

[Proposed class or classes of copyrighted work(s) to be exempted]= Motion pictures protected by anti-access measures, such that access to the motion picture content requires use of a certain platform.

[Brief summary of the argument(s) in support of the exemption proposed above]= Motion pictures are typically distributed in DVD (or HD-DVD) format. As will be discussed, DVDs are generally protected by anti-access technology. To create a DVD player that can play encrypted DVDs (including a software player) requires agreement to a royalty-paying license. Certain computer operating systems, such as Linux, are premised on free distribution. Unlike Windows and Mac OS X, many Linux distributions cannot include bundled DVD players, because their developers make no profits from which to pay royalties. This user-unreadiness puts Linux at a competitive disadvantage. Moreover, the limited number of non-business Linux users has discouraged investment in developing a broadly compatible, commercial Linux DVD player. A free DVD player is essentially impossible due to the requirement of royalty payments. In effect, Linux users are prevented from watching DVDs on Linux. This propos!

ed class seeks to address the selective harm that the current law does to Linux and Linux users, as well as the lock-in effect it fosters in favor of major, incumbent operating systems, by legally decoupling DVD content from the DVD format. Motion picture owners could decrypt DVDs, convert their contents to video files, and view movies on their computers without DVD players. This would mitigate the consumer harm from and the anticompetitive effects of the lack of DVD players for Linux, while leaving intact the primary incentives to buy DVDs and commercial DVD players.