

COMMENTS OF REDDIT, INC.

I. INTRODUCTION

Reddit, Inc. hereby files these comments in response to the Federal Register Notice of Inquiry issued by the United States Copyright Office requesting information on the development and use of standard technical measures (“STMs”) for the protection of copyrighted works, as defined in section 512 of Title 17. The Copyright Office¹ is evaluating and Congress is considering substantial changes to copyright law, including the possibility of the Office playing a decisive role in STM development and adoption². These brief comments discuss the negative impact STMs would likely have on Reddit’s business model, our users and the communities they’ve created - many of which celebrate and create content related to existing intellectual property. We caution against the mandatory adoption of STMs by online service providers (“OSPs”) for three reasons: first, their current implementation would almost certainly reduce creativity and community collaboration on Reddit and the internet at large. OSPs that allow users to communicate through a variety of creative mediums would be particularly negatively impacted. Second, STMs are not yet accurate enough for their adoption to be mandated at an industry-wide level. Because non-compliance means losing the Digital Millennium Copyright Act’s safe harbor protections, industries, copyright holders, and government agencies should be careful before agreeing to any standardized mandate. Finally, STMs raise potential competition issues by imposing substantial costs and burdens to OSPs.

¹ See *Section 512 of Title 17*, U.S. Copyright Office (May 2020), at 176. (hereafter referred to as *Section 512 Report*) <https://www.copyright.gov/policy/section512/section-512-full-report.pdf>. See also Publishers Protections Study: Notice and Request for Public Comment, U.S. Copyright Office (86 Fed. Reg. 94 (Oct. 12, 2021)), <https://www.govinfo.gov/content/pkg/FR-2021-10-12/pdf/2021-22077.pdf>.

² See S. 3880, Strengthening Measures to Advance Rights Technologies Copyright (SMART) Act of 2022, 117th Cong. Congress recently passed significant copyright legislation signaling their continued interest. See also the Copyright Alternative in Small-Claims Enforcement Act of 2020, 17 U.S.C. §§ 1501-1511 and the Protecting Lawful Streaming Act, 18 U.S.C. § 2319C.

Reddit is a community of communities created by and moderated by our users and volunteer moderators (“mods”). These communities, known as “subreddits,” are based upon shared interest, rather than the self-promotion of individual personalities or influencers. In this context that focuses more on ideas than identity, the principal way our users participate is through the sharing of user-generated content and links relevant to the chosen subject of their communities. This creates a virtuous cycle of individuals discovering and sharing topical content in specific, dedicated communities, community members discussing the ideas explored in that content within the bounds of particular community rules, and sometimes even creating new content that can be shared again and discussed further.

As discussed below, STMs could harm free expression and creativity on Reddit. Protecting expression and innovation should be at the forefront of the Copyright Office’s mind as they review this matter.

II. STM ADOPTION WILL HARM FREE EXPRESSION AND REDUCE CREATIVITY ON REDDIT

Reddit allows users to connect over shared interests and show their passion and creativity to a specific audience. Filtering technologies and STMs ill-suited to the variety of content on Reddit would limit the vitality of some of our platform’s most active communities. Reddit communities featuring content protected by fair use, transformative works, and content inspired by existing intellectual property would likely suffer under a mandatory content filtering regime.

Reddit hosts a multitude of communities dedicated to discussing news and debating academic sources. [r/news](#) and [r/worldnews](#) are some of the most popular of these communities. There are also many smaller subreddits focused on specific states and cities, like [r/Orlando](#). Science-based communities, like [r/coronavirus](#), require users to link to credible sources and

prohibit editing headlines.³ r/AskHistorians, a history subreddit where users can submit questions, depends on links to academic and media sources.⁴ Fair use protections are central to how these communities function. Without them Redditors couldn't post and communally analyze the latest medical scholarship on COVID-19, share and discuss local news articles, or use academic articles to answer important history questions. A poorly designed, mandatory STM would be incapable of recognizing both the value of these communities and the legal protections Congress established to protect commentary, news research and scholarship through fair use.

Transformative works and content inspired by existing intellectual property would also be negatively impacted by STMs. For example, subreddits dedicated to specific fan bases are especially popular forums. These are places where users connect over their favorite TV shows, podcasts, books, and video games. Ten years after its series finale, fans of *The Office* still create memes⁵ based on the show, dream of a cast reunion,⁶ and create art⁷ inspired by the characters on r/DunderMifflin.⁸ Devotees of popular podcasts like r/criticalrole⁹ and

³ Reddit, <https://www.reddit.com/r/Coronavirus/wiki/rules> (last visited May 23, 2022). (“We require that users submit reliable, fact-based information to the subreddit[...]submissions must be submitted with the original title of the submitted article where applicable. Editorialization via title editing of any kind is likely to be removed.”)

⁴ “Reddit, <https://www.reddit.com/r/AskHistorians/wiki/rules> (last visited may 23, 2022). (“Even though sources are not mandatory, if someone asks you to provide sources in good faith, please provide them willingly and happily. [...] Requests for sources which are not fulfilled within a reasonable span of time will generally result in the removal of the answer.”)

