



FIGHT TO REPAIR

The US Government Wants to Permanently Legalize the Right to Repair

"The Office recommends against limiting an exemption to specific technologies or devices."

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Jason Koebler

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Image: Jason Koebler

In one of the biggest wins for the right to repair movement yet, the US Copyright



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product's software.

Manufacturers—including John Deere, Ford, various printer companies, and a host of consumer electronics companies—have argued that it should be illegal to bypass the software locks that they put into their products, claiming that such circumvention violated copyright law.

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This means that for the last several years, consumer rights groups have had to repeatedly engage in an "exemption" process to Section 1201 of the Digital Millennium Copyright Act. Essentially, the Librarian of Congress decides which circumventions of copyright should be lawful—for example, unlocking your cell phone or hacking your tractor to be able to repair the transmission. But these exemptions expire every three years, and require going through a protracted legal process to earn. Additionally, a separate exemption is required for each product category—right now it's legal to hack software to repair a car, but not to repair a video game console.

"It's really arduous—no one is under the impression Joe Q. Public can walk in and do the exemption process," Meredith Rose, a staff attorney at Public Knowledge, which works on exemptions, told me. "You have to propose the language to the exemption, there's a comment period, and the procedure changes every round as well."

Thursday, the US Copyright Office said it's tired of having to deal with the same issues every three years; it should be legal to repair the things you buy—*everything* you buy—forever.

"The growing demand for relief under section 1201 has coincided with a general understanding that bona fide repair and maintenance activities are typically noninfringing," the report stated. "Repair activities are often protected from infringement claims by multiple copyright law provisions."

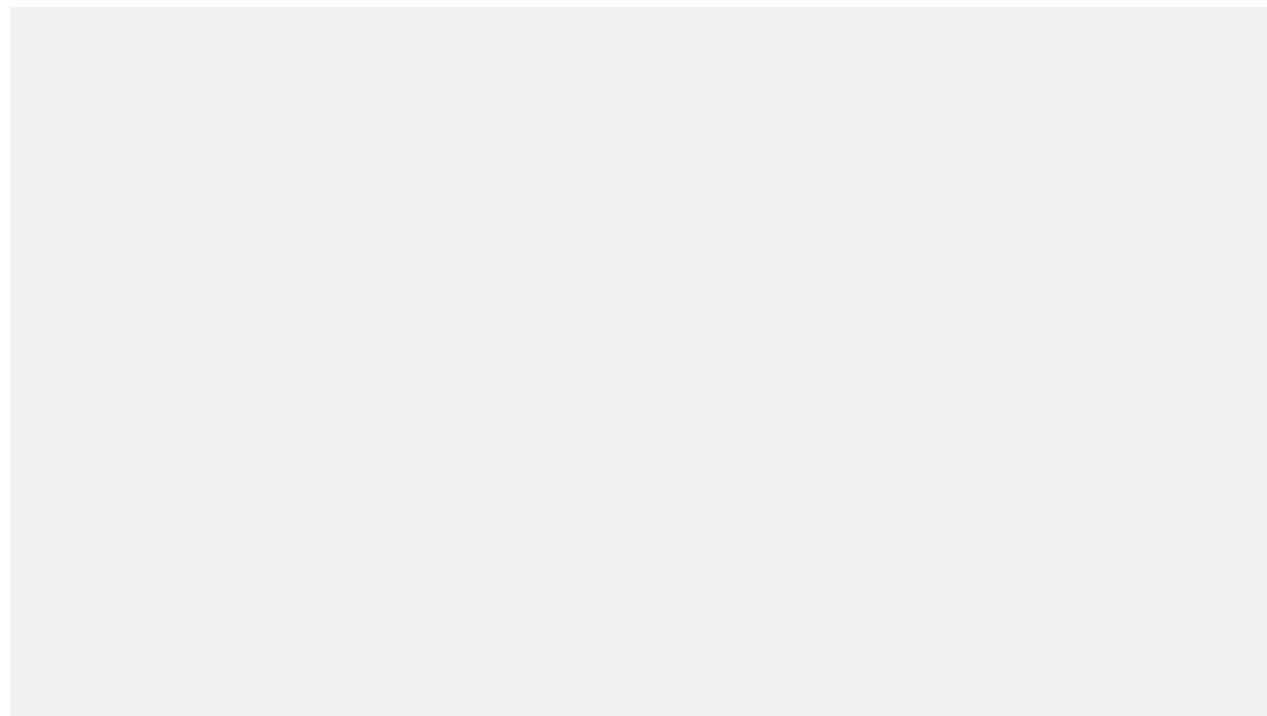
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The office said it's received a huge increase in the number of public comments it's received about repair in the last several years, which "reflects the increasing use of access controls on a wide range of consumer devices containing copyrighted software."



Gay Gordon-Byrne, executive director of Repair.org, a group pushing for state-level laws that would make it easier for you to repair your things, told me in an email that the office's report validates what her group has been pushing for and rebukes companies that have tried to monopolize repair.

"We're getting a lot of legal support. Literally none of these rulings has gone in favor of the OEM," she said. "The Supreme Court upheld the basic rights of used equipment ownership in the ink cartridge refill case. GE just lost an anti-trust case for monopolizing repair of anesthesia machines in Texas. This latest study further supports our case that repair and maintenance is being unfairly monopolized through abuses of copyright law."

"It's hugely encouraging to see that repair-friendly policy arguments resonated and



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The report also suggests that copyright law was not written to allow manufacturers to force their customers to use only authorized repair services, which are usually owned by the manufacturers themselves.

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"Virtually all agree that section 1201 was not intended to facilitate manufacturers' use of [software locks] to facilitate product tying or to achieve a lock-in effect under which consumers are effectively limited to repair services offered by the manufacturer," it said.

Unfortunately, the report are only recommendations to Congress, which would have to pass a law in order to enshrine them. On the bright side, Rose said that the report itself should make earning exemptions for repair much easier in the future.

"We can just cite their own report and say, 'You thought this should be a permanent exemption, so clearly there's a need,'" she said. "It looks like there are fewer hurdles to jump through. There are a couple of bills currently in the ether that would codify these exemptions. Maybe with the report we can get the nudge needed to actually make those happen."



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