

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Comments on the Joint Strategic Plan
Date: Tuesday, March 23, 2010 6:41:26 PM

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:

In the ongoing efforts to create the Joint Strategic Plan for enforcement of intellectual property I hope that you will be sure to consider the rights and needs of citizens along with the desires of the intellectual property owners who are parts of the negotiations. Please make sure you consider the fact that every company in the world deals with theft, and companies dealing in copyrighted material should not have special access to citizens private information, or special rights to circumvent the courts, when dealing with their problems of theft.

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. 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.

The Joint Strategic Plan should carefully examine the how claims of losses due to infringement, are handled and acted upon. A system with poor measures of accountability of those making claims, and severe punishment for those accused is a system that should not be accepted. Measures like cutting off Internet access in response to alleged copyright infringement is an inherently evil practice that goes against basic principles of law and human rights. As the EU has already stated, no citizen should have action taken against them until a court of law has reviewed the evidence and passed judgement based on a "fair and impartial procedure."

<http://news.bbc.co.uk/2/hi/technology/8344174.stm> American citizens are innocent until proven guilty by a court of law, not innocent until accused by a private citizen or company. 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. After all, it is possible to commit or conspire to commit crimes via telephone or mail, but we do not allow anyone to monitor phone conversations, or mail without a court order. 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.

The take down notification provisions of the Digital Millennium Copyright Act should also not be part of the Joint Strategic Plan, and they give far too much power to the accuser without making the accuser easily accountable. The 2008 US Presidential election proved this point when John McCain had political ads removed from YouTube because of a copyright infringement claim. Despite the fact that the claim was incorrect, and the video clearly fell into the area's of fair use, the accuser was given all the power to remove the content without being held accountable for going through a court of law, and the accused was the one held accountable for the time

and cost of filing the claim in a court of law.

All these specific provisions and examples illustrate one simple fact - that people should be considered innocent until proven guilty by a fair and impartial court of law. No individual or company should have the right to circumvent the courts when making accusations, and no individual or company should have actions taken against them without having said actions be handed down as judgement from a fair and impartial court of law. Sincerely,

Daniel Jacobsen