



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.

Petitioner: Specialty Equipment Market Association (SEMA)

Contact: Daniel Ingber
Vice President, Government and Legal Affairs
Specialty Equipment Market Association
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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.

The Specialty Equipment Market Association (SEMA) respectfully petitions for renewal of the current exemption under 17 U.S.C. § 1201 governing computer programs that are contained in and control the functioning of a lawfully acquired motorized land vehicle. [37 C.F.R. § 201.40(b)(9)] SEMA was involved in and supports the language developed during previous Triennial Rulemakings for this subsection.

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.

Custom auto accessories produced by SEMA members help enhance a vehicle's appearance, safety, performance, and comfort. Sample products include wheels and tires, turbochargers, lighting equipment, performance exhausts, suspensions, and grille guards. The products allow hobbyists to customize their vehicles according to their own tastes and preferences. Examples of cutting-edge specialty automotive equipment emerging in previous decades from the aftermarket include the retractable seat belt, intermittent windshield wiper, catalytic converter, air bags and air bag sensors, and direct injection technology for gas-powered engines.

In 2014, an exemption was requested to allow circumvention of technological protection measures (TPMs) for computer programs that control the functioning of a motorized land vehicle, for the purposes of lawful diagnosis and repair, or aftermarket personalization, modification, or other improvement, when undertaken by or on behalf of the lawful owner of the vehicle.

In 2015, the Copyright Office issued the requested exemption with respect to the lawful owners of the vehicle. However, the exemption did not apply to third parties acting on behalf of the owner. Further, the exemption did not apply to vehicle owners or third parties accessing computer programs designed to operate vehicle entertainment and telematics systems. The Copyright Office cited insufficient evidence demonstrating a need for access and concern about unauthorized access to proprietary content.

In the 2018 Triennial Rulemaking, the Copyright Office affirmed the 2015 exemption and expanded it to cover diagnosis, repairs, and lawful modification by authorized third party service providers. The Copyright Office also removed the limitation prohibiting circumvention of TPMs to access computer programs primarily designed for the control of vehicle telematics and entertainment systems.

The 2018 expansion responded to concerns that limiting the exemption to the vehicle owner would harm the owner from benefiting from legitimate non-infringing diagnosis, repair, or modification activities by authorized third parties. For example, many vehicle repairs and customizations require specialized equipment and knowledgeable service providers—goods and services out-of-reach for most vehicle owners.

With respect to the control of telematics and entertainment systems, the 2018 expansion also recognized the increasing integration of vehicle computer systems since the 2015 rulemaking including integrated software that controls the parts and operation of the vehicle. Consequently, it could be impossible for authorized third parties to repair or customize a vehicle without including access to the telematic and entertainment systems.

SEMA is unaware of any factor, incident or reason to change the exemption and the need for the exemption remains valid and imperative. SEMA appreciates the streamlined petition process for renewing existing exemptions and respectfully recommends that the Copyright Office renew the referenced exemption. [37 C.F.R. § 201.40(b)(9)]

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.

Daniel Ingber, Specialty Equipment Market Association

Signature:

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

/s/Daniel Ingber

Date:

July 21, 2020