

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Re: Comments on the Joint Strategic Plan
Date: Monday, March 15, 2010 8:15:36 PM

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. It is ironic that at this time the FCC has announced their plans to make broadband access available to rural areas because of its necessity to modern economic life. If it is this important, it would stand to reason that the removal of a person's internet access without due process may violate an individual's human rights.

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. Actions requiring ISPs to enforce copyright law (or any law for that matter) flies in the face of the common carrier agreement that goes back a century. That is truly letting the "cat out of the bag" when it comes to frivolous lawsuits and over-reaction on the part of telecoms.

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. It is time to bring back "fair use", and empower technology users to become innovative again (Heck, even Walt Disney's "Steamboat Willie" is a fair use of a Buster Keaton short. Fair use is the face innovation!)

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,

Mark Lumadue
Hatboro, PA