5 230:4,5</p> <p><b>realistic</b> 100:2</p> <p><b>reality</b> 18:10 35:5 36:5 129:18 131:12 144:21 151:19,25 152:5 193:14 197:16,20 229:6</p> <p><b>realize</b> 135:19 138:21 201:16</p>	<p><b>realized</b> 62:19</p> <p><b>really</b> 9:23 10:17,20 24:17 32:14 33:8,14,23 39:18 40:15,17 48:24 49:4 50:7 56:23 63:13 66:1 73:15,19 79:9,21,23 80:10 94:23 95:4,15 99:25 100:2 103:1 110:3 111:12 112:10 124:15 127:15 134:18 138:7,9,15 146:20 149:10,18 151:10 152:25 153:7,15 154:10,15 163:11 165:3 167:2 173:10,13,22 176:12,20 177:20,22 178:19,25 180:1,5 181:5,13 183:9 185:2,3 190:6 200:10,25 201:17,22 203:22 204:16 209:24 211:25 229:21</p> <p><b>realm</b> 163:20 226:10</p> <p><b>reason</b> 12:8 38:10,15 42:18 47:19 48:11 53:6 56:22 61:17 68:7 77:4,25 79:16 85:22 86:9 95:25 100:15 101:10 112:23 130:12 137:11 202:13 222:7</p> <p><b>reasonable</b> 5:1,8,13 6:12</p>	<p>87:17,19 168:15 198:20 220:13 226:23</p> <p><b>reasonably</b> 5:18,22 6:2,3,6</p> <p><b>reasoning</b> 58:24,25</p> <p><b>reasons</b> 56:21 64:4 116:15,16 132:18 134:16 136:1 143:10,18 194:13 195:12</p> <p><b>received</b> 148:19 169:16 228:9</p> <p><b>receiving</b> 172:13</p> <p><b>recent</b> 205:12</p> <p><b>recently</b> 10:24 15:25 83:20 160:5 163:13 202:17</p> <p><b>recess</b> 75:11 125:2 182:7</p> <p><b>recognition</b> 201:1,5 205:7</p> <p><b>recognizable</b> 153:8 205:10</p> <p><b>recognize</b> 110:20 205:14 208:19</p> <p><b>recognized</b> 36:5 38:11 92:22 194:25</p> <p><b>recognizing</b> 205:24</p> <p><b>recollection</b> 124:20</p> <p><b>recommend</b> 73:12 82:14</p> <p><b>recommendation</b> 73:25 92:19 97:14 120:8 230:17</p> <p><b>recommendations</b> 34:20 173:1</p>	<p><b>recommended</b> 226:13</p> <p><b>recommending</b> 98:6</p> <p><b>reconciling</b> 176:21</p> <p><b>record</b> 9:11,25 12:7,15 19:20 24:15,17 25:18,21 26:11,20 45:23 46:3 51:20 60:13 62:3 68:15 80:3 81:1,18 100:12 106:1 112:5 118:2 119:22,25 122:12 126:13 127:2,24 128:6 129:2,9,12 164:16 176:3 182:19 183:14,25 189:23 194:7 207:1 219:10,12 232:8</p> <p><b>recorded</b> 90:6 171:9</p> <p><b>recording</b> 177:14 196:17 225:11</p> <p><b>recordings</b> 6:24</p> <p><b>records</b> 189:22 224:17</p> <p><b>redeemed</b> 169:8</p> <p><b>redemption</b> 163:25 164:7</p> <p><b>redistribution</b> 53:5</p> <p><b>reduce</b> 222:9</p> <p><b>reduced</b> 21:10 210:9,10 211:20</p> <p><b>re-edit</b> 155:14,17</p> <p><b>refer</b> 34:16 197:11</p> <p><b>reference</b> 31:23</p> <p><b>references</b> 116:2</p>
---	---	---	---

<p><b>referred</b> 91:3</p> <p><b>refers</b> 34:17</p> <p><b>reflects</b> 12:15</p> <p><b>refused</b> 92:14</p> <p><b>regard</b> 21:24 42:13 43:12 46:18 51:4 97:7 110:7 112:10</p> <p><b>regarding</b> 97:21 137:19</p> <p><b>regardless</b> 65:18</p> <p><b>regards</b> 113:7</p> <p><b>regime</b> 194:16</p> <p><b>register</b> 73:9 82:13 162:23,24 171:6</p> <p><b>registered</b> 164:3</p> <p><b>registration</b> 25:5 156:1</p> <p><b>regularly</b> 159:22</p> <p><b>Regulations</b> 7:16</p> <p><b>rehash</b> 132:12</p> <p><b>reinjections</b> 86:24</p> <p><b>reiterate</b> 205:5</p> <p><b>reiterated</b> 24:12 112:25</p> <p><b>rejected</b> 17:9 87:12,25 181:19</p> <p><b>rejection</b> 87:22</p> <p><b>related</b> 92:18 93:24 145:15 199:7,9</p> <p><b>relates</b> 176:5</p> <p><b>relating</b> 65:9 197:23 218:10</p> <p><b>relationship</b> 93:4 149:1 153:24</p> <p><b>relatively</b> 25:1</p> <p><b>relay</b> 79:17</p> <p><b>release</b> 105:4 161:3 168:24</p>	<p>169:4 170:1</p> <p><b>released</b> 77:20 78:7 104:21 161:4,17 163:10,20 169:5 192:14</p> <p><b>releasing</b> 139:20 161:21 167:5</p> <p><b>relegated</b> 137:14</p> <p><b>relevant</b> 9:8 14:21 62:1 65:6 109:15,18 177:2</p> <p><b>reliable</b> 167:17</p> <p><b>reliably</b> 82:6</p> <p><b>reliance</b> 31:3</p> <p><b>relied</b> 82:6</p> <p><b>relies</b> 131:7 139:8</p> <p><b>re-look</b> 31:1 112:7</p> <p><b>rely</b> 18:17 22:5 211:6</p> <p><b>remarks</b> 7:15 165:25</p> <p><b>remedies</b> 54:4,19,20 136:22</p> <p><b>remedy</b> 136:17</p> <p><b>remember</b> 103:19 112:19 113:15 124:4</p> <p><b>remix</b> 2:19 127:3,7 129:18,19 130:13 131:6,22 134:14 137:11 138:3,10,21 139:11 140:12,16 141:6,12,19 198:7 206:20 207:1,13 215:6 216:24 217:1 222:4</p> <p><b>remixers</b> 128:13 143:10 145:5,6 190:10</p>	<p>216:2,3,17</p> <p><b>remixes</b> 139:12</p> <p><b>remixing</b> 142:1</p> <p><b>remote</b> 10:25 90:9</p> <p><b>remotely</b> 89:19</p> <p><b>remove</b> 71:1,2,10 75:7 79:14 90:10 184:15 195:7,22 196:6 205:21</p> <p><b>removed</b> 11:12 49:11,13 51:23 70:10 90:9 126:20</p> <p><b>removing</b> 127:19 128:9</p> <p><b>render</b> 95:9 123:15</p> <p><b>rendered</b> 94:10</p> <p><b>renewed</b> 76:5 79:4 80:24 82:14 83:13 126:23 182:23</p> <p><b>renewing</b> 129:3</p> <p><b>rent</b> 59:2</p> <p><b>rental</b> 159:8 160:3</p> <p><b>repair</b> 63:20,25</p> <p><b>repairing</b> 63:19</p> <p><b>replace</b> 69:5</p> <p><b>replete</b> 175:7</p> <p><b>reply</b> 20:12 31:22 32:8 47:6 93:8</p> <p><b>report</b> 15:25 16:7 24:5,7 97:20</p> <p><b>REPORTED</b> 1:23</p> <p><b>Reporter</b> 1:23</p> <p><b>Reports</b> 150:16</p> <p><b>represent</b> 59:21 75:8 97:6 225:5</p> <p><b>representing</b> 72:22 90:21 173:5</p>	<p><b>represents</b> 16:8 57:15</p> <p><b>request</b> 9:6 11:10 14:22 16:15,24 19:20 23:19 53:17 98:9 185:5 195:12</p> <p><b>requested</b> 42:14 139:17 183:20</p> <p><b>requesting</b> 116:25 121:21 157:7</p> <p><b>requests</b> 17:10 109:10 156:18,22,25 157:12</p> <p><b>require</b> 147:18 158:19 165:5 170:25 171:3,5,8</p> <p><b>required</b> 70:3 157:2 228:12</p> <p><b>requirement</b> 203:14 227:20</p> <p><b>requires</b> 175:16 176:18 204:8</p> <p><b>requiring</b> 194:17</p> <p><b>reread</b> 73:3</p> <p><b>res</b> 204:19</p> <p><b>research</b> 6:17 10:5,13,14,18 11:8,14 12:9 14:5,8,12,17 25:14,20 46:1,6,19 47:18,24 48:3,4,15,20,23 51:23 54:8,17,22,25 57:17,24 61:20 63:2 67:23 68:5,8 69:13 71:16 151:16 157:1 158:16 211:1</p> <p><b>researcher</b> 11:5 48:6 63:4 69:19</p>
--	---	---	---