⁵ Reddit, https://www.reddit.com/r/DunderMifflin/comments/ut9u1o/i_have_a_lot_of_questions_number_one_how_dare_you/ (last visited May 23, 2022).

⁶ Reddit, https://www.reddit.com/r/DunderMifflin/comments/uqxo53/i_meanhow_hard_can_it_be/ (last visited May 23, 2022).

⁷ Reddit, https://www.reddit.com/r/DunderMifflin/comments/utn4a6/graduating_tomorrow_needed_an_appropriate_quote/ (last visited May 23, 2022).

⁸ Reddit, <https://www.reddit.com/r/DunderMifflin/> (last visited May 23, 2022).

⁹ Reddit, <https://www.reddit.com/r/criticalrole/> (last visited May 23, 2022).

r/theadventurezone¹⁰ can post fan art of their favorite scenes after each new episode.¹¹

Bookworms can share their favorite passages¹² or gifs from the TV adaption of popular novels on r/grishaverse¹³ and r/asoiaf.¹⁴ And there are many communities devoted solely to creating memes from existing sources, like celebrating an adventuring party's victory or commiserating over a failed roll on r/DndMemes.¹⁵ These are active, healthy communities that bring people together to delight over content they love. None of this activity or content substitutes for or detracts from the original work, and indeed serves to continue to excite those who already love the original works to engage with them more, while at the same time exposing the works to entirely new audiences or generations.

Current copyright law allows our users to build these communities and create the content that sustains them while still respecting the property interest of copyright holders. Reddit allows rights holders to submit takedown requests for infringing material and reviews and removes copyrighted content in compliance with the DMCA. The DMCA's notice-and-takedown framework and safe harbor provisions create the proper incentives for copyright holders while still creating a feasible framework for new platforms and new creative mediums to emerge.

Filtering technologies have difficulty merely identifying copyrighted material, let alone assessing the specific context the content was found. They cannot make nuanced judgments

¹⁰ Reddit, <https://www.reddit.com/r/TheAdventureZone/> (last visited May 23, 2022).

¹¹ Reddit, https://www.reddit.com/r/TheAdventureZone/comments/i1xhic/my_first_animatic_ever_the_introduction_of_one_of/ (last visited May 23, 2022).

¹² Reddit, https://www.reddit.com/r/asoiaf/comments/ur5noz/spoilers_main_found_this_interesting_tidbit_in/ (last visited May 23, 2022).

¹³ Reddit, <https://www.reddit.com/r/Grishaverse/> (last visited May 23, 2022).

¹⁴ Reddit, <https://www.reddit.com/r/asoiaf/> (last visited May 23, 2022).

¹⁵ Reddit, <https://www.reddit.com/r/dndmemes/> (last visited May 23, 2022).

about fair use or transformative works. As a result, standardized measures are likely to remove non-infringing content and suffer from false positives. Worse, these over-removals would strike at the heart of the transformative user-generated content that makes Reddit communities unique. That is a severe, unnecessary, and unacceptable cost to the free expression of our users and the communities they build.

III. STMs ARE COSTLY INEFFECTIVE, AND RAISE POTENTIAL COMPETITION ISSUES

The Copyright Office asks whether “*there are [any] existing technologies that meet the current statutory definition of STMs in section 512(i)*” and “*what has hindered the adoption of existing technologies as STMs*” given that Section 512(i) contemplates their future adoption¹⁶. The answers are linked: None of the systems copyright holders point to as examples were developed with the “broad consensus of copyright owners and [online] service providers” statutorily required under section 512(i)(2)(A). Also, no such technologies have been broadly adopted because it is not yet technically possible to create an industry standard that operates effectively across a variety of OSPs and creative mediums. The Copyright Office’s own Section 512 report recognized the difficulty of developing a STM that meets Congress’s statutory benchmarks and the problems inherent in existing filtering tools.¹⁷

¹⁶ Standard Technical Measures and Section 512, U.S. Copyright Office (87 Fed. Reg. 81 (Apr. 27, 2022)). <https://www.govinfo.gov/content/pkg/FR-2022-04-27/pdf/2022-08946.pdf>.

¹⁷ See *Section 512 Report* at 176-177.

The Electronic Frontier Foundation¹⁸ and the Wikimedia Foundation¹⁹ have already warned the Copyright Office about the dangers of mandatory filtering tools. Academics like Professor Jessica Litman have examined why OSPs and copyright holders repeatedly fail to agree to STMs.²⁰ We need not reiterate their arguments. But their observations bolster our complaints against the premature, mandatory adoption of STMs: they would create a costly, ineffective, one-size-fits-all mechanism that Reddit would be required to adopt or otherwise lose the safe harbor protections central to the DMCA's framework.

