Proposed Exemption:

I propose an exemption for software programs for Macintosh Computers which have not been updated for compatibility with version 10 of the Macintosh operating system and are encumbered with copy protection schemes that are not compatible with "Classic" support in version 10 of the Macintosh operating system.

Summary Argument:

Many software programs have been rendered incompatible with version 10 of the Macintosh operating system solely because of the copy protection schemes they employ. If those programs are not updated by the vendor that provides them, legal owners of the software are unable to use the software they paid for. In many cases, this may cause the legal owners of the software to lose the ability to manipulate data created by these programs and this could entail the loss of years of work.

Background:

In 2001, Apple Computer introduced version 10 of the operating system for the Macintosh Computer. This operating system is also known as OS 10 or OS X. The previous version is known as OS 9. OS X uses memory protection to prevent application programs from corrupting other application programs and is much more reliable than OS 9 (among many, many other differences). Application programs have to be changed somewhat to run natively in OS X; however, OS X has the ability to run the entire OS 9 operating system in a virtual environment. This virtual environment is known as "Classic Mode", or simply "Classic". Nearly all OS 9 applications run in Classic -- Including a large number of very sophisticated CAD programs and at least one sophisticated word processor. The only applications which tend to not work in Classic are applications that deal directly with hardware (such as a backup program that talks to a SCSI tape drive). Even USB and Firewire peripherals can be accessed from Classic. I don't know of any application that just deals with files which cannot run in classic mode.

Unfortunately, at least one vendor of copy protection provided software that ended up failing in Classic. This copy protection is used by many application vendors; so, there are many many applications out there that fail in Classic because the copy protection is broken, even though they would run fine if not for the copy protection.

Most vendors have provided upgrades to OS X, but here it is 4 years later and some vendors have still not provided upgrades.

Unless one dedicates an entire computer to a particular application, it difficult to avoid upgrading to OS X. Here are some of the reasons:

1. Most application vendors have stopped selling OS 9 versions of their applications; so, it is necessary to upgrade to OS X in order to get bug fixes and new features.

2. OS X is much much more reliable: Especially when using the Internet. And it's pretty hard to avoid using the Internet these days.

3. Apple Computer stopped making computers that are capable of running OS 9 about two years ago. When an existing computer breaks, it will be difficult to impossible to obtain a replacement that will run OS 9.

4. Lack of support. Most developers and Internet service providers have dropped support for OS 9.

Owners of these applications are not only losing the investment they made in the software, but may also lose access to any data created by those applications. This could mean the loss of a huge investment.

Specific Examples:

I own legal copies of two applications in this class:

- Composer's Mosaic (version 1.58, produced by Mark of the Unicorn).

- Galaxy Plus with Editors (version 2.5, produced by Opcode Systems, now owned by Gibson).

Composer's Mosaic is an application that is primarily for editing sheet music. I use this application to prepare and maintain written documentation for all of my musical compositions. I had to upgrade the operating system for the machine this runs on, because it is used constantly for Internet access and because the other 50 or so applications I keep on the machine required OS X. I have another computer running OS 9, but it is not remotely powerful enough to run Composer's Mosaic. And I don't have room in my house to set up a third computer. Right now, I can't edit or print out the sheet music for any of my own musical compositions. I have been marking up revisions on old hard copies with a pencil, but that's not really a solution. I literally don't know what I am going to do in the long term. I probably have about 1000 hours of my time in those compositions.

Galaxy Plus is an applications for editing the sounds made by keyboard instruments. I have an extensive library of sounds that I have customized for my keyboard instruments stored on it. Galaxy is running on the OS 9 machine, but that computer is about 10 years old and I can't expect it to last much longer. When that computer fails, I will not only lose the ability to produce new sounds, but if the keyboard instrument needs to be repaired, I won't be able to download my current sounds when it comes back from repair. In other words, I am facing the loss of hundreds of hours of my own labor and three $2000 dollar keyboard instruments becoming useless.

The copy protection used in these applications is way too complicated for an average computer user to remove themselves. I am also a software developer and I could probably eventually figure out how, but the amount of effort would even make it impractical even for me.

Note: Both of these applications are dependent on having MIDI support in Classic. Apple does not provide this, but it is available from a third party vendor (MidiBridge9X from TroikaTronix).

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