<p><b>researchers</b> 10:2,12,19,23 25:23 47:23 49:2 51:21 60:16 68:12 69:16 71:20</p> <p><b>reside</b> 24:1</p> <p><b>residing</b> 64:16</p> <p><b>residuals</b> 209:5</p> <p><b>resolution</b> 201:2 203:3,16 204:15</p> <p><b>resolved</b> 28:15 121:1</p> <p><b>resource</b> 79:18</p> <p><b>resources</b> 218:6</p> <p><b>respect</b> 48:1 49:15,23 56:18 57:12 64:16 72:21,23 98:2 112:16 116:7,11 118:6 119:4,16 130:13 133:11 156:16 197:8 198:3 227:19</p> <p><b>respond</b> 36:11 40:14 50:22 53:20 91:3 97:20,25 98:14 103:5,6 106:4,6 107:10 117:6 119:7 124:16 139:12 182:12,16 183:9 203:19 209:22 221:25</p> <p><b>responded</b> 220:23</p> <p><b>responding</b> 118:22 183:19</p> <p><b>response</b> 62:15 112:9 143:4 207:16 214:1,8</p> <p><b>responsibility</b> 88:18 179:6</p> <p><b>responsive</b> 63:6</p>	<p><b>rest</b> 47:10</p> <p><b>restrict</b> 42:20 86:7 100:21,23</p> <p><b>restricted</b> 41:25</p> <p><b>restrictions</b> 107:25</p> <p><b>restrictive</b> 194:23 207:14</p> <p><b>result</b> 16:23 71:2 172:20</p> <p><b>resume</b> 125:1</p> <p><b>retailer</b> 162:9,13 163:6</p> <p><b>retailers</b> 162:7 163:2,4 165:19 170:17</p> <p><b>return</b> 7:10 113:23 168:15 187:19</p> <p><b>returns</b> 170:24</p> <p><b>reuse</b> 136:5 137:16</p> <p><b>reuses</b> 134:23</p> <p><b>reusing</b> 137:13</p> <p><b>re-using</b> 209:1</p> <p><b>revenues</b> 68:19,21,24</p> <p><b>reverse</b> 36:13,24 37:1,6,9,14 38:5,7,21 66:12,14 67:8 87:5 123:21 124:12</p> <p><b>review</b> 19:14</p> <p><b>reviewing</b> 83:8</p> <p><b>revisit</b> 28:25</p> <p><b>revisited</b> 93:23</p> <p><b>riders</b> 147:15 171:23</p> <p><b>riffing</b> 149:15</p> <p><b>right-hand</b> 191:13</p> <p><b>right-holder</b> 175:21,23,25</p> <p><b>rightly</b> 128:3</p>	<p><b>rights</b> 2:16 82:20 128:17 134:11 137:1 147:22 148:13 160:20 162:17 170:10 186:14 195:9</p> <p><b>rights-holder</b> 167:10</p> <p><b>rights-holders</b> 194:16,20 195:1</p> <p><b>rigor</b> 216:11</p> <p><b>rigorous</b> 26:19 215:18 231:6</p> <p><b>rip</b> 177:20 191:2</p> <p><b>ripping</b> 143:9 144:14</p> <p><b>risk</b> 21:3 54:12 130:8 148:5 176:1,3 219:17</p> <p><b>road</b> 186:7</p> <p><b>Rob</b> 7:23</p> <p><b>Robert</b> 2:7 7:11</p> <p><b>robot</b> 63:5</p> <p><b>robust</b> 61:15 64:21 149:18</p> <p><b>role</b> 27:18 28:22 152:17 210:11</p> <p><b>roles</b> 176:24</p> <p><b>roll</b> 172:7</p> <p><b>rolling</b> 164:13</p> <p><b>room</b> 7:9 70:13 84:7 153:4 185:23 203:6 217:11</p> <p><b>root</b> 80:16,20 99:12 103:24,25</p> <p><b>rooted</b> 79:13</p> <p><b>rooting</b> 75:23 79:19 104:3,7</p> <p><b>roughly</b> 60:9 179:9</p> <p><b>round</b> 126:22</p>	<p><b>rounds</b> 96:24</p> <p><b>route</b> 26:12</p> <p><b>royalty</b> 211:17,18,19,21</p> <p><b>royalty-free</b> 187:4</p> <p><b>RPR</b> 1:24 232:3,18</p> <p><b>RTMPT</b> 160:23</p> <p><b>rug</b> 135:22</p> <p><b>rule</b> 67:3</p> <p><b>rulemaking</b> 1:8 7:17,21 13:8 38:11,13 60:23 76:9,15 78:5,10 95:6 122:12 128:18 177:1 194:14 231:11 232:4,12</p> <p><b>rulemakings</b> 222:12</p> <p><b>rules</b> 109:7 162:10 213:8</p> <p><b>ruling</b> 73:23 155:9</p> <p><b>rulings</b> 34:19</p> <p><b>run</b> 10:9 11:12 12:18 19:8 32:22 33:23 47:20 48:21 49:10 58:17 60:14,17 71:23 72:12 78:19 79:20 92:6,11,16 94:2 99:2 114:9</p> <p><b>running</b> 15:15 25:25 34:4 46:1 47:24 54:1 92:1 99:13,15 104:17 130:1</p> <p><b>runs</b> 15:13 78:17 99:22 107:5</p> <p><b>Russell</b> 35:20 97:8 198:1</p> <p><b>Ruwe</b> 2:8 7:25 183:20 184:8 189:8,20</p>
--	---	---	---

190:12,23 191:10,20 194:4,6 195:17 203:13 212:10 213:22 224:12,23 225:2,6,13,21	171:23 <b>scene</b> 76:20 148:24 152:20 153:3,12 154:2,3 186:4 201:12,19 202:1 205:12 <b>scenes</b> 155:10,24 <b>scheduled</b> 166:5 <b>scholarly</b> 157:3 <b>school</b> 1:20 7:7,9 141:16 <b>schools</b> 141:17 <b>science</b> 112:22 <b>scientific</b> 10:1,19,21,23 12:9 14:5,8,12,17 47:18,22 54:7,16,22,25 57:17,23 63:2 69:13,16,21 72:2 <b>scope</b> 12:13 13:8 53:16 58:6,23 59:19 60:6 73:6 74:7 97:21 99:7 100:5 109:10 117:3 120:20 177:1 178:23 180:1 181:20 <b>scorpions</b> 80:12 <b>scrambled</b> 173:20 <b>scrambling</b> 4:23 5:6,17 6:2,9,21 196:22 <b>screen</b> 89:8,10,17,18,25 144:13 153:19 154:14,18 177:13,14 189:12,15,22,24, 25 190:15,23,25 191:12,14,16 196:13 200:7,21,23,25 201:7,15 203:6	205:17,20 210:16 224:13 <b>screenapping</b> 190:3,4 <b>screened</b> 204:16 <b>screens</b> 154:19 155:20 156:2 <b>script</b> 151:17 154:21,22 <b>se</b> 41:25 <b>seal</b> 227:12 <b>Searchlight</b> 166:20 <b>Sears</b> 32:18 <b>season</b> 131:17,19 <b>seasons</b> 142:14 161:6 <b>seat</b> 187:3 200:24 <b>second</b> 9:2 15:4 19:24 23:18 34:12 37:4 76:4 92:18 96:19 114:11 135:25 150:13,17 152:14 194:21 204:3 206:23 210:12,13 <b>secondary</b> 137:15 208:3 <b>Secondly</b> 135:2 198:25 <b>seconds</b> 188:18 210:11,14 228:17 <b>secret</b> 70:4 <b>Section</b> 1:8 4:7,13,22 5:5,10,16 6:1,8,15,20,23 7:8 8:12 27:18,21 28:24 31:10,14 42:11 57:3 65:3 66:20 75:14 93:19	94:24 95:8 112:21 113:9 126:5 130:20,22,23 140:13 174:13 176:6 219:18 <b>secure</b> 171:14 <b>security</b> 70:24 88:24 171:20 172:17 <b>seeing</b> 68:3 121:12 127:15 128:22 154:13,18 183:17 214:25 230:2 <b>seek</b> 45:9 216:18 217:20 <b>seeker</b> 155:4 <b>seekers</b> 152:15 154:25 <b>seeking</b> 8:19 12:14 14:23 18:9 30:2,3 41:8 45:16 66:11 71:6 168:13 188:24 214:21 <b>seeks</b> 17:5 18:4 26:22 44:24 159:23 <b>seem</b> 95:22 121:4 180:15 181:7 184:24 197:9 226:7 <b>seemingly</b> 46:4 <b>seems</b> 29:13 32:6 36:17 59:13 69:13 122:25 127:17 131:8 132:13,17,22 133:2 183:9 206:19 227:9 <b>seen</b> 46:16 71:19,22 82:25 83:4 89:12 145:12 163:14 165:12 214:9
<hr/> <b>S</b> <hr/>			
<b>Sabia</b> 129:20 <b>Sabia's</b> 128:1 184:1 <b>safe</b> 87:24 121:18 147:17 <b>safer</b> 132:10 <b>safety</b> 24:4 83:8,9 84:14 86:18 88:5 108:13 134:4 135:10 140:7 <b>sale</b> 68:23,25 <b>sales</b> 169:18 <b>salient</b> 9:6 50:25 51:12 <b>sample</b> 201:7 <b>Samsung</b> 81:10 <b>San</b> 82:21 134:12 <b>sanction</b> 13:6 53:8 <b>satellite</b> 93:15 <b>satisfied</b> 28:19 71:9 <b>satisfy</b> 25:3 27:22 <b>saturation</b> 133:19 <b>save</b> 25:4 223:20 <b>savvy</b> 63:23 <b>saw</b> 22:15 25:25 205:16 <b>SBSSettings</b> 90:1 <b>scale</b> 87:24 94:21 167:17 <b>scenario</b> 54:7 70:9 117:7 <b>scenarios</b> 96:14			

