Final Agenda for the Sixth Triennial 1201 Rulemaking Hearings[1]

May 19, 2015—UCLA School of Law, Room 1314

The schedule below represents the Copyright Office's best estimate of the times required for each panel. Daily schedules may be adjusted slightly if necessitated during the course of hearings, but panels will not begin earlier than scheduled. To ensure that panels start close to the scheduled times, participants should arrive at least thirty minutes before their scheduled panel. Please note that space is limited and priority will be given to participants of a given panel. Observers are welcome but will be seated on a first come, first served basis.

9:00-10:30am: Proposed Class 22: Vehicle software – security and safety research

This proposed class would allow circumvention of TPMs protecting computer programs that control the functioning of a motorized land vehicle for the purpose of researching the security or safety of such vehicles. Under the exemption as proposed, circumvention would be allowed when undertaken by or on behalf of the lawful owner of the vehicle.

Participants:

- Proponents:
    - Catherine Gellis, Digital Age Defense
    - Charlie Miller
    - Kit Walsh, Electronic Frontier Foundation
- Opponents:
    - Harry M. Lightsey, III, General Motors, LLC
    - Steven J. Metalitz, Alliance of Automobile Manufacturers (Auto Alliance)

11:00 am-12:30pm: Proposed Class 8: Audiovisual works – space-shifting and format-shifting

This proposed class would allow circumvention of access controls on lawfully made and acquired audiovisual works for the purpose of noncommercial space-shifting or format-shifting. This exemption has been requested for audiovisual material made available on DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Sherwin Siy, Public Knowledge
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA and DVDCCA
    - Jamie Voris, The Walt Disney Studios
    - Mark Teitell, Digital Entertainment Content Ecosystem (DECE) & UltraViolet

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[1] NOTE: The Office received no requests to testify for Class 10: Literary works distributed electronically – space-shifting and format-shifting.

2:00-4:00pm: Proposed Class 21 – vehicle software – diagnosis, repair, or modification

This proposed class would allow circumvention of TPMs protecting computer programs that control the functioning of a motorized land vehicle, including personal automobiles, commercial motor vehicles, and agricultural machinery, for purposes of lawful diagnosis and repair, or aftermarket personalization, modification, or other improvement. Under the exemption as proposed, circumvention would be allowed when undertaken by or on behalf of the lawful owner of the vehicle.

Participants:

- Proponents:
    - Catherine Gellis, Digital Age Defense
    - Craig Smith, Open Garages
    - Dan D. Nabel and Mark Hilkert, USC Intellectual Property & Technology Law Clinic
    - Kit Walsh, Electronic Frontier Foundation
    - Kyle Wiens, iFixit
- Opponents:
    - Harry M. Lightsey, III, General Motors, LLC
    - Steven Douglas and Steven J. Metalitz, Alliance of Automobile Manufacturers (Auto Alliance)

9:00-11:00am: Proposed Class 6: Audiovisual works – derivative uses – filmmaking uses

This proposed class would allow circumvention of access controls on lawfully made and acquired motion pictures for filmmaking purposes. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    o Jack Lerner, Aaron Benmark, and Rahul Sajnani, UCI Intellectual Property, Arts, and Technology Clinic
    o Christopher Perez, Donaldson + Callif
    o Gordon Quinn and Jim Morrissette, Kartemquin Educational Films
    o Art Neill, New Media Rights
- Opponents:
    o J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    o Bruce Turnbull, AACS LA
    o David Jonathan Taylor, DVDCCA
    o Simon Swart, Twentieth Century Fox Home Entertainment

11:15am-12:15pm: Proposed Class 20: Jailbreaking – smart TVs

This proposed class would permit the jailbreaking of computer-embedded televisions ("smart TVs"). Asserted noninfringing uses include accessing lawfully acquired media on external devices, installing user-supplied licensed applications, enabling the operating system to interoperate with local networks and external peripherals, and enabling interoperability with external devices, and improving the TV's accessibility features (*e.g.,* for hearing-impaired viewers). The TPMs at issue include firmware encryption and administrative access controls that prevent access to the TV's operating system.

