What’s mine should be mine: Ruling makes it illegal to unlock your phone

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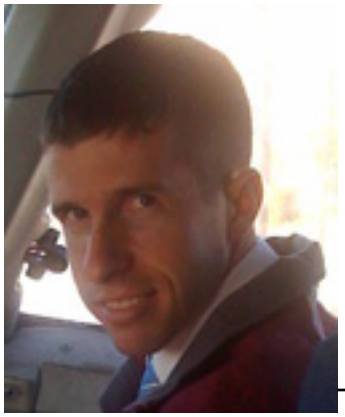

Think you own your wireless handset, inside and out? Think you can do whatever you wish with your own property? Think again. Beginning Saturday, it will become illegal to unlock a phone without the express permission of the carrier who locked it.

While the relevant portion of the Digital Millennium Copyright Act legalizes jailbreaking [1] for three years [2], it also makes it illegal [3] to unlock new, locked wireless handsets (without the permission of the previous carrier). Exemptions include “legacy phones” ("used (or perhaps unused) phones previously purchased or otherwise acquired by a consumer").

So this ruling won’t kill the secondary market (i.e., Amazon, eBay, etc.), but be prepared to suffer the consequences if you walk into a Verizon store with an unlocked AT&T iPhone.

I’ve said this before and I’ll say it again – this country’s service-oriented focus with respect to wireless carriers (vs. Europe’s hardware focus) makes little sense. I can see why they do it (fostering brand loyalty), but it’s foolhardy. The money is in the monthly service contract, not the meager or nonexistent profits afforded by the handsets (hence the old saw, “give away the hardware to sell the software”).

The wireless carriers realize this, but they stubbornly insist that handsets must be locked in order to strong-arm their customers into loyalty via contractual agreement. And this is but the latest result of all the handwringing – fearful that they won’t recoup the heavy hardware discounts, carriers lobby to ensure that consumers don’t own what they purchase.

The alternative business model dispenses with long-term contracts (one of consumers’ biggest pet peeves) in exchange for fully-priced, unlocked handsets. I, for one, wouldn’t mind a higher upfront cost in exchange for the freedom to switch carriers. Can everyone afford an unsubsidized $600 handset vs. a discounted $200 model tied to a contract? Probably not. But why not give consumers the choice?

I don’t sympathize with consumers who get buyer’s remorse after getting a heavily-subsidized iPhone and signing a 2-year contract. Nor do I have any problem with exorbitant early termination fees on smartphones, because the carrier needs to recoup the loss somehow.

But the business model underpinning this situation and the latest DMCA exemption is unsustainable. What’s mine is mine ... not the wireless carrier’s.

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[2] http://gizmodo.com/5955130/jailbreaking-is-now-legal-for-smartphonesbut-not-tablets?tag=dmca
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