

January 28, 2012

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

To whom it may concern:

RE: Exemption to Prohibition on
Circumvention of Copyright
Protection Systems for Access
Control Technologies

This letter is in response to the upcoming Digital Millennium Copyright Act (DMCA) rule making for digital devices running software provided by the manufacturer of the device. Specifically for the ability to alter and or enhance the performance of the device through software modifications by users other than the creators of the software or the manufacturers of the hardware (relating to Class 3 game consoles, Class 4 personal computing devices, and Class 5 Smartphones and tablets).

“Jailbreaking” is a term used to refer to the modification or creation of software code for the purpose of creating new applications or modifying the performance of existing hardware systems on digital devices such as Smartphones, tablets, audio/video, and gaming consoles. In 2010, the Copyright Office said jailbreaking Smartphones doesn’t violate the DMCA and thus gave an exemption to the rule barring modification of software for those devices. In 2012 the Copyright Office will reconsider that exemption.

Regarding class 5 Smartphones. Currently I am a scientific consultant performing a variety of tests and investigations for a wide range of industrial and private clients. I perform fieldwork that requires the use of a Smartphone, specifically an iPhone, for documenting physical events that require recording events using both audio and video software on that device. No Smartphone or device is perfect though and I need the ability to move rapidly between programs during certain procedures. Only jailbreak type apps allow for such abilities. For instance, one of the most crucial programs is an app called Activator, which allows assignment of specific toggles to enable rapid retrieval of apps and program data for speed and multitasking. Another app is called Multicleaner which allows the immediate halt to an application or an entire group of applications running on the phone. This is extremely useful on an older device such as the Apple 3GS iPhone I use. Its memory is limited and the Multicleaner app allows for the immediate retrieval of additional memory, which really improves the performance of the phone, so much so that I am putting off purchasing a newer phone. This saves me enormous amounts of time doing upgrades as well as money in my business. Multiflow is another jailbreak from the Cydia app store, a common app provider besides Apple. This app allows for the miniaturization and back grounding of an app screen into small cards that can rapidly be sorted, viewed and selected during my work activities. This increases my efficiency and

helps keep me on task as I select the programs that need to be used at the time. Another is called Sbssettingstoggles which, with the swipe of a finger, produces a screen demonstrating some of the core functionalities of the Smartphone. The screen shows the phone location toggle button, the network toggle button, the WIFI toggle button, the reboot toggle, and more, all in one place. This is a HUGE time saver when using the iPhone for my work. Nothing like these apps exist from Apple the manufacturer. Just to share with you a bit of reality, a number of the program apps in Apple's online App Store were actually created by jail breakers and a number of them have even been incorporated into the operating system software controlling the latest generation of iPhones!

When a person purchases a device, that device becomes the property of that person and that person in the United States has the right to use that device in whatever manner he or she sees fit. I want to have the ability to jailbreak all of my devices without the fear of legal reprisals from developers and manufacturers. I realize they have created these incredible devices as well as the on board software, however, they need to allow the buyers and users to make modifications that are practical and that allow for the creation of new and innovative software products. I realize that there are those who may try to illegally profit from these jailbreaking activities or may actually try to cause harm to some users or groups by their actions. I cannot nor will I ever condone such activities and would encourage the proper authorities to vigorously pursue these individuals and take their privileges away in these areas. I just don't want to see innovation stifled or productivity reduced because manufacturers or the software engineers working for them want to tightly control all aspects of the devices created for the public, especially after the device is in someone's home being used for a legitimate purpose. Owners of these devices have rights too and they should not feel threatened by lawsuits because they modified some lines of code and improved the performance of a device or added to its functionality – that is un-American in my humble opinion!

I am asking that you please continue to uphold the exemption for jailbreaking Class 5 Smartphones for legitimate purposes and, while you are at it, exempt jailbreaking for tablet computers (Class 5), personal computing devices (Class 4) and video game consoles (Class 3) as well under the same rules covered in DMCA Section 1201.

Please let me know if I can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark W. Rigler', with a stylized flourish at the end.

Mark W. Rigler, Ph.D.
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Monroe, GA 30655