

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 7:

7(a) Motion Pictures—Text and Data Mining

7(b) Literary Works—Text and Data Mining

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.

With regard to this particular exemption, copyright law was never meant to hinder research. Users should be able to make full use of all the tools at their disposal in order to understand the works that they own. Data mining is one such useful tool, but others exist and could exist in the future. Restricting the ability to make use of tools needed to understand works, regardless of the form those works take, needlessly harms users while offering no benefit for copyright holders. The Free Software Foundation in fact encourages users and makes tools available to data mine the Foundation's works, such as the Free Software Directory <<https://directory.fsf.org>>. While copyright holders on other works maybe can't be expected to help in this regard, they should not be permitted to hinder the efforts of users and researchers. 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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