<p>219:8 228:23,24  <b>SEGA</b> 14:19                  31:4,9,16 32:4  <b>segue</b> 161:25  <b>select</b> 20:24  <b>self-financed</b>                  151:2  <b>self-financing</b>                  204:21  <b>self-publish</b> 26:18  <b>self-repair</b> 63:23  <b>self-standing</b>                  211:6  <b>sell</b> 106:11,14  <b>Sell-Through</b>                  166:16  <b>seminars</b> 148:14  <b>send</b> 105:1                  136:18,19  <b>sending</b> 122:9,14  <b>senior</b> 8:16 166:3  <b>sense</b> 50:4 58:8                  87:14 105:11                  110:11 130:9                  142:7 154:24                  177:2 187:19                  196:17 199:2                  211:2  <b>sensing</b> 10:25  <b>sensitive</b> 108:9  <b>sentence</b> 123:1  <b>separate</b> 16:18                  184:3  <b>separately</b> 121:25                  174:2  <b>sequence</b> 45:1                  72:14  <b>series</b> 83:12                  142:19 161:7                  193:4  <b>serious</b> 16:9 166:6</p>	<p>225:14,16  <b>seriously</b> 177:8                  179:6 207:4,6                  221:16  <b>serve</b> 109:13                  176:20  <b>served</b> 82:11  <b>server-based</b>                  21:11  <b>service</b> 145:4                  158:2 160:4                  163:22,23                  164:13 170:8,13                  210:19  <b>services</b> 5:11 88:2                  131:24 133:11                  145:1 156:11                  157:19,25 164:6                  169:20 170:4                  171:19,22                  178:10,11 193:4                  208:4,7,12  <b>session</b> 4:18                  103:17 126:2  <b>setting</b> 16:3 33:1                  56:3  <b>settings</b> 90:2  <b>settle</b> 146:24  <b>set-top</b> 53:13,15                  58:21 160:12  <b>seven</b> 21:22 27:12                  142:14 173:6  <b>several</b> 7:7 12:2                  16:2 21:23                  25:21,22                  61:14,21 73:4                  79:7 157:16                  158:16 164:19                  194:13 220:25  <b>Shakespeare</b>                  206:5,6  <b>shape</b> 98:13  <b>shaped</b> 154:25  <b>share</b> 76:13</p>	<p>107:14 115:16                  134:15 141:5  <b>sharing</b> 127:7                  162:5  <b>sharper</b> 201:4  <b>sheltered</b> 217:17  <b>she's</b> 80:1 120:7                  153:6 178:21                  185:21,23,24                  210:16  <b>shift</b> 146:20 189:4  <b>shifting</b> 6:22,25                  25:3 156:15                  158:25 161:11                  163:12 173:9,11                  228:11  <b>shoot</b> 151:19 186:2                  201:4 202:18  <b>shooting</b> 200:20  <b>short</b> 4:24 5:21                  6:5,10,18 133:21                  142:5  <b>shorten</b> 155:16                  158:4  <b>Shorthand</b> 1:23  <b>Shortly</b> 147:13  <b>shorts</b> 149:12  <b>shot</b> 201:11                  202:19,24                  204:15,18  <b>showcase</b> 79:9  <b>showed</b> 52:19                  99:10 145:8                  148:24  <b>showing</b> 28:20                  33:6 45:14,21                  74:10 91:14,23                  196:16 200:7,9  <b>shown</b> 10:1,22                  47:5 91:8 103:11                  150:9 177:15  <b>shows</b> 9:11,25                  26:20 63:10</p>	<p>127:3 144:22,23                  152:2 156:23,24                  166:13                  167:7,8,13 176:3                  193:7,11 196:13                  205:13 229:9  <b>shred</b> 81:17  <b>shrink</b> 205:23  <b>shut</b> 185:22  <b>signatures</b> 79:5  <b>significant</b> 57:2                  96:6 170:24                  224:9  <b>significantly</b> 21:21  <b>signs</b> 164:2  <b>Silverlight</b> 171:3  <b>similar</b> 17:10                  43:24 52:21,23                  77:6,7 100:17                  102:16 149:23                  199:5,10 226:19  <b>similarly</b> 106:12                  131:6 133:12  <b>Simon</b> 166:5  <b>simple</b> 11:25 25:4                  42:4 89:12  <b>simply</b> 13:3,8 19:2                  34:7 38:7,21                  54:1,2 71:10                  83:8,9 86:14                  88:5 113:17                  114:20 118:20                  128:1 135:2                  136:3 137:15                  179:15 180:15                  184:23                  188:10,20 193:1  <b>Simpsons</b> 166:25  <b>single</b> 46:6 177:18                  178:15,24  <b>single-copy</b> 169:18  <b>single-payer</b> 87:2  <b>single-purpose</b></p>
---	---	--	---



Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012  
Page 49

<p>116:12 118:8 <b>sit</b> 70:12 <b>sitting</b> 200:24 <b>situation</b> 30:14 50:5,9,14 54:15 55:12 58:11 59:1,4 62:8 66:25 67:12,20 88:20 94:1 95:4 97:7 101:9,25 122:2 155:23 178:6 180:13,25 <b>situations</b> 37:23 53:23 63:9 66:13 69:18 71:22 93:16 98:10 108:15 184:17 192:22 <b>six</b> 142:9 162:24 186:23 <b>size</b> 35:20 36:2 140:22 191:4 225:15 <b>sized</b> 225:23,25 <b>sketches</b> 150:4 <b>skip</b> 179:19 <b>skips</b> 191:2 <b>Slayer</b> 142:11 <b>sliver</b> 17:7 <b>slowly</b> 132:16 <b>Slumdog</b> 166:23 <b>smack</b> 184:19 <b>small</b> 11:25 47:4 51:4,7,8 77:8 139:2,3 146:1 159:17 201:16 223:17 <b>smaller</b> 76:24 96:6 136:21 166:22 191:4,8 202:10 <b>smartphone</b> 28:11 30:24 33:1 75:21 76:11 82:7 84:6</p>	<p>85:4 94:17 101:12 106:19 123:9 <b>smartphones</b> 4:13 49:24 50:3 77:6 78:1 83:14,18,23 84:2,13 90:12 92:3 94:13 100:25 101:16 102:1 119:20 122:13 168:6 <b>SMS</b> 89:7 <b>sneak</b> 98:12 <b>so-called</b> 21:12 100:13 <b>social</b> 35:24 151:5,7,14 152:8 <b>socially</b> 10:13 47:13 48:4 60:1 69:14 <b>society</b> 152:19 207:15 <b>socio-political</b> 140:25 <b>softness</b> 204:17 <b>software</b> 2:13 4:8,14 8:22 11:18,21 12:9,18,22,25 13:15 14:17 15:13,14 16:19,21 17:14 19:7 23:25 24:10 26:8,9 29:20,23 31:5 40:24 41:1 44:5,19 48:10 57:1 58:17 64:13,16 67:8 69:5 70:1 71:1,11,21,23 72:1 79:17,20 80:17,20 82:23 84:9 88:23 90:15 91:1 105:2 111:10 113:18 118:18</p>	<p>189:18,21 190:4 199:11,12 205:21 224:14,21,23 <b>sold</b> 76:14,16 169:6 <b>sole</b> 29:19 36:21 96:10,12 97:22 98:3 <b>solely</b> 4:23 5:20 6:5,10,18,21 50:3 102:11 113:1 160:5 <b>solution</b> 100:1 207:18 208:10 <b>solutions</b> 160:20 <b>solve</b> 16:16 108:11 <b>somebody</b> 36:25 37:19 118:19 122:3 148:8 177:19 <b>somehow</b> 111:16 114:7 206:23 <b>someone</b> 48:14 49:14 55:20 56:14 63:22 69:25 70:5 95:3 111:15 116:12 134:1 142:20 145:18 215:14 227:12 <b>someone's</b> 143:19 184:22 191:25 <b>somewhat</b> 31:6 120:25 <b>somewhere</b> 68:6,9 74:20 178:18 184:23 <b>son</b> 185:21 <b>Sony</b> 9:19 10:8,17 12:1 21:5 25:19,21 31:4 48:20,22 49:3,5,10,11,12, 16 51:15,20</p>	<p>52:13 61:23 62:9,10 <b>Sony's</b> 44:11,15 64:18 <b>sophisticated</b> 9:16,22 10:5 14:8 67:7 207:2 <b>sorry</b> 47:17 49:20 103:15 130:5 164:24 182:20 213:4 <b>sort</b> 51:9 54:23 55:15 101:14 105:5 109:6 112:12,13 114:25 115:23 135:7 138:10 140:25 144:13 147:15 151:7 153:23 154:23,25 155:2,5,7 161:16 165:21 193:6 197:17 200:19 204:22 205:5 214:16 227:9,11 228:7 <b>sorts</b> 60:23 77:9 221:5 <b>sound</b> 6:24 220:12 <b>sounds</b> 45:6 69:5 <b>soundtrack</b> 220:10 <b>source</b> 62:11 63:16 71:25 131:13,14,23 132:17 133:13 143:4 155:19 201:21,24 203:3 207:7 <b>sources</b> 138:16 143:5,6 176:24 199:20 222:19 <b>space</b> 6:22 43:1 107:13 139:25 156:14 158:24</p>
--	---	---	---

