

UNITED STATES COPYRIGHT OFFICE



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

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ITEM A. COMMENTER INFORMATION

The Alliance for Automotive Innovation (“Auto Innovators”) submits this comment in opposition to the adoption of the proposed exemption of Class 12. Auto Innovators, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers (“Auto Alliance”), is the singular voice of the automotive industry and includes motor vehicle manufacturers, original equipment suppliers, and technology and other automotive-related companies and trade associations. For further details, see <https://www.autosinnovate.org/>.

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ITEM B. PROPOSED CLASS ADDRESSED

Proposed Class 12: Computer Programs — Repair

The existing exemption codified at 37 CFR § 201.40(b)(9) allows circumvention of access controls on certain motor vehicle software for diagnosis, repair or lawful modification of a vehicle function (“existing vehicle exemption”). The October 15, 2020 Notice of Proposed Rulemaking (NPRM) identified petitions seeking to expand the existing vehicle exemption by removing the limitation that circumvention not constitute a violation of applicable law (“the Illegality Limitation”), and that “users eligible to exercise [the exemption] include third-party service providers.”¹ In their comments supporting the proposed exemption of Class 12, iFixit and

¹See *Exemptions To Permit Circumvention of Access Controls on Copyrighted Works: Notice of Proposed Rulemaking*, 85 Fed. Reg. 65293, 65306-7 (Oct. 15, 2020) (“NPRM”).

Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office Web site and use by Copyright Office staff for purposes of the rulemaking proceeding conducted under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

The Repair Association (“Repair.org”) argue for expanding the scope of the existing vehicle exemption to permit “third-party assistance,” and removing the Illegality Limitation.

This comment addresses only aspects of the proposed exemption that directly impact the automobile industry, and takes no position on any other issues raised by proponents. The NPRM also identified petitions seeking to expand the existing vehicle exemption to cover a broader range of devices, and to expand the existing exemption codified at 37 CFR § 201.40(b)(10) regarding repair of smartphones, home appliances, and home systems.² For the reasons stated below, we oppose expanding the existing vehicle exemption to permit third party assistance and to remove the Illegality Limitation, with respect to circumvention for diagnosis, repair or lawful modification of automobiles. These comments do not address whether these limitations should be relaxed or removed with respect to circumvention for diagnosis, repair or modification of any other devices.

ITEM C. OVERVIEW

Auto Innovators oppose any expansion of the existing vehicle exemption, at least with respect to automobiles. Proponents have not provided even a single example of a user who has been unable to diagnose, repair, or make lawful modifications of his or her automobile because of the defined scope of the existing vehicle exemption. Indeed, proponents seem primarily concerned with other electronic devices, not automobiles. As set forth below, expanding the existing vehicle exemption to third party services is unnecessary because, through an agreement with automobile manufacturers, independent repair shops already have access to all of the necessary diagnostic and repair tools and information. Moreover, such an expansion is impermissible because third party circumvention services are prohibited under the statutory framework that authorizes this proceeding.

In addition, proponents have not met their burden of persuasion to expand the existing exemption by removing the Illegality Limitation. Proponents merely rehash arguments the Copyright Office has previously rejected, and have not provided any evidence to alter the Office’s conclusion in 2015, affirmed in 2018, that the Illegality Limitation is necessary to account for “legitimate safety and environmental concerns.”

ITEM D. TECHNOLOGICAL PROTECTION MEASURE(S) AND METHOD(S) OF CIRCUMVENTION

The proposed exemption would authorize unfettered circumvention by anyone of every access control on every “software-enabled” device, including automobiles. As noted above, this comment addresses only aspects of the proposed exemption that directly impact automobiles. TPMs in automobiles are critical to protect copyrighted vehicle firmware and to ensure safety, security, and regulatory compliance.

