



LIBRARY OF CONGRESS

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Statement from the Library of Congress Regarding White House Statement Today in Response to a Petition on Section 1201 Rulemaking

“In a statement today, the Obama administration announced its view that, as a matter of telecommunications policy, consumers should be able to unlock their legally purchased cell phones for purposes of switching from one wireless carrier to another.

“Both the Librarian of Congress and the Register of Copyrights value our colleagues in the administration and the thoughtful discussions we have had with them on this issue. We also agree with the administration that the question of locked cell phones has implications for telecommunications policy and that it would benefit from review and resolution in that context.

“The question of locked cell phones was raised by participants in the Section 1201 rulemaking conducted between September 2011 and October 2012 by the Register of Copyrights, who in turn advises the Librarian of Congress. The rulemaking is a process spelled out by the Digital Millennium Copyright Act in which members of the public can request exemptions from the law to enable circumvention of technological protection measures. In the case of cell phones, the request was to allow circumvention of technological protection measures controlling access to copyrighted software on cell phones.

“The rulemaking is a technical, legal proceeding and involves a lengthy public process. It requires the Librarian of Congress and the Register of Copyrights to consider exemptions to the prohibitions on circumvention, based on a factual record developed by the proponents and other interested parties. The officials must consider whether the evidence establishes a need for the exemption based on several statutory factors. It does not permit the U.S. Copyright Office to create permanent exemptions to the law.

“As designed by Congress, the rulemaking serves a very important function, but it was not intended to be a substitute for deliberations of broader public policy.

“However, as the U.S. Copyright Office has recognized many times, the 1201 rulemaking can often serve as a barometer for broader policy concerns and broader policy action. The most recent rulemaking has served this purpose.”

U.S. Copyright Office Section 1201 Proceeding – www.copyright.gov/1201
White House Response – <https://petitions.whitehouse.gov/petition/make-unlocking-cell-phones-legal/1g9KhZG7>

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