

From: Dave Bean [REDACTED]
Sent: Tuesday, March 16, 2010 12:09 AM
To: FN-OMB-IntellectualProperty
Subject: Re: Intellectual property enforcement.

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Re: Comments on the Joint Strategic Plan

Victoria Espinel
Intellectual Property Enforcement Coordinator
Office of Management and Budget
Executive Office of the President
Filed via email

Dear Ms. Espinel:

Any strategic plans for enforcement of intellectual property should measure all of the costs and benefits involved. Enforcement has its own costs to citizens and consumers, especially when legal uses of copyrighted works can be mistaken for infringement.

The Joint Strategic Plan should carefully examine the basis for claims of losses due to infringement, and measure credible accounts of those losses against all of the consequences of proposed enforcement measures, good and bad.

Measures like cutting off Internet access in response to alleged copyright infringement can do more harm than good. Internet connections are not merely entertainment or luxuries; they provide vital communication links, often including basic phone service. This is even more clearly unfair in cases where users are falsely or mistakenly accused. Furthermore, many of the parameters of an "internet connection" haven't been adequately defined (where one internet connection is being used by many different people, when one client of a hosting company should have its connection severed but instead the connection for all the clients at the company is severed, etc.).

Internet service providers should not be required or asked to violate users' privacy in the name of copyright enforcement beyond the scope of the law. Efforts to require or recommend that ISPs inspect users' communications should not be part of the Joint Strategic Plan.

The anti-circumvention provisions of the Digital Millennium Copyright Act can criminalize users who are simply trying to make legal uses of the media they have bought. Breaking digital locks on media should not be a crime unless they are being broken for illegal purposes. The government should not spend its resources targeting circumventions for legitimate purposes. Copyright's purpose was to find the correct balance between the protection of the IP of the creator and the rights of the purchaser. Current DMCA-like copyright is off of this balance, swung heavily towards 'protection' of creator IP at the great expense of the purchaser's 'fair-use' rights. I urge you to strive to restore this balance by pushing for greater purchaser rights like being able to rip legally-purchased DVD's.

Any plans or agreements on IP enforcement, like the proposed Anti Counterfeiting Trade Agreement (ACTA) should be made open and transparent. In dealing with questions of copyright and the Internet, too much is at stake for our country's laws and policies to be made out of the public eye.

Sincerely,

Dave Bean