ITEM E. ASSERTED ADVERSE EFFECTS ON NONINFRINGING USES

I. The Exemption Should Not Be Expanded To Enable Third Party Services

As Auto Innovators explained in its filing regarding renewal of the existing vehicle exemption, the existing vehicle exemption does not permit third party commercial services to

²See *id.*

manufacture or traffic circumvention tools or provide circumvention services.³ In the NPRM, the Copyright Office affirmed the position it expressed in the 2018 Recommendations that, while the language of the existing vehicle exemption was intended to “account[] for the possibility that certain third parties may qualify as ‘user[s]’ eligible for [the exemption],” the Office did not express any view on “whether vehicle or other repair services may run afoul of the anti-trafficking provisions when engaging in circumvention on behalf of customers.”⁴ In the 2018 Recommendations, the Office made clear that the exemption does not extend to “conduct prohibited by the anti-trafficking provisions” and warned that any third party services that wish to circumvent pursuant to the existing vehicle exemption “do so at their peril.”⁵ Thus, while indicating it may be possible for “certain” third parties to qualify as “users” (a position with which we disagree), the Copyright Office has not taken an affirmative position that any third party is in fact eligible for the existing vehicle exemption. Likewise, the Office has not taken a position regarding whether it is possible for a third party repair service to circumvent without violating the anti-trafficking provisions.

In seeking to expand the existing vehicle exemption, proponents have the burden to show that users are presently unable to engage in noninfringing activities to diagnose, repair, or make lawful modifications to their automobiles, and that this inability is due to the statute or the limitations in the existing exemption that they propose to dismantle.⁶ Proponents have not met that burden. They have not provided even a single example in which the limitations in the existing exemption have impeded any owner of a motor vehicle from diagnosing, repairing, or lawfully modifying his or her motor vehicle.⁷ Independent repair shops and individual vehicle owners already have access to the necessary diagnostic and repair tools through an agreement with automobile manufacturers, and the statutory framework does not permit an exemption that covers third party services or trafficking in circumvention tools.

A. Third Party Servicers Already Have Authorized Access to Circumvention Tools

As Auto Innovators detailed in its response regarding the petitions to renew the existing vehicle exemption, independent repair shops already have access to all necessary diagnostic and repair tools and information. In 2002, automakers committed to make available to third party servicers emission and non-emission related information, a commitment that has been updated

³See Alliance for Automotive Innovation (Auto Innovators), Comments in Response to Petitions to Renew the “Streamlined Renewal Process” Exemption (Sept. 8, 2020) (“Auto Innovators Renewal Comment”) at 2-3.

⁴See NPRM at 65300 (quoting from the 2018 Recommendations).

⁵See 2015 Recommendations at 225.

⁶See U.S. Copyright Office, *Section 1201 of Title 17: A Report of the Register of Copyrights 27-28* (2017) (“1201 Report”). Among other resources, the NPRM refers to the 1201 Report as well as prior recommendations for “the substantive legal and evidentiary standard for the granting of an exemption under section 1201(a)(1)...” See NPRM at 65294.

⁷The NPRM clearly says, “Proponents of exemptions should present their complete affirmative case for an exemption during the initial round of public comment, including all legal and evidentiary support for the proposal . . . Reply comments should not raise new issues . . .” See NPRM at 65302. Proponents have had ample opportunities to bring forward any evidence that may exist to support their assertions, including the opportunity to petition for renewal of the existing exemption in July 2020 and the opportunity to petition for expansion of the existing exemption in December 2020. If proponents use the reply round in this proceeding to bring forward any such evidence, Auto Innovators urge the Office to disallow it. Acceptance of new evidence on this point in the reply round would raise serious questions regarding the fairness of this proceeding because opponents would not have an opportunity to adequately respond.

several times.⁸ In 2014, the two predecessor automotive trade associations that have since combined to form Auto Innovators signed a Memorandum of Understanding (“MOU”) in which they committed to provide independent repair facilities and owners access to the same diagnostic and repair information that manufacturers provide to franchised dealers, and to make available to owners and independent repair facilities diagnostic repair tools that incorporate the same repair capabilities that manufacturers make available to dealers.⁹

The Auto Alliance comment in opposition to the proposed exemption on Class 7 during the 2018 rulemaking provided details on the MOU and its attached comprehensive “Right to Repair” or R2R Agreement.¹⁰ As discussed, the MOU includes a dispute resolution panel (“DRP”) that can be invoked by any repair facility that believes an auto manufacturer has failed to provide information or tools required by the MOU on “fair and reasonable” terms.¹¹ Since the MOU entered into force, there has not been a single instance of an owner or independent repair facility employing the DRP, including to contest the MOU’s guarantee of a “fair and reasonable” price.¹² The MOU, therefore, ensures vehicle owners and independent repair facilities have all of the information and access necessary to diagnose vehicles and complete vehicle repairs.

