



December 21, 2023

Proposed Class: Class 7 (Computer Programs–Vehicle Operational Data)

The Specialty Equipment Market Association (SEMA) respectfully supports MEMA’s new exemption petition for Class 7, Computer Programs – Vehicle Operational Data that would allow for “circumvention of technological protection measures on computer programs that are contained in and control the functioning of a lawfully acquired motorized land vehicle or marine vessel such as a personal automobile or boat, commercial vehicle or vessel, or mechanized agricultural vehicle or vessel to allow lawful vehicle owners and lessees, or those acting on their behalf, to access, store, and share vehicle operational data, including diagnostic and telematics data.”

Formed in 1963, SEMA is a non-profit trade association representing over 7,000 mostly small businesses nationwide that manufacture, distribute, and retail specialty parts and accessories for motor vehicles. The specialty automotive aftermarket industry supports over 1.3 million jobs across the U.S. and contributes over \$336 billion to the American economy each year through the production and sale of performance, functional, restoration, and styling-enhancement products for use on passenger cars, trucks, SUVs, and special interest collector vehicles.

MEMA’s petition for Computer Programs – Vehicle Operational Data would create a necessary extension of an existing DMCA exemption for Computer Programs - Repair of Motorized, Land Vehicles, Marine Vessels, or Mechanized Agricultural Vehicles or Vessels. This exemption was created in 2015 for lawful vehicle owner(s) and was expanded in 2018 to both cover third-party service providers and remove the limitation prohibiting circumvention of technological protection measures (TPMs) to access computer programs primarily designed to control vehicle telematics and entertainment systems. The copyright office renewed this exemption in 2021 and is again recommending that it be renewed in the ninth triennial review of Section 1201 exemptions.

SEMA supports the proposed Class 7 exemption for circumvention of technological protection measures on computer programs to allow vehicle owners and lessees, or those acting on their behalf, to access, store, and share vehicle operational data, including diagnostic and telematics data. In recent years, motor vehicles, which are increasingly software-defined vehicles, require integration of vehicle computer systems, including integrated software that controls the

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parts and operation of the vehicle. Modern vehicles are generating massive amounts of information that has the potential to improve vehicle repair and service, safety, and customization. However, vehicle owners are not currently able to benefit from the telematic data that they create when driving their vehicle(s).

Despite the changing nature of the technology in motor vehicles, millions of Americans continue to work on and fix their own vehicles. Accordingly, it is necessary that they are able to review their vehicle's performance data in order to diagnose any problems that may arise and ensure that their vehicle is operating safely. For people who do not have the time, knowledge, and ability to work on their own vehicles, it is critical that their repairer of choice has access to this information and is protected from copyright infringement for accessing a vehicle's operational data.

While the electronic control unit (ECU) and vehicle software are copyrightable, data is generally a fact and not an expression, and as such is not subject to copyright. The data that a vehicle owner generates when they drive their vehicle is theirs and should not be subject to copyright infringement when accessed by the vehicle's owner or their designee. The data that a vehicle generates is created both after the technology on a vehicle is copyrighted and the vehicle is sold.

It is important that this exemption is granted to ensure vehicle owners and their designees can download, copy, and use the non-copyrightable data that is stored on the ECU and other copyrightable works in their vehicles. This exemption is critical to maintaining consumer choice by ensuring that vehicle owners can decide who works on their vehicles and the parts that are used. Without this exemption, vehicle owners will have fewer vehicle repair and service options, resulting in higher prices to repair and maintain their vehicles.

With the continued advancements in driver assistance technology, it is critical that there is an exemption to ensure consumers and their third-party service providers are not locked out of obtaining access to vehicle operational data, including diagnostic and telematics data. This would help to ensure that vehicles with driver assistance technology can continue to be repaired or modified by vehicle owners and their designated service providers who need to access vehicle operational data to ensure that repairs can be made safely and keep the vehicle in compliance with Federal Motor Vehicle Safety Standards.

SEMA appreciates this opportunity to support the exemption request for Class 7, Computer Programs – Vehicle Operational Data.