

Name:

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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 use their phones in the manner they choose. My carrier sold me a wireless phone that was programmed with software that interfered with my ability to (1) program quick-dial handset buttons, (2) take advantage of the phone’s networking capability, and (3) free memory space on my device. If I could circumvent the software locks, I would be able to access valuable features of my phone that I expected to have when I purchased it.

Factual Support for the Argument:

In 2005, I purchased a Cingular-branded Palm Treo 650 from a Cingular retail store. I paid \$550 for this device, upgrading from the Treo 600. Prior to sale, Cingular installed software that limited features of the phone that I highly value. This software was not intended to prevent me from changing carriers, but rather to steer me toward Cingular’s own services, many of which are for-fee and all of which I do not want. The software restricts my ability to freely use my phone. The principal restrictions are as follows:

(1) Cingular locked certain buttons on the phone to its own fee-based services. These are buttons that I believe have high "real estate" value. That is, these are the easiest buttons to push on the phone. Although I would like to program these buttons to quick-dial the police, friends, and family members, Cingular has locked the buttons to services that have absolutely no value to me. The buttons are locked to the following: a Cingular e-mail client that costs \$35, Cingular's for-fee "voice dial" service, Cingular's for-fee Directory Assistance service, and Cingular's "bill balance" and "check minutes" services. I am unable to change the function to which the button relates, even though I do not want these services and have never used for-fee services.

(2) Cingular implemented locking software in the Treo 650 to prevent users from employing the phone's Bluetooth capability, which allows users to access the internet through wireless dial-up. The fact that the device was Bluetooth-

equipped was a primary factor in my decision to purchase the phone, and I fully anticipated that I would be able to use this function. Because Cingular used software to lock Bluetooth networking, I am unable to use the phone in the manner that I expected and paid for.

(3) Cingular locked several software programs into the operating system of the phone so that they cannot be erased. These are software programs that provide for-fee services from Cingular that I do not want or need. Because they are locked into memory, they take up space that I could otherwise fill with programs that I would actually use.

Cingular has crippled my device with software locks that prevent me from using my phone how I'd like to use it, and from using competitors' services that may be better or less expensive. Had I known that Cingular had crippled the Treo, I would have bought the unbranded, unlocked device. If I could circumvent the software and access the features that are now locked, I would be able to fully appreciate the above-mentioned capabilities of my phone.