

Comment of Specialty Equipment Market Association in Support of Petition of iFixit and The Repair Association (Class 12)

The Specialty Equipment Market Association (SEMA) respectfully supports new exemption petition by iFixit and The Repair Association for Class 12, Computer Programs—Repair.

Formed in 1963, SEMA is a nonprofit trade organization composed of over 7,500 companies, including manufacturers, distributors, installers, and retailers for the specialty equipment automotive industry. The industry employs more than 1 million Americans and generates \$46 billion in annual sales. An estimated 92% of member companies are small independent businesses.

The Computer Programs—Repair petition overlaps with an existing exemption that SEMA has supported since its creation in 2015: Computer programs that control motorized land vehicles, including farm equipment, for purposes of diagnosis, repair, or modification of the vehicle, including to access diagnostic data. The 2015 exemption was renewed in 2018 and is currently subject to a recommended renewal in 2021.

The new exemption request can be viewed as an extension of the motorized land vehicle exemption to a larger class of products, with the proviso that it would not override liabilities for violating other laws. The 2015 motorized land vehicle exemption has successfully provided clarity on application of the DMCA within the marketplace—in this instance providing protection to copyright owners while allowing consumers the ability to repair or modify their product and permit third-party assistance in making such repairs and modifications.

As products become more digital or interface with software, it is necessary to reinforce consumer rights to lawfully gain or authorize access to their product for purposes of repair or modification. As the Copyright Office has granted an exemption for certain product lines including motorized land vehicles, smartphones, home appliances, and home systems, this is an appropriate time to extend it to all categories.

To cite one example, some SEMA member products can be installed in both land vehicles and boats, including engines and transmissions. SEMA is aware of an engine tuning product that is legal under the DMCA exemption for land vehicles but has been challenged for its application in boats given the current Class 12 limitation.

SEMA appreciates this opportunity to support the exemption request for Class 12, Computer Programs—Repair. SEMA continues to recommend renewal of the existing 2015 exemption for motorized land vehicles. [37 C.F.R. § 201.40(b)(9)]