The assertion by iFixit and Repair.org that expanding the existing vehicle exemption to “third-party assistance” is necessary to “make it possible for customers to take advantage of these exemptions in a meaningful way” is, therefore, completely unfounded.¹³ Their comment focuses mainly on other devices, and does not provide any evidence that automobile owners have had any difficulty repairing their vehicles. Their evidence-free assertion simply does not match up with the reality of a nationwide system in which manufacturers have fulfilled their legally mandated (emissions-related) and publicly stated (non-emissions-related) obligations to share with independent repair facilities and vehicle owners the same information necessary to diagnose and repair vehicles that they provide to dealers. Thus, users are able to fully avail themselves of the existing vehicle exemption “in a meaningful way” by repairing their vehicles themselves; or, if they require third party assistance, taking their vehicles to an independent repair servicer that has access to all the same diagnostic and repair tools and information that are available to the dealer.

Proponents also baselessly assert that expanding the existing vehicle exemption to “third-party assistance” will “reduce the amount of environmental waste generated,” and expand “crucial domestic job opportunities” in the repair, recycle, and reuse industries.¹⁴ Setting aside whether it is appropriate for the Copyright Office to consider such non-copyright concerns, there

⁸See Auto Innovators Renewal Comment at 3-4.

⁹The obligations under the MOU to which the automakers committed have not changed since the merger of Auto Alliance and the Association of Global Automakers, and remain in place today.

¹⁰See Auto Alliance, Class 7 Long Comment at 3-7 (Feb. 12, 2018).

¹¹See *id.* at Exhibit A, R2R Agreement, ¶ 6.

¹²Moreover, as stated in the 2018 Auto Alliance comment, the cost of items under the MOU is irrelevant to the scope of the existing exemption, and this proceeding is not the appropriate forum to debate issues of cost or competition.

¹³See iFixit and The Repair Association (Repair.org), Class 12 Long Comment at 22-23 (Dec. 14, 2020) (“iFixit and Repair.org Comment”) at 22.

¹⁴See *id.* at 22-23.

is no evidence that these concerns actually exist, at least with respect to automobiles.¹⁵ There is currently a thriving network of independent repair servicers that have access to all diagnostic and repair tools and information needed for diagnosis and repair of vehicles, and that reuse and recycle broken car components. In fact, independent repair shops, not franchised dealers, perform the vast majority of post-warranty automotive repairs and maintenance. Thus, there is no evidence that expanding the scope of the existing exemption to enable third party services will expand any legitimate job opportunities in the repair, recycle, or reuse industries.¹⁶ Likewise, proponents have not provided any evidence that vehicle owners are contributing unnecessary environmental waste by purchasing new vehicles sooner than they otherwise would simply because they are unable to repair their vehicles. The evidence proponents provided in support of their assertion that an expanded exemption would reduce environmental waste relates to other electronic devices, not automobiles.¹⁷

B. Enabling Third Party Services is Outside the Scope of This Proceeding

The statute is clear that the Copyright Office is not authorized to expand the existing exemption to enable the manufacture or trafficking of circumvention tools or the provision of circumvention services. This rulemaking proceeding is conducted to determine exemptions for users of copyrighted works who are prohibited from circumventing access controls under 17 U.S.C. § 1201(a)(1). The exemptions derived from this proceeding do not apply to the prohibitions under Section 1201(a)(2) against the manufacture or trafficking of circumvention tools, and providing or trafficking in services for circumventing access controls, nor to the prohibitions under Section 1201(b) against the manufacture or trafficking of circumvention tools, and providing or trafficking in services for circumventing copy controls. In the 2018 Recommendation, the Office stated clearly that its recommendation to remove the “authorized owner” language from the prior exemption “should in no way be understood to suggest that the exemption extends to conduct prohibited by the anti-trafficking provisions; such an exemption is beyond the Librarian’s authority to adopt.”¹⁸ In its 2017 Report on Section 1201, the Copyright Office similarly stated that it “continues to believe that it cannot affirmatively recommend exemption language that is likely to be read to authorize unlawful trafficking activity” and specifically disagreed with those who “argued that the Librarian is authorized to adopt such language.”¹⁹ These conclusions are correct, and the Office should re-affirm them by rejecting the invitation to expand the exemption in a way that would enable trafficking in circumvention tools or circumvention services, both of which are clearly prohibited by Sections 1201(a)(2) and 1201(b).

