

February 6, 2015

Hon. Maria A. Pallante  
Register of Copyrights  
United States Copyright Office  
Library of Congress  
101 Independence Ave., S.E.  
Washington, D.C. 20559

*Submitted via online form*

Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201

### **Item 1. Commenter Information**

USACM is the U.S. Public Policy Council of ACM. The Association for Computing Machinery (ACM) is the world's oldest and largest membership society for technology and computing professionals, with more than six decades of leadership within the computing community. USACM provides independent, nonpartisan, and technology-neutral resources to policy leaders, stakeholders, and the public about public policy. USACM's contributions to public policy are drawn from the deep technical expertise of the computing community. The membership of USACM includes many experts on computer security who perform research that benefits public safety and welfare, working in both public sector and private sector settings.

### **Item 2. Proposed Class Addressed**

We write to support a DMCA exemption for Proposed Class 25: Software—Security Research

### **Item 3. Statement Regarding Proposed Exemption**

Computer security plays an indispensable role in maintaining national security, continuity of operations for mission critical infrastructure (e.g., the power grid, air traffic control), safety of automotive and avionic systems, the integrity of financial transactions, proper operation of medical and consumer devices, business operations, maintenance of personal privacy, and the overall stability of the U.S. economy. Computer security will only become more critical as we see increasing deployment of the “Internet of Things.” Security research is critical to maintaining the security of existing systems, and must be protected and encouraged to further develop and insure such security going forward.

Detection and correction of security deficits has long been provided by technology professionals, in a broad-based, largely voluntary effort to report software flaws detected during the acquisition, deployment, and operation of software systems. One example is the voluntary reporting system managed by the US-CERT (United States Computer Emergency Readiness Team) at the Department of



Homeland Security. The additional detection and correction of security flaws is regularly performed by those who purchase, install, and operate systems, and by computer professionals who are retained to perform the full arsenal of computer security testing activities. Often those who detect security flaws must immediately repair those flaws to maintain operational security for their systems, and then often return or contribute those “patches” back to the original software providers. Examination and circumvention are part of this work – and the DMCA creates civil and criminal liability. A perceived association with the DMCA can chill legitimate research – potentially leaving computing systems vulnerable to attack.<sup>1</sup>

As one respondent put it: “Yes!...Due to the [DMCA] I can't even talk about some of [the security flaws I find],” adding “[i]f a client sees my name publicly listed on such a document and they know I work with an organization to provide such research capability, I could lose my future contract work.” In our professional judgment, as computer and computer security professionals, we believe that the security of government and corporate systems, safety of consumer products, security of financial transactions, and even our national security are placed at significant risk if security research and testing is prevented by the threat of prosecution under the DMCA.

We strongly urge the Copyright Office to grant this exemption request.

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<sup>1</sup> Petition for Proposed Exemption Under 17 U.S.C. § 1201, Steven Bellovin, et al, November 2014, [http://copyright.gov/1201/2014/petitions/Bellovin\\_1201\\_Intial\\_Submission\\_2014.pdf](http://copyright.gov/1201/2014/petitions/Bellovin_1201_Intial_Submission_2014.pdf), The Chilling Effects of the DMCA, Edward Felten, March 29, 2013, [http://www.slate.com/articles/technology/future\\_tense/2013/03/dmca\\_chilling\\_effects\\_how\\_copyright\\_law\\_hurts\\_security\\_research.single.html](http://www.slate.com/articles/technology/future_tense/2013/03/dmca_chilling_effects_how_copyright_law_hurts_security_research.single.html), RM 205-11, Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, Comments of Edward Felten and J. Alex Halderman, Dec. 1, 2005, 6-7, [http://www.copyright.gov/1201/2006/comments/mulligan\\_felten.pdf](http://www.copyright.gov/1201/2006/comments/mulligan_felten.pdf).