<p>161:11 163:12  173:9,11</p> <p><b>speak</b> 8:4 44:16  64:25 68:11 76:7  126:17 141:25  166:5 172:23  179:20 194:2  197:1 198:14,16  206:18 229:8,10</p> <p><b>speaking</b> 68:16</p> <p><b>speaks</b> 81:15</p> <p><b>special</b> 77:24  155:11 206:21</p> <p><b>specific</b> 12:17  22:20 41:10,11  50:10,12,13,16  67:21 91:19  122:9 139:12  144:3 153:1  174:12 197:12  199:3,4 224:20</p> <p><b>specifically</b> 11:2  18:18 23:23  44:21 49:3 92:7  120:22 143:9  154:8</p> <p><b>specificity</b> 223:6</p> <p><b>specify</b> 199:3</p> <p><b>specs</b> 168:22</p> <p><b>spectre</b> 101:24</p> <p><b>speculate</b> 70:15</p> <p><b>speculation</b> 20:14  132:23</p> <p><b>speculative</b> 82:8</p> <p><b>speech</b> 128:22  207:14</p> <p><b>spend</b> 19:18</p> <p><b>spoke</b> 48:20 80:1  192:6,10 204:6  224:12</p> <p><b>springs</b> 113:9  185:17</p> <p><b>spyware</b> 90:5,10</p>	<p><b>square</b> 14:21</p> <p><b>staff</b> 8:16</p> <p><b>stage</b> 152:11</p> <p><b>stages</b> 185:22</p> <p><b>stake</b> 17:25 18:5</p> <p><b>stalking</b> 142:22</p> <p><b>stamp</b> 140:22</p> <p><b>stand</b> 16:8 18:2</p> <p><b>standalone</b> 84:19</p> <p><b>standard</b> 86:8  109:6,7 174:5,10  182:14 203:18  204:4 211:21  212:20 215:18  222:11,25  228:10  230:16,25</p> <p><b>standards</b>  87:12,13 184:4  202:8 203:21  206:12 212:21  215:15 217:6  230:23</p> <p><b>standpoint</b> 203:23</p> <p><b>stands</b> 149:18  174:25 204:5  222:7</p> <p><b>star</b> 153:9 210:9</p> <p><b>start</b> 8:3 36:12  46:24 54:11  59:10 180:5  181:11 182:8  190:8 192:4</p> <p><b>started</b> 140:18  149:1 150:3  161:20 163:15  185:22</p> <p><b>starting</b> 190:17</p> <p><b>starts</b> 42:22 54:18  150:4</p> <p><b>start-up</b> 159:19</p> <p><b>state</b> 44:13 88:22  136:3 137:8</p>	<p>183:22 194:6</p> <p><b>stated</b> 137:19  189:8 194:21  232:5</p> <p><b>statement</b> 66:9  147:12 172:24  176:22</p> <p><b>statements</b> 109:4</p> <p><b>States</b> 112:24</p> <p><b>statistic</b> 83:20</p> <p><b>statue</b> 28:17 93:22</p> <p><b>statute</b> 28:23,25  29:15 34:20 39:1  135:8 223:6  230:20</p> <p><b>statutory</b> 9:8  15:22 16:25  81:25 91:9  130:24 131:9</p> <p><b>stay</b> 79:22 153:4</p> <p><b>stays</b> 31:25</p> <p><b>steep</b> 23:17</p> <p><b>stem</b> 134:24</p> <p><b>step</b> 181:23</p> <p><b>step-by-step</b> 22:18</p> <p><b>Stephanie</b> 79:25</p> <p><b>STEPHEN</b> 2:8</p> <p><b>steps</b> 33:19 95:11  192:21</p> <p><b>Steve</b> 2:14 7:25  8:14 19:15  27:9,10 36:9  38:23 41:2 73:2  75:16 90:19,20  97:16,21 102:25  106:3 112:17  114:23 119:12  156:7 173:3,4  182:1 203:7  207:10 212:23  214:8 218:9  224:12 227:8</p> <p><b>Steve's</b> 214:1</p>	<p>227:3</p> <p><b>stick</b> 179:11</p> <p><b>stills</b> 156:17</p> <p><b>stimulates</b> 109:21</p> <p><b>stop</b> 221:11</p> <p><b>stopping</b> 181:6</p> <p><b>store</b> 77:15  85:11,12,16 87:8  114:14 138:19  164:1 170:19</p> <p><b>stores</b> 102:6</p> <p><b>Stories</b> 141:11</p> <p><b>storing</b> 162:18</p> <p><b>story</b> 21:25 148:22  149:2 151:18</p> <p><b>storyteller</b> 140:13</p> <p><b>straightened</b> 202:5</p> <p><b>strange</b> 50:8</p> <p><b>strata</b> 152:8</p> <p><b>stream</b> 171:6  196:12</p> <p><b>streamed</b> 158:12  162:25</p> <p><b>streaming</b> 6:16  138:20 145:4  160:3,7,8,9  161:23 171:2  178:10 195:19  196:10,23</p> <p><b>streaming-only</b>  210:19</p> <p><b>street</b> 229:25</p> <p><b>stressing</b> 180:3  208:2</p> <p><b>strictly</b> 146:2</p> <p><b>stringing</b> 220:8</p> <p><b>strive</b> 26:21</p> <p><b>strong</b> 17:22 18:21  87:3 94:12  217:15,16</p> <p><b>stronger</b> 51:11</p>
---	---	--	---

116:10 <b>strongest</b> 204:2 224:8 <b>strongly</b> 15:20 <b>struggling</b> 45:13 <b>Student</b> 3:4,6 <b>students</b> 5:3 6:14,17 127:13 157:4 229:2 <b>studied</b> 64:24 <b>studies</b> 5:3 6:14 141:17 <b>studio</b> 166:17 171:13 188:12 189:6 208:5 209:16 217:11 <b>studios</b> 180:3 188:14 199:24 207:19 208:17 209:2,9,14 211:10 214:5 <b>studying</b> 61:20 <b>stuff</b> 119:22 221:5 <b>stymied</b> 171:18 <b>subclass</b> 41:24 <b>subject</b> 108:19 115:18 178:16,24 184:3 200:24 <b>subjective</b> 85:19 <b>subjects</b> 217:5 <b>submission</b> 32:24 91:11,16 111:1 178:19 179:13 <b>submissions</b> 27:13 <b>submit</b> 194:11 199:4 <b>submitted</b> 11:10 12:6 48:19 79:4,25 194:22 <b>Subscription</b> 159:9	<b>subsection</b> 29:23 37:11 65:9,12 <b>subsequent</b> 23:7 55:4,25 <b>subset</b> 42:9 <b>subsidized</b> 68:2 <b>subsidy</b> 68:10 <b>substandard</b> 138:13 <b>substantial</b> 19:22 23:11 24:16 35:23,24 230:18,19 <b>substantially</b> 26:25 <b>substantive</b> 72:17 <b>subsumed</b> 189:10 <b>subtleties</b> 61:1 <b>success</b> 21:25 <b>successful</b> 115:11 171:17 <b>successfully</b> 25:22 154:16 <b>sucks</b> 79:18 <b>sudden</b> 148:23 <b>suddenly</b> 81:1 117:24 132:11 135:22 <b>sue</b> 129:9 136:17 <b>sued</b> 61:23 62:9,10 175:20 <b>suffered</b> 81:16 151:22 186:5 <b>sufficient</b> 5:19 6:3 34:1 195:6 205:18 206:16 <b>sufficiently</b> 223:17 <b>suggest</b> 30:5 129:4 198:4 226:5 <b>suggesting</b> 217:22,24 226:8	227:9 <b>suggestion</b> 206:20 <b>suggests</b> 16:24 <b>suit</b> 204:2 <b>suits</b> 60:7 169:15 <b>sum</b> 82:11 140:6 <b>summary</b> 16:6 155:7 <b>Sundance</b> 204:14 <b>Sunshine</b> 166:24 <b>super</b> 143:11 210:3 <b>superfluous</b> 98:5 <b>supplement</b> 215:24 <b>support</b> 15:20 16:2 48:5,19 51:3 79:7,8 133:1 136:1 163:12 165:3,8,10,14 177:19 194:10 <b>supported</b> 172:3,4 <b>supporters</b> 23:24 24:6 <b>supporting</b> 79:5 161:9 <b>supportive</b> 74:24 <b>supports</b> 59:18 160:4 <b>suppose</b> 146:12 187:4,15 <b>supposed</b> 46:8 61:2 109:8 128:19 134:4 210:9 <b>Supreme</b> 112:25 130:19,25 194:25 <b>sure</b> 31:1,8 36:12 40:22 45:5 47:22 48:24 53:3 62:2	64:2 71:8 97:24 99:14,22 106:20 117:17 118:4 119:13 132:3 159:2 180:13 184:12,13 197:1 203:9 214:3,25 219:3,7 221:8 <b>surf</b> 56:10 <b>surprise</b> 147:10 <b>surprised</b> 146:12,16 <b>surprises</b> 65:25 <b>surprising</b> 176:12 177:16 <b>surrogacy</b> 152:13 <b>Survivor</b> 131:18,20 <b>sustain</b> 32:23 <b>swallow</b> 131:2 <b>Swart</b> 166:5 <b>swept</b> 61:17 <b>switching</b> 138:17 <b>synonymous</b> 144:12 <b>system</b> 4:23 5:6,17 6:2,9,21 8:5 10:4 32:17 33:10,18 42:3 43:12 44:4,6 57:6 60:18 63:22 69:20,23 71:23 72:5,7 84:4,11,12 85:10 86:19 87:3 88:4 89:1 94:3 95:7 98:8,15,16,17 101:8 103:21 104:22 111:4,9,14,22 138:18 153:15 154:15 155:21 180:6 188:11 191:17 196:22 <b>systems</b> 10:10,11
--	--	---	--

