

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Comments on the Joint Strategic Plan
Date: Tuesday, March 16, 2010 7:17:05 PM

Victoria Espinel
Intellectual Property Enforcement Coordinator
Office of Management and Budget
Executive Office of the President

Dear Ms. Espinel:

When I, originally a British citizen, married an American woman, we opted to live in the US because we believe in the American government.

The only place I am most scared that it might let me down is in copyright law. As an amateur movie producer, owner of a small business, and a computer programmer, copyright law is critically important to my welfare and that of my new family.

You ask us to identify the risks.

The biggest risks is that you might make IP law stronger, you might require small businesses to spend more in enforcing it, you might give us a smaller bite of the fair use and public domain pies upon which our livelihoods depend, and you might restrict the areas in which we can innovate, claiming that these areas are already someone else's ringfenced "property".

Non-signatory nations to agreements like the Berne convention, the WIPO Copyright treaty, and ACTA will have no problems flouting our copyright, but we, shackled by these agreements, will not have those freedoms. Such agreements put those of us creating original material in the US at a huge disadvantage, with no attendant advantage for small businesses.

The costs of checking for copyright violations are already prohibitive for many types of works: we simply cannot do those jobs. This has a chilling effect on both the movie and computer programming industries: exactly the service industries that the US is going to most strongly rely upon in years to come, as manufacturing increasingly goes to third world countries.

My work has on occasion been heavily copied: "pirated" if you will. This has never once caused me to lose a single penny, and has without exception resulted in every case in increased sales for the leaked product, and for related products because of the extra exposure I gained.

But if I am accused of infringement, if there is only a suspicion that my product is too similar to someone else's, then measures could be taken to shut down my website, disable my internet connectivity, and hence destroy my business.

How is this promoting creativity?

How is having my ISP spying on my, promoting my creativity?

Many times, as a programmer, I have been asked to write programs that will get disparate databases working together. The anti-circumvention provisions of the Digital Millennium Copyright Act make this illegal in

some cases.

As an example of this chilling effect: I was recently forced to tell one of my clients (a registered UK charity) that, now I am based in the US, I can no longer maintain the "mashup" code that interfaces their donations database with their website contacts and mailing list: the donations database is encrypted for security, and I do not have the money to examine whether I am legally permitted to decrypt it. That contract is now money that is not coming into the US because of our laws.

If a locksmith can break locks to allow people into their own property, why can I, a programmer, not do the same to let people into their own data? Because they do not own (their copy of) the lock?

From a business standpoint, the proposed Anti Counterfeiting Trade Agreement (ACTA) terrifies me. I have spoken with my MPs and MEPs in the UK, and they are campaigning to make the negotiations open and transparent. I beg that you do the same.

Sincerely,
Dewi Morgan.