



UNITED STATES COPYRIGHT OFFICE

Petition to Renew a Current Exemption Under 17 U.S.C. § 1201

8th Triennial Rulemaking

Please submit a separate petition for each current exemption for which renewal is sought.

NOTE: Use this form if you want to renew a current exemption without modification. If you are seeking to engage in activities not currently permitted by an existing exemption, including those that would require the expansion of a current exemption, you must submit a petition for a new exemption using the form available at <https://www.copyright.gov/1201/2021/new-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption without modification using this form, and, separately, a petition for a new exemption that identifies the current exemption, and addresses only those issues relevant to the proposed expansion of that exemption.

ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity seeking renewal.

The Motor & Equipment Manufacturers Association (MEMA)
1030 15th Street, NW
Suite 500 East
Washington, DC 20005

Contact:
Brian Schneider
Dan Jasnow
Arent Fox LLP
1717 K Street NW
Washington, DC 20006
(202) 857-8967
Dan.Jasnow@arentfox.com

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 website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.

ITEM B. IDENTIFY WHICH CURRENT EXEMPTION PETITIONERS SEEK TO RENEW

Check the appropriate box below that corresponds with the current temporary exemption (see **37 C.F.R. § 201.40**) the petitioners seek to renew. Please check only one box. If renewal of more than one exemption is sought, a separate petition must be submitted for each one.

Motion Pictures (including television programs and videos):

- Excerpts for educational purposes by college and university or K-12 faculty and students
- Excerpts for educational purposes by faculty in massive open online courses (“MOOCs”)
- Excerpts for educational purposes in digital and literacy programs offered by libraries, museums, and other nonprofits
- Excerpts for use in nonfiction multimedia e-books
- Excerpts for use in documentary filmmaking or other films where use is in parody or for a biographical or historically significant nature
- Excerpts for use in noncommercial videos
- For the provision of captioning and/or audio description by disability services offices or similar units at educational institutions for students with disabilities

Literary Works:

- Literary works distributed electronically (*i.e.*, e-books), for use with assistive technologies for persons who are blind, visually impaired, or have print disabilities
- Literary works consisting of compilations of data generated by implanted medical devices and corresponding personal monitoring systems, to access personal data

Computer Programs and Video Games:

- Computer programs that operate cellphones, tablets, mobile hotspots, or wearable devices (*e.g.*, smartwatches), to allow connection of a new or used device to an alternative wireless network (“unlocking”)
- Computer programs that operate smartphones, tablets and other all-purpose mobile computing devices, smart TVs, or voice assistant devices to allow the device to interoperate with or to remove software applications (“jailbreaking”)
- 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
- Computer programs that control smartphones, home appliances, or home systems, for diagnosis, maintenance, or repair of the device or system
- Computer programs for purposes of good-faith security research
- Computer programs other than video games, for the preservation of computer programs and computer program-dependent materials by libraries, archives, and museums
- Video games for which outside server support has been discontinued, to allow individual play by gamers and preservation of games by libraries, archives, and museums (as well as necessary jailbreaking of console computer code for preservation uses only), and discontinued video games that never required server support, for preservation by libraries, archives, and museums
- Computer programs that operate 3D printers, to allow use of alternative feedstock

ITEM C. EXPLANATION OF NEED FOR RENEWAL

Provide a brief explanation summarizing the continuing need and justification for renewing the exemption. The Office anticipates that petitioners may provide a paragraph or two detailing this information, but there is no page limit. While it is permissible to attach supporting documentary evidence as exhibits to this petition, it is not necessary. Below is a hypothetical example of the kind of explanation that the Office would regard as sufficient to support renewal of the unlocking exemption. The Office notes, however, that explanations can take many forms and may differ significantly based on the individual making the declaration and the exemption at issue.

MEMA is the nation's leading trade association for motor vehicle parts suppliers that manufacture new original equipment (OE) and aftermarket parts, components, and systems for use in passenger and commercial vehicles.¹ MEMA represents over 1,000 members through four divisions: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); MERAThe Association for Sustainable Manufacturing; and, Original Equipment Suppliers Association (OESA).

As key designers of advanced technologies, vehicle suppliers make significant investments in research and development, design, and validation testing to produce a wide range of product innovations for their customers. Suppliers' R&D and testing are critical aspects of continuous creation, refinement, and implementation of technologies. Without these steps, advanced components and systems would not be able to reach their full potential.

On behalf of all our divisions, MEMA supports renewal of the temporary exemption for computer programs for purposes of good-faith security research. The current exemption for good-faith security research reflects a delicate balance—achieved over two rounds of DMCA triennial rulemaking proceedings—between consumer safety, protection of intellectual property, and support for critical research and innovation. Over the last three years, MEMA's membership experienced firsthand that the exemption is helping encourage innovation in the automotive industry while mitigating risks to intellectual property and vehicle safety.

The current exemption includes several important limitations that MEMA believes effectively help to reduce the risk associated with circumvention of TPMs in vehicle software and computer programs. First, the exemption only permits circumvention on a "lawfully acquired" device or machine. Second, the exemption only permits circumvention for "good faith security research" in "an environment designed to avoid any harm to individuals or the public." And third, the exemption only permits circumvention in circumstances in which "the information derived from the activity is used primarily to promote the security or safety of the class of devices or machines on which the computer program operates."

MEMA believes that the current exemption therefore strikes an appropriate balance between encouraging critical research and marketplace innovation while mitigating the impact on consumer safety and intellectual property. MEMA therefore supports renewal of the exemption for another three years.

¹ MEMA represents vehicle suppliers which are key innovators, developing and manufacturing a wide range of advanced, transformative technologies that enable safer, smarter, and more efficient vehicles. In total, vehicle parts manufacturers represent the largest sector of manufacturing jobs in the United States with over 871,000 direct jobs in all 50 states generating 2.4 percent of U.S. GDP.

ITEM C. EXPLANATION OF NEED FOR RENEWAL (*CONT'D*)

ITEM D. DECLARATION AND SIGNATURE

The declaration is a sworn statement made under penalty of perjury, and must be signed by one of the petitioners named above.

I declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

- 1. Based on my own personal knowledge and experience, I have a good faith belief that but for the above-selected exemption's continuation during the next triennial period (October 2021 – October 2024), technological measures controlling access to relevant copyrighted works are likely to diminish the ability of relevant users to make noninfringing uses of these works, and such users are likely to rely upon the above-selected exemption during the next triennial period.**
- 2. To the best of my knowledge, there has not been any material change in the facts, law, or other circumstances set forth in the prior rulemaking record (available at <https://www.copyright.gov/1201/2018>) that originally demonstrated the need for the above-selected exemption, such that renewal of the exemption would not be justified.**
- 3. To the best of my knowledge, the explanation provided in Item C above is true and correct, and supports the above statements.**

Name/Organization:

If the petitioner is an entity, this declaration must be signed by an individual at the organization having appropriate personal knowledge.

The Motor & Equipment Manufacturers Association (MEMA)

Signature:

This declaration may be signed electronically (e.g., "/s/ John Smith").

/s/ Ann Wilson
Senior V.P., Government Affairs, MEMA

Date:

7/22/20