

From: [REDACTED]
Sent: Monday, March 15, 2010 10:08 PM
To: FN-OMB-IntellectualProperty
Subject: Re: Comments on the Joint Strategic Plan

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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.

Additionally, damage calculation for infringement should be recalculated. Someone who downloads an MP3 illegally, which otherwise would result in tens of cents in revenues for music labels, can be forced to pay up to \$150,000 per act of infringement. This degree of punishment seems far and beyond what should even be considered constitutionally valid.

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 or prompt access to medical information.

Additionally, Internet service providers should not have to violate their customers' quite reasonable expectations of privacy. What a person does in the privacy of his or her own home is her own business. One might argue for the benefits of constantly monitoring citizens, but that would be to disregard the ideas upon which America was founded and upon which our Constitution was written (and it would disregard the warnings of people like George Orwell). 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. Moreover, the government should not be spending its resources to enforce something on behalf of a private industry which by and large sees the Internet as a terrible invention designed for stealing.

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,
Michael Klurfeld