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A Response to the Request for Feedback on Int. Prop.

Friday, February 26, 2010 3:29:52 PM

To Victoria Espinel, Int. Prop Enforcement Chief - Office of Business Management:

I hear your call for input and am happy to answer. I fear that we have lost our way on what copyrights and protect. It seems today that our existing IP protections are more used today to prevent competition and secure a *de-facto* monopoly, or as a bludgeon against consumers fair-use rights. I think it's critical that the Administration look at the origin of the copyright and the patent. Both of these Int. Prop. protections were enshrined in the Constitution by our Founding Fathers. How does that original intent compare to today's practice. A review of existing patents is honestly well needed, for prior art, weather the patent piratical use or if the product or if the patent was ever brought to market.

A way to crystalize my thoughts is that the copyright is for all the arts - be they visual arts, performing arts, prose and verse or even political free-speech; patent is for science, when that science is useful for society (e.g. it does something no other device or process does) and is intended to be sold on the open free market; and that neither protection is appropriate for science when science is done for research or expand humanity's body of knowledge.

I am very worried about software patents. How can a computer program be both a useful device intended for market *and* a free-speech work of art?

Another flaw in our current system is when I install Windows, I can make use several media formats. But when I shutdown Windows and boot to Linux on my dual-boot machine I am not able to use those same media technology. Why? I've paid for the royalties on these technologies with my purchase of Windows and it's the same physical computer, so why the difference? I've yet to get a good answer.

A third concern is that consumers fair-use rights are being violated. I have a feeling that many, maybe as much as third-to-half of the IP-law violations in America are consumers reserving thier innate natural-right of fair-use for the things they own. I strongly encourage you and the

Administration to create an End-Consumer Int. Prop. Bill-of-Rights to modify the DMCA.

Lastly, while I know this is something that you and your office can't change, could you lean on major American IP organizations (RIICA, MPEG-LA, the scriptwriters / screen-actors unions, etc.) to a) value their product fairly. Consumers are less likely to break the law if the market price for IP goods is at or near the public's opinion of what the price should be. And b) the best thing the major IP goods vendors can do to prevent violation of the law is to not make their product computer-compatible. After all computers and cassette-tapes grew up together, but there was never any major sharing of IP in the 80's; ink & paper books to this day don't have the problems music and movies do. The best way to make sure that IP isn't spread on the Web is to make sure that it can interface with computer in a limited way, if at all.

Thank you for your time. Please consider my points.

Signed,

Ian D. Blackney