



June 23, 2021

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

Re: Ex Parte Meeting Concerning Class 5—DVD Preservation

Dear Mr. Gray and Ms. Counts:

On June 22, 2021, on behalf of the Library Copyright Alliance, Carrie Russell, James Steffen, Gisele Tanasse, Sarah McCleskey, and I had an ex parte meeting with Copyright Office staff to discuss LCA's petition for an exemption for Class 5, the preservation of DVDs and Blu-ray discs in the collections of libraries, archives, and museums. We explained that the focus of our petition was not motion pictures produced by major studios. Rather, we were concerned about independent films, foreign films, or documentaries produced for public television. These motion pictures often had one DVD print run fifteen or more years ago, are out of print, and are protected by CSS. Many titles are not available on unused DVDs. Even if an unused DVD is available, it could already be experience bronzing due to its age, or it could cost \$200 or more. In response to Copyright Office questions, we noted that used DVDs often were damaged and thus could be unplayable now or in the near-future; libraries did not intend to systematically preserve entire collections, but rather would concentrate on the most at-risk motion pictures; and that libraries currently had the security technology necessary to prevent unlawful distribution of motion pictures after they were decrypted. Finally, we clarified that we were seeking an exemption for purposes or preservation and replacement within the meaning of 17 U.S.C. § 108.

Please let me know if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Band'.

Jonathan Band
LCA Counsel
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