

Proposed Class:

5A:

Proposed Class #1: Computer programs that enable wireless telephone handsets to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the telephone handset.

Summary of the argument:

I support this proposed exemption with amplification to include other handsets and hardware peripherals in addition to “computer programs”. It should read “Computer programs that enable wireless telephone handsets to execute lawfully obtained software applications, *and to communicated with other handset(s) and/or hardware peripherals* where circumvention is accomplished for the sole purpose of enabling interoperability of such applications *or device* with computer programs on the telephone handset *and the handset itself*”

Factual and/or legal support:

In my years working with cell phones at a technical level, it used to be that a mobile phone handset can be used with any compatible peripherals such as earphone, chargers, etc. In the case of a phone that supports third-part applications, it allowed any application to work. In recent years, many carriers began to artificially restrict what peripherals could be used with their phone, even if such peripheral devices are compatible otherwise without the restriction. For example, many phones sold in recent years by carriers such as Verizon, Cingular, Sprint only allowed certain types of wireless headset using the Bluetooth technology. This harmed many consumers as they are forced to a limited choice and pay higher price than a comparable headset; many other consumers found that they could no longer use their existing Bluetooth headset and were forced to buy another one. By eliminating such restriction, consumers can have a wider range of choice of peripheral devices.

A similar trend is happening to the software that can be used on a phone. Some carriers and phone manufacturers began to artificially restrict what third party software could be used on a phone, often toward consideration for their own benefits. For example, some phones only allow the user to transfer phonebook or music using certain applications when other technically feasible options already exist. This harms the user as it limits the users’ choice of software and often forces them to pay higher price.

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