



Petition for New Exemption Under 17 U.S.C. § 1201

Please submit a separate petition for each proposed exemption.

Note: Use this form if you are seeking to engage in activities not currently permitted by an existing exemption. If you are seeking to engage in activities that are permitted by a current exemption, instead of submitting this form, you may submit a petition to renew that exemption using the form available at <https://www.copyright.gov/1201/2018/renewal-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption, and, separately, a petition for a new exemption using this form that identifies the current exemption, and addresses only those issues relevant to the proposed expansion of that exemption.

ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity proposing the exemption.

Petitioner:

Professor Matthew Green

Representative:

Electronic Frontier Foundation
Kit Walsh, Staff Attorney
Counsel to Professor Green
815 Eddy St
San Francisco, CA 94109
415 436 9333
kit@eff.org

Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.



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ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION

Provide a brief statement explaining the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) the types of copyrighted works that need to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

Petitioners need not propose precise regulatory language or fully define the contours of an exemption class. Rather, a short, plain statement describing the nature of the activities the petitioners wish to engage in will be sufficient, as proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking. The Office anticipates that in many cases petitioners will be able to adequately describe in plain terms the relevant information in a few sentences, or even a single sentence, as with the examples below.

Examples:

A proposed exemption for owners of 3D printers to circumvent technological protection measures on firmware or software in 3D printers to run the printers' operating systems to allow use of non-manufacturer-approved feedstock.

A proposed exemption for computer programs in tractors that use lockout codes to prevent farmers from repairing broken tractor parts.

A proposed expansion of the current exemption for motion pictures (including television programs and videos) for uses in documentary films. The expansion sought is to cover lawfully obtained copies of motion pictures contained on Blu-ray discs.

A. Proposed Exemption

Petitioner requests an exemption for security research on software (including firmware). The recommendation of the NTIA in the 2015 Rulemaking provides a helpful starting point:

“Computer programs, in the form of firmware or software, regardless of the device on which they are run, when circumvention is initiated by the owner of the copy of the computer program or with the permission of the owner of the copy of the computer program, in order to conduct good faith security research. This exemption does not obviate the need to comply with other applicable laws and regulations.” Sixth Triennial Rulemaking, Recommendations of NTIA at 89.

This proposed language should be further clarified by explaining that the existence of an “End User License Agreement” or similar terms does not defeat a person’s status as the owner of a copy of a computer program for purposes of the exemption when the person owns the physical medium that embodies the computer program.

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ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION (CONT'D)

B. Introduction

Petitioner Matthew Green is a professor of computer science and a researcher at Johns Hopkins University. He investigates the security of electronic systems including a wide variety of software. Green and his team have found serious flaws in the automotive anti-theft systems used in millions of Ford, Toyota, and Nissan vehicles. He has also uncovered flaws in the encryption that powers nearly one third of the world's websites, including Facebook and the National Security Agency. He has also identified flaws in Apple's iMessage text messaging system that could have allowed an eavesdropper to intercept user communications.

In addition to continuing research on technologies like those mentioned above, Green's research includes investigating the security of industrial-grade encryption devices used to secure cryptographic keys for purposes such as processing credit card or ATM transactions. He has a grant from the National Science Foundation to investigate the security of medical record systems. He and his lab also investigate the security of medical devices, toll collection systems, industrial firewall and virtual private network devices, and wireless communication systems that connect vehicles to one another and to the surrounding infrastructure.

C. Additional Information

- (1) The type of copyrighted works that needs to be accessed is computer software.
- (2) The computer software is located on a wide variety of physical media, from general-purpose computers to specialized devices used in industrial, financial, commercial, medical, and other contexts.
- (3) The purpose for which the works need to be accessed is good faith security research.
- (4) The types of users who want access are, in the first instance, petitioner Green and his research partners. More broadly, a wide range of individuals engage in security research as individuals, as part of an academic institution, or in a corporate or other setting.
- (5) Access to the relevant copyrighted works is prevented by a variety of measures, commonly including encryption. Many types of access restrictions applicable to security research on computer software have been documented in previous rulemakings, and most or all remain relevant today.

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