¹⁵In the 1201 Report, the Copyright Office indicated “. . . that the rulemaking must be ‘principally focused on the copyright concerns implicated by any proposed exemption’ and that it is not typical for safety and environmental concerns to play a significant role in the Register’s recommendation.” *See* 1201 Report at 125.

¹⁶As discussed below, providing a service to circumvent access controls that protect proprietary software is prohibited under Sections 1201(a)(2) and (b). Any potential increase in “jobs” performing such unlawful activities clearly should not be a relevant consideration in this proceeding.

¹⁷As noted above, if the Office decides to recommend a repair exemption that extends to third party assistance, automobiles should be specifically excluded from such changes, since there is no evidence in the record to support such a modification with regard to automobiles.

¹⁸*See* 2018 Recommendation at 225.

¹⁹*See* 1201 Report at 61-62.

Although the Copyright Office indicated in the 2018 rulemaking that there is a “possibility that certain third parties may qualify as ‘user[s]’ eligible” for the existing vehicle exemption, the Office was very clear that it was not enabling “conduct prohibited by the anti-trafficking provisions.”²⁰ Thus, one problem with proponents’ argument to expand the exemption beneficiaries to include “third-party assistance” is that they are clearly referring to third parties that are providing a *commercial service* repairing vehicles and other software-enable devices. Providing a commercial service that requires circumventing access controls or copy controls (e.g., using or providing certain engine tuning software) is indisputably trafficking in an unlawful service under Sections 1201(a)(2) and (b). Expanding the beneficiaries of the existing vehicle exemption to include these entities that would provide circumvention services to the public is clearly not permissible under the DMCA provisions governing this proceeding. Accordingly, proponents’ unsourced allegation that vehicle owners may require “third-party assistance” to “take advantage” of the exemption is beside the point. Expanding the existing vehicle exemption to include service providers simply because some, or even most, users may need assistance to perform a noninfringing activity would undermine the statutory framework, which does not permit temporary exemptions to the prohibitions of 1201(a)(2) and 1201(b) against circumvention services.

II. Proponents Have Not Provided Any Evidence of Adverse Effects Caused By The Existing Illegality Limitation

Proponents have not provided any evidence that the Illegality Limitation in the existing vehicle exemption has caused any adverse effects on a user’s ability to diagnose, repair, or make lawful modifications to their automobile. Instead, iFixit and Repair.org rehash arguments that the Copyright Office rejected in prior rulemakings, complaining that the limitation for violations of other laws involves concerns unrelated to copyright. They argue that the Illegality Limitation should be removed because “the Copyright Office lacks expertise” in non-copyright laws and “[t]he concerns and motivations for these other areas of law have nothing to do with the protection and promotion of creative works...”²¹ They further suggest that the Illegality Limitation is unnecessary because users are also subject to remedies for violations of other laws, and that removing the Illegality Limitation would merely remove the “threat of violating copyright law” for the act of repairing a device, which “fundamentally does not implicate copyright interests.”²²

In recommending the Illegality Limitation during the 2015 rulemaking proceeding, the Office rejected arguments made “with some force” that safety and environmental concerns are “relatively remote from the copyright interests that are at the heart of section 1201 cycle.”²³ Based on an extensive record, the Office concluded that safety and environmental risks constituted “serious ‘other factors’ that weigh against an exemption.”²⁴ The Auto Alliance long-form comment in opposition to the proposed Class 21 exemption during the 2015 rulemaking proceeding details the myriad of safety and environmental restrictions with which motor vehicles must comply, including for fuel economy, emissions controls, and driver and passenger safety;

²⁰See 2018 Recommendations at 225.

²¹See iFixit and Repair.org Comment at 20.

²²See *id.* at 20-21.

²³See 2015 Recommendations at 242.

²⁴The Office summarized this record in the 2015 Recommendation at 241-44.

and illustrates the potential negative consequences of allowing unrestricted modification of motor vehicle firmware.²⁵ In 2015, the Office received letters from the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) outlining their concerns. This ample record led the Office to conclude that, although the rulemaking proceeding is “principally focused on the copyright concerns implicated by any proposed exemption,” the Illegality Limitation was necessary “to account for these legitimate safety and environmental concerns.”²⁶ In the 2018 rulemaking proceeding, although the Office broadened the 2015 exemption in certain ways, the Office maintained the Illegality Limitation in the existing vehicle exemption.

