

Smartphones & Tablets

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Factual Support follows

Smartphones, tablets, and video game consoles are powerful computers with lots of untapped potential. Yet many of these devices are set up to run only software that's been approved by the manufacturer. Modifying a device to run independent software - known as jailbreaking - is important to programmers, enthusiasts, and users. But jailbreaking creates legal uncertainty. Some device manufacturers claim that jailbreaking violates Section 1201 of the Digital Millennium Copyright Act (DMCA), which carries stiff penalties.

When free software advocates began critiquing the DRM on Apple's iPhone fan boys of the company

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didn't want to hear it suggesting the iPhone is not a general-purpose computer.

It is a general-purpose computer though and so is the iPad. Yet Apple has restricted their capabilities and marketed them as lifestyle devices to consume digital content (apps, music, movies, TV) on and in the iPhone's case make calls. This filing is to request the U.S. Copyright Office to renew its 2010 exemption for smartphones and extend it to tablets.

I request that the U.S. Copyright Office declare that jailbreaking does not violate the DMCA. In 2010, the Copyright Office ruled that jailbreaking Smartphones doesn't violate the DMCA. This year I request the Copyright Office to renew that exemption (otherwise it will expire) and expand it to cover tablets. I also request a new

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exemption be made to cover video game consoles. As a user frustrated with digital locks and shackles on the products I buy I feel that if I buy it I should own it.

Devices I want to be able to jailbreak include smartphones like the Apple iPhone 4S, Motorola Droid X, Droid Razr, Droid 2, HTC's Droid Incredible running Google's Android operating system and Blackberry phones. As such it is imperative that the Copyright Office renew its 2010 exemption for such devices. I also encourage the Copyright Office to expand the ruling to cover tablet computers like the Apple iPad and iPad 2, Motorola Xoom, Samsung Galaxy Tab etc. The point is this exemption should continue and be expanded to cover all the latest and greatest smartphones and tablets.

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As a user I depend on the ability to jailbreak my phone for use with other carriers or to run apps not allowed in Apple's iPhone App Store and app stores for other closed phones. DRM restrictions on these phones cripple the user experience by limiting what things a phone can do. For example Apple has consistently denied mobile tethering apps via its App Store at the behest of large wireless carriers.

You see the problem is that Verizon Wireless and AT&T Mobility have started an overcharging scheme to make consumers pay more for certain features like tethering that apps pulled from Apple's App Store would enable users to do on the cheap or for free. Right now the carrier's are freaking out also about mobile apps like Facebook Messenger, RIM's Blackberry Messenger service, and

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Apple iMessage eating into their revenues for sending/receiving SMS text messages.

With regard to jailbreaking phones to use on different carriers it would be nice if the Federal Communications Commission mandated wholesale open access rules on the wireless phone industry by extending their 1968 Carterfone ruling to the cellular phone industry. That ruling enabled the innovation of the fax machine to occur and freed up equipment manufacturers to produce telephones that could operate on any telephone network. Before then the wire-line phone market looked like today's cellular phone market. You could not choose your phone independently of your provider.

Imagine how much more innovative the wireless market would be if consumers had the choice to use the phone of their choice on the network of their

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choice. Of course there would be a few complications to resolve. Sprint and Verizon Wireless both used CDMA network standard for their 3G services but AT&T and T-Mobile used GSM standard which by the way is used more internationally than CDMA. Of course even then T-Mobile and AT&T's 3G networks operated on different wireless bands/frequencies within the GSM system.

However, wholesale open access would make it easier for new upstarts to enter the wireless phone market increasing competition and consumer choice. Now with the switch to 4G both AT&T and Verizon Wireless using LTE (Long Term Evolution) as the frequency standard for they're new upgraded networks.

Sprint Nextel launched a 4G wireless network using Wi-Max technology in cooperation with

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Clearwire but may now be considering switching to LTE. The point is when/if the FCC rules for wholesale open access these technical compatibility/interoperability issues would have to be worked out.

When Apple first unveiled the iPad their 3G model only offered connectivity via AT&T's network so Verizon created a way for users of that device to still plug into their network. This was a necessary short-term fix for iPad users wanting to access Verizon's network to be able to do so before Apple delivered its devices to Verizon's network. Since launching the iPhone 4 for the first time on both AT&T and Verizon Wireless Apple brought to market a 3G model of the iPad to Verizon's network as well. With the iPhone 4S they made the iPhone

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work on Sprint's network but are yet to release a 3G or 4G iPad with access to all three carriers.

When the iPhone 4 came to Verizon Wireless for the first time thus eliminating AT&T's exclusivity on the iconic Apple smartphone the FCC had nothing to do with it. Apple a year after the iPhone 4 first shipped but before iPhone 4S announcement revealed that it was bringing the iPhone 4 to Verizon Wireless. The iPhone 4 was the last model of Apple's iPhone to be exclusive to AT&T when it first shipped. When Apple announced that they were bringing the iPhone 4 to Verizon Wireless existing iPhone 4 users on AT&T's network learned they could not just take their iPhone 4s to Verizon's network they had to buy a new iPhone 4 built to work on Verizon's network.

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I've never used the iPhone on AT&T's network. I decided to wait for it to come to Verizon. However, for existing iPhone users upset with AT&T's network quality wanting to switch carriers to learn they can't switch and bring their iPhones with them would be annoying. Also realizing one is in a contract with AT&T and if they break it they have to pay an early termination fee could be more frustrating. AT&T and Verizon Wireless have both abandoned unlimited data for smartphone and tablet users accessing their networks.

They are overcharging consumers for using their services. Delivering lower quality services so we end up paying more for less is not right. Whether its forcing us to pay more on our monthly service bills for tethering, implementing arbitrary bandwidth caps and penalizing us by overcharging us

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for going over them these two carriers are ripping off consumers. Fortunately Sprint's network allows unlimited data on the iPhone and they advertise now they are the only carrier that lets you use unlimited data. Unlocking of "DRM" benefits the user experience by allowing the user to lift crippling restrictions on the products they are using.

Thank you for considering my comments and hoping to see the DMCA exemption for smartphones not only renewed but also extended to cover tablets in the near future.

Sincerely,

Mr. Maneesh Pangasa

Maneesh Pangasa

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