

Dear Madame/Sir,

My name is Paul Lawbaugh, I am a mobile application and device developer.

I would like to present a number of reasons that so-called "jailbreaking" is in the public interest and not simply a (selfishly motivated) request for freedom.

If you would be so kind as to read my arguments, I think it will greatly help the decision to extend fair use and jailbreaking DMCA exemptions for personal and mobile electronic devices.

Argument 1: iBooks 2 and iTunes U

I'll start with a recent issue in the news: iBooks 2 and iTunes U is a program that Apple is currently pushing to extend textbooks and other books to a digital format and gain greater adoption of ipads in schools. While I applaud the desire to innovate our classrooms to better technology, Apple's motivations aren't just educational in nature, they want to become the gatekeeper to the future of educational materials. It is no coincidence that Apple touted how many ipads they have sold into the classrooms in their recent blowout earnings announcement.

Take for example their stealthy "Agreement" at the end of their new ibooks creation tool (details at link below). Apple provides a nice tool to generate your textbooks into a format ready for the ipad... for "free" use. But only after you save your book, however, do they deign to bring your attention to the agreement that you implicitly signed which is that you are not allowed to publish the textbook for any other platform... ever. Oh, and btw Apple gets 30% of all revenue paid for said textbooks.

Please read: "[iBooks Author EULA restrictions invite antitrust concerns](#)"

http://arstechnica.com/apple/news/2012/01/lawyer-ibooks-author-eula-restrictions-could-raise-antitrust-concerns.ars?utm_source=rss&utm_medium=rss&utm_campaign=rss

I only bring this up to illustrate yet another case where Apple has shown that their goal is to not only dominate their market but to close the door on any other platform, tool or software that doesn't give them a 30% revenue grab.

Argument 2: Public Classrooms and access to digital content

Can you imagine the very real day when ipads are not only the leading device in the classroom but that the textbooks teachers are teaching from are only available in digital format when purchased from Apple? Right now digital textbooks are a niche, something parents will do to show their interest in their kids' education. But the year is already here when textbooks will be the predominant form.

BTW, say goodbye to the days when schools can save money by reusing textbooks for the next year students. iBooks can't be shared or transferred in ownership.

Please, see how this can and will result in a class war in which the privileged will have yet another advantage over those that can't afford an ipad and the expensive itunes content gate.

Shouldn't schools get to purchase a license to the digital textbooks and have the control to distribute them to students regardless of device? Libraries already do this through the ebook lending libraries so this isn't a fanciful possibility that classrooms are next.

http://wiki.mobileread.com/wiki/EBook_Lending_Libraries

Why is jailbreaking going to help this? Lending libraries for ipads are banned from Apple devices (there are several developer agreements that block this). But also imagine a better scenario where schools (and companies) can and will create their own software for classroom use that works on any hardware. And imagine if by doing so they can provide lending software or even allow less expensive purchased textbooks that aren't subject to a 30% "tax" on all purchases.

Argument 3: library books

Now extend this same argument to library books and you can see that this war is already being waged in the public access to published works. It's no secret that publishers hate libraries. Last year the largest publishers successfully blocked book lending software from mobile devices. And Apple has never allowed it because it is to their benefit to make sure books are purchased (again, 30% is hard to back down from).

Remember when Amazon began allowing sharing of books electronically on Kindles (a few years ago) and publishers blocked them until it was inevitable that digital was going to be the future, but only after Amazon relented and gave full pricing control to the publishers? Remember again last year when Amazon began offering a free digital book per month (btw, Amazon is still paying the publishers full price for these) to Kindle owners? Publishers were afraid that this would reduce the price customers are willing to pay for their books so they pulled their ebooks from Amazon's store in, essentially, a book embargo to prevent lending or leasing of ebooks.

Hopefully you can see how very real this turf war is. Apple already blocks lending. This is effectively an embargo on ebooks, and soon we may see Amazon and others stop allowing any lending software on their devices to appease their content providers. But there is nothing illegal about lending books, neither physical nor digital if the publishers and authors are getting paid.

Ability to jailbreak releases this stranglehold where sales agreements limit user ability to access public and legal content.

Argument 4: developers and devices support

Barnes & Noble has a device called the Nook. It is similar to the Amazon Kindle Fire and runs an Android OS. They have their device locked down naturally so consumers won't add books purchased from Amazon or Google. They are not uniquely the only ones locking down devices. This in itself I feel is wrong since a book I purchased should be legal to read on any device I wish to read it. That doesn't mean B&N has to add software to facilitate it but if I want to install it, I should have every legal recourse to do so.

Beyond the lockdown though, B&N is a much smaller operation than Amazon and they don't have a proper SDK for developing for the device. In order to port my apps and test them on a Nook, the only way to do so is to jailbreak the device so I can "sideload" my app and run it.

It's a dangerous catch 22. Imagine if B&N had every developer that wanted to create apps for them under their thumb legally because to write an application and test it on their device, they had to break the law in the process of unlocking the device?

I'm not an OS ROM modder, hacker or anything else. I just sell apps; regular, legal and perfectly ordinary apps. But I can't install my app to test it on these devices without jailbreaking.

Argument 5: Carrier Takeover of Personal Devices

My family owns three cell phones, all of which were purchased at full price for personal use, not on contract. In fact, I purchased two Nexus phones specifically to stay outside of carrier control such that I can travel internationally or switch carriers and still use my phone.

An interesting phenomenon occurred soon after the Nexus release... all the US carriers started to back off of their planned support for the Nexus device. Why? Because Google refused to modify the phone OS to install carrier restrictions and remove features.

Why would carriers back down from such a great device? Because they have no desire to allow you to switch carriers, they only want locked in customers and they want to force all users to have their carrier promoting apps while removing apps and features they are against.

A specific example of this latter issue is the fact that Verizon pulled the NFC app that was built into the device. Not coincidentally, the Verizon is trying to finish their own NFC app and doesn't want to allow any devices that have support for the already completed competing NFC platform.

Lest one might think this is imagination, notice what happened with the latest Nexus release, the Galaxy Nexus. This latest device is locked down by Verizon, was intentionally delayed until it could have the Verizon requirements of features removed and carrier locks added.

Even if you purchase the phone at full price, it is locked to Verizon. Why should this be? Both of the top carriers are happy with the status quo because it benefits them the most. Notice that TMobile will

unlock your phone 30 days after activation whether it is on contract or not. This desire to keep users from switching is anticompetitive and, when the device is my own fully paid for, it's wrong as well.

This is very similar to the old tactic carriers had of making it very difficult to port your phone number to a new carrier. Until it was mandated by the gov to support phone number porting, it would never have been allowed.

At the very least, mobile device owners should be allowed to jailbreak their device if for no other reason than to allow you to take your device to another carrier.