

[Proposed class or classes of copyrighted work(s) to be exempted]= Computer programs that operate wireless telecommunications handsets when circumvention is accomplished for the sole purpose of enabling wireless telephones to connect to a wireless telephone communication network.

[Brief summary of the argument(s) in support of the exemption proposed above]= In response to the Copyright Office's October 6, 2008 Notice of Inquiry, MetroPCS proposes the following exemption from the 17 U.S.C. § 1201(a)(1) prohibition on the circumvention of technological methods to controlling access to copyrighted works:

Computer programs that operate wireless telecommunications handsets when circumvention is accomplished for the sole purpose of enabling wireless telephones to connect to a wireless telephone communication network.

The language of this exemption closely tracks the previously adopted exemption in 37 C.F.R. 201.40(b)(5), and would have the effect of renewing the prior exemption for an additional three years. The Copyright Office was correct in 2006 to adopt an exemption from the anticircumvention provisions of the DMCA for computer programs that operate wireless handsets, and MetroPCS strongly recommends that an exemption of this type be renewed for an additional three-year period. Software locks on wireless handsets are unnecessary for the protection of copyrighted works - the DMCA's primary purpose. Such locks are used exclusively to bind handsets to specific carriers and consequently block consumers' freedom of choice for wireless service. In fact, the adoption of this exemption by the Copyright Office in 2006 has allowed a significant number of United States consumers to utilize existing handsets to purchase competing services. A failure to renew this exemption would substantially

harm consumers by allowing carriers to prevent customers from utilizing handsets which they have purchased to receive service on competing carriers' networks. As demonstrated herein, renewing the exemption will continue to foster competition in the wireless marketplace without adversely impacting copyrighted works.