

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 14:

14(a) Computer Programs—Preservation

14(b) Video Games— Preservation

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.

Preservation of our cultural heritage is a key feature of our copyright system. This feature is not meant to be limited to particular works, or particular works on particular devices. Digital Restrictions Management increasingly threatens to lock a wide variety of works away in unbreakable digital jails. While users and organizations may be able to save these works, and enable their continued use, the threat of legal consequences stymies their preservation efforts. It doesn't matter if the work is a video game or other computer program, the rights of users remain the same. The exemption should extend to all works on all devices, and to all users, as well as to the sharing of tools needed to make circumvention possible.

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