

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

Item 1. Commenter Information

Kyle Moschell

Item 2. Proposed Class Addressed

Proposed Class 16: Jailbreaking—Wireless Telephone Handsets

Item 3. Statement Regarding Proposed Exemption

I am writing in support of readopting of the existing exemption allowing jailbreaking of wireless telephone handsets under Proposed Class 16. Jailbreaking wireless telephones has become a more common and widely-accepted practice due to the limitations that are continually imposed on wireless telephones by their manufacturers. The restrictions included on wireless telephones may be designed for ease of use or to prevent accidental changes however, for the more connected and tech-savvy owners, these limitations prevent using the device to its full potential and have negative consequences which cannot be disabled by default. Jailbreaking has existed solely as a method for unlocking the full features of a wireless telephone and giving the owner choice over their desired settings. This practice can be compared with disabling the child safety lock of your automobile if you do not have any children; a feature which many people may appreciate but others would find an unnecessary burden.

The previously granted exemptions, originally issued in 2010 and readopted in 2012, have had no adverse effect on the wireless telephone marketplace or related industries. In fact, sales of wireless telephones and related devices have increased steadily since 2010 [1]. The market leaders in the United States, Apple and Samsung, have seen especially strong success and increasing sales figures over the last 4 years [2]. It remains extremely unlikely that any jailbreaking exemption would negatively affect the marketplace for wireless telephones, and may have a positive effect since owners are happier using their devices freely.

Recent surveys have identified the most common problems that wireless telephone owners encounter. Many of the problems that wireless telephone owners encounter can be alleviated by minor modifications, or “tweaks”, that can be performed after jailbreaking. For example, a recent study found that 68% of wireless telephone owners receive unwanted sales or marketing calls, and 69% of text messaging users receive unwanted spam text messages. Additionally, 77% of mobile telephone internet users say they experience slow download speeds. [3] The most common changes that users make after jailbreaking include installing tweaks to allow call blocking and text message blocking, as well as advertisement blocking. Call and text message blocking is not a standard telephone feature in most cases and jailbreaking allows users to install this kind of protection against unwanted calls or text messages. Advertisement blocking facilitates faster internet browsing by declining to load advertisements, frequently video or audio ads, which consume excess bandwidth. Another common wireless telephone issue is regarding privacy and location tracking. As GPS and location-tracking features have been integrated into wireless telephones, manufacturers have not always provided clear ways to monitor and disable these tracking features. Pre-installed applications may also be locked onto the device and not removable by default. Personal data privacy is of utmost importance to wireless telephone users and jailbreaking allows additional control and insight into the tracking features on a mobile telephone, as well as the ability to remove any unwanted applications.

[1]: <http://www.gartner.com/newsroom/id/2408515>

[2]: <http://blog.thomsonreuters.com/index.php/smartphone-market-share-graphic-of-the-day-2/>

[3]: <http://www.pewinternet.org/fact-sheets/mobile-technology-fact-sheet/>

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