

[REDACTED]

Sent: Tuesday, March 16, 2010 1:24 AM
To: FN-OMB-IntellectualProperty
Subject: More Comments on the Joint Strategic Plan

Follow Up Flag: Follow up
Flag Status: Flagged

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

Dear Ms. Espinel:

The internet is more than just a luxury for people now. People use it for all types of activities: paying bills, doing research for school, learning how to fix a car, diagnosing problems with washers, and even working remotely. Measures to cut people off from the internet based on an ACCUSATION, and not a conviction goes far beyond any previous law, and changes the laws to become guilty until proven innocent instead of innocent until proven guilty.

And let us not forget that it is the large businesses that are pushing these changes for copyright, irrespective of what the original copyright intent was. Copyright was to be a limited monopoly, but it has been extended multiple times. It used to be 26 years only if a copyright was wanted, and then extended by another 26 if paperwork was filed. Now take a look at Mickey Mouse--he is based on a previous design that was in the public domain. Disney came up with Mickey and generated a large business with movies, rides, shows, and books all due to a derivative work from what was in the public domain. Now Disney, along with the other copyright interests, have proceeded to extend the length of time Mickey is covered so now it is 70 years after the death of an author. My children will not see him in the public domain, resulting in a lot of other ideas that could be done being dropped. Even though Disney took from the public domain to create a lot of their works (Mickey, Beauty and the Beast, Peter Pan), they have gotten it locked up so no one can use what they have done. Copyright has become a welfare for the authors children, not an incentive for a specific author to create.

Copyright has gone so far to the rights holders that what used to be legal is now either illegal or attacked in order to prevent it from being made. Derivative works used to be legal when you took an idea, changed a lot of the aspects, and wrote a new story. Now, if someone wrote a story about a guy named Jim Bond, carried a gun, and liked martinis, he would get sued because there are too many aspects like a British spy--even if Jim hunts vampires. Take "The Wind Done Gone" as an example. It is based on "Gone with the Wind", but from a slaves perspective. This is definitely a derivative work, but the publisher of "Gone with the Wind" sued so it can not be published.

I also have issues with the DCMA. It is being abused in order to silence people and to prevent legitimate business practices. For instance, Viacom, EMI, and Columbia House all send DCMA take down notices any time "their" copyrighted materials show up on the web. Viacom even sued YouTube to take down Viacom copyrighted material. The thing is, Viacom put the material up. So one part of Viacom said it was fine for YouTube to show the videos, but the legal department said it was not. Viacom has also sent take down notices for music they do not own. When this was pointed out after numerous back and forth take down challenge letters and repeat DCMA take down notices, Viacom responded they did not need to make sure they owed the

music prior to sending the notice. There is no penalty for sending false DCMA notices, so they just blanket anything related to what they are doing.

News organizations like Fox News sends DCMA take down notices when a critique of one of their news stories has factual errors. Based on the way the DCMA is written, the host of the critique has to immediately remove the offending material, because if they do not they lose the safe harbor provision and can also be sued. But if the host claims it is fair use, Fox just went to the next higher level and gets the entire site removed--including everything not related to Fox content.

It has gotten to the point that the big businesses that have a lot of copyright protected works want total control over everything. And taking people off line for an accusation will almost always target the innocent. IP addresses do not relate to a specific person, but to a machine in some cases, or a router in others. In my house, there is a router that has one address. This is the only address the outside world sees. On the other side of that router sits four different computers used by myself and my wife. I do not download copyrighted material that I know to be illegal. But look at the YouTube situation with Viacom. If I viewed that, would they claim I violated their copyright so it becomes one accusation? And if I viewed five different videos over a week, does this become five accusations so the internet is cut off? Based on how the current big businesses are acting, if my current IP address somehow got associated with infringing content, disconnecting our internet would affect both of us. So punishing the innocent along with the maybe guilty.

The DCMA also outlawed what was previously legal. It does not prevent the criminals from still breaking the law, it only causes issues with law abiding citizens. I can make a copy of my purchased CD for my own use, and transfer it to an iPod for ease in listening. I can not do the same with movie though because that would involve circumventing the anti-copying part of the disk. Any investigation into a security or protection of a device is illegal. This opens up so many other security holes! Sony had their root kit, and if a person with bad morals decided to exploit it then it would be so easy to make the computer into part of a bot net in order to spread spam. Do you think a criminal would care if the DCMA said not to look at the root kit? But a computer scientist investigating what Sony did gets sued because he was inspecting their bad code? Breaking the digital lock for illicit purposes should be illegal, but legal use should still be permitted. If copyright of the current movies does not get extended, and at the time it would join the public domain, how would it be used if it is still "protected" by an anti-copying device? Especially if the DCMA prevents "breaking" the lock so it can be used?

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,

Tim Parker