



Petition to Renew a Current Exemption Under 17 U.S.C. § 1201

Please submit a separate petition for each current exemption for which renewal is sought.

NOTE: Use this form if you want to renew a current exemption without modification. If you are seeking to engage in activities not currently permitted by an existing exemption, including those that would require the expansion of a current exemption, you must submit a petition for a new exemption using the form available at <https://www.copyright.gov/1201/2018/new-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption without modification using this form, and, separately, a petition for a new exemption 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 seeking renewal.

Petitioners:

Bobette Buster
Authors Alliance
American Association of University Professors

Bobette Buster is an Adjunct Professor in the University of Southern California’s Graduate School of Cinematic Arts’ Peter Stark Program; an international guest faculty lecturer (Pixar Studios, Disney, Sony Animation, La Fernis/Paris, Catholic University of Milan, Media Business School/Spain); a feature documentary producer and screenwriter; writer of Do Story: How to Tell Your Story So the World Listens (The Do Book Co., 2013); and author of the e-book Deconstructing Master Filmmakers. For more information, visit http://www.bobettebuster.com/bobettebuster_about.html

Authors Alliance is a nonprofit organization representing the interests of authors who want to take advantage of opportunities of the digital age to share their creations with readers, promote the ongoing progress of knowledge, and advance the public good. We provide information and tools designed to help authors better understand and manage key legal, technological, and institutional aspects of making their works widely available. We are also a voice for authors in discussions about public and institutional policies that might promote or inhibit the broad dissemination they seek. For more information, visit <http://www.authorsalliance.org>.

The AAUP is a nonprofit membership association of faculty and other academic professionals. Since our founding in 1915, the AAUP has helped to shape American higher education by developing the standards and procedures that maintain quality in education and academic freedom in this country’s colleges and universities. We define fundamental professional values and standards for higher education, advance the rights of academics, particularly as those rights pertain to academic freedom and shared governance, and promote the interests of higher education teaching and research.

Represented by:

Blake E. Reid, Director
Samuelson-Glushko Technology Law & Policy Clinic, Colorado Law
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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.

ITEM B. IDENTIFY WHICH CURRENT EXEMPTION PETITIONERS SEEK TO RENEW

Check the appropriate box below that corresponds with the current temporary exemption (see 37 C.F.R. § 201.40) the petitioners seek to renew. Please check only one box. If renewal of more than one exemption is sought, a separate petition must be submitted for each one.

Literary Works:

- Literary works distributed electronically (*i.e.*, e-books), for use with assistive technologies for persons who are blind, visually impaired, or have print disabilities
- Literary works consisting of compilations of data generated by implanted medical devices and corresponding personal monitoring systems, to access personal data

Computer Programs and Video Games:

- Computer programs that operate cellphones, tablets, mobile hotspots, or wearable devices (*e.g.*, smartwatches), to allow connection of a used device to an alternative wireless network (“unlocking”)
- Computer programs that operate smartphones, smart TVs, tablets, or other all-purpose mobile computing devices, to allow the device to interoperate with or to remove software applications (“jailbreaking”)
- Computer programs that control motorized land vehicles, including farm equipment, for purposes of diagnosis, repair, and modification of the vehicle
- Computer programs that operate devices and machines primarily designed for use by individual consumers (including voting machines), motorized land vehicles, or medical devices designed for implantation in patients and corresponding personal monitoring systems, for purposes of good-faith security research
- Computer programs that operate 3D printers, to allow use of alternative feedstock
- Video games for which outside server support has been discontinued, to allow individual play by gamers and preservation of games by libraries, archives, and museums (as well as necessary jailbreaking of console computer code for preservation uses only)

Motion Pictures (*including television programs and videos*):

- For educational uses by college and university instructors and students
- For educational uses by K-12 instructors and students
- For educational uses in massive open online courses (“MOOCs”)
- For educational uses in digital and literacy programs offered by libraries, museums, and other nonprofits
- For multimedia e-books offering film analysis
- For uses in documentary films
- For uses in noncommercial videos

ITEM C. EXPLANATION OF NEED FOR RENEWAL

Provide a brief explanation summarizing the continuing need and justification for renewing the exemption. The Office anticipates that petitioners may provide a paragraph or two detailing this information, but there is no page limit. While it is permissible to attach supporting documentary evidence as exhibits to this petition, it is not necessary. Below is a hypothetical example of the kind of explanation that the Office would regard as sufficient to support renewal of the unlocking exemption. The Office notes, however, that explanations can take many forms and may differ significantly based on the individual making the declaration and the exemption as issue.

As proponents and supporters of the existing exemption for multimedia ebooks offering film analysis, the petitioners are well situated to affirm that the record supporting the Office's promulgation of the previous exemption remains ripe today.

More specifically, Ms. Buster continues to work on an e-book series, based on her lecture series, "Deconstructing Master Filmmakers: The Uses of Cinematic Enchantment," that relies on the availability of high-resolution video not available without circumvention of technological protection measures. Ms. Buster's work would again be adversely affected by Section 1201's anti-circumvention measures, as she conclusively demonstrated during the previous triennial review, if the exemption for multimedia e-books offering film analysis were to expire. Ms. Buster's work was an archetypical example of the use embodied in the previously granted exemption, was featured significantly in the Register's final analysis, and was examined at length during the Office's hearings. Her continuing work on the same project is alone sufficient for the Office to rely upon the record developed during the previous triennial review and renew the exemption.

Likewise, Authors Alliance continues to receive feedback from its members that the freedom to author ebooks that incorporate film for the purpose of analysis, consistent with the core tenets of the First Amendment and academic freedom, remains significant and important to them. That freedom would be at risk if the Office were not to renew the exemption.

The availability of the video necessary for authors to undertake film analysis in ebooks continues be limited to formats encumbered by technological protection measures, and such use of that video remains non-infringing. None of the petitioners is aware of significant business, technological, or legal developments have disturbed these circumstances, upon which the Register relied in recommending the previous exemption. Accordingly, the Office should rely upon the record developed during the previous proceeding to renew the existing exemption.

ITEM C. EXPLANATION OF NEED FOR RENEWAL (CONT'D)

[Empty box for explanation of need for renewal]

ITEM D. DECLARATION AND SIGNATURE

The declaration is a sworn statement made under penalty of perjury, and must be signed by one of the petitioners named above.

I declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. Based on my own personal knowledge and experience, I have a good faith belief that but for the above-selected exemption's continuation during the next triennial period (October 2018 – October 2021), technological measures controlling access to relevant copyrighted works are likely to diminish the ability of relevant users to make noninfringing uses of these works, and such users are likely to rely upon the above-selected exemption during the next triennial period.
2. To the best of my knowledge, there has not been any material change in the facts, law, or other circumstances set forth in the prior rulemaking record (available at <https://www.copyright.gov/1201/2015>) that originally demonstrated the need for the above-selected exemption, such that renewal of the exemption would not be justified.
3. To the best of my knowledge, the explanation provided in Item C above is true and correct, and supports the above statements.

Name/Organization:

If the petitioner is an entity, this declaration must be signed by an individual at the organization having appropriate personal knowledge.

Bobette Buster

Signature:

This declaration may be signed electronically (e.g., "/s/ John Smith").

/s/ Bobette Buster

Date:

July 24, 2017