
Sent: Monday, March 15, 2010 6:36 PM
To: FN-OMB-IntellectualProperty
Subject: Re: Comments on the Joint Strategic Plan

Follow Up Flag: Follow up
Flag Status: Flagged

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.

On a personal note I make my living as a Database Developer, Administrator and Business Intelligence Engineer. If copyright enforcement swings too far towards protecting business from copyright infringers it will ultimately hurt innovation.

One of the questions I ask in an interview is "Where do you stand on code ownership?". Meaning do I own the code that I create for the company or does the company. I will not work for a company that expects the fruit of my labor to be exclusively owned by the company. The best answer I've heard is that we both do. Meaning the company due to hiring my services has purchased the right to use as long as wish. But if I leave the company I reserve the right to take my code with me to benefit the next company I work for or to sell off as a finished product. Now to be clear I do not work for any companies that sell software.

Today companies expect to have complete ownership of the product they product or create even after they sell it. This is complete madness. Fair use needs to be considered. If I buy a copy of software or a physical product I should be able to do whatever I choose with it. This includes burning it for fun, making a backup or changing it to better suite my needs or desires. If an purchaser creates an innovative change to that product that is marketable he or she should be able to sell it without fear of being sued into the poor house. Ultimately this hurts innovation and stops the US from being the worlds leading innovator.

As a IT Professional I urge you to keep in mind fair use and keep a balance between protecting the copyright holder and the public at large.

Thanks for your time.