Participants:

- Proponents:
    o Aaron Williamson and Frederic Jennings, Tor Ekeland, PC (on behalf of Software Freedom Conservancy)
    o Catherine Gellis, Digital Age Defense
- Opponents:
    o J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)

1:45pm-3:45pm: Proposed Class 23: Abandoned software – video games requiring server communication

This proposed class would allow circumvention of TPMs on lawfully acquired video games consisting of communication with a developer-operated server for the purpose of either authentication or to enable multiplayer matchmaking, where developer support for those server communications has ended. This exception would not apply to video games whose audiovisual content is primarily stored on the developer's server, such as massive multiplayer online role-playing games.

Participants:

- Proponents:
    - Catherine Gellis, Digital Age Defense
    - Ian Finder, Museum of Art and Digital Entertainment
    - Jason Scott, Internet Archive
    - Kendra Albert, Law Student, Harvard Law School
    - Parham Gholami, Azentium
    - Mitch Stoltz, Electronic Frontier Foundation
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Simon J. Frankel, Entertainment Software Association

4:00pm-5:00pm: Proposed Class 19: Jailbreaking – video game consoles

This proposed class would permit the jailbreaking of home video game consoles. Asserted noninfringing uses include installing alternative operating systems, running lawfully acquired applications, preventing the reporting of personal usage information to the manufacturer, and removing region locks. The requested exemption would apply both to older and currently marketed game consoles.

Participants:

- Proponents:
    - Catherine Gellis, Digital Age Defense
    - Kyle Wiens, iFixit
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Simon J. Frankel, Entertainment Software Association

9:00-10:00am: Proposed Classes 13-15: Unlocking – mobile connectivity devices, wearable computing devices, and consumer machines

These proposed classes would allow the unlocking of mobile connectivity devices, wearable computing devices, and consumer machines. "Mobile connectivity devices" are devices that allow users to connect to a mobile data network through either a direct connection or the creation of a local Wi-Fi network created by the device. The category includes mobile hotspots and removable wireless broadband modems. "Wearable wireless devices" include all wireless devices that are designed to be worn on the body, including smart watches, fitness devices, and health monitoring devices. "Consumer machines" includes smart meters, appliances, and precision-guided commercial equipment.

Participants:

- Proponents:
  - Catherine Gellis, Digital Age Defense
- Opponents:
  - Harry M. Lightsey, III, General Motors, LLC (or designated alternate GM witness)
  - Steven J. Metalitz, Alliance of Automobile Manufacturers (Auto Alliance)

10:15-11:45 am: Proposed Classes 16-18: Jailbreaking – wireless telephone handsets, all-purpose mobile computing devices, and dedicated e-book readers.

Proposed class 16 would permit the jailbreaking of wireless telephone handsets to allow the devices to run lawfully acquired software that is otherwise prevented from running, or to remove unwanted preinstalled software from the device. Proposed class 17 would permit the jailbreaking of all-purpose mobile computing devices to allow the devices to run lawfully acquired software that is otherwise prevented from running, or to remove unwanted preinstalled software from the device. The category "all-purpose mobile computing device" includes all-purpose non-phone devices (such as the Apple iPod touch) and all-purpose tablets (such as the Apple iPad or the Google Nexus). The category does not include specialized devices such as e-book readers or handheld gaming devices, or laptop or desktop computers. Proposed Class 18 would permit the jailbreaking of dedicated e-book readers to allow those devices to run lawfully acquired software that is otherwise prevented from running.

Participants:

- Proponents:
  - Catherine Gellis, Digital Age Defense
  - Jay Freeman, SaurikIT, LLC
  - Kyle Wiens, iFixit
  - Mitch Stoltz, Electronic Frontier Foundation
- Opponents:
  - Harry M. Lightsey, III, General Motors, LLC (or designated alternate GM witness)

12:00-12:45 pm: Proposed Class 24: Abandoned software – music recording software.

