



Petition for New Exemption Under 17 U.S.C. § 1201

9th Triennial Rulemaking

Please submit a separate petition for each proposed exemption.

NOTE: Use this form if you are seeking to engage in activities not currently permitted by an **existing exemption**. If you are seeking to engage in activities that are permitted by a current exemption, instead of submitting this form, you should submit a petition to renew that exemption using the form available at copyright.gov/1201/2024/renewal-petition.pdf.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption, and, separately, a petition for a new exemption using this form 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 proposing the exemption.

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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. DESCRIPTION OF PROPOSED NEW EXEMPTION

Provide a brief statement explaining the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) the types of copyrighted works that need to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

Petitioners need not propose precise regulatory language or fully define the contours of an exemption class. Rather, a short, plain statement describing the nature of the activities the petitioners wish to engage in will be sufficient, as proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking. The Office anticipates that in many cases petitioners will be able to adequately describe in plain terms the relevant information in a few sentences, or even a single sentence, as with the examples below.

Authors Alliance is a nonprofit organization with the mission to advance the interests of authors who want to serve the public good by sharing their creations broadly. We create resources to help authors understand and enjoy their rights and promote policies that make knowledge and culture available and discoverable. For more information, visit <http://www.authorsalliance.org>.

The Library Copyright Alliance (LCA) consists of two major library associations—the American Library Association (ALA) and the Association of Research Libraries (ARL)—that collectively represent over 100,000 libraries in the United States.

The American Association of University Professors (AAUP) is a nonprofit membership association of faculty and other academic professionals. Since our founding in 1915, the AAUP has helped shape American higher education by developing the standards and procedures that maintain quality in education and academic freedom in this country's colleges and universities. We define fundamental professional values and standards for higher education, advance the rights of academics, particularly as those rights pertain to academic freedom and shared governance, and promote the interests of higher education teaching and research.

Proposed Exemption

We seek to expand the existing exemption, 37 C.F.R. 201.40(b)(5) (Literary Works: Literary works distributed electronically for text and data mining by a researcher affiliated with a nonprofit institution of higher education, or by student or staff at the direction of such researcher, for the purpose of scholarly research and teaching). We request that the Office modify 201.40(b)(5)(i)(D) to permit researchers to share corpora with researchers affiliated with different nonprofit institutions of higher education for purposes of conducting independent text data mining research and teaching, where those researchers are also in compliance with the exemption.

(1) The types of copyrighted works that need to be accessed;

The types of copyrighted works that need to be accessed as the same as those under the existing regulation: "Literary works, excluding computer programs and compilations that were compiled specifically for text and data mining purposes, distributed electronically." 37 C.F.R. 201.40(b)(5)(i).

(2) The physical media or devices on which the works are stored or the services through which the works are accessed;

The physical media through which the works are stored and services through which works are accessed are those already covered by the existing regulation: "[l]iterary works, excluding computer programs and compilations that were compiled specifically for text and data mining purposes, distributed electronically[,]" 37 C.F.R. 201.40(b)(5)(i), where "the copy of each literary work is lawfully acquired and owned by the institution, or licensed to the institution without a time limitation on access." 37 C.F.R. 201.40(b)(5)(i)(B).

ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION (CONT'D)

(3) The purposes for which the works need to be accessed;

The purpose of access is the one contemplated by the existing regulation: it is limited to the deployment of “text and data mining techniques on a corpus of literary works distributed electronically for the purpose of scholarly research and teaching.” 37 C.F.R. 201.40(b)(5)(i)(A).

(4) The types of users who want access;

The proposed expansion is indicated by final clause in the following paragraph. Otherwise, the types of users are the same as those covered by the existing regulation.

The users are researchers affiliated with nonprofit institutions of higher education, and students or information technology staff members of the institution at the direction of such researcher; as well as researchers affiliated with other institutions of higher education for purposes of collaboration, replication of the research, or—under our proposed expansion—to conduct independent text data mining research, where those researchers are also in compliance with the exemption.

(5) The barriers that currently exist or are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

The barriers are technical protection measures such as Digital Rights Management.