<p>11:4 46:21 52:13  77:17 83:12  88:15 104:14  111:20 218:25</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p><b>tablet</b> 4:16  76:23,24 83:19  84:7 94:18  96:19,20,22,25  101:1,12,23  114:25  115:1,4,6,10,15  116:8 119:9</p> <p><b>tablets</b> 4:14  76:6,19 77:4  78:1 82:15  83:14,24 84:1  85:4 90:12 94:14  100:7,16 102:7,9  106:21,22  112:1,2 117:2  120:19,20  122:17 160:16  168:7</p> <p><b>tag</b> 9:20</p> <p><b>tailor</b> 197:19  226:5</p> <p><b>tailored</b> 197:7,15  230:21,25</p> <p><b>tailoring</b> 197:23  198:3,5</p> <p><b>takedown</b> 128:14  130:2 132:5  136:18 137:3,4  176:7</p> <p><b>taking</b> 57:25 77:1  110:18  122:24,25  139:16 148:5  164:7 177:8  191:16 192:24</p> <p><b>talent</b> 209:5</p> <p><b>talk</b> 9:1,2 12:13  13:17 31:1  46:19,20 69:12</p>	<p>71:16 76:2,3,5  81:3 85:6 88:14  91:18 118:24  127:1 132:6,7  135:9 137:5  139:10 141:22  142:17 143:7  144:18 145:18  150:24 156:23  177:24 180:8,12  183:17 216:20  217:4 228:17  229:11</p> <p><b>talked</b> 33:8,16  80:7 91:6 112:17  128:15 145:9  178:12 179:7  180:23 183:2  206:7 217:19</p> <p><b>talking</b> 38:2 40:20  42:14,16,17  58:11 66:3 72:3  77:16 78:12  82:4,25 91:24,25  96:15 98:10  108:23 112:16  115:17 120:22  123:6 127:23  133:14 138:1,2  139:8 140:13  142:7 149:2  181:8,11  185:2,3,10  197:11 199:6  202:7 203:19  206:13 209:7  213:5 217:12  219:2 221:1  223:2 227:19</p> <p><b>talks</b> 65:15</p> <p><b>tampering</b> 62:18</p> <p><b>tangential</b> 62:4</p> <p><b>target</b> 129:6</p> <p><b>targeted</b> 109:2</p> <p><b>task</b> 221:12</p> <p><b>teacher</b> 158:7</p>	<p><b>teaching</b> 6:17</p> <p><b>team</b> 7:22 77:20  104:22 159:23</p> <p><b>team's</b> 78:6</p> <p><b>tech</b> 8:5 22:10  24:23 26:1,7  52:18 99:10  103:11,19  104:12 107:21  176:16 190:15  203:15</p> <p><b>technical</b> 165:6  168:22 177:15  204:3</p> <p><b>technically</b> 55:20</p> <p><b>technician</b> 149:8  155:11</p> <p><b>technique</b> 144:14</p> <p><b>technological</b>  16:13 29:2,3  33:9 36:19 37:5  39:4,5 55:23  110:21 115:23  121:24  132:19,20  196:19 197:8</p> <p><b>technologically</b>  169:22</p> <p><b>technologies</b> 10:24  29:19 93:13  126:25 160:19  167:13 172:8  199:16 222:19</p> <p><b>technologist</b> 25:13</p> <p><b>technology</b> 3:4,6,8  10:22 11:1,13  38:12,16 50:18  62:4,6 167:20  170:22 198:13  217:21 224:17</p> <p><b>teenage</b> 151:5</p> <p><b>Teenagers</b> 127:5</p> <p><b>telephone</b> 4:13  83:21 96:23</p>	<p>199:8</p> <p><b>television</b> 52:22,25  149:14 152:2  156:24 158:23  161:6 163:19  164:10  166:13,25  167:13 179:18  200:9 202:7  211:15</p> <p><b>televisions</b> 160:14</p> <p><b>temporal</b> 174:9</p> <p><b>ten</b> 8:5,6 182:5</p> <p><b>tend</b> 77:7 104:6,7  121:16 144:17  202:10</p> <p><b>ten-minute</b> 75:10</p> <p><b>tens</b> 21:14</p> <p><b>term</b> 87:11  104:3,6,7 115:7</p> <p><b>terms</b> 47:17 52:12  57:3,7 58:20  64:25 69:2 72:1  83:24 97:5 99:1  104:4 105:9  106:9 113:21  120:16 124:12  143:3 172:10  197:23 216:11  217:2 219:23  222:25 226:7</p> <p><b>terrier</b> 35:21 97:8  198:1</p> <p><b>territory</b> 32:19  171:5</p> <p><b>Terror</b> 128:1</p> <p><b>test</b> 80:17 116:21  130:5,7 132:4</p> <p><b>testifying</b>  81:11,12,14  215:11</p> <p><b>testimony</b> 90:25  128:24 129:2  166:7 206:25  208:24 217:10</p>
--	---	--	--

<p>229:19 232:5,9  <b>testing</b> 202:12  <b>tests</b> 198:19,22  <b>text</b> 89:6,8,10,11  <b>thank</b> 7:18,19              17:1,4 27:3,8              36:8,9 40:5 75:9              82:17 90:18,20              97:15,16 124:25              125:1 126:17              134:7,8 140:9              145:22 150:20              156:5 164:24,25              166:1 173:2              181:25 182:1              185:11              195:15,16              199:22,23 207:9              229:3,18 231:8,9  <b>Thanks</b> 150:19  <b>that's</b> 9:25 11:4,15              12:11 13:16              14:1,19 22:16              25:17 26:6 27:1              31:6,10,24 33:12              34:18 35:4,20              38:8 39:20,22,24              40:15 42:19 44:9              45:1 46:15              47:15,18 53:6,15              55:15 56:2,16              58:5 59:11              60:2,12              61:3,4,9,11              63:1,6 66:4              67:4,10,16              69:8,9,14 71:5,7              72:3 73:15,23              74:23              76:11,19,23              77:23 80:10,13              81:4 83:11              84:3,10,11,12              86:7 91:15              93:11,18              94:7,12,17,18,19              95:4,20,25              98:7,16</p>	<p>100:23,24              101:6,7 103:7              104:16,20              105:7,12,22              106:1,10,23              108:10,20              109:18              110:2,17,20,22              111:16,23              114:16              115:8,14,21              128:7,17,18              130:5 131:4,23              132:11 135:4,7              136:2 137:16              139:23 140:5              142:1 143:11              144:7,13 150:14              151:10 153:9              154:3,18 158:25              164:22 173:21              174:9,15,21              175:7,15,17,25              176:10 177:3              179:3,12 181:19              182:24              183:22,25 184:7              185:2,9 188:7              189:1 190:18              191:10 192:3,24              193:2,11 197:14              198:2 201:9,17              203:18 204:2              205:24              206:15,24 207:5              208:6,18,22              209:19 211:14              213:7,14 218:12              220:4 221:5,24              222:15,22              224:10,19              226:22 227:11              228:1,3,14 230:5  <b>theater</b> 201:15  <b>theaters</b> 178:20  <b>theirs</b> 141:7  <b>themselves</b> 16:22              26:14 42:2 52:13</p>	<p>69:1 71:24 121:9              151:6 157:22  <b>theories</b>              13:18,20,23  <b>thereafter</b> 147:13              232:6  <b>thereby</b> 167:21  <b>therefore</b> 29:12              73:12 74:16              108:10 187:10  <b>therein</b> 232:5  <b>thereof</b> 172:4  <b>there's</b> 12:4              26:5,11,24 27:24              32:2 34:2 35:23              39:14 40:1,3              46:3,5,9 50:14              51:10 52:20              53:10 54:9,12              63:4 73:12,19              80:22              83:17,19,25 90:4              101:8,10 108:3              120:16,24              123:19 124:4              129:12 130:6,11              134:16 136:2              137:11 143:12              147:3 152:20              153:3,12              159:7,8,11              174:14 175:11              176:1 180:24              181:15 183:10              184:23 187:1              188:25              189:2,4,5,17,25              190:9 191:20              192:21,22,25              196:14,21,23              197:16 206:25              207:25 208:9              213:9 217:18              218:22 219:7,16              221:5,10 227:13              229:5  <b>they'd</b> 148:14,15</p>	<p>198:9,10  <b>they're</b> 9:24              11:2,22 18:9              25:16 26:15              30:1,2,14 31:13              45:16 47:11              51:25 52:6,14              53:3,6 59:22              66:3 81:11,12              86:12 119:25              128:12 130:10              132:1,4,6,7,16              134:19,20,21,22              136:21 143:24              148:20              153:14,19,21              165:16 176:10              184:20 188:1              193:12 201:16              202:23 215:21              216:7,19 221:17              225:4              229:7,9,12,15,25  <b>they've</b> 7:10 45:11              49:3 81:15 87:22              216:12  <b>third</b> 93:24 101:4              131:10 191:13              231:7  <b>third-party</b> 8:22              13:15 14:13              58:17 71:21              78:19,24 99:3              109:20 118:17              167:8 211:7  <b>thousand</b> 42:5  <b>thousands</b> 25:12              129:9  <b>threat</b> 19:22 23:11              62:16 175:18              219:17  <b>threshold</b> 27:21              28:5 30:20,21              91:8  <b>thriving</b> 46:10,12              133:18</p>
---	---	--	---

