Unlocking iPhones for profit could draw lawyers' attention

New Jersey teenager George Hotz holds an iPhone that he unlocked with both software and hardware modifications, breaking the link to service provider AT&T. (Jeff Christensen/Associated Press)

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NEW YORK -- Hackers have figured out how to unleash Apple's iPhone from AT&T's cellular network, but people hoping to make money from the procedure could face legal problems.

At least one of the companies hoping to make money by unlocking iPhones said it is hesitating after calls from lawyers representing the phone company.

Unlocking the phone for one's own use, for instance to place calls with a different carrier, appears to be legal. But if it's done for financial gain, the legality is less certain.
"Whether people can make profits from software that hacks the iPhone is going to depend very much on exactly what was done to develop that software and what does that software do," said Bart Showalter, head of the Intellectual Property practice group at law firm Baker Botts in Dallas.

John McLaughlin of Uniquephones.com, an outfit based in Northern Ireland, said yesterday that its unlocking software for iPhones is ready, but the company is holding off while it gets legal advice.

He said it had been contacted by O'Melveny & Myers LLP, an international law firm representing AT&T, which told him the software contained material copyrighted by Apple Inc.

"They don't have it, so therefore they can't actually threaten us," McLaughlin said. "It was 'friendly advice.'"

An AT&T spokesman said the company had no comment. A call to Apple was not immediately returned.

Uniquephones.com had planned to release the software via iphoneunlocking.com. The price for people on its mailing list, which contained just less than half a million addresses, would be $25 per iPhone, McLaughlin said.

The iPhone is sold only in the United States and only for use on the AT&T network, but it is compatible with cellphone technology around the world, which means an unlocked phone can use an overseas account and number. In the United States, T-Mobile is the only other major carrier compatible with the iPhone; Sprint and Verizon Wireless use different network technologies.

Most US phones are locked to their carrier when sold, since the carrier subsidizes the cost of the phone. The iPhone, however, is apparently not subsidized by AT&T.

Some carriers provide the unlock codes on request when a subscriber's contract expires, but that doesn't apply to the iPhone, and in any case, the phone only went on sale two months ago, and the minimum contract length is two years.

Another website, iphonesimfree.com, has said it plans to release iPhone unlocking software in a few days.

The Copyright Office of the Library of Congress last year issued a statement that unlocking cellphones was not a violation of copyright under the Digital Millennium Copyright Act. That law has been used to go after software that copies DVDs.