

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Request of the Intellectual Property Enforcement Coordinator for Public Comments Regarding the Joint Strategic Plan
Date: Wednesday, February 24, 2010 4:08:22 AM

L.S.,

I realise I'm going against the grain, here, but might I suggest that, in addition to measuring infringement, you also measure how much money is wasted by companies who have to invest enormously in R&D just to get around the patents of other companies, in order to create their competing product?

Since I know of no companies that are actually going bankrupt over "losses associated with piracy", it would seem that piracy is something of a minor issue, while the bigger issue is what IPRs are doing for innovation and competition. And there (through, for instance, patent pools) it would seem to be the case that markets are concentrating more and more around a small pool of big players that allow each other access to each other's patents, while keeping out new entrants. Similarly, an enormous amount of money is spent on creating "me-too" drugs (competing products) that could've been spent on improved products. While this is all fine if your goal is to maximize profits for companies, if the goal of IP legislation indeed is to stimulate innovation and competition, current patent law seems to be missing the point.

(A book by a pair of economists that point out this trend can be found <http://levine.sscnet.ucla.edu/general/intellectual/againstfinal.htm> here.)

I hope this viewpoint can be considered somehow, even though I realise that this office was created specifically because people are worried about infringement issues.

Regards,
Foppe de Haan