<p><b>throughout</b> 32:7 150:5</p> <p><b>throw</b> 50:18</p> <p><b>Thrush</b> 2:21 126:8 150:22 185:16 186:9,19 200:2,18 201:9 202:16 204:13</p> <p><b>thrust</b> 34:21</p> <p><b>thumb</b> 94:21</p> <p><b>thus</b> 117:18</p> <p><b>tied</b> 93:16</p> <p><b>timeliness</b> 136:6 139:8 144:20 192:7,11</p> <p><b>timely</b> 136:10 138:14 139:14 140:4 192:23</p> <p><b>Title</b> 7:16 42:11</p> <p><b>titled</b> 152:14</p> <p><b>titles</b> 21:21,24 158:17,18 161:1,4,15,17,18 ,22 167:11,12 169:6 170:1,3,6,13</p> <p><b>TIVOs</b> 168:2</p> <p><b>today</b> 17:15,24 19:14,18 21:10 64:25 66:1 70:16 78:17 81:11,14,21 82:25 83:8 85:12,22 112:6 126:17 134:2 146:5 164:24 166:5 169:5,9 173:12 178:20 218:5 225:4,10 226:18 231:4</p> <p><b>tolerate</b> 35:22</p> <p><b>Tom</b> 80:6 201:17</p> <p><b>tomorrow</b> 43:19</p> <p><b>tool</b> 37:9,14,18</p>	<p>39:18,21 56:8 66:14,17 94:24 104:16 110:19,21 149:19</p> <p><b>tools</b> 13:7 37:2,12,16 60:21 61:25 66:22 67:2,13,22 93:14 110:21 133:4,12 158:3 189:19 218:24 229:7</p> <p><b>top</b> 21:16 59:25 70:12 116:8,14,19 198:23</p> <p><b>topic</b> 158:25</p> <p><b>Torrent</b> 21:17</p> <p><b>total</b> 32:20</p> <p><b>totality</b> 93:11</p> <p><b>totally</b> 62:25 82:8</p> <p><b>touch</b> 62:17 77:10 144:20 156:14</p> <p><b>touchstone</b> 222:16,17 223:3</p> <p><b>tourism</b> 153:2</p> <p><b>tourist</b> 153:1</p> <p><b>toward</b> 172:1</p> <p><b>towards</b> 153:3</p> <p><b>tower</b> 32:18</p> <p><b>town</b> 146:2</p> <p><b>TPM</b> 62:23 197:17</p> <p><b>TPMs</b> 18:11,14,17,18 20:8,16 21:3,5,24 22:1 24:9,16 25:10 27:1 34:10 51:19,25 53:1,9 70:18</p> <p><b>track</b> 80:3 220:12</p> <p><b>tracked</b> 145:12</p> <p><b>traditional</b> 84:2</p>	<p>230:1</p> <p><b>trafficking</b> 60:21</p> <p><b>trailer</b> 149:13</p> <p><b>transaction</b> 179:16,22 187:19</p> <p><b>transactions</b> 168:9,11 215:5</p> <p><b>transcribed</b> 232:6</p> <p><b>transcription</b> 232:7</p> <p><b>transfer</b> 6:25 169:2</p> <p><b>transformative</b> 14:1 32:21 111:3,6 122:23 123:4,10 124:2,6,7,18 128:11 136:15 138:4 140:12,17 216:6 218:3</p> <p><b>transformativeness</b> 124:9</p> <p><b>transformed</b> 11:20 14:7</p> <p><b>transformer</b> 210:2</p> <p><b>transformers</b> 210:1,7</p> <p><b>transforming</b> 142:2</p> <p><b>transitory</b> 31:23 32:2</p> <p><b>translates</b> 137:20</p> <p><b>transmitted</b> 5:19 6:3 199:19 231:2</p> <p><b>treat</b> 133:3 223:8</p> <p><b>treated</b> 174:2</p> <p><b>treatment</b> 111:9 152:24 175:16</p> <p><b>tremendous</b> 9:17 10:2 76:18 78:2</p> <p><b>tremendously</b></p>	<p>128:10</p> <p><b>trend</b> 149:16,17 172:1,2 208:13</p> <p><b>tricky</b> 229:21</p> <p><b>tried</b> 115:4 142:20 143:3 185:14 190:9 207:19 227:4</p> <p><b>trouble</b> 64:8 74:18 176:21</p> <p><b>troublesome</b> 53:7</p> <p><b>true</b> 9:25 12:7 72:8 93:7 98:16 114:23 124:7 129:6 184:14 193:3,11 209:20 232:8</p> <p><b>truly</b> 93:21 127:5</p> <p><b>try</b> 56:19,24 94:23,25 115:15 120:1 142:23 145:6 166:8 184:15 193:20</p> <p><b>trying</b> 48:8 51:14 56:18 63:25 71:7 83:1,2 98:8,12 99:18 100:19 105:25 110:19 143:1,23 144:18 152:6 162:12 185:13 186:1 192:4 202:18 215:12 220:2,18</p> <p><b>Tuesday</b> 56:6</p> <p><b>turn</b> 9:5 15:3 25:9 43:20 79:3 80:8 129:15 131:10,22 141:6 199:18</p> <p><b>turned</b> 89:17 147:9 188:19 217:5</p> <p><b>Turning</b> 106:3</p> <p><b>turns</b> 33:1 214:23 220:17</p>
---	--	--	--

