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Sent: Monday, March 15, 2010 11:26 PM
To: FN-OMB-IntellectualProperty
Subject: 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.

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.

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.

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.

My personal comments are these:

One of the dictionary definitions of the word "strategic" is: "intended to render the enemy incapable of making war, as by the destruction of materials, factories, etc." By using this term in the name of the administration's plan to protect the intellectual property of the businesses (primarily large media companies such as movie and music producers) which claim to be at risk, and by asking the commenters on this plan to identify the "threats to public health and safety" which alleged intellectual property infringements represent, the public is being put on the defensive and seemingly judged guilty in advance of proven intentional action to profit from said infringements.

Yes, theft of another person's work, or dishonestly representing it as your own, for profit, is reprehensible, and punishment is appropriate. But I believe that what is needed is more sensible and reasonable guidelines, not hard and fast laws from which there is no escape. I believe in the statement, "There can be no justice so long as laws are absolute." I also believe that a corporation does not have the same rights as, and is not more important than, a person.

The President himself said: "Rather, it has been the risk-takers, the doers, the makers of things -- some celebrated but more often men and women obscure in their labor -- who have carried us up the long, rugged path towards prosperity and

freedom." If the entire administration had such faith in the creativity of the American people, it would be encouraging honest action rather than focusing on punishing behavior defined as dishonest by businesses obsessed with their greed and fearful of losing their ability to satisfy it.

Accept the fact that the ability to copy almost any item of intellectual property nearly perfectly is a reality, and then decide how to logically cope with that in a way that punishes the abusers, but allows the rest of us our freedom to act responsibly with that power.

Sincerely,

Richard Milward
Durham, NC