YouTube's content filtering mechanism is increasingly described as a possible standard for platforms to emulate, but it also demonstrates the limits and pitfalls of similar standards. Content ID integrates well with YouTube's systems - it increases Google's revenue generation by providing a new source for ad monetization and filters the most common types of content on YouTube: video and audio. Despite being crafted internally for YouTube's specific purposes, complaints abound about the unfairness of the program from user advocacy groups regarding the rate of false positives.²¹ Content ID has even been weaponized by bad actors to remove videos that provide newsworthy, non-infringing content of vital civic importance.²² Negative consequences like these arise when filtering technologies are developed to support licensing

¹⁸ Electronic Frontier Foundation, Additional Comments Submitted in Response to U.S. Copyright Office's Dec. 31, 2015 Notice of Inquiry on Section 215 at 15-16, (Dec. 31, 2015) (filed Feb. 21, 2017) (hereafter referred to as EFF Additional Comments), <https://www.regulations.gov/comment/COLC-2015-0013-92469>.

¹⁹ Wikimedia Foundation, Additional Comments Submitted in Response to U.S. Copyright Office's, Nov. 8, 2016 Notice of Inquiry at 11-12 (filed Feb 21, 2017). <https://www.regulations.gov/comment/COLC-2015-0013-92476>.

²⁰ *Senate Judiciary Committee Hearing on the Digital Millennium Copyright Act at 22: What is it, why was it enacted, and where are we now*, Responses to Questions for the Record from Professor Jessica Litman (Feb. 11, 2020), <https://www.judiciary.senate.gov/imo/media/doc/Litman%20Responses%20to%20QFRs.pdf>. See also EFF Additional Comments at 14.

²¹ See *Section 512 Report* at 188-189.

²² Schiffer, Zoe. Robertson, Adi, *Watch a police officer admit to Playing Taylor Swift to keep a video off Youtube*, *The Verge* (2022), <https://www.theverge.com/2021/7/1/22558292/police-officer-video-taylor-swift-youtube-copyright>.

regimes and ad monetization rather than prioritizing how to make tough, complex distinctions between non-infringing and infringing content.

The Copyright Office also asked *“How should the substantiality of costs and burdens on internet services providers be evaluated? Should this evaluation differ based on variations in providers’ sizes and functions?”* We maintain that mandating the adoption of STMs is unwise, but for the purposes of this question we note that the cost and burden analysis should be sensitive to the types and amount of content OSPs will be required to filter. The harm to both the free expression of users and the business model of OSPs should also be included in an evaluation of the burdens created by STMs. For instance, Redditors use a wide variety of media to express themselves, including text, photos, and gifs in addition to audio and video. OSPs would be forced to choose from several non-ideal options: Developing filtering services in-house or licensing services that provide a one-size-fits-all framework not attuned to the demands of their specific platform. Either choice would likely decrease free expression, create new barriers to innovation, and raise potential competition concerns in the absence of a robust market for third-party filtering technologies.²³

²³ See *Section 512 Report* at 188-190. In particular, the Report discusses how integral an active third-party marketplace will be to determining whether STMs are reasonable and nondiscriminatory.

IV. CONCLUSION

In April 2022, Reddit brought back r/place²⁴, a collaborative collage where users could place one pixel every five minutes in an ever-evolving digital canvas²⁵. Users from across the globe²⁶ flocked to contribute and coordinate their artistry²⁷. They created pixel art from memorable video games, depicted scenes from Star Wars, and crafted homages to their favorite anime²⁸. When technology and the law leave room for creativity, they allow people to create wonderful things and build positive communities. When they restrict that creativity, it becomes that much harder for people to unite to build fun, enriching communities. We urge the Copyright Office to keep the benefits of current copyright law to creativity and innovation in mind as they research the development and adoption of STMs.

²⁴ Reddit, <https://www.reddit.com/r/place/?cx=1048&cy=842&px=242&ts=1649112460185> (last visited May 23, 2022)

²⁵ See Chu, Gillian, *Reddit's r/place Is a Testament to Internet Culture and Camaraderie*, Hypebeast (2022), <https://hypebeast.com/2022/4/reddit-r-place-april-fools-day-social-experiment-info>; Mitchell, Clark, *Watching the r/Place timelapse is like staring into the heart of Reddit*, The Verge (2022), <https://www.theverge.com/2022/4/7/23015418/reddit-r-place-recap-video-gif-timeline>.

²⁶ See Kretzel, Lasia, *Maple leaf battle: How a Reddit experiment is highlighting Canadian tenacity*, City News Vancouver (2022). <https://vancouver.citynews.ca/2022/04/04/maple-leaf-canada-reddit/>.

²⁷ Cattel, Megan. Johnson, Ben Brock. Siverston, Amory. Russel, Dean, *One pixel at a time: Diplomacy and domination in Reddit's artistic masterpiece*, WBUR.org (2022), <https://www.wbur.org/endlessthread/2022/04/15/r-place> (“So, you’re kind of start collaborating, you meet with other people you have, you know, communities and teams and organizations, and soon you get a bunch of people all adding their own pixels, right, their own little drops to this massive canvas that then can become these gigantic pieces of art. [...] And so it kind of becomes this expansive, you know, place that forces you to kind of build these communities and these, these kinships.”)

²⁸ Lorenz, Taylor, *Internet communities are battling over pixels*, The Washington Post (2022) <https://www.washingtonpost.com/technology/2022/04/04/reddit-place-internet-communities/> (“Users from r/starwars re-created an entire movie poster. The trans community placed a massive trans flag on screen.”)