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HARVARD LAW SCHOOL | BERKMAN KLEIN CENTER FOR INTERNET & SOCIETY

Mx. Kendra Albert
Clinical Instructor
Cyberlaw Clinic

Direct Dial: 617-998-1558
Email: kalbert@law.harvard.edu

June 25, 2021

Mr. Mark Gray
Ms. Rachel Counts
U.S. Copyright Office
Washington DC 20001

Submitted via email to mgray@copyright.gov and rcounts@copyright.gov

Re: Docket No. 2020-11 Exemptions to Prohibition Against Circumvention of Technological Measures Protecting Copyrighted Works

Dear Mr. Gray and Ms. Counts,

On June 23, 2021, on behalf of the Software Preservation Network and the Library Copyright Alliance, Brandon Butler, Jonathan Band, and I had an ex parte meeting the Copyright Office staff to discuss class 14, the software preservation exemption.

In the meeting, we discussed the scope of proposed access under the preservation exemption, including how emulation, time-limited access, or access in certain formats might be used to provide users with software for research, teaching, and/or scholarship. SPN and LCA also clarified how libraries and other memory institutions are accustomed to taking reasonable security measures to protect copyrighted works, and the eligibility language in our proposed expansion allows them to tailor those measure to the types of access (and works).

In response to a Copyright Office question about what principles are used to guide memory institutions in these decisions, proponents discussed how the Code of

Best Practices in Fair Use for Software Preservation[1], summarizes key relevant considerations.

Finally, we discussed how eligibility requirement (D) could regulate who might be able to claim the exemption.

Regards,

Kendra Albert

On Behalf of Proponents

Software Preservation Network

Library Copyright Alliance

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[1] Available at https://www.arl.org/wp-content/uploads/2018/09/2019.2.28-software-preservation-code-revised.pdf.