

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 9: Literary Works—Medical Device Data

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 ones 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.

Users of medical devices should not fear legal consequences for accessing information on their own devices. Limiting the exemption to particular devices or particular methods of accessing the data leaves users in a dangerous situation where they are unable to access important information related to their own health. The issues are the same whether the device is implanted or external: users have a right to be informed about their own care. They should be able to access their own medical data, as well as any other information on the device. Like every other exemption, such exemptions are of little use if users are still restricted by the inability to access the data. Users should be allowed to have a friend or medical professional access information on medical devices and share it with them. 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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