

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.

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## 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

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## 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.

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