

Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201

Submitted by:

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Item 1. Commenter Information

iFixit is an international, open-source, online repair manual for everything. Our mission is to provide people with the knowledge to make their things work for as long as possible. Because we believe that repair saves money, fosters independence, and protects the environment.

iFixit represents a global community of makers, hardware hackers, fixers, tinkerers, and repair professionals. In 2014, the iFixit community taught repair to over 40 million people from almost every country in the world. The strongly collaborative group has published over 10,000 crowd-sourced repair guides on iFixit.com. This massive, free resource has helped people fix everything from mobile phones to game consoles, toys to musical instruments. iFixit also stands firm in its support of the tinkerers and independent repair professionals in our community. We believe that owners should have the right to repair, modify, and hack the things that they own.

Item 2. Proposed Class Addressed

Proposed Class 21: Vehicle software – diagnosis, repair, or modification

Item 3. Rebuttal Statement Regarding Proposed Exemption

John Deere and General Motors are trying to eviscerate the notion of ownership. Sure, we pay money for their vehicles. But we don't really *own* them anymore. At least, not according to John Deere and General Motors comments to the Copyright Office.

John Deere—the [largest agricultural machinery maker](#) in the world—[told the Copyright Office](#) that farmers don't completely own their tractors. Because modern tractors now have computer code snaked through their DNA, farmers receive “an implied license for the life of the vehicle to operate the vehicle.”

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 under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

So, Old MacDonald has a tractor—but he really only owns a 2,000-pound barn ornament, because manufacturers have the rights to the programming that makes his tractor run. Their argument runs completely at odds with an owner's property rights. And it gives manufacturers undue control over the physical objects they sell to consumers.

(This is a really important issue for farmers: one of my neighbors, Kerry Adams, hasn't been able to fix an expensive transplanter because he [doesn't have access to the diagnostic software](#) he needs. Kerry's not alone: many farmers are opting for [older, computer-free equipment](#).)

In recent years, product-makers have leveraged the DMCA to [stop owners from modifying the programming](#) on those products. Which means that you can't [strip DRM off smart kitty litter boxes](#); or [install custom software](#) on your iPad; or alter the calibration on [a tractor's engine](#) to make it work better in your field. Not without potentially running afoul of the DMCA.

And that's how manufacturers turn tinkerers into "pirates"—even if said "pirates" aren't circulating illegal copies of anything. That just doesn't make sense to me.

But it makes sense to John Deere: They [argued](#) that allowing individuals to alter the software in *their own* tractors—even for the purpose of repair—would "make it possible for pirates, third-party developers, and less innovative competitors to free-ride off the creativity, unique expression and ingenuity of vehicle software". They also implied that permitting owners to root around in the a tractor's programming might lead to [pirating music](#) through a vehicle's entertainment system. Because copyright-marauding farmers are very busy people, and need to multitask ... by simultaneously copying Taylor Swift's greatest hits and harvesting corn?

I'm just guessing, because John Deere's lawyers never said *why* anyone would ever pirate music on a tractor, or pointed to an example of someone who has. Just that it *could* happen.

General Motors also [told the Copyright Office](#) that proponents of copyright reform mistakenly "conflate ownership of a vehicle with ownership of the underlying computer software in a vehicle." But I'd bet that most Americans make the same conflation—and Joe Sixpack might be pretty surprised to learn GM owns a giant chunk of the Chevy that's sitting in his driveway.

Other vehicle makers pointed out to the Copyright Office that owners who make unsanctioned modifications to products could alter their cars in bad ways. Car owners could tweak the power to make the car go racing speeds on public roadways. Or change the engine parameters in ways not consistent with emissions regulations.

And they're right—that could happen. It's just that those activities are (1) already illegal, and (2) have *nothing* to do with copyright. If you're going way too fast, a cop should pull

you over—copyright law shouldn't. If you're dodging emissions regulations, you should pay EPA fines—not DMCA fines. And the specter of "what-if-someone-does-something-illegal" shouldn't be justification for shutting down all the perfectly legal modifications that people can make to their products.

GM even went so far as [to argue](#) that locking people out of their own products—stopping tinkerers, researchers, and curious owners from understanding how programming operates—is *good* for innovation. Which is like saying that locking up books will inspire kids to be innovative writers—because they won't ever be tempted to copy any passages from an Ernest Hemingway novel.

Meanwhile, actual technology experts—including the [Electronic Frontier Foundation](#)—have consistently labeled the DMCA an innovation killer. And that rather than stopping content pirates, language in the DMCA has been used by companies to stifle competition and expand corporate control over the life (and [afterlife](#)) of products.

"The bad part is, my sense is, these companies are just locking up this technology, and increasing the sort of monopoly pricing structure that just doesn't work for us," Brian Talley, a farmer on California's Central Coast, said of the restrictions put on his equipment. I toured his farm with the Intellectual Property & Technology Law Clinic just a few months ago, so we could tell the Copyright Office how manufacturers are tying the hands of farmers. (We submitted his comments to the Copyright Office in the first round of comment submissions.) "We are used to operating independently, and that's one of the great things about being a farmer. And in this particular space, they are really taking that away from us."

We respectfully request that the Copyright Office consider an exemption for vehicles for the purpose of modification and repair. It's in the interest of property rights, and it's in the interest of consumers.