



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.

Software Preservation Network represented by: Kendra Albert (submitter of record) Harvard Law School Cyberlaw Clinic 4th Floor, 1557 Massachusetts Avenue Cambridge, MA, 02138 kalbert@law.harvard.edu Library Copyright Alliance represented by: Jonathan Band policybandwith 21 Dupont Circle NW, Suite 800 Washington D.C. 20036 jband@policybandwidth.com
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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.

The Software Preservation Network ("SPN") and work with the Library Copyright Alliance ("LCA"), two national organizations that preserve digital heritage by making out-of-commerce software accessible in support of research, teaching and learning seek to expand existing exemptions for the preservationist of software.

SPN consists of archivists, librarians, scholars, technologists, and legal experts, committed to establishing and retaining access to software (including video games), which would become inaccessible without careful and conscientious stewardship. LCA consists of two major library associations (the American Library Association and the Association of Research Libraries) and was established in order to safeguard the interests of librarians and archivists in the realm of copyright law.

In conjunction with the petition for renewal, SPN and LCA request expansion of the video game preservation exemption (37 C.F.R. § 201.40(b)(17)) to eliminate the requirement that the program not be distributed or made available outside of the physical premises of an eligible institution if appropriate safeguards are taken to ensure users are engaged in scholarship or other permitted uses.

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

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