



Petition to Renew a Current 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 current exemption for which renewal is sought.

Renewals of Exemptions

Use this form to petition to renew a current exemption with no changes. You must also submit the new exemption petition form to petition to expand or modify a current exemption.

New Exemptions, Expansions, or Modifications

Use the **Petition for New Exemption form** to petition for a new exemption, modify a current exemption, or are seeking to engage in activities not currently permitted by an existing 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.

Organization for Transformative Works, 228 Park Ave S #18156 New York, New York 10003-1502, USA. The Organization for Transformative Works is a 501(c)(3) nonprofit public interest organization dedicated to protecting and preserving noncommercial works created by fans based on existing works, including popular television shows, books, and movies (often described as “fanworks”).

The individual representative is Rebecca Tushnet, 7035936759/rtushnet@transformativeworks.org. Alternate contact: legal@transformativeworks.org.

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 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
- ☐ Excerpts for use in nonfiction multimedia e-books
- ☐ Excerpts for educational purposes by college and university faculty, students, or employees acting at the direction of faculty, or K-12 educators and students
- ☐ Excerpts for educational purposes by faculty and employees acting at the direction of faculty in massive open online courses (“MOOCs”)
- ☐ Excerpts for educational purposes in digital and literacy programs offered by libraries, museums, and other nonprofits
- ☐ For the provision of captioning and/or audio description by disability services offices or similar units at educational institutions for students, faculty, or staff with disabilities
- ☐ For the preservation or the creation of a replacement copy of the motion picture by libraries, archives, or museums
- ☐ 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

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
- ☐ Literary works or previously published musical works that have been fixed in the form of text or notation whose technological protection measures interfere with assistive technologies
- ☐ Literary works consisting of compilations of data generated by medical devices or their personal corresponding monitoring systems, to access personal data

Computer Programs and Video Games:

- ☐ Computer programs that operate wireless devices, to allow connection to an alternative wireless network (“unlocking”)
- ☐ Computer programs that operate smartphones and portable all-purpose mobile computing devices to allow the device to interoperate with or to remove software applications (“jailbreaking”)
- ☐ Computer programs that operate smart televisions to allow the device to interoperate with software applications on the television for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- ☐ Computer programs that operate voice assistant devices to allow the device to interoperate with or to remove software applications for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- ☐ Computer programs that operate routers and dedicated network devices to allow the device to interoperate with software applications on the device for purposes other than gaining unauthorized access to copyrighted works (“jailbreaking”)
- ☐ Computer programs that control motorized land vehicles, marine vessels, or mechanized agricultural vehicles or vessels for purposes of diagnosis, repair, or modification of the vehicle or vessel, including to access diagnostic data

Item B. Identify Which Current Exemption Petitioners Seek to Renew *(continued)*

Computer Programs and Video Games:

- ☐ Computer programs that control motorized land vehicles, marine vessels, commercial vehicles or vessels, or mechanized agricultural vehicles or vessels by vehicle or vessel owners and lessees, or those acting on their behalf, for purposes of accessing, storing, and sharing operational data
- ☐ Computer programs that control devices designed primarily for use by consumers for diagnosis, maintenance, or repair of the device
- ☐ Computer programs that control retail-level commercial food preparation equipment for purposes of diagnosis, maintenance, or repair of the device
- ☐ Computer programs that control medical devices or systems, and related data files, for diagnosis, maintenance, or repair of the device or system
- ☐ Computer programs for purposes of good-faith security research
- ☐ 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 other than video games, for the preservation of computer programs and computer program-dependent materials by libraries, archives, and museums
- ☐ Computer programs that operate 3D printers, to allow use of alternative material
- ☐ Computer programs for purpose of investigating potential infringement of free and open source computer programs

Item C. Explanation of Need For Renewal

Provide a brief explanation summarizing the continuing need and justification for renewing the exemption. While it is permissible to attach supporting documentary evidence as exhibits to this petition, it is not necessary. Only petitions requesting renewal of exemptions granted in the **ninth triennial rulemaking** as codified in the *Code of Federal Regulations* may be considered under the streamlined renewal process.

NOTE: Examples of renewal petitions filed in the last rulemaking cycle can be found at copyright.gov/1201/2024/petitions/renewal. Informational guides explaining the 1201 rulemaking process and the streamlined renewal process can be found at copyright.gov/1201.

I volunteer for the OTW, a non-profit, public interest organization dedicated to protecting and preserving noncommercial works created by fans based on existing works, including popular television shows, books, and movies (often described as “fanworks”).