<p><b>TV</b> 53:14 144:22  150:23 153:5  155:12 159:4  172:11 185:19  193:14 203:6  229:9</p> <p><b>TVs</b> 59:25</p> <p><b>twice</b> 147:19</p> <p><b>Twilight</b>  142:12,15  143:24  145:16,17</p> <p><b>Twitter</b> 158:5</p> <p><b>two-and-a-half</b>  142:6</p> <p><b>twofold</b> 203:22</p> <p><b>two-year</b> 84:18  88:18</p> <p><b>type</b> 10:19 95:10  107:5 135:9  137:12 152:7  153:22 154:15  179:4 196:19  197:8,12,24  214:21 222:2  226:21,22</p> <p><b>types</b> 59:8 66:11  77:19 84:9 86:24  115:5 121:17  122:11,17  123:13 135:11  199:15</p> <p><b>typical</b> 66:17</p> <p><b>typically</b>  155:13,23  166:21</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p><b>U.K</b> 52:19 152:16  155:6</p> <p><b>U.S</b> 17:19 40:4  52:20 112:20  152:22 153:13  159:16 181:10</p> <p><b>UCLA</b> 1:20 7:7,19</p>	<p><b>ultimate</b> 14:11,16</p> <p><b>ultimately</b> 23:4  151:12</p> <p><b>ultraviolet</b> 161:25  170:16</p> <p><b>ultraviolet-enabled</b> 161:21</p> <p><b>umbrage</b> 206:22</p> <p><b>unable</b> 88:2 166:8</p> <p><b>unapproved</b> 13:14</p> <p><b>unauthorized</b> 99:6  109:20 168:19</p> <p><b>unavailable</b> 88:3  135:22 188:21</p> <p><b>Unbox</b> 138:19</p> <p><b>uncertainty</b>  186:13</p> <p><b>unchanged</b> 34:5</p> <p><b>unclear</b> 85:18  102:3</p> <p><b>uncomfortable</b>  31:6 193:19  227:8</p> <p><b>undefined</b> 115:1</p> <p><b>underlying</b> 31:9  42:1 59:14,17  103:21 122:20</p> <p><b>undermine</b> 131:8  168:20 180:6</p> <p><b>undermines</b>  172:17</p> <p><b>underscores</b> 22:11  79:21</p> <p><b>understand</b> 23:2  31:24 35:13 40:8  45:13,20 61:1  64:20 111:19  118:3 120:21  121:8 146:18  176:12 190:15  197:2 198:20  204:5,8 222:4  227:3</p>	<p><b>understanding</b>  37:25 65:19  71:18 84:23  105:7,23 117:3  135:18 200:10  210:18,25  211:13 213:7</p> <p><b>understood</b> 29:20  184:12 192:14  205:16</p> <p><b>undertaken</b> 4:8,14  5:6,11 55:9  131:3</p> <p><b>undertaking</b> 31:13</p> <p><b>unencrypted</b>  224:18 225:11</p> <p><b>unfortunate</b>  132:15</p> <p><b>unfortunately</b>  166:6</p> <p><b>unintelligible</b>  192:17</p> <p><b>unit</b> 151:11</p> <p><b>Unite</b> 112:24</p> <p><b>universally</b> 209:20</p> <p><b>universe</b> 43:13  45:8</p> <p><b>universities</b> 16:2</p> <p><b>university</b> 5:2,3  6:13,14,17  147:11</p> <p><b>unlawful</b> 13:4</p> <p><b>unless</b> 157:1  194:19 195:2</p> <p><b>unlike</b> 19:19  181:4,5</p> <p><b>unlikely</b> 124:5  133:19,22 195:2</p> <p><b>unlimited</b> 59:13</p> <p><b>unlocked</b> 98:21  99:8,15,20 100:1  107:18 170:10</p> <p><b>unmanageable</b></p>	<p>224:6</p> <p><b>unpredictable</b>  85:18</p> <p><b>unprotected</b> 15:17  165:13 224:18</p> <p><b>unqualified</b> 24:13</p> <p><b>unquote</b> 178:3</p> <p><b>unrecognized</b> 84:1</p> <p><b>unscramble</b>  173:19 181:21</p> <p><b>upconversion</b>  205:18 206:1,6</p> <p><b>upconverting</b>  203:15,20 204:7</p> <p><b>update</b> 88:15 90:9  120:9</p> <p><b>updates</b> 88:24  105:1,4</p> <p><b>updating</b> 88:19</p> <p><b>uploaded</b> 127:9</p> <p><b>upon</b> 82:6 146:16  156:14</p> <p><b>upraised</b> 204:15</p> <p><b>uptake</b> 78:3</p> <p><b>urge</b> 30:4 34:13  156:3</p> <p><b>usability</b> 83:24</p> <p><b>usable</b> 190:3</p> <p><b>usage</b> 52:19,20  162:10  173:23,24</p> <p><b>USB</b> 26:4 62:13</p> <p><b>USC</b> 3:4,6,8 194:9  198:13</p> <p><b>useful</b> 9:24 11:8  48:7 63:8 67:13  77:3 80:5 90:13  112:22 117:8  122:10 225:18</p> <p><b>useless</b> 53:4</p> <p><b>user</b> 12:24 13:12</p>
--	---	--	---

<p>14:1 23:8 69:9              84:5 85:22              86:2,10 88:9              89:13 109:25              179:3 198:20              208:8</p> <p><b>users</b> 8:19 9:12,18              12:17 24:14 25:2              47:1 50:9 51:17              67:21 72:21              75:8,21,25 81:23              82:22 85:4,23              86:11 88:10              89:4,9,23              90:7,14,16 92:15              106:19 109:19              114:10 157:22              158:4,18 172:15              195:7 214:19,20</p> <p><b>user's</b> 14:9 89:8</p> <p><b>Users</b> 15:13 86:2</p> <p><b>U-Star</b> 157:21</p> <p><b>usually</b> 170:2</p> <p><b>utilitarian</b> 113:3</p> <p><b>UV</b> 162:15,22              163:9 164:11,23</p> <p><b>UV-enabled</b>              161:21</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>vague</b> 62:16 118:5</p> <p><b>valid</b> 95:8</p> <p><b>validated</b> 223:9</p> <p><b>validation</b>              214:17,21              226:22</p> <p><b>validity</b> 223:20</p> <p><b>valuable</b> 47:13              48:5</p> <p><b>value</b> 35:24 109:24              111:21 162:20              167:21 168:20              171:11,12</p> <p><b>valve</b> 24:4 83:9</p>	<p>84:14 86:18 88:6              108:13 134:4              135:10</p> <p><b>valves</b> 140:7</p> <p><b>Vampire</b> 142:11</p> <p><b>Van</b> 80:6</p> <p><b>Vanity</b> 141:14</p> <p><b>variety</b> 207:1</p> <p><b>various</b> 121:17              159:17 164:14              197:3 198:23              221:1,13</p> <p><b>vary</b> 42:6,7</p> <p><b>varying</b> 98:15,18              165:3</p> <p><b>vast</b> 88:9 224:1</p> <p><b>VCRs</b> 140:18</p> <p><b>vendors</b> 20:22</p> <p><b>Verbix</b> 160:22</p> <p><b>verdict</b> 94:12              95:10</p> <p><b>version</b> 21:18,19              43:7 53:5 107:16              154:4 161:14</p> <p><b>versions</b> 20:23              21:12 53:3 88:22</p> <p><b>versus</b> 31:4 42:5              52:22 64:20              104:3 120:19              130:10,19,25              165:24 195:1              212:17,21</p> <p><b>very-well</b> 27:14</p> <p><b>Vessels</b> 152:12,21</p> <p><b>veteran</b> 65:2</p> <p><b>vetting</b> 231:6</p> <p><b>via</b> 5:11 144:25              166:13 168:13              170:17</p> <p><b>viability</b> 23:12</p> <p><b>viable</b> 94:12</p>	<p>165:17 180:16</p> <p><b>vice</b> 156:9</p> <p><b>vidder</b> 216:24</p> <p><b>vidders</b> 215:12</p> <p><b>video</b> 2:19 4:7              5:19 6:4,18 8:20              9:12,15,24 12:20              16:4 17:6,21,23              18:15 19:9              20:6,15              24:2,8,10,22              33:11 34:24              42:17,22 52:2,24              53:14 57:2,7              58:12 59:24              79:17 86:13              104:13 114:1              120:13 121:13              127:3 128:2              131:22,25              134:14 136:5              137:7,10,13,19,2              0,24              138:2,6,16,18              139:11              140:12,23              141:15,20              142:24 145:8              156:11 157:23              173:25 174:24              177:5 178:3              179:4,12,24              180:17 184:18              192:1 196:7              199:9,20 200:5,7              205:20 207:3              215:6 217:3,4              218:11,22              219:15 224:1              226:2,3 228:25              229:9 231:3</p> <p><b>Video-On-Demand</b> 159:7,9              166:15</p> <p><b>videos</b> 5:4,7,12              127:7,9,11,23              129:25 130:13              131:6 140:16</p>	<p>141:12 176:4              183:22 184:1,18              219:5</p> <p><b>view</b> 38:23 63:19              70:13 180:18              192:20 204:1              210:20 220:3,14              222:20 224:15              230:14</p> <p><b>viewed</b> 139:9              158:12</p> <p><b>viewer</b> 152:6</p> <p><b>viewing</b> 158:2,3</p> <p><b>views</b> 141:9</p> <p><b>vigorous</b> 11:16              61:14</p> <p><b>vine</b> 112:4</p> <p><b>violating</b> 135:20              138:11,12</p> <p><b>violation</b> 93:9              122:5 224:14</p> <p><b>violations</b> 12:3</p> <p><b>viral</b> 141:8,9              168:19</p> <p><b>virtually</b> 179:24</p> <p><b>vision</b> 206:17</p> <p><b>vitro</b> 152:13,23</p> <p><b>voice</b> 155:2</p> <p><b>void</b> 105:17,21</p> <p><b>volumes</b> 81:15</p> <p><b>von</b> 183:2</p> <p><b>VP</b> 166:3</p> <p><b>VUDU</b> 159:18              160:8 163:7              164:3              170:4,8,12,17</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 56:7 208:17</p> <p><b>waiting</b> 185:21,23</p> <p><b>walk</b> 36:14 74:17</p>
---	---	---	--



