



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.

Ken Austin
Vermont
mysf1313@gmail.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. 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.

I am seeking a circumvention exemption for individual owners of video games which have DRM (digital rights management) that no longer functions due to incompatibility, for example, with modern operating systems. There is already an exemption for DRM that requires connecting to a now defunct external server for authentication, but that is an arbitrary restriction on the exemption from the perspective of the consumer. Either they can play their lawfully acquired games or they can't.

As just one example: Black & White was a popular video game released in early 2001 for Windows operating systems. It was distributed on physical discs, and relied on a DRM solution called SafeDisc, which is so fundamentally flawed and invasive to the host system that Microsoft actively prevents it from running on Windows 10, due to the severe security risks it presents. SafeDisc reached end of life over a decade ago. This leads to a result that is identical to a DRM solution that tries to connect to a server that no longer exists: an unplayable game. At the time of writing, Black & White has not been updated or rereleased, so the only way to play the game on a modern computer is to install a third party patch that circumvents the DRM.

Users should not have to resort to petty crime to play their lawfully acquired games. Draconian, end of life DRM implementations such as SafeDisc serve no legitimate business purpose and actively harm honest consumers.

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

[Empty box for description of proposed new exemption]