

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

## **Item 1. Commenter Information**

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This comment is filed by the Free Software Foundation, a charitable corporation founded in 1985. The Foundation is the largest single contributor to the GNU operating system (used widely today in its GNU/Linux variant). The Foundation's GNU General Public License is the most widely used free software license, covering major components of the GNU operating system and tens of thousands of other computer programs used on hundreds of millions of computers around the world.

## **Item 2. Proposed Class Addressed**

Class 10: Computer Programs—Unlocking

## **Item 3. Statement Regarding Proposed Exemption**

The GNU/Linux operating system has become one of the most widely used operating systems on the planet. The GNU System and the kernel Linux are called free software because users are free to study, share, and improve the software. Those who promote free software believe that controlling one's own computing should be a universal right.

Digital restrictions interfere with the ability to enjoy these freedoms. Circumventing such restrictions for any use should not come with the threat of legal sanction. The process of continually applying for exemptions under 17 U.S.C. 1201 is onerous and instead any circumvention for a non-infringing purpose should be permitted.

However, where exemptions are used to safeguard the public from these laws, it must be the case that exemptions should cover the sharing and distribution of software and instructions for circumventing access control technologies. Without this, exemptions are near useless, since it would require everyone who wants to act within their scope to write their own software to do so.

The proposed class demonstrates the ongoing absurdity of the exemptions process, where users continually have to fight for their same rights over and over again. Users were granted an exemption to carrier unlock their cellphones, which was then taken away in a later by the Copyright Office, only to have Congress reinstate the right later. But this right didn't extend to tablets, so an exemption was filed for that as well. And now this proposed class looks to expand the list of devices to include laptops and wearable devices. Now more than ever, the devices that people own are connected to the Internet and mobile data systems. Refrigerators, televisions, cars and thousands of other devices are all increasingly available as Internet-connected devices. Requiring users to repeatedly ask for exemptions to enable carrier unlocking is an unnecessary burden. The exemption should extend to all works and all users, as well as to the sharing of tools needed to make circumvention possible.

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