Proponents have not provided any evidence to alter the conclusion reached in 2015 and affirmed in 2018 that the exemption for motor vehicle diagnosis, repair, or modification should include the Illegality Limitation. To the contrary, one proponent, the Auto Care Association, highlights that the existing vehicle exemption “has never been shown to . . . interfere with a vehicle’s safety and environmental controls,” a clear indication that the Illegality Limitation is having the intended effect.²⁷ Removal of the Illegality Limitation would risk vehicles that are less safe and less secure, exposing vehicle computer systems/databases to unlawful invasions, and reducing the level of compliance with important safety and environmental protections.²⁸ Unfettered circumvention of vehicle firmware would risk weakened safety and environmental protections and undercut regulatory compliance by enabling interference with emission controls and safety systems. Expanding the exemption to third party services, as proposed by the proponents, would compound these risks by enabling unauthorized services to access critical vehicle systems. In addition, such circumvention may provide access to data that is personal to the user; thus, allowing third party services to circumvent could allow third parties to access to data that is personal to the user, which would raise significant privacy concerns, and risk violating federal and state privacy regulations. Automobile manufacturers abide by transparent privacy principles subject to Federal Trade Commission (FTC) enforcement along with federal and state privacy regulations. Among other things, these measures include provisions that clearly outline limits on the collection of personal data, provide for the security of user data, and, in certain cases, permit users to control how data is used.²⁹ Expanding the exemption as proponents suggest would enable third party services to have unfettered access to private data, risking theft or misuse, without any knowledge by the owner of the vehicle. Auto Innovators urges the Copyright Office, as it did in prior rulemakings, to give full consideration to the potential negative impacts to motor vehicle safety and data privacy, as well as energy and environmental standards, that could result from the proposed expansion of the existing vehicle exemption.

In addition, the Illegality Limitation encompasses both laws related to copyright as well as non-copyright laws. For example, as noted above, the restriction that users cannot violate the

²⁵See Auto Alliance, Class 21 Long Comment at 16-21 (Mar. 27, 2015).

²⁶See 2015 Recommendation at 248.

²⁷See Auto Care Association, Class 12 Comment (Dec. 14, 2020).

²⁸As noted above, iFixit and Repair.org raise spurious and unfounded environmental concerns regarding their proposal to expand the existing vehicle exemption to enable third party services, yet their proposal to eliminate the Illegality Limitation ignores the very real environmental damage that would likely result, as documented during the 2015 rulemaking.

²⁹For more information, see *Automotive Privacy*, AUTO INNOVATORS, <https://www.autosinnovate.org/initiatives/innovation/automotive-privacy>.

anti-trafficking provisions of Section 1201 is a key limitation of the existing vehicle exemption. The Illegality Limitation provides a clear guidepost that, as the Copyright Office noted in its 2018 Recommendations, the exemption does not extend “to conduct prohibited by the anti-trafficking provisions.” Indeed, one of the proponents in Class 12, Transtate, proposed a repair exemption for medical equipment that is similar to the existing vehicle exemption, emphasizing that the inclusion of a restriction for violation of other laws will ensure that circumvention by beneficiaries would not violate the DMCA anti-trafficking provisions.³⁰

In the NPRM, the Office referenced its recommendation in the 2018 rulemaking to decline to remove a similar limitation requiring compliance with “other laws” from the temporary exemption for security research, stating that proponents for Class 12 “should include discussion of any relevant changed circumstances.”³¹ Proponents have clearly failed to meet this burden. Proponents have not provided any evidence that the relevant circumstances regarding the existing vehicle exemption are any different from those regarding the exemption for security research at issue in the 2018 rulemaking. The Office reached its conclusion in 2018 for the following reasons: (1) a restriction for violations of “other laws” does not impede legitimate security research because other laws still apply even if the activity were permitted under the exemption; (2) Section 1201 is not the cause of any adverse effect when circumvention is prohibited by other laws; (3) Congress included an obligation to comply with “other laws” in a similar statutory exception; and (4) the Department of Justice raised concerns that removal of the limitation could cause confusion and mislead security researchers regarding the legality of their activities.³² Proponents have not provided any evidence to suggest that these reasons do not also apply to the existing vehicle exemption.

