

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

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

Steven J. Metalitz, Partner, Mitchell Silberberg & Knupp LLP, met@msk.com.

Item 2. Proposed Class Addressed

Proposed Class 17: Jailbreaking—all-purpose mobile computing devices.

Item 3. Statement Regarding Proposed Exemption

Automobiles are inherently mobile, and increasingly they contain equipment that would commonly be considered computing devices. Proponents did not mention in-vehicle telematics systems (or any other aspect of motor vehicle systems) when describing the proposed class, and no commenter has submitted evidence in the record that would support an exemption that covers such systems. Nonetheless, Auto Alliance urges the Copyright Office to ensure that vehicles are not inadvertently swept into the exemption.¹ The security implications of action in this proceeding to permit the circumvention of access controls on vehicle electronic control units (“ECUs”) is particularly troubling.

Many of the ECUs embodied in today’s motor vehicles are carefully calibrated to satisfy federal or state regulatory requirements with respect to emissions control, fuel economy, or vehicle safety. Allowing vehicle owners to add and remove programs at whim is highly likely to take vehicles out of compliance with these requirements, rendering the operation or re-sale of the vehicle legally problematic. The decision to employ access controls to hinder unauthorized

¹ Electronic Frontier Foundation, the chief proponent of this proposed class, plays the same role with respect to two other proposed classes (#21 and #22) that explicitly target motor vehicles. Auto Alliance has filed extensive comments in opposition to these two proposed classes, to which we refer the Copyright Office for further details concerning our opposition to this proposed class.

“tinkering” with these vital computer programs is necessary in order to protect the safety and security of drivers and passengers and to reduce the level of non-compliance with regulatory standards. We urge the Copyright Office to give full consideration to the impacts on critical national energy and environmental goals, as well as motor vehicle safety, in its decision on this proposed exemption. Since the record on this proposal contains no evidence regarding its applicability to or impact on motor vehicles, cars and trucks should be specifically excluded from any exemption that is recommended in this area.