UNITED STATES COPYRIGHT OFFICE

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

Tenth Triennial Rulemaking

Please download this form before filling out any form fields.
Please submit a separate petition for each proposed exemption.

New Exemptions, Expansions, or Modifications

Use this form if you want to petition for a new exemption; modify a current exemption, such as altering the language in a current exemption; or are seeking to engage in activities not currently permitted by an existing exemption.

Renewals of Exemptions

Use the **Petition to Renew a Current Exemption form** to renew a current exemption with no changes. You must also file a renewal petition if you are filing a new petition for expanding or modifying a current 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 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 which 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. A complete legal and evidentiary showing supporting this new exemption petition should accompany the comments in support of requested exemptions during the round 1 comment period. Those seeking to submit comments in response to a petition depend on proponents fulfilling the appropriate evidentiary requirements, so providing a complete legal and evidentiary show in support of this new exemption is critical.

NOTE: Examples of new petitions proposed last rulemaking cycle can be found at **copyright.gov/1201/2024/petitions/proposed**. Informational guides explaining the 1201 rulemaking process and the petition phase can be found at **copyright.gov/1201**.

This is a request to expand the current exemption covering computer programs that control devices designed primarily for use by consumers for diagnosis, maintenance, repair, reconfiguration, continued use, or reuse of the device or system to include business and enterprise IT devices such as laptops, servers, and storage.

The copyrighted work that would need to be accessed in order to effectuate the necessary changes include device firmware and other computer programs that control device configuration, enrollment, boot processes, software installation, and management. These works are located on hardware within the equipment.

First, the restriction of the current category to “consumer” devices leaves significant uncertainty. It is unclear under the language of the exemption whether, for example, a school district bulk-purchasing Chromebooks designed for instructional use could avail themselves of the repair exemption. Similarly, secure cell phones purchased by a business for their employees handling sensitive information fall in a gray area.

Additionally, many popular and widely-adopted models of enterprise IT have been abandoned by their original manufacturers, who no longer provide repair or troubleshooting service. This raises significant cybersecurity risk for entities---including the federal government---who are working on legacy systems.

The types of users who want access to this firmware include enterprise, industrial, and government owners and operators of these devices. The current barriers to access include passcodes that are only supplied to authorized technicians, none of whom are allowed to provide support for discontinued models.

The current barriers to these works include passwords and administrative credentials, device enrollment locks, cryptographic signature checks, boot restrictions, and vendor-controlled management or authentication systems that prevent lawful owners from accessing, reconfiguring, reinstalling, or replacing the software necessary to keep their hardware in service. For example, decommissioned enterprise devices may remain locked to a former owner’s fleet-management or device-enrollment system; hardware that has reached a manufacturer-defined end-of-support date may prevent installation of replacement operating systems or firmware; and enterprise servers, storage, or networking equipment may require vendor authorization or vendor-controlled management software before owners can install or enable software necessary to continue using otherwise functional hardware.

Expanding the existing repair exemption to include business, educational, and enterprise IT devices would provide significant clarity and allow users to more effectively repair their systems.

If you need more space, please click here to add additional pages to this form.