

Name:

Karen McComas
4 Louie Court
Barboursville, WV 25504

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:

When my husband's cell phone was stolen, we replaced it by purchasing a phone from eBay, after a Cingular sales representative suggested doing so. But the lock on the phone prevented us from using it without significant hassle and frustration. If I were allowed to unlock the phone, I would have avoided these problems.

Factual support for the argument:

My husband's cell phone, purchased from Cingular in November of 2004, was stolen from our car last fall. At the time of this purchase, we made the decision to migrate from AT&T to Cingular because Cingular had just bought AT&T. After his phone was stolen, my husband used an old phone of our son's while he looked for something new. At a Cingular store downtown, one of the sales representatives suggested we look online for a phone and that we might find just what we were looking for at a lower price than if we were to buy it from the store (the Motorola V551 isn't cheap when buying it without a service plan, which we already had). My husband bought one of these phones from eBay. When it arrived found he couldn't use it because it was locked. We went to the Cingular store and they informed us that they couldn't unlock it because it wasn't one of their phones. I argued that they had bought AT&T and that they must have bought the codes for unlocking AT&T phones. This went on for a bit, and through this conversation we were told that we would have to buy some kind of special cable and pay to get this code.