

[REDACTED]

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**Sent:** Monday, March 15, 2010 10:36 PM  
**To:** FN-OMB-IntellectualProperty  
**Subject:** Re: Comments on the Joint Strategic Plan

**Follow Up Flag:** Follow up  
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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. We live in an ever-changing world, in which new examples of fair use are being challenged by corporations. The recent decision regarding a video posted on youtube, which contained about 30 seconds of a song by Prince is an example of the kind of uses which are being attacked without, in my opinion, cause.

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. In *Virgin vs. Thomas*, Jammie Thomas-Rasset was found guilty of infringing copyright by merely making 24 songs available. It was not shown that any of those songs were downloaded, yet Thomas was ordered to pay nearly \$2 million, or about \$80000 per song in that case. I don't think these fines are at all reasonable.

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. This is simple. ISPs are not the police, and should not be asked, expected or forced to act as police. Copyright holders should not be given police-like powers to conduct investigations.

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. This is an older issue, which began with the DMCA, and is quite frustrating. I have a laptop, which I take with me on trips. By copying a DVD to my hard drive, I could make more efficient use of my computer on trips, instead of having to bring DVDs with me. It's a matter of convenience, and of using less battery power on a long trip. There's no sensible reason I shouldn't be able to do so. The DMCA also hampers users who might be deaf or blind from making use of media on special

equipment for their use. That's a major problem.

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. This statement is a 'no-brainer'. Imagine if only doctors and pharmacists had a say in the creation of our universal healthcare plan! You can be sure they'd only be on the lookout for their own interests, not the American People. Our laws should be created out in the open, with a balanced eye towards both copyright holders, and media consumers. Fair use should be a powerful tool in the hands of Americans. We should be able to convert our 'licensed' works into formats that enable us to have the most flexible opportunities for personal use of our music, movies, etc.

Thank you very much for giving all Americans the opportunity to have our say, and for taking the time to read each of our letters, and consider all sides of this story.

Sincerely,  
Kevin Olmstead