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US Copyright Office
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Class of works proposed for exemption: Commercially produced DVDs used in face-to-face classroom teaching by college and university faculty, regardless of discipline or subject taught, as well as by teachers in K-12 classrooms.

To Whom May Concern:

This is in response to the current call for comment regarding exemptions of works from the DMCA (1201(a)(1) Title 17) prohibition against circumvention of technological measures controlling access to copyrighted works. The following comments represent the collective input of librarians and educators from multi-type institutions across the United States. Comments were solicited via the American Library Association Video Roundtable listserv (videolib), and individual contributors and signatories to this document are indicated below.

As librarians who work closely with faculty and teachers and who are involved in building diverse media collections to support these curricula, we are concerned by the unrealistic limitation of the 2006 DMCA exemption to "Audiovisual works included in the educational library of a college or university's film or media studies department." We feel strongly that the DMCA circumvention exemption as currently written fails to recognize or accommodate the wide-spread uses of film as a focus of study and a tool for teaching in nearly every higher education curriculum and discipline. The current exemption also completely neglects the fact the classroom use of video and DVD has become equally as important in K-12 curricula as in university courses of study. We consequently urge that for the class of works comprising commercially produced DVDs used in face-to-face classroom teaching, the language of the 1021 exemption be broadened to include teachers in K-12, as well as college and university faculty, regardless of discipline or subject taught.

Examples of the multi-disciplinary uses of both fiction and non-fiction films in teaching are abundant and widely varied in the institutions of the undersigned librarians. One may, for example, find an ethnic studies or American cultures instructor using sequences from Hollywood films to study changing representations of race and ethnicity; an English instructor using clips from filmed literary adaptations or particular film genres to study

narrative and plot conventions; a foreign language instructor using clips from multiple foreign feature films or documentaries to point out vernacular uses of a language; a classics professor comparing clips from three filmed versions of *Medea* or from various adaptations of *Oedipus Rex*; a history teacher using archival footage or interviews taken from a documentary film; an architecture professor using clips from feature films in a lecture on the cinematic city; a political science professor using sequences from recent European films as reflections of social and cultural changes in EU countries.

In addition to the unrealistically narrow scope of users allowed by the current DMCA exemption, the limitation to materials in the "educational library of a college or university's film or media studies department" does not take into account the fact that on most campuses the university library's multi-disciplinary media collection serves as the primary source of classroom visual resources. It is also not uncommon for university faculty to use personal collections of purchased DVDs for use in their teaching. Similarly, it is also very often the case that because of budgetary and other institutional limitations, K-12 teachers must rely on personally purchased copies of DVDs for use in the classroom, rather than "educational libraries" of such materials. We consequently strongly support the expansion of the circumvention exemption to include the extraction and use of clips from any legally acquired DVD for use in face-to-face classroom teaching.

Since the rise of home video recording in the mid-1970's, educators have regularly exercised fair use rights to extract segments from legally acquired videos, and have used these clips in face-to-face classroom teaching under the provisions of Section 110 of the copyright law. The ability to excerpt a limited number of short clips from copyrighted works has enabled faculty to focus on the most apposite sequences and images in one or several films without having to resort to time-wasting shuffling of discs and cumbersome searching for content. The exemption also has allowed these segments to be incorporated effectively into new teaching tools, and to be used in creative and transformative ways within the context of teaching and learning. The development of encrypted DVD technologies and, particularly, the circumvention proscriptions of DMCA have limited these capabilities for the majority of educators. The request we are making to expand the current circumvention exemption is basically a plea for restoring to educators in schools, colleges, and universities the powerful teaching tools and capabilities available to them before the advent of DMCA. We also strongly urge the extension of the exemption past the proposed 2009 termination date.

Attached also in support of the above arguments are sample comments from faculty

As coordinator of comments and signatures regarding these matters, I am extremely interested in discussing the issues further at the forthcoming public hearing in 2009, possibly along with faculty colleagues from the University of California, Berkeley. Our preference would be for attending a hearing on the West Coast.

Please do not hesitate to contact me if you require clarification or further information.

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