The OTW has been involved in the Section 1201 rulemaking process for multiple cycles, and has specifically advocated in multiple proceedings for the noncommercial video exemption. Thus, the OTW is well aware of the issues involved with this exemption, and the historical and continuing need for it. See Cat Zhang, *Why Do Fan-Made Trailers Rule the Internet?*, N.Y. Times (Oct. 25, 2023), <https://www.nytimes.com/2023/10/25/style/bottoms-fan-edits.html> (“As technology has advanced, edits have become easier to put together and distribute. Their entrance into the mainstream has been facilitated by social media, particularly TikTok”).

Through my work and that of the OTW’s volunteer legal team, we have personal knowledge that this need continues to exist and I have no reason to believe that it will abate during the next triennial period. Vidding remains a transformative activity in which noncommercial speakers engage in valuable commentary. For example, HOMOEROTIC VIOLENCE, <https://www.tumblr.com/folsaeure/783547797216591872/homoerotic-violence-media-featuring-male-pairings> (May 14, 2025), highlights “media featuring male pairings that are coded to be, or canonically are queer, whose feelings for one another can on screen only climax through brutality.” Likewise, Sophie Swoffer, in *It’s Us!: Embracing Disruption through Feminist Approaches to Video Editing*, 3 *Makings: A Journal Researching the Creative Industries*, 2022, available at <https://makingsjournal.com/its-us-embracing-disruption-through-feminist-approaches-to-video-editing/>, explained how she created works that “carefully selected moments from films and interviews that showed these actresses in particularly empowered moments and then contrasted this with footage of less glamorous aspects of their later careers. This served to display and critique how the ageing Hollywood actresses were often type cast in grotesque roles in B–rated horror films once they reached a certain age, which used characters such as senile hags and crones to present female ageing as a site of monstrous spectacle.”

I have personally heard from a number of noncommercial remix artists (also known as “vidding” artists or “vidders”) that they have used the exemption and anticipate needing to use it in the future. The law remains clear that many such uses will be fair. See, e.g., *Channel 781 News v. Waltham Community Access Corp.*, 761 F.Supp.3d 371 (D. Mass. 2025) (sending DMCA takedowns based on noncommercial use of clips plausibly violated 512(f)); *Equals Three, LLC v. Jukin Media, Inc.*, 139 F. Supp. 3d 1094 (C.D. Cal. 2015) (finding edited versions of video clips to be transformative where there was some commentary on them); *City of Inglewood v. Teixeira*, No. 15-cv-01815 (C.D. Cal. Aug. 20, 2015) (short clips and commentary were transformative fair use, on a motion to dismiss); *Nat’l Ctr. for Jewish Film v. Riverside Films LLC*, No. 5:12–CV–00044–ODW, 2012 WL 4052111, at *3 (C.D. Cal. Sept. 14, 2012) (finding that defendants’ use of footage was transformative where their voice-overs, editing, and overall production added something new to the underlying footage); *Fuentes v. Mega Media Holdings, Inc.*, No. 09 Civ. 22979, 2011 WL 2601356 (S.D. Fla. June 9, 2011), report and recommendation adopted by 2011 WL 2609550 (S.D. Fla. June 30, 2011) (editing and contextualizing video was fair use). The ruling in *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith et al.* does not affect this exemption, as that case dealt exclusively with commercial use, while this exemption is for noncommercial uses. See *Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith*, 143 S. Ct. 1258 (2021); cf. *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 32 (2021) (“[A] finding that copying was not commercial in nature tips the scales in favor of fair use.”).

Professional creators recognize that noncommercial vids—now often known as “edits” or “fan edits”—are valuable contributions to the expressive environment. As renowned director Bong Joon Ho wrote,

Every time I see fan edits of my films, I feel a profound sense of gratitude and inspiration. These aren’t just montages of scenes set to music or stylish transitions—they are expressions of love and creativity filtered through the unique perspectives of viewers.

I enjoy seeing how people interpret my work in their own way, adding something personal to it. The effects, the music, the focus on certain details — all of this offers me a new perspective on stories I thought I knew so well. Sometimes, these edits reveal nuances I didn’t even realize were there during the filmmaking process. ... [I]t’s transformed into something new, capable of reaching an entirely different audience.

Item C. Explanation of Need For Renewal *(continued)*

I truly believe fan edits play a significant role in popularizing cinema. They build a bridge between the art and new audiences, drawing in those who might not have discovered my films otherwise. It's like an ongoing dialogue between the creator and the viewer, one that continues long after the credits roll.

Bong Joon Ho, https://www.instagram.com/bong_joon_ho/reel/DFOb0LYt4o_/, Jan. 24, 2025.