This proposed class would allow circumvention of access controls consisting of the PACE content protection system, which restricts access to the full functionality of lawfully acquired Ensoniq PARIS music recording software.
Participants:

- Proponents:
    - o Catherine Gellis, Digital Age Defense
- Opponents:
    - o J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)

May 26, 2015—Library of Congress, Mumford Room

9:00am-12:30pm: Proposed Class 25: Software – security research

This proposed class would allow researchers to circumvent access controls in relation to computer programs, databases, and devices for purposes of good-faith testing, identifying, disclosing, and fixing of malfunctions, security flaws, or vulnerabilities.

Participants:

- Proponents:
    - Andrea Matwyshyn, Princeton University
    - Andy Sayler and Blake Reid, Samuelson-Glushko Technology Law & Policy Clinic at Colorado Law
    - Erik Stallman, Center for Democracy & Technology
    - Laura Moy, New America's Open Technology Institute
    - Mark Stanislav, Rapid7
    - Matthew Blaze and Nadia Heninger, University of Pennsylvania
    - Matthew Green, Information Security Institute, Department of Computer Science, Johns Hopkins University
    - Steve Bellovin, Columbia University
- Opponents:
    - Christian Troncoso, BSA | The Software Alliance
    - Harry M. Lightsey, III, General Motors, LLC

1:45-3:15pm: Proposed Class 11-12: Unlocking – wireless telephone handsets and tablets

Proposed class 11 would allow the unlocking of wireless telephone handsets. "Wireless telephone handsets" includes all mobile telephones including feature phones, smart phones, and "phablets" that are used for two-way voice communications. Proposed class 12 would allow the unlocking of all-purpose tablet computers. This class would encompass devices such as the Apple iPad, Microsoft Surface, Amazon Kindle Fire, and Samsung Galaxy Tab, but would exclude specialized devices such as dedicated e-book readers and dedicated handheld gaming devices.

Participants:

- Proponents:
    - Eric Harris, Institute of Scrap Recycling Industries, Inc. (ISRI)
    - George P. Slover, Consumers Union
    - Michael Lazarus, Competitive Carriers Association (CCA)

May 27, 2015—Library of Congress, Mumford Room

9:00-10:30am: Proposed Class 1: Audiovisual works – educational uses – colleges and universities

This proposed class would allow college and university faculty and students to circumvent access controls on lawfully made and acquired motion pictures and other audiovisual works for purposes of criticism and comment. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by the Content Scramble System ("CSS"), Blu-ray discs protected by the Advanced Access Content System ("AACS"), and TPM-protected online distribution services.

Participants:

- Proponents:
    - Brandon Butler, Glushko-Samuelson Intellectual Property Law Clinic, American University
    - Jonathan Band, Library Copyright Alliance
    - Peter Decherney, University of Pennsylvania
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA
    - David Jonathan Taylor, DVDCCA

10:45am-12:15pm: Proposed Class 3: Audiovisual works – educational uses – massive open online courses ("MOOCs")

This proposed class would allow students and faculty participating in Massive Open Online Courses ("MOOCs") to circumvent access controls on lawfully made and acquired motion pictures and other audiovisual works for purposes of criticism and comment. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Brandon Butler, Glushko-Samuelson Intellectual Property Law Clinic, American University
    - Jonathan Band, Library Copyright Alliance
    - Peter Decherney, University of Pennsylvania
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA and DVDCCA

1:30-3:00pm: Proposed Class 2: Audiovisual works – educational uses – primary and secondary schools (K-12)

This proposed class would allow kindergarten through twelfth-grade educators and students to circumvent access controls on lawfully made and acquired motion pictures and other audiovisual works for educational purposes. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Jonathan Band, Library Copyright Alliance
    - Renee Hobbs, Media Education Lab, University of Rhode Island
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - David Jonathan Taylor, DVDCCA
    - Bruce Turnbull, AACS LA

