Response on Behalf of
MEMA, The Vehicle Suppliers Association
to the U.S. Copyright Office regarding a Proposed Exemption Under 17 U.S.C. § 1201
May 28, 2024

MEMA, The Vehicle Suppliers Association

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Suzanne, Melinda,

We write on behalf of MEMA, The Vehicle Suppliers Association, in response to Suzanne's letter to MEMA dated May 20, 2024. Your letter requested additional information about the TPMs circumvented, the means of circumvention, and whether and why the example falls outside the current regulatory exemption covering vehicle diagnosis, repair or modification, 37 C.F.R. §202.40(b)(13). The types of technological protection measures vary widely by make and model of a vehicle, as well as by vehicle system and model year. Original equipment manufacturers (OEMs) may therefore employ a variety of TPMs on the same vehicle and TPMs differ by manufacturer. Examples of TPMs include, for example, passwords, so-called security dongles, challenge-response mechanisms, encryption, and disabled access ports on the circuitry itself. Some additional details are below:

Digital Barrier	Description
Encryption (within a part on a network)	• Prevent 3rd parties from communicating with or programming a vehicle and/or components
Security barriers	• Prevent 3rd parties from communicating on a network, thus blocking communication, calibration, and integration with 3rd party parts or components. Many new vehicles have security barriers on the OBDII port blocking bi-directional communication.
QR Codes	• Prevent 3rd parties from manufacturing or installing a non-OEM part
Restrictions on access to OEM software	• OEM's refuse to sell pre-programmed parts to the Independent Aftermarket. Examples of pre-programmed parts include ADAS, electronic power steering, lighting control modules. 3rd parties install parts that are blank, and then migrate OEM software onto them independently.

As you know, the current regulatory exemption covers vehicle diagnosis, repair or modification. MEMA's filing proposed circumvention for purposes that do not clearly fall within the specific and limited purposes of diagnosis, repair, and modification. This includes circumventing TPMs in order to grant access to one's vehicle data to a third party service provider of the vehicle owner's choosing (rather than to the OEM). For example, the proposed exemption would allow a vehicle owner to grant access to vehicle data to an aftermarket supplier engaged in customizing vehicles. Such use cases do not fall within the current

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exemption because they are not strictly for purposes of diagnosis, repair or modification. Rather, the purpose may be to customize a vehicle, or for some other purpose.

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