

**Short Comment Regarding a Proposed Exemption
Under 17 U.S.C. 1201
Docket No. 2014-07**

Item 1. Commenter Information

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The Motor & Equipment Manufacturers Association (MEMA) represents more than 1,000 companies that manufacture motor vehicle parts for use in the light- and heavy-duty vehicle original equipment and aftermarket industries.¹

Item 2. Proposed Class Addressed: Class 22, Vehicle Software – Security and Safety Research

Item 3. Statement Regarding Proposed Exemption

MEMA respectfully requests the United States Copyright Office (“Copyright Office”) refrain from creating any exemption that impacts the software and technical protection mechanisms (“TPMs”) in vehicles. Although there are needs to safely access vehicle software and technical mechanisms, MEMA believes the exemption requested is too broad. The technology in vehicles is unique in that it is distinguishable in purpose from the technology in mobile devices, computers and media players. MEMA believes the industry is best able to address these issues and would urge the Copyright Office to encourage all parties to work together to retain appropriate and essential access. Accordingly, the Copyright Office should deny the proposed exemption for Class 22.²

The issues that were raised by the Class 22 comments³ highlight the risks associated with allowing the circumvention of the TPMs in vehicles. Vehicle systems are comprised of technology and Electronic Control Units that are all interrelated and calibrated to function both collectively, and independently.⁴ A change in one component of the system could have an impact on an entirely different system or control unit of the vehicle. Further, the combination of the technology, systems and calibrations of these components and systems are specific to each motor vehicle and therefore require an in-depth and specific expertise that demands not only an understanding of the vehicle and its parts, but of the technology and how it may impact those parts. The TPMs also ensure that the vehicles meet federally mandated safety and emissions standards, including the Federal Motor Vehicle Safety Standards and fuel economy standards. The TPMs ensure these systems are protected, and the disclosure of the information related to fuel consumption and emissions will threaten the proper functioning of the systems.⁵ The anti-circumvention provision of the Digital Millennium

¹ MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (AASA), Heavy Duty Manufacturers Association (HDMA), Motor & Equipment Remanufacturers Association (MERA) and Original Equipment Suppliers Association (OESA).

² Copyright Office, Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Notice of Proposed Rulemaking, 79 Fed. Reg. 53856 (Dec. 12, 2014).

³ The parties include General Motors, LLC (“GM”), the Association of Equipment Manufacturers (“AEM”), the Association of Global Automakers, the Alliance of Automobile Manufacturers (“Auto Alliance”), Eaton Corporation, and Deere and Company (“John Deere”).

⁴ “For example, crash avoidance systems such as crash imminent braking, or lane keeping assist rely on data from vehicle sensors, as well as data from other ECUs to determine appropriate braking force for reducing the severity or occurrence of a crash.” See, Comment of Association of Global Automakers, Inc. Regarding Exemption for Proposed Class 22 at page 3.

⁵ Further, each state imposes its own standards for emissions, and a consumer’s ability to meet these standards largely depends on technical systems within the vehicle, which are typically protected by TPMs.

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Copyright Act serves as another layer to protect the public from the safety issues that could arise from access to these systems.⁶

The United States depends on a vibrant independent aftermarket to maintain and service the vehicles on the road. The average current age of an automobile is just over 11 years old and most aftermarket maintenance and repair work occurs at vehicle manufacturers' dealership service facilities (30%) or independent repair shops (70%). At the same time unperformed maintenance of vehicles in the U.S. exceeds \$66 billion worth of service or 27 percent of the total aftermarket potential. This maintenance and repair work is not limited to traditional replacements of oil, brakes, batteries, filters, lights, fluids, hoses, belts, and tires. Since the modern automobile has over 100 million lines of computer code, the understanding and translation of this enhanced electronic information about vehicle systems are critical to diagnostic and repair work. Vehicle owners must have a choice regarding the servicing and repair of their vehicles, which ensures convenience, affordability and market competition. However, there are currently readily available alternatives to circumvention and if the Class 22 exemption is accepted it would impact a vehicle's ability to comply with regulatory standards.⁷

MEMA also cautions the Copyright Office against allowing circumvention of TPMs that protect against unauthorized copying and distribution of music, television and film content that is provided via vehicle infotainment systems. MEMA agrees with the concerns, raised by John Deere, that circumvention of vehicle entertainment systems could result in unauthorized piracy of copyrighted works and create security risks.⁸ TPMs operate to protect the content of copyright holders as well as personal information that may be stored in the vehicle's application folders. Circumvention would disable any security protections, placing copyrighted works at risk and the user's content and personal information at risk of exposure.

MEMA certainly appreciates that the right to control these systems should not forever remain within the hands of manufacturers, and the automotive industry is working towards this goal. But, given the unique issues raised by the technical and electronic systems in motor vehicles, MEMA respectfully submits that the Copyright Office is not the appropriate party to determine when to "release" access to the systems within motor vehicles. There are simply too many other regulatory, safety and environmental factors at play for this to be an issue that is strictly dealt with under copyright law. Accordingly, MEMA asks that the Copyright Office consider a partnership with industry groups to determine the best way to ensure that these safety, security and environmental goals are met while still considering the rights and goals of manufacturers and the aftermarket.⁹

⁶ 17 U.S.C. § 1201.

⁷ See, Long Comment Regarding Proposed Exemption in Class 22, by General Motors LLC ("GM") at pages 5-6.

⁸ See, Long Comment Regarding Proposed Exemption in Class 22, by Deere and Company ("John Deere") at page 7.

⁹ The industry has had a long history of working together in the National Automotive Service Task Force ("NASTF"). Its members include associations representing vehicle manufacturers, suppliers, tool and equipment, and automobile dealers.