This recognition is widespread. See, e.g., Esther Zuckerman, Critic's Notebook, Focusing In on One Star, Fancams Find a Love of the Movies, N.Y. Times, Jul. 17, 2024, <https://www.nytimes.com/2024/07/17/movies/fancams-swann-arlaud-josh-oconnor.html> (film and culture reporter analyzing a "brilliant" and "subversive" edit and stating that "the fancam itself has become its own art form"). So is the understanding that giving copyright owners control over these edits would destroy their meaning and value to creators and audiences who value noncommercial creation. "Fan edits" har blivit filmbranschens nya maktfaktor ("Fan edits" have become the film industry's new power factor), Dagens Nyheter, Mar. 3, 2026, <https://www.dn.se/kultur/fan-edits-har-blivit-filmbranschens-nya-maktfaktor/> (machine translation) ("Fan edits are created out of genuine commitment, rather than a commercial purpose, and then they can certainly be perceived as more credible than traditional trailers, says Lovisa Jönsson from the PR agency Jung. ... When companies start to commercialize fan edits and use them in strategic marketing, authenticity can be lost, which is the very basis for the impact. To succeed, they must continue to be created on the fans' terms, she says.").

Circumvention technology may also be necessary to preserve streaming video that can be culturally or politically important, such as video of White House adviser Sebastian Gorka that was taken down by its source, but preserved by others. See, e.g., Lili Bayer, EXCLUSIVE: Controversial Trump Aide Sebastian Gorka Backed Violent Anti-Semitic Militia, Forward, Apr. 3, 2017, <http://forward.com/news/national/367937/exclusive-controversia-ltrum-laid-lsebastia-lg> (showing use of screencapture to preserve video). The 2024 election cycle increased the use of similar edits. Brian Stelter, How social media video clippers have become some of the most powerful outlets of the 2024 campaign, CNN, Oct. 28, 2024, <https://www.cnn.com/2024/10/28/media/election-social-media-video-clips-viral/> ("the most impactful video publishers are frequently people who work from home on their own, shaping the news cycle one snappy clip at a time").

The range of transformative uses for short clips keeps increasing: Even federal prosecutors have used short clips to enhance their arguments. See, e.g., Benjamin Weiser, A Robbery Based on a Movie? Yes, the Jury Can See Clips, N.Y. Times, Mar. 8, 2017, <https://www.nytimes.com/2017/03/08/nyregion/court-allows-use-of-movie-clips-to-win-guilty-verdict.html>. In order to cut expenses, major streaming services such as Netflix, Disney+, and Discovery have permanently removed some original streaming shows and films from their platforms. Since most of this content was never released on physical media, circumvention technology may be the only way for the content to be preserved for use by noncommercial creators. See, e.g., Sarah Whitten and Lillian Rizzo, Streaming Services are Removing Tons of Movies and Shows — It's Not Personal, It's Strictly Business, CNBC, May 29, 2023, <https://www.cnbc.com/2023/05/29/streaming-services-remove-movies-shows-heres-why.html>.

As was the case three years ago and earlier, most commercially produced DVDs and Blu-Ray discs are still protected by dual-function access and copy controls, and I am not aware of any likely anticipated changes to this industry practice. As a result, the harms from prohibiting circumvention of these technologies for purposes of noncommercial remix video continue to persist, and will continue for as long as industry practices continue to incorporate dual-function access and copy controls. Licensing remains both unavailable to noncommercial users and unsatisfactory as an alternative to free choice of which clips to use and what to say about them. Given that the fundamental conditions surrounding video remix have not changed and the fact that creators continue to make video remixes using DVD and Blu-Ray source, the exemption should be renewed.

Item C. Explanation of Need For Renewal *(continued)*

The exemption could be made more understandable by using the relatively simple language defining the exempted class from the 2008 rulemaking, covering both DVDs and Blu-Ray (and streaming where necessary) “when circumvention is accomplished solely in order to accomplish the incorporation of short portions of motion pictures into new works for the purpose of criticism or comment, and where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary to fulfill the purpose of the use.”

To be clear, we are not requesting an expansion of the existing exemption, but a more understandable restatement. The Office’s own shorthand for the exemption, “Excerpts for use in noncommercial videos,” makes clear what participants in this process already understand: this is an exemption for fair use of audiovisual works in noncommercial video. The complexity of the current provisions substantially increases the difficulty of communicating and implementing the exemptions in practice. Returning to the simple, functionally similar language of the initial remix exemption (with the addition of Blu-Ray) would clarify the exemption for ordinary users and further the Office’s stated policies of increasing public accessibility and transparency.

We are not asking for a substantive change. Easier-to-understand language, such as that found in the initial 2008/2009 noncommercial remix exemption (which was issued after a full rulemaking proceeding), would be no different in substance. The Office can, of course, decide that it will never change a word of an existing exemption that is not opposed on the merits without undergoing another full rulemaking procedure. We simply suggest that such a decision does not serve the authors for whom the rulemaking exists.

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 2027–October 2030), 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 **copyright.gov/1201/2024**) 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.

Organization for Transformative Works

Signature:

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

/s/ Rebecca Tushnet

Date:

8/21/2026