

113TH CONGRESS
1ST SESSION

H. R. 1892

To amend section 1201 of title 17, United States Code, to require the infringement of a copyright for a violation of such section, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2013

Ms. LOFGREN (for herself, Mr. MASSIE, Mr. POLIS, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend section 1201 of title 17, United States Code, to require the infringement of a copyright for a violation of such section, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unlocking Technology
5 Act of 2013”.

1 **SEC. 2. INFRINGEMENT OF A COPYRIGHT REQUIRED FOR**
2 **ANTICIRCUMVENTION PROHIBITION.**

3 (a) AMENDMENTS.—Section 1201(a) of title 17,
4 United States Code, is amended—

5 (1) in paragraph (1)(A)—

6 (A) by amending the first sentence to read
7 as follows: “No person shall, in order to in-
8 fringe or facilitate infringement of a copyright
9 in a work protected under this title, circumvent
10 a technological measure that effectively controls
11 access to that work.”; and

12 (B) by adding at the end the following: “It
13 shall not be a violation of this section to cir-
14 cumvent a technological measure in connection
15 with a work protected under this title if the
16 purpose of such circumvention is to engage in
17 a use that is not an infringement of copyright
18 under this title.”;

19 (2) in paragraph (2)—

20 (A) in subparagraph (A), by inserting after
21 “for the purpose of” the following: “facilitating
22 the infringement of a copyright by”;

23 (B) in subparagraph (B), by striking “cir-
24 cumvent” and inserting “facilitate the infringe-
25 ment of a copyright by circumventing”; and

1 (C) in subparagraph (C), by inserting after
2 “for use in” the following: “facilitating the in-
3 fringement of a copyright by”; and

4 (3) by redesignating paragraph (3) as para-
5 graph (4), and inserting after paragraph (2), the fol-
6 lowing new paragraph:

7 “(3) It is not a violation of this section to use, manu-
8 facture, import, offer to the public, provide, or otherwise
9 traffic in any technology, product, service, device, compo-
10 nent, or part thereof that is primarily designed or pro-
11 duced for the purpose of facilitating noninfringing uses of
12 works protected under this title by circumventing a tech-
13 nological measure that effectively controls access to that
14 work, unless it is the intent of the person that uses, manu-
15 factures, imports, offers to the public, provides, or traffics
16 in the technology, product, service, device, component, or
17 part to infringe copyright or to facilitate the infringement
18 of a copyright.”.

19 (b) REPORT REQUIRED.—

20 (1) IN GENERAL.—Not later than the end of
21 the 9-month period beginning on the date of the en-
22 actment of this Act, the Assistant Secretary for
23 Communications and Information of the Department
24 of Commerce shall submit to the committees de-
25 scribed in paragraph (2) a report on—

1 (A) the impact of section 1201 of title 17,
2 United States Code, on consumer choice, com-
3 petition, and free flow of information;

4 (B) whether section 1201 of such title
5 should be reformed in part, reformed entirely,
6 or repealed; and

7 (C) barriers and challenges to such reform
8 or repeal, including international trade agree-
9 ments and treaties.

10 (2) COMMITTEES.—The committees described
11 in this paragraph are the following:

12 (A) The Committees on the Judiciary and
13 Energy and Commerce of the House of Rep-
14 resentatives.

15 (B) The Committees on the Judiciary and
16 Commerce, Science, and Transportation of the
17 Senate.

18 **SEC. 3. NETWORK SWITCHING NOT INFRINGEMENT.**

19 Section 117 of title 17, United States Code, is
20 amended by adding at the end of the following new sub-
21 section:

22 “(e) NETWORK SWITCHING.—Notwithstanding the
23 provisions of section 106, it is not an infringement to copy
24 or adapt the software or firmware of a user-purchased mo-
25 bile communications device for the sole purpose of ena-

1 bling the device to connect to a wireless communications
2 network if—

3 “(1) the copying or adapting is initiated by, or
4 with the consent of, the owner of that device or the
5 owner’s agent;

6 “(2) the owner of that device or the owner’s
7 agent is in legal possession of the device; and

8 “(3) the owner of that device has the consent
9 of, or an agreement with, the authorized operator of
10 such wireless communications network to make use
11 of that wireless communications network.”.

12 **SEC. 4. HARMONIZATION OF TRADE AGREEMENTS.**

13 The President shall take the necessary steps to secure
14 modifications to applicable bilateral and multilateral trade
15 agreements to which the United States is a party in order
16 to ensure that such agreements are consistent with the
17 amendments made by this Act.

18 **SEC. 5. EFFECTIVE DATE.**

19 (a) AMENDMENTS.—The amendments made by this
20 Act shall apply to acts carried out after the expiration of
21 the 9-month period beginning on the date of the enact-
22 ment of this Act.

23 (b) REPORT.—Sections 2(b) and 4 shall take effect
24 on the date of the enactment of this Act.

○