

**Before the
UNITED STATES COPYRIGHT OFFICE
Washington, D.C.**

In the Matter of:

Tenth Triennial Rulemaking Proceedings
Under Section 1201 of Title 17, 2027 Cycle

Docket No. 2026-4

**COMMENT REGARDING A PETITION BY MARSHALL R. SHANNON TO RENEW
AN EXISTING EXEMPTION UNDER 17 U.S.C. § 1201**

A. COMMENTER INFORMATION

The Entertainment Software Association (“ESA”) is the United States trade association serving companies that publish computer and video games for video game consoles, handheld video game devices, personal computers, and the internet. It represents nearly all of the major video game publishers and major video game platform providers in the United States.

The Motion Picture Association, Inc. (“MPA”) is a trade association representing some of the world’s largest producers and distributors of motion pictures and other audiovisual entertainment for viewing in theaters, on prerecorded media, over broadcast TV, cable and satellite services, and on the internet. The MPA’s members are: Amazon Studios LLC, Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc.

The Recording Industry Association of America, Inc. (“RIAA”) is a nonprofit trade organization that supports and promotes the creative and financial vitality of recorded music and the people and companies that create it in the United States. RIAA’s several hundred members—ranging from major American music companies with global reach to artist-owned labels and small businesses—make up the world’s most vibrant and innovative music community. RIAA’s members create, manufacture, and/or distribute the majority of all legitimate recorded music produced and sold in the United States. In supporting its members, RIAA works to protect the intellectual property and First Amendment rights of artists and music labels.

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All three organizations represent companies that create and distribute valuable creative works digitally and depend on access control technologies to enable the products and services that consumers enjoy. As such, they have a keen interest in this proceeding and ensuring that any exemptions strike an appropriate balance between protection of creative works and reasonable access for noninfringing purposes.

B. EXISTING EXEMPTIONS ADDRESSED

Computer programs that control medical devices or systems, and related data files, for diagnosis, maintenance, or repair of the device or system, as codified at 37 C.F.R. § 201.40(b)(17).

**Submission on behalf of ESA, MPA, and RIAA
Computer Programs – Medical Devices**

C. JOINT CREATORS’ COMMENT REGARDING RENEWAL PETITION

ESA, MPA, and RIAA (the “Joint Creators”) do not oppose renewal of the existing exemption for “[c]omputer programs that are contained in and control the functioning of a lawfully acquired medical device or system, and related data files, when circumvention is a necessary step to allow the diagnosis, maintenance, or repair of such a device or system.” 37 C.F.R. § 201.40(b)(17) (the “medical device repair exemption”). However, one renewal petition for that exemption, submitted by Marshall R. Shannon, requests a “clarification or a modifi[cation]” of the exemption as written in the *Code of Federal Regulations*.¹ Specifically, Mr. Shannon requests that the Office revise the medical device repair exemption to cover “owner-authorized installation, reinstallation, software setup, operating-system and application restoration, relocation, commissioning, calibration, performance verification, service-data access, cybersecurity-related reconfiguration, and return to service for new, used, and resold medical devices.”²

As the Office is aware, its Notice of Inquiry expressly states that “[o]nly petitions requesting renewal of current exemptions **as currently written** in the *Code of Federal Regulations*, **without modification**, may be considered under the streamlined renewal procedure.”³ Maintaining this procedure is critical because under the Office’s streamlined renewal process, persons who may be adversely affected by modifications to the language of an exemption are not otherwise afforded formal notice or opportunity to comment. Thus, Mr. Shannon’s request for modification of the medical device repair exemption is improper and should be rejected.

Accordingly, to the extent the Office recommends renewal of the medical device repair exemption as currently written, it should deny Mr. Shannon’s request for changes to the exemption’s current language.

Respectfully submitted,

/s/ Cayman C. Mitchell
Cayman C. Mitchell
JENNER & BLOCK LLP
1155 Avenue of the Americas
New York, NY 10036
Tel: (212) 891-1600
cmitchell@jenner.com

Steven R. Englund
JENNER & BLOCK LLP
1099 New York Ave NW #900
Washington, D.C. 20001
Tel: (202) 649-6000
senglund@jenner.com

¹ See Petition to Renew and Supporting Statement, Tenth Triennial Section 1201 Rulemaking (July 24, 2026), <https://www.copyright.gov/1201/2027/petitions/renewal/Renewal-Pet-Medical-Devices-Marshall-R-Shannon.pdf>.

² *Id.* at 2.

³ Exemptions to Permit Circumvention of Access Controls on Copyrighted Works: Notification of Inquiry and Request for Petitions, 91 Fed. Reg. 34,795, 34,797 (June 9, 2026), <https://www.govinfo.gov/content/pkg/FR-2026-06-09/pdf/2026-11545.pdf> (emphases added).