



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

Item 1. Commenter Information

AEM (ASSOCIATION OF EQUIPMENT MANUFACTURERS)
1000 Vermont Avenue, NW, Suite 450
Washington, DC 20005
202-898-9064

Item 2. Proposed Class Addressed

Proposed Class 21: Vehicle Software—Diagnosis, Repair, or Modification

Item 3. Statement Regarding Proposed Exemption

AEM opposes an exemption for Proposed Class 21 and writes in support of the comments filed by Deere & Company (“John Deere”) and dated 3/25/15. AEM agrees with John Deere that the proponents of Proposed Class 21 have failed to make a prima facie case for the proposed exemption. The record in this proceeding does not demonstrate that the proposed uses are non-infringing. There is no specific evidence that the vehicle TPMs have any substantial adverse effects on lawful diagnosis and repair, aftermarket personalization, modification, or other improvement. To the contrary, John Deere submitted comments that indicate that the proposed exemption would likely result in unauthorized vehicle software modifications by vehicle owners that: (1) impede vehicle manufacturers from conducting recalls, responding to warranty claims, and providing software upgrades; (2) deter on-road vehicle manufactures from identifying and reporting software issues to the NHTSA, (3) are noncompliant with industry safety standards; and (4) violate environmental emissions standards of the EPA. While individual hobbyists and enthusiasts might desire to make repairs or modifications to their vehicles to, for example, modify their engine controllers, race their vehicles on private courses, or otherwise “improve” their vehicles,¹ the record demonstrates that these individuals are unlikely to have the requisite skill, experience, and knowledge to ensure that these modifications comply with vehicle safety standards or environmental regulations.² In considering the exemption request, the Register should consider the “real world impact”

¹ See EFF Comments on Proposed Class 21, at 1, 6.

² See, e.g., Environmental Protection Agency, “Air Enforcement,” <http://www2.epa.gov/enforcement/air-enforcement%23engines> (noting that it is unlawful to “enhance engine performance” by disabling the vehicle’s emissions controls or by tampering with the vehicle’s emission control system).

if the exemption were granted.³ Here, the evidence is clear that the real world impact of allowing circumvention for Proposed Class 21 would be to diminish vehicle safety, increase environmental pollution, and discourage the creation of innovative copyrighted works. For these reasons, AEM requests that the Register deny the requested exemption for Proposed Class 21.

DC: 5656324-1

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 under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

³ Exemption To Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 77 Fed. Reg. 65260, 65274 (Oct. 26, 2012).