<p><b>walked</b> 66:7</p> <p><b>walking</b> 37:2 80:11</p> <p><b>wall</b> 147:2</p> <p><b>Wal-Mart</b> 163:7,14,24 164:1 170:8</p> <p><b>Warner</b> 2:23 156:10 207:21</p> <p><b>warrant</b> 20:3 24:19</p> <p><b>warranty</b> 105:18,22</p> <p><b>Washington</b> 90:25 148:18 173:16 180:12 228:1,15</p> <p><b>wasn't</b> 67:18 100:7 121:14 133:7 186:4 203:16 220:12</p> <p><b>watch</b> 147:19 149:13 152:3,7 228:20</p> <p><b>watchability</b> 137:21</p> <p><b>watched</b> 145:12 149:15 153:6</p> <p><b>watches</b> 153:4,10</p> <p><b>watching</b> 145:13 153:14,17,19,21 185:20,24 186:3 200:9 201:16 229:9</p> <p><b>ways</b> 63:14 69:22 77:7 103:7 129:16 139:18 168:13 174:1 189:17 196:11 197:6,16 199:14 218:11 222:10</p> <p><b>web</b> 56:10 77:11 90:7 191:4</p> <p><b>website</b> 23:1 140:21 211:3</p>	<p><b>websites</b> 138:20 211:7</p> <p><b>we'd</b> 169:22 215:14,15,22</p> <p><b>Wednesday</b> 56:8</p> <p><b>week</b> 22:11 24:24 25:13 42:22 52:18 80:14 99:10 107:22 116:20 128:12,24 146:6 148:8,9,10,11 156:25 224:24</p> <p><b>weekly</b> 141:13 188:6</p> <p><b>weeks</b> 54:8 228:1</p> <p><b>weigh</b> 182:25 188:3</p> <p><b>weight</b> 25:5 74:3 92:23</p> <p><b>Weirick</b> 2:23 126:9 156:8 211:13,18,25 212:5,12,19 213:4,12,16,19,2 1,23</p> <p><b>welcome</b> 7:6,11,21</p> <p><b>we'll</b> 73:8 122:7,9,14 125:1 182:24 220:24</p> <p><b>well-known</b> 22:22</p> <p><b>well-produced</b> 137:23</p> <p><b>we're</b> 7:10 8:2,4,19 9:3,4 12:16 13:16 17:24 18:19 32:18 35:1 37:2 38:2 40:20 42:16,17 49:16 50:20 58:11 60:2 66:11 68:2 70:16,17 71:7 72:3 74:17,18 75:9 77:16 78:12</p>	<p>97:8,17 98:8,12 100:18 101:13 112:16 115:17,20,24 117:12 118:15 120:22 121:21 123:7 124:22 126:16 127:15 128:16,23 132:23 133:14,20,23 135:4 138:17 139:8 141:22 142:7 154:13 158:16 159:2 160:24 162:12 163:21 164:5,13,20,22 167:2 171:10 178:25 179:2,7 181:8,13 182:2,3 184:14 185:2,10 188:24 197:25 199:6 203:19 206:13 209:7 213:5 215:1 217:12 218:24 220:1 224:16 225:2 227:19 228:23</p> <p><b>Wesch</b> 127:11</p> <p><b>we've</b> 9:11 12:6 13:20 59:20 60:10 64:11 69:18 71:19,22 82:25 83:4 85:3 101:9,18 104:11,24 110:25 113:5 118:2 124:13 132:13 157:5 159:12,24 161:1,15,17 162:3 163:20 165:12 166:22 169:5 173:21,22,23,24, 25 178:9 183:13 198:19 217:9,19</p>	<p>218:18 219:8 221:2 224:15</p> <p><b>whatever</b> 72:8 86:9 105:1 146:7 149:22 168:17 181:23 184:6 205:12</p> <p><b>whatsoever</b> 133:10</p> <p><b>whereas</b> 47:20 201:1</p> <p><b>whereby</b> 161:12</p> <p><b>Whereupon</b> 231:11</p> <p><b>whether</b> 30:22 31:12 34:14 46:21 48:6 51:13 54:21 55:13,16 64:8 66:2 73:16 74:9 91:22 102:4 110:15 116:21 118:4,6 122:20 128:24 129:8 136:20 138:9 140:25 155:10 174:6,8 175:8,9 179:8 186:13 219:24 220:2,7,19 222:1 225:3 227:13,17,19 229:8 230:13</p> <p><b>Whodi</b> 159:20</p> <p><b>whole</b> 13:20 89:10 113:5 119:2 131:18 135:4 149:2,14 183:10 190:9 196:19,24 205:15 207:18 208:6 221:25 229:19</p> <p><b>whom</b> 27:5 61:16</p> <p><b>Whoopi</b> 147:1</p> <p><b>who's</b> 139:10 155:4 176:7 227:12</p> <p><b>wide</b> 17:16</p>
--	--	---	--

Capital Reporting Company  
Section 1201 Rulemaking Hearing 05-17-2012  
Page 58

199:12,14 <b>wider</b> 201:11 <b>widespread</b> 21:7 231:4 <b>widest</b> 172:9 <b>Widvine</b> 160:22 171:2 <b>Wii</b> 10:25 11:18 22:16,19 26:4 42:15 43:25 46:17,20 47:1 56:11 61:22 104:12 160:13 <b>wild</b> 80:12 <b>willing</b> 132:1 <b>winding</b> 63:17 <b>Windows</b> 161:19 <b>wings</b> 150:7 <b>wins</b> 175:25 <b>WinterBoard</b> 89:24 <b>wipe</b> 70:1,6 72:7 <b>Wired</b> 141:15 <b>wireless</b> 4:13 86:19 199:8 <b>wish</b> 30:22 115:22 117:14 <b>wished</b> 117:10 <b>wishes</b> 95:21 <b>withdrawal</b> 151:5 <b>witnesses</b> 7:13 8:4 124:23 180:2 <b>woefully</b> 129:1 <b>woman</b> 152:22 153:10 <b>women</b> 145:14 <b>wonderful</b> 48:2 128:18 <b>wondering</b> 220:19 <b>Wong</b> 63:18 64:2	<b>woo</b> 142:20 <b>wording</b> 202:15 <b>work</b> 10:20 15:4,6,9,18 25:17 34:8,16 36:21 44:12 53:2 56:22 76:18 77:19 79:23 80:2 81:13 82:24 99:19 104:19 105:3 111:19 121:10 129:21,22 130:7 131:15,16 134:15 136:6 137:18 138:23 139:1,2,5 141:20 142:23 144:9 146:4,5 148:14 150:25 159:22 179:1 183:23 184:5,21,22 186:24 188:4,5 190:10 191:1 193:8,25 198:6 203:3,23 204:24 205:6,10 206:2,3,4,8 207:16 209:1 210:15,24 211:5 214:22 215:4,8 218:4,7 222:13 228:14,18 <b>workable</b> 227:24 <b>worked</b> 110:8 148:18 198:6 209:25 <b>working</b> 55:20 138:24 148:9,10 152:10 161:9 162:4 163:21 185:18 202:23 <b>works</b> 4:24 5:5,10,14,21 6:5,11,15,18 15:23 17:10,18 18:13,17,19,23 20:1 22:3 23:14	24:6,13 25:1,2 33:18 34:9,15,18,23 41:9,10,11,15 52:9,24 53:4,5 57:13,14,16 58:4 68:18,23,24 70:19 73:13 77:21 80:6 104:22 109:24 111:20 113:1,3 114:6,10,13 115:19 117:22 118:9 120:15,17 121:17 123:13 128:11 129:17 131:12 132:17,25 134:5 139:4 140:17,24 141:4,8,10,15 148:8,19 179:2 181:14 184:2 185:3 186:22 207:22 210:22 218:3 <b>world</b> 18:12 35:5 45:22 114:12 148:7 167:22 174:24 183:10 230:2 <b>worried</b> 184:17 <b>worry</b> 74:25 129:4 162:18 <b>worse</b> 202:9 <b>worth</b> 37:22 47:15 78:13 112:13 180:10 188:21 208:2 <b>wrench</b> 50:18 <b>write</b> 11:17,19 40:9 146:6 <b>writer</b> 150:23 <b>writing</b> 116:20 <b>written</b> 150:25 216:1 <b>wrong</b> 39:24 110:6	111:1 164:25 206:24 217:20 <hr/> <b>X</b> <b>Xbox</b> 10:24 42:15 43:7,25 46:3,5,18,20 47:3 61:22 62:7 160:13 <b>X-men</b> 166:19 <hr/> <b>Y</b> <b>yet</b> 46:2 133:7 182:15 183:3 188:10 228:5 <b>Yikes</b> 146:23 <b>Yoko</b> 188:17 <b>York</b> 141:13 <b>you'll</b> 32:12 138:3 177:18 188:7 190:5 191:18 218:20 <b>young</b> 127:5 145:9,14 229:6 <b>yours</b> 97:23 126:12 195:24 <b>yourself</b> 89:2 121:5 <b>YouTube</b> 127:9,10 140:20 157:20 193:5 228:20,24 <b>you've</b> 27:13 36:4 46:16 56:22 83:23 100:12 106:12,24 114:24,25 119:21 162:1 164:18 179:8 184:18 189:12 190:23 214:11 218:1 227:10,11 231:3 <hr/> <b>Z</b> <b>zero</b> 186:24
---	---	---	--

<p>187:10,15 207:23 209:8 <b>Zimbabwe</b> 155:5 <b>zoom</b> 143:14,16 144:6 191:24 192:2 201:21 <b>zooming</b> 143:13</p>			
---	--	--	--