



# 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.

Prof. Matt Blaze,  
McDevitt Professor of Computer Science and Law  
Georgetown University

Prof. Steven Bellovin,  
Percy K. and Vida L.W. Hudson Professor of Computer Science  
Columbia University

represented by

Prof. Andrea M. Matwyshyn  
Associate Dean of Innovation/ Professor of Law and Engineering Policy, Penn State Law  
Professor, SEDTAPP, Penn State Engineering  
[andreamm@psu.edu](mailto:andreamm@psu.edu)

**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.

We are academics who research computer security. We were part of the group of original proponents of the exemption, and we successfully renewed this exemption during the last section 1201 rulemaking cycle. As such, we are fully aware of the issues involved with this exemption and the historical need for it. We continue to perform the same categories of research as those articulated in our original petition, and we continue to face the same copyright concerns that gave rise to our original petition for this exemption. Through our work, we have personal knowledge that the need continues to exist for this exemption, and we have no reason to believe that it will abate during the next triennial period. Indeed, during the last three years, one of us has received threats of litigation from copyright holders in connection with his security research on software in voting systems. In addition to our own reliance on this exemption, we have personally heard from security researchers who rely on this exemption in their research.

For example, the DEFCON Voting Village continues to operate on an annual basis and relies on the existence of the exemption. The existence of the exemption ensures that participants' experiential learning on voting systems in the Village (and the creative works that arise from that research) do not also give rise to litigation under section 1201. The last two years' Voting Village reports are available at the following URLs:  
<https://media.defcon.org/DEF%20CON%2027/voting-village-report-defcon27.pdf>;  
<https://www.defcon.org/images/defcon-26/DEF%20CON%2026%20voting%20village%20report.pdf>. As the reports explain, participants were able to successfully develop exploits for existing vulnerabilities in a variety of voting systems in use at the time in the United States – flaws that attackers might use as a point of entry into these systems. The press coverage of these findings resulted in the creation of additional creative works and furthered the state of public knowledge regarding the importance of security in voting systems. Thus, the state of knowledge regarding security of voting systems was advanced, and numerous creative works resulted from the good-faith security research enabled by the exemption.

As was the case three years ago, some software creators continue to adopt a litigious posture in response to good-faith security research. As a result, the harms identified in our original petition continue to persist, and they will continue to persist for the foreseeable future. Indeed, since the last renewal of this exemption, we are aware of software creators who have threatened litigation not only against security researchers, but also against the journalists who report on security research. As these dynamics demonstrate, the public safety and authorship chilling concerns that animated our original petition remain. As progressively greater numbers of products and services rely on software for their safe operation, the need for the exemption continues for the same reasons articulated by us in our original petitioner and by the Register in recommendations during the last two rulemakings.

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

[Empty rectangular box for providing the explanation of need for renewal.]

## 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.*

Prof. Andrea M. Matwyshyn on behalf of Prof. Matt Blaze and Prof. Steve Bellovin

### Signature:

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

/s/ Andrea Matwyshyn

### Date:

July 22, 2020