

TO: United States Copyright and Trademark office

FROM: Robert P Taylor

RE: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

According to the framers of the United State States constitution, property rights were and presently believed to be a fundamental unalienable that ought to not be infringed by the government. As is stated in the actual letter of the United States Constitution herein below, property rights are protected:

“[N]or be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” – 5th Amendment, United States Constitution

In short, property rights are protected unless there is a just process from which the government can seize property such as in the case of a lawful search in accordance with the 4th amendment to the United States or in the case of eminent domain where property is sized for the greater public good and the property owner is given just compensation. This comment submission is in regards to the property rights of consumer electronic devices hereafter referred to as “device(s)”.

As stated above, property rights are protected under the United States Constitution. The same rights apply to devices. For example, I as an American citizen is entitled to all the same protections under the United States Constitution as to my property whether it be land, an automobile or in this case, a device. In short, my iPhone is as protected as my car is protected. The issue however is whether the Digital Millennium Copyright Act (DMCA) act conflicts with property rights when an ender user “jailbreaks” their device.

I am an owner of an iPad, Xbox 360, PS3 and Nintendo Wii. I have chosen under the current exemptions to “jailbreak” my iPad and Nintendo Wii. These devices are as stated above property protected under the United States Constitution. The DMCA act was intended to protect the intellectual property of content producers or other authors as authorized under Article I, section 8 of the United States Constitution. However, my devices are not “jailbroken” to perform any action prohibited under the DMCA but otherwise circumvent the copyright protections to allow the installation of “homebrew” software or hobbyist software. The intent is to utilize private property which has been lawfully obtained from the manufacture through a retailer outlet.

Although I understand and assume that I may be voiding the manufacturer’s warranty from “jaibreaking” my devices, I also understand that my devices are my devices and protected under the Untitled States Constitution just as any other piece of property. The last thing this country needs is the court dockets of all the district courts in America to fill up with criminal charges of individuals exercising their just property rights. So as long as “Jailbreaking” is not performed with the intent to download counterfeit software as originally intended with the DMCA act, we the people should be able to do as we please with our private property.