

# Petition for Proposed Exemption Under 17 U.S.C. § 1201

*Note: This is a Word document that allows users to type into the spaces below.*

*Please submit a separate petition for each proposed exemption*

## **Item 1. Submitter and Contact Information**

Clearly identify the submitter, and, if desired, provide a means for others to contact the submitter or an authorized representative of the submitter by email and/or telephone. (Parties should keep in mind that any private, confidential, or personally identifiable information appearing in this petition will be accessible to the public.)

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## **Item 2. Brief Overview of Proposed Exemption**

Provide a brief statement describing the proposed exemption (ideally in one to three sentences), explaining the type of copyrighted work involved, the technological protection measure (“TPM”) (or access control) sought to be circumvented, and any limitations or conditions that would apply (*e.g.*, a limitation to certain types of users or a requirement that the circumvention be for a certain purpose).

Currently, DVD movies are protected by a DRM encryption system that prevent systems that don't have the necessary decryption key from playing the DVD. As a user of the Linux Operating System, I cannot legally play DVDs I legitimately own, rent, or borrow, which is a violation of my free use of such DVDs. Any person who has a DVD (or any other media, really) should be legally able to circumvent any DRM that would allow access to that DVD, particularly on devices that would be able to use that same DVD if a different Operating System (such as Microsoft Windows or Mac OS X) were installed.

PRIVACY ACT ADVISORY STATEMENT Required by the Privacy Act of 1974 (P.L. 93-579) The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.
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## **Item 3. Copyrighted Works Sought to be Accessed**

Identify the specific class, or category, of copyrighted works that the proponent wishes to access through circumvention. The works should reference a category of work referred to in section 102 of title 17 (*e.g.*, literary

works, audiovisual works, etc.). Unless the submitter seeks an exemption for the entire category in section 102, the description of works should be further refined to identify the particular subset of work to be subject to the exemption (e.g., e-books, computer programs, motion pictures) and, if applicable, by reference to the medium or device on which the works reside (e.g., motion pictures distributed on DVD).

My petition specifically focuses on DVDs, particularly movies, but it should be expanded to include any medium, and any type of work, for which a consumer has a legal right to access, but is prevented only by DRM that is supposed to prevent copying, but not fair use, of the product.

#### **Item 4. Technological Protection Measure**

Describe the TPM that controls access to the work. The petition does not need to describe the specific technical details of the access control measure, but should provide sufficient information to allow the Office to understand the basic nature of the technological measure and why it prevents open access to the work (*e.g.*, the encryption of motion pictures on DVD using the Content Scramble System or the cryptographic authentication protocol on a garage door opener).

Many DVDs are currently protected by an encryption key (the core of the “Content Scramble System”) that is intended to discourage illicit copying of movies. In order to legally play a movie, it is necessary to have a “legitimate” decryption key, typically provided by a licensed operating system, such as Microsoft Windows or Mac OS X.

Certain operating systems, however, do not have the infrastructure and funds to license this key; since it is currently illegal to use an unlicensed key, users of such systems are either prevented from accessing movies on their DVDs, or must resort to questionable third-party sources to access their media.

**Item 5. Noninfringing Uses.**

Identify the specific noninfringing uses of copyrighted works sought to be facilitated by circumvention (*e.g.*, enabling accessibility for disabled users, copying a lawfully owned computer program for archival purposes, etc.), and the legal (statutory or doctrinal) basis or bases that support the view that the uses are or are likely noninfringing (*e.g.*, because it is a fair use under section 107, it is a permissible use under section 117). Include a brief explanation of how, and by whom, the works will be used.

Any computer that comes with certain commercial Operating Systems come with the ability to play DVDs protected by CSS; it should follow that the exact same computer should be able to access DVDs protected by CSS, even if they use an alternative operating system. Since access under a commercial operating system is expected to be fair use, it should follow that any use under alternative operating systems should be expected to be fair use as well.

Indeed, the types of people this exception is focused on are users of individual computer systems, who simply wish to be able to watch movies on their computers!

### **Item 6. Adverse Effects.**

Explain how the inability to circumvent the TPM has or is likely to have adverse effects on the proposed noninfringing uses (*e.g.*, the TPM limits wireless connection to the network of the mobile carrier from which the cellphone was originally purchased or prevents an electronic book from being accessed by screen reading software for the blind). The description should include a brief explanation of the negative impact on uses of copyrighted works. The adverse effects can be current, or may be adverse effects that are likely to occur during the next three years, or both. While the petition must clearly and specifically identify the adverse effects of the TPM, it need not provide a full evidentiary basis for that claim.

The primary adverse effect that CSS has on those who use alternative Operating Systems is the stark choice that a person who simply wishes to watch a movie must make: do I let my movie collect dust on my shelf, or do I break the law, and download illegal software, so that I could watch it? This, in itself, is a minor issue, because breaking the law for fair use isn't likely to put a given individual in prison, or even have to face paying a fine, but it's nonetheless annoying to those of us who wish to do all we can to obey the law.

The secondary effects, however, are a bit more subtle for those who choose to break the law, so that they could exercise fair use. Many alternative Operating Systems rely on "repositories" to give access to robust, stable, and extensively tested software. In order to watch a movie, however, a given operating system has to be open to third-party repositories that aren't tested; this, in turn, makes the Operating System potentially more unstable, and it opens the computer to possibilities that might lead to security breaches and viruses. Even though these computer systems typically won't contain sensitive data for millions of users, these systems nonetheless typically have sensitive data for the user of the computer, and such a data breach could lead to misery for the individual user and their family. Such a breach can also expose the computer to being secretly "zombified" to send spam email, which will inconvenience thousands of recipients, and add unneeded traffic to our network systems.

If the software for decrypting CSS can be made available in the standard repositories, then the organizations maintaining these repositories can properly test this software, and take steps to improve both stability and security.