

## **Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201 (Proposed Class #15)**

### **Item 1. Commenter Information**

This Comment is submitted on behalf of The Alliance of Automobile Manufacturers (“Auto Alliance”), the leading advocacy group for the auto industry. Auto Alliance represents 77% of all car and light truck sales in the United States, including the BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America and Volvo Cars North America. For further details, see <http://www.autoalliance.org/>.

The Auto Alliance is represented in this proceeding by Mitchell Silberberg & Knupp LLP. Contact points for further information:

Jessica L. Simmons, Attorney, Alliance of Automobile Manufacturers:  
[JSimmons@autoalliance.org](mailto:JSimmons@autoalliance.org)

Steven J. Metalitz, Partner, Mitchell Silberberg & Knupp LLP, [met@msk.com](mailto:met@msk.com).

### **Item 2. Proposed Class Addressed**

Proposed Class 15: Unlocking—consumer machines.

The December 12, 2014 Notice of Proposed Rulemaking (“NPRM”) described this proposed class as allowing circumvention of access controls on “all wireless ‘consumer machines.’” 79 Fed. Reg. 73,856, 73,866 (Dec. 12, 2014). Competitive Carriers Association (“CCA”) proposed a broad, open-ended definition for all consumer machines – e.g. “the Internet of Things” – which encompasses a wide array of devices including “smart meters, connected appliances, connected precision-guided commercial equipment, among others.” *See* CCA Connected Wearables and Consumer Machines Unlocking Petition at 1 (Nov. 3, 2014).

CCA submitted the only long-form comment with evidence supporting this exemption. iFixit submitted a short-form comment anecdotally highlighting the upward trend of designing software into physical products. *See* iFixit Class 15 Comment at 2.

### **Item 3. Statement Regarding Proposed Exemption**

Automobiles are machines, and they are acquired and used by consumers. Proponent CCA does not specifically state that it wishes to include motor vehicles within the category of “consumer machines” for which hacking for the purpose of unlocking would be permitted; but the phrase is so ill-defined (turning on the applicability of a completely undefined term, “‘smart’ device”) that it could inadvertently sweep cars and trucks into the exemption.<sup>1</sup> Auto Alliance urges the Copyright Office to ensure this does not occur.

---

<sup>1</sup> *See* CCA Class 15 Comment at 1-2. We note that iFixit does refer to Renault having “integrated DRM into a car battery,” but it is not clear whether circumvention of any access controls to unlock these batteries is being sought here. *See* iFixit Class 15 Comment at 2-3.

Critical features of today's motor vehicles, including crash notification and emergency communication to public safety answering points, rely on access to wireless networks to function. While proponents have submitted no evidence of consumer desire or asserted need to "unlock" these services in order to change the wireless network being accessed, the potential for collateral impacts on vital safety or rescue functions could be significant. Unless and until a fuller record is developed regarding the need for unlocking of devices in vehicles that facilitate these functions, and the impacts on the security and reliability of these functions if the firmware controlling them is hacked, this proposed exemption should be rejected, at least as it applies to motor vehicles.