



## Petition for New Exemption Under 17 U.S.C. § 1201

Please submit a separate petition for each proposed exemption.

**Note:** Use this form if you are seeking to engage in activities not currently permitted by an existing exemption. If you are seeking to engage in activities that are permitted by a current exemption, instead of submitting this form, you may submit a petition to renew that exemption using the form available at <https://www.copyright.gov/1201/2018/renewal-petition.pdf>.

If you are seeking to expand a current exemption, we recommend that you submit both a petition to renew the current exemption, and, separately, a petition for a new exemption using this form that identifies the current exemption, and addresses only those issues relevant to the proposed expansion of that exemption.

### ITEM A. PETITIONERS AND CONTACT INFORMATION

Please identify the petitioners and provide a means to contact the petitioners and/or their representatives, if any. The “petitioner” is the individual or entity proposing the exemption.

---

#### Petitioners:

Josh Welsh  
Film Independent  
9911 W. Pico, 11<sup>th</sup> Floor  
Los Angeles, CA 90035

Film Independent is an organization that helps filmmakers make their movies, build an audience for their projects, and diversify the film industry. Film Independent puts on over 250 annual screenings and events to unite like-minded artists. These events include the Film Independent Spirit Awards, which recognizes the finest achievements of American independent filmmakers and the LA Film Festival, which showcases select new works from emerging and established independent storytellers. Film Independent also offers an artist development program to foster the careers of talented filmmakers.

Simon Kilmurry  
International Documentary Association  
3470 Wilshire Blvd. Suite 980  
Los Angeles, CA 90010

The International Documentary Association (“IDA”) is an organization that seeks to assist the growth and development of documentary films and the overall documentary culture. IDA provides educational programs and resources to documentary makers of various skill levels. IDA’s grant programs help filmmakers attain the financing necessary to create documentary films. IDA also advocates for major issues that affect documentary filmmakers, including free speech and fair use.

**Privacy Act Advisory Statement:** Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office website and use by Copyright Office staff for purposes of the rulemaking proceeding conducted pursuant to 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this application. Please keep this statement and refer to it if we communicate with you regarding this petition.

Gordon Quinn  
Kartemquin Films  
1901 W. Wellington Ave.  
Chicago, Illinois 60657

Kartemquin is a not-for-profit media arts organization and collaborative center for documentary media makers who seek to foster a more engaged and empowered society. In 2016 Kartemquin celebrated 50 years of sparking *democracy through documentary*. A revered resource on issues of fair use, ethics, storytelling and civic discourse, Kartemquin is internationally recognized for crafting quality documentaries backed by innovative community engagement, and for its filmmaker development programs and media advocacy. The organization has won every major critical and journalistic prize, including multiple Emmy, Peabody, duPont-Columbia and Robert F. Kennedy journalism awards, Independent Spirit, IDA, PGA and DGA awards, and an Oscar nomination.

**Representatives:**

UCI Intellectual Property, Arts, and Technology Clinic  
Jack I. Lerner, Director  
Lauren Wertheimer and Shaia Araghi, Certified Law Students  
dmcafilm@law.uci.edu  
UCI School of Law  
401 East Peltason Drive  
Irvine, CA 92697  
(949) 824-7684

Michael C. Donaldson  
Christopher Perez  
Donaldson & Callif LLP  
400 S Beverly Dr # 400  
Beverly Hills, CA 90212

## ITEM B. DESCRIPTION OF PROPOSED NEW EXEMPTION

Provide a brief statement explaining the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) the types of copyrighted works that need to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

Petitioners need not propose precise regulatory language or fully define the contours of an exemption class. Rather, a short, plain statement describing the nature of the activities the petitioners wish to engage in will be sufficient, as proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking. The Office anticipates that in many cases petitioners will be able to adequately describe in plain terms the relevant information in a few sentences, or even a single sentence, as with the examples below.

### *Examples:*

*A proposed exemption for owners of 3D printers to circumvent technological protection measures on firmware or software in 3D printers to run the printers' operating systems to allow use of non-manufacturer-approved feedstock.*

*A proposed exemption for computer programs in tractors that use lockout codes to prevent farmers from repairing broken tractor parts.*

*A proposed expansion of the current exemption for motion pictures (including television programs and videos) for uses in documentary films. The expansion sought is to cover lawfully obtained copies of motion pictures contained on Blu-ray discs.*

---

In addition to our July 31, 2017 petition to renew the temporary exemption for documentary filmmakers making fair use of copyrighted works, codified at 37 C.F.R. § 201.40(b)(1)(i),<sup>1</sup> the above-referenced petitioners additionally petition the Office to modify that exemption by:

- (1) Removing the term “documentary” in the limitation codified at 37 C.F.R. § 201.40(b)(1)(i), which states that circumvention be undertaken for use in documentary filmmaking; and
- (2) Removing the limitations in 37 C.F.R. § 201.40(b)(1)(i)(A) and (B) that refer to screen-capture technology.

The other underlying aspects of the exemption should remain the same or similar to those in the current temporary exemption codified at 37 C.F.R. § 201.40(b)(1)(i). In particular:

- (1) “The types of copyrighted works that need to be accessed” continue to be motion pictures (including television shows and videos) as defined in 17 U.S.C. § 101;
- (2) “The physical media or devices on which the works are stored or the services through which the works are accessed” continue to include optical media discs, including in DVD and Blu-ray format, and digitally transmitted video;
- (3) “The purposes for which the works need to be accessed” continue to be criticism or comment;
- (4) “The types of users who want access” continue to include filmmakers; and
- (5) “The barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works” remain technological protection measures including encryption, Content Scramble System, and Advanced Access Content System, along with the potential for liability under 17 U.S.C. § 1201.

---

<sup>1</sup> <https://www.regulations.gov/document?D=COLC-2017-0007-0010>