

Name:

Jonathan Butler

Responding to the Following Class of Works:

This reply comment supports a DMCA circumvention exemption for the class of works described in Initial Comment #3 by “Jennifer Granick, The Wireless Alliance and Robert Pinkerton”:

Computer programs that operate wireless telecommunications handsets. (Mobile Firmware)

Summary of the Argument:

I believe that an exemption for the class of works named above is necessary to allow mobile communications consumers to switch service providers without being forced to abandon their old phones and purchase new ones. When I switched carriers I was unable to continue using my phone because my old carrier had locked it. Even though this phone was expensive and a relatively recent purchase, I had no choice but to buy a new phone.

Factual Support for the Argument:

In early 2004, I purchased a Sony Ericsson T610 phone for \$300 from AT&T Wireless. I chose this phone because I wanted my phone to have both Bluetooth wireless networking capabilities and features such as calendars and personal organization tools. I chose to go to AT&T to buy the phone because at that time, they were the only provider in town that offered a Bluetooth-savvy phone. In conjunction with the purchase, I signed a contract for service.

In late 2004, I got married, and my wife and I began shopping around for a reasonable family service plan that would cover us both. The best option by far was a plan with T-Mobile, which had an aggressive campaign going at the time. The T-Mobile plan was cheaper than AT&T's and allowed us to talk to one another for free and share minutes, which was important to us. When we signed the contract for service with T-Mobile, we received free phones just for joining their plan. The phone I was given does not have Bluetooth capabilities and is not equipped with any of the extra personal organization features like my T610. Even though I accepted the new phone, I expected that I would be able to use my T610 on T-Mobile's network.

Unfortunately, even though both services use a SIM chip to activate their phones, the T-Mobile chip would not work in my T610. This was the first time I'd heard about phone locking. The T-Mobile plan was sufficiently cheaper that keeping my phone and paying for service from AT&T did not make financial sense in the long run, so now I have a \$300 paperweight, a collection of Bluetooth accessories gathering dust, and a usable

phone that has absolutely none of the features that I wanted. I think it is unfair to force me to buy a new phone from T-Mobile in order to get the features I want when I already own a phone with all those same features. If I could unlock my phone I would be able to use the phone that I want to use, and more importantly, I would not feel that I spent so much money for nothing.