

Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201

Submitted by:

iFixit

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Item 1. Commenter Information

iFixit is an international, open-source, online repair manual for everything. Our mission is to provide people with the knowledge to make their things work for as long as possible. Because we believe that repair saves money, fosters independence, and protects the planet.

iFixit is global community of makers, hardware hackers, fixers, tinkerers, and repair professionals. In 2014, the iFixit community taught repair to over 40 million people from almost every country in the world. The strongly collaborative group has published over 10,000 crowd-sourced repair guides on iFixit.com. This massive, free resource has helped people fix everything from mobile phones to game consoles, toys to musical instruments. iFixit also stands firm in its support of the tinkerers and independent repair professionals in our community. We believe that owners should have the right to repair, modify, and hack the things that they own.

Item 2. Proposed Class Addressed

Proposed Class 12: Unlocking – all-purpose tablet computers

Item 3. Statement Regarding Proposed Exemption

Unlocking isn't a crime. It has nothing to do with piracy and it has nothing to do with copyright. Unlocking simply extends a tablet's functionality. And deciding whether or not to unlock a tablet should be

left up to the owner of that device. Not the manufacturer of the tablet and not some giant, corporate wireless carrier.

While unlocking technically breaks a technological protection measure, that lock is not circumvented for the purpose of copying and re-selling copyrighted content. Instead, the owner is breaking the TPM only to modify the programming on a device for personal use.

Congress and the American public have already cast their votes in favor of unlocking. After the Copyright Office denied an exemption for cell phone unlocking in 2012, 114,000 people registered their displeasure with the White House. They were united in one sentiment: You bought; you own it. That the act of unlocking your own, lawfully purchased cell phone was somehow a violation of copyright law made no sense to the American public. And it made no sense to President Obama. He urged Congress to pass legislation that would make cell phone unlocking legal once again—and Congress rose to the occasion. The Unlocking Consumer Choice and Competition Act passed with unanimous support in both the House and the Senate.

In the face of overwhelming public opinion, even carriers reversed their positions on cell phone unlocking. They conceded that, yes, owners should be able to unlock their own cell phones and change their carriers after the initial terms of the contract have been met. Because unlocking is in the common interest of the public.

We are asking the Copyright Office to extend those same freedoms to the owners of tablets. Increasingly, there is very little functional difference between phones and tablets. They even share increasingly similar form factors. The iPhone 6 Plus (a smart phone), for example, is very nearly the same size as the Nexus 7 (a tablet). With the right apps, tablet users are able to make calls and send text messages—just like they would on their mobile phones. And smart phone users are able to surf the web, purchase and consume digital content, and shop—just like they would on their tablets. So why should users be able to legally unlock one, but not the other?

Importantly, unlocking is also a sustainable strategy for tablet end-of-life management. Tablets (like the iPad) have particularly robust

resale values. Moreover, unlocked tablets have higher resale values. They are more desirable on the aftermarket—because second-hand owners are able to choose their own carriers instead of having it dictated to them. As a society, we need to do everything we can to keep devices like iPads in circulation for as long as possible. Electronics are amazingly complex machines—more than half of the elements on the periodic table are represented in devices that have shockingly short life spans. They are environmentally damaging to manufacturer and environmentally devastating when they wind up in landfills.

The longer we are able to keep these devices functioning, the more we can defray the environmental costs of their production and disposal. According to refurbishers, the same tablet can exchange hands three or four times before it really reaches its true end-of-life. But there's a catch. Recyclers and refurbishers need to be able to unlock tablets, just like they can currently unlock phones. It keeps the tablets in use, and out of the landfill—where they belong.

Unlocking is good for the economy, it's good for sustainability, and it has already been mandated by the people. It's time to stop putting manufacturer's profits before ownership rights. Tablets owners have the right to do what they want with a product they have legally purchased—they should be able to hack it, modify it, and repair it as they see fit. Unlocking a tablet has nothing to do with piracy and it has nothing to do with copyright. And iFixit hopes that the Copyright Office sides with the people on this exemption: It's time to unlock our tablets.