

Commenter:
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Identification of a particular class of works:
personal computing devices

Class number:
4

Summary of argument for exemption for personal computing devices:
Devices as shipped from factory are not always fit for purpose.

Factual support:

As an information systems integrator for executive management teams it is my job to ensure technology is deployed in a practical manner. This sometimes requires "jail breaking" a personal computing device to ensure the device is fit for purpose. In support of this supposition (factual support) I would like to highlight a recent example.

As with most of my clients, security of data is an increasingly prioritized concern in business environments. Businesses are also keen to adopt new technologies to give them a competitive edge or boost employee productivity. These two priorities conflicted recently with the new and massively popular Amazon Kindle Fire.

As a 7" device, the Kindle Fire is an obvious choice for professionals and business managers who prefer the tablet form factor for email on the go, but find the iPad's 10" footprint too large to pocket in a jacket. It is simply not an option to tell people this ubiquitous device Amazon bills as email ready is not safe.

Anticipating the need to support this device I received one unit in initial shipments and immediately determined the unit was unfit for purpose as a corporate email platform because it is "insecure as shipped". This was because utilizing publicly available knowledge of the Android operating system and the Kindle hardware I was able to circumvent the password lock screen using legitimate and freely available software development tools and a commodity USB cable.

I'd like to reiterate that this device was insecure as shipped on day 1, and is just as insecure today after several software updates.

It is now standard practice for me to "jailbreak" these devices to ensure security is increased on the device by disabling certain internal feature sets not necessary for any purpose cited by Amazon. This ensures the device can now only be compromised by using specialized hardware not available to consumers -- minimizing the risk of criminal mischief.

Without a DMCA exemption allowing this jail breaking I would be unable to legally support this device. It is equally certain that although I carefully abide legal restrictions in my work, criminals make no such distinctions.

In this case the DMCA exemption allowing jail breaking has minimized the risk of criminal mischief, fraudulent transactions, identity theft, or regulated data leakage.