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Class of Works: 3, 4, 5

I'm writing in support of an exemption in the DCMA for jailbreaking smartphones, tablets and video game consoles. Jailbreaking breeds creativity and innovation. No one should have the right to limit that.

Through jailbreaking, users can extend the life of their products through useful new updates, whether it's patching a security vulnerability or installing homebrew applications. Often times the original device manufacturer can't or won't release software updates for older products as they'd rather consumers simply upgrade to a newer model. The most prevalent example of this being smartphone and tablet manufacturers, but even video game console manufacturers are guilty of this.

Also, "jailbreaking" a product to run homebrew applications can often lead to exciting new products and companies. My favorite example being XBMC, which originally started as a homebrew application for Xboxes, but then thanks to popular support expanded and became a full-fledged, separate application that's now available for use on 7 different types of systems *and* has launched an entire market of similar programs (Plex, Boxee, Roku, etc.)

In the case of smartphones and tablets, "jailbreaking" helps me custom tailor my device to my needs. For example, after jailbreaking my smartphone and tablet I can now: 1) Back up my application data using Titanium Backup so in the event of device failure I can easily restore my data to a new phone 2) Set up automatic triggers using Tasker (or AutomateIt) to perform various functions 3) Customize the look and feel of my device to suit my needs (using a bunch of random programs, most of which require root access). None of these actions are illegal or violate any terms of services, however all of these actions cannot be done without first jailbreaking my device.

I realize two common counter arguments are 1) jailbreaking devices can lead to piracy and 2) jailbreaking a device and gaining root access can cause end users to inadvertently break their device.

In the case of piracy, I feel that because of the actions of a small minority, the vast majority of jailbreakers are being unfairly punished and to be frank, those who are seeking to circumvent the law will find a way to do so regardless. Simply declaring jailbreaking a violation of the DCMA is like using a sledgehammer to kill a fly; it's not very effective and you're more than likely not going to catch the fly. Can we not keep an exemption for jailbreaking, but still punish piracy?

In regards to users accidentally breaking their device by gaining root access and doing something stupid, that's the problem of the end user, not the manufacturer. More often than not, when people jailbreak their device they are already aware (thanks to disclaimers) that such an action means their warranty is now void. My favorite example of a happy medium between manufacturers and users is how HTC approached this problem. They realized a subset of their customers preferred smartphones with unlocked bootloaders, so they created a website where users could go to unlock their phone's bootloader but in turn they lose their warranty privileges (<http://htcdev.com/bootloader>). This way both manufacturers and end users can be happy!

Thank you for taking the time to consider my position.