3:15-4:45pm: Proposed Class 4: Audiovisual works – educational uses – educational programs operated by museums, libraries, or nonprofits

This proposed class would allow educators and learners in libraries, museums and nonprofit organizations to circumvent access controls on lawfully made and acquired motion pictures and other audiovisual works for educational purposes. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Jonathan Band, Library Copyright Alliance
    - Renee Hobbs, Media Education Lab, University of Rhode Island
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA and DVDCCA

9:00-11:00am: Proposed Class 5: Audiovisual works – derivative uses – multimedia e-books

This proposed class would allow circumvention of access controls on lawfully made and acquired motion pictures used in connection with multimedia e-book authorship. This exemption has been requested for audiovisual material made available in all formats, including DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Blake Reid, Michael Wolfe, and Molly Priya McClurg, Samuelson-Glushko Technology Law & Policy Clinic at Colorado Law (representing Authors Alliance)
    - Bobette Buster, Busterfilms
    - Jack Lerner and Aaron Benmark, UCI Intellectual Property, Arts, and Technology Clinic (representing Authors Alliance and Bobette Buster)
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA
    - David Jonathan Taylor, DVDCAA

11:15am-12:15pm: Proposed Class 26: Software – 3D printers

This proposed class would allow circumvention of TPMs on firmware or software in 3D printers to allow use of non-manufacturer-approved feedstock in the printer.

Participants:

- Proponents:
    - Michael Weinberg
    - Sherwin Siy, Public Knowledge
- Opponents:
    - Soonhee Jang, Stratasys Ltd. (or designated alternate Stratasys witness)

1:45-3:45pm: Proposed Class 7: Audiovisual works – derivative uses – noncommercial remix videos

This proposed class would allow circumvention of access controls on lawfully made and acquired audiovisual works for the sole purpose of extracting clips for inclusion in noncommercial videos that do not infringe copyright. This exemption has been requested for audiovisual material made available on DVDs protected by CSS, Blu-ray discs protected by AACS, and TPM-protected online distribution services.

Participants:

- Proponents:
    - Art Neill, New Media Rights Corynne McSherry, Electronic Frontier Foundation
    - Francesca Coppa
    - Rebecca Tushnet, Georgetown Law/Organization for Transformative Works
    - Tisha Turk, University of Minnesota Morris
- Opponents:
    - J. Matthew Williams, Entertainment Software Association, Motion Picture Association of America, Recording Industry Association of America (Joint Creators and Copyright Owners)
    - Bruce Turnbull, AACS LA
    - David Jonathan Taylor, DVDCAA

9:00-10:30am: Proposed Class 27: Software – networked medical devices

The proposed class would allow circumvention of TPMs protecting computer programs in medical devices designed for attachment to or implantation in patients and in their corresponding monitoring devices, as well as the outputs generated through those programs. As proposed, the exemption would be limited to cases where circumvention is at the direction of a patient seeking access to information generated by his or her own device, or at the direction of those conducting research into the safety, security, and effectiveness of such devices. The proposal would cover devices such as pacemakers, implantable cardioverter defibrillators, insulin pumps, and continuous glucose monitors.

Participants:

- Proponents:
    - Andrew Sellars, Cyberlaw Clinic, Berkman Center for Internet & Society, with Dr. Benjamin West
    - Laura Moy, New America's Open Technology Institute
    - Sherwin Siy, Public Knowledge

10:45am-12:00pm: Proposed Class 9: Literary works distributed electronically – assistive technologies

This proposed class would allow circumvention of access controls on lawfully made and acquired literary works distributed electronically for purposes of accessibility for persons who are print disabled. This exemption has been requested for literary works distributed electronically, including e-books, digital textbooks, and PDF articles.

Participants:

- Proponents:
    - Blake Reid, Samuelson-Glushko Technology Law & Policy Clinic at Colorado Law
    - Jonathan Band, Library Copyright Alliance
    - Mark Richert, American Foundation for the Blind