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

Item 1. Commenter Information

This is a comment by Michael Horton.

Item 2.   Proposed Class Addressed

Proposed Class 17: Jailbreaking – all-purpose mobile computing devices

Item 3. Statement Regarding Proposed Exemption

I support a copyright exemption for jailbreaking mobile computing devices for several reasons. First, jailbreaking can enable functionality that is unavailable in a device's stock operating system. Given the fact that newer mobile OSes tend to suffer performance issues on older hardware, this is the only way that users of that hardware can reap the benefits of enhanced functionality without a severe usability penalty.

Second, jailbreaking can enhance functionality of existing software on a mobile device. For example, Limelight, an application that allows owners of Android tablets to play games streamed from personal computers equipped with Nvidia graphics cards, has better external mouse support if used on a jailbroken Android device. This gives users more precise control over their games and frees them from the restrictions of Android's built in mouse support (a pre-set cursor and not being able to move the cursor beyond the boundaries of the screen).

Third, jailbreaking allows for the preservation of mobile games by allowing greater access to the files that comprise a game. On some mobile operating systems, like iOS, access to the file system is completely unavailable to users who possess a stock OS. Without complete file system access, there will be no way to extract the files and data of a game that is no longer legally available, making it impossible to backup and preserve that information for the future.

Fourth, jailbreaking allows consumers who purchase mobile devices to purge them of unwanted software. Many Android devices are sold with various applications that have dubious utility, undesirable performance impacts, and are bundled with older, more vulnerable firmware/OSes. Jailbreaking allows users to update to the latest firmware/OSes and remove unwanted applications, thereby increasing the value and utility of the device they have purchased.

Fifth and finally, a copyright exemption for jailbreaking would lower the likelihood that application developers would deliberately discriminate against consumers who have jailbroken their devices. As it stands now, some applications do not function if they detect some sign that the device is jailbroken. For example, the Android streaming TV application for Bright House Networks refuses to work if Android Debug Bridge (ADB), a developer tool often used in the jailbreaking process, is enabled. This is most likely due to the mistaken assumption consumers who jailbreak devices are interested in piracy, when most jailbreakers are simply consumers who wish to use the device they bought without artificial restrictions and limitations imposed by the software developers and device manufacturers.