First, a restriction for violations of other laws does not impede legitimate repairs or modifications of automobiles because these other laws still apply even if the activities were permitted under the exemption. Indeed, proponents acknowledge this fact, stating that removal of the Illegality Limitation “would not eliminate remedies for violations of existing law, regulations, or even breach of contract.”³³

Second, although proponents bemoan the “threat of violating copyright law” for circumvention that violates other laws, proponents have not provided any evidence that the Illegality Limitation has had any incremental impact on noninfringing repair activities beyond the impacts attributable to other laws. It is worth noting that enforcement activity pursuant to many measures applicable to automobiles, such as EPA and DOT regulations, is much more common than is enforcement pursuant to the DMCA. This proceeding is solely concerned with adverse impacts arising “by virtue of [the] prohibition” contained in 17 USC § 1201(a)(1)(A), and any impacts attributable to other laws are completely irrelevant.³⁴

³⁰See Transtate Equipment Company, Inc., Class 12 Long Comment (Dec. 14, 2020) at 21.

³¹See NPRM at 65407 (referencing the relevant analysis in the 2018 Recommendation at footnote 204).

³²See 2018 Recommendations at 311.

³³See iFixit and Repair.org Comment at 20-21.

³⁴See 17 U.S.C. § 1201(a)(1)(B); see also NPRM at 65294 (identifying one element of this proceeding’s inquiry as whether “[t]he statutory prohibition on circumventing access controls is the cause of the adverse effects”) (emphasis added).

Third, while there is not a statutory exception for automobile repair, it is notable that Congress expressly included an obligation to comply with other laws in a number of permanent exceptions, including Section 1201(f) on reverse engineering, Section 1201(g) on encryption research, Section 1201(i) on protection of personally identifying information, and Section 1201(j) on security testing. Thus, Congress clearly understood the importance of ensuring circumvention for certain noninfringing uses does not violate other laws, including those unrelated to copyright. The Register has likewise recommended requirements to comply with other laws, including those regarding health and safety, as part of temporary exemptions issued in past rulemakings, rejecting arguments to exclude such requirements because other laws raise concerns unrelated to copyright.³⁵

Fourth, like the security research exemption at issue in the 2018 rulemaking cycle, there is serious concern that removal of the Illegality Limitation will cause confusion and mislead automobile owners regarding whether they must comply with other laws while diagnosing, repairing, and modifying their vehicles pursuant to the exemption. As noted above, this creates health, safety, and environmental risks, and would undermine regulatory compliance. As the Department of Justice weighed in on the security research exemption, both EPA and DOT have weighed in here. In addition, removal of the Illegality Limitation would risk violations of the DMCA anti-trafficking provisions if third party repair servicers become confused regarding the legality of their activities. As the Transtate comment notes, the Illegality Limitation is a clear signal that circumvention cannot violate the anti-trafficking provisions.

Therefore, proponents have not met their burden to demonstrate any adverse effects on a user's ability to diagnose, repair, or lawfully modify an automobile due to the Illegality Limitation.³⁶

III. Conclusion

For the foregoing reasons, proponents have not met their statutory burden to demonstrate a need to expand the existing vehicle exemption. Expanding the existing vehicle exemption to cover third party services is unnecessary and not permitted under the statute. Proponents have not provided any evidence to suggest otherwise. Likewise, proponents have not provided any evidence to alter the Copyright Office's conclusion that the existing vehicle exemption should require compliance with other laws.

³⁵As noted above, the Office included limitations for violations of other laws in the existing vehicle exemption and the security research exemption. In the 2015 rulemaking, the Copyright Office similarly rejected arguments that the Office is "ill equipped to make determinations about privacy and patient safety" in recommending an exemption for accessing data from implanted medical devices that included a limitation that circumvention does not violate other applicable laws, including health and safety regulations from the Food and Drug Administration. *See* 2015 Recommendations at 388 and 402.

³⁶As noted above, if the Office decides to recommend removal of this limitation with regard to other devices, automobiles should be specifically excluded from such changes, since there is no evidence in the record to support such a modification with regard to automobiles.