

Name:

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Class of Works Being Responded-To:

I respectfully submit the following reply comment in support of Comment #3 by The Wireless Alliance and Robert Pinkerton, represented by Jennifer Granick, Stanford Center for Internet and Society Cyberlaw Clinic, which was submitted in connection with the Copyright Offices' October 3, 2005 Notice of Inquiry. The commenting parties proposed an exemption from the Section 1202(a)(1) prohibition on the circumvention of technological measures that control access to a copyrighted work for the following class of works:

- Computer programs that operate wireless telecommunications handsets. (Mobile firmware)

Summary of the argument:

Cell-phone locks severely limit the use of my phone in two respects. First, they make it difficult for me to use my phone overseas. Second, they prevent me from purchasing a new handset of choice without renewing a service plan with which I've been dissatisfied. If I could unlock the phone, I could avoid these problems.

Factual support for the argument:

I had T-Mobile service between January 2003 and June 2004. Before traveling overseas, I asked T-Mobile to unlock the phone I purchased from them. T-Mobile complied and provided the unlock code. This enabled me to use SIM cards from foreign providers and avoid paying international roaming charges, the rates for which are sky high, usually many times over the price of the call via a local provider. But when I switched handsets due to warranty issues prior to leaving the country, I received a locked replacement handset. I requested another unlock code for my replacement handset and T-Mobile refused to provide the second unlock code citing their policy of not unlocking more than one handset within a 90 day period. Eventually I prevailed by demanding to speak to management on multiple occasions. It's nonetheless ridiculous that I had to spend so much time to get the second unlock code.

Since June of 2004, I have been a Verizon customer. I've wanted to use a Nokia handset since switching to Verizon but Verizon hasn't offered any compelling Nokia handsets. Numerous other wireless providers carry a better selection of Nokia CDMA handsets but I cannot use any of those handsets on Verizon's network due to cell-phone locking. Verizon won't activate cell phones that it does not sell directly or through authorized resellers. Thus I am forced to choose from a poor selection of handsets. And should I choose to purchase a handset from Verizon at a reasonable price, my service contract is extended for at least one year. For the same reasonable price, I can find new handsets of my choice from other sources without contractual obligation. However Verizon refuses to activate them even though they are technically capable of operating

on Verizon's network.