

From: [REDACTED]
Sent: Monday, March 15, 2010 7:36 PM
To: FN-OMB-IntellectualProperty
Subject: Re: Comments on the Joint Strategic Plan

Follow Up Flag: Follow up
Flag Status: Flagged

Re: Comments on the Joint Strategic Plan

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

Dear Ms. Espinel:

Please reconsider implementing a Joint Strategic Plan that presumes all consumers are copyright criminals and enables media conglomerates to threaten disconnection from the Internet. (The current law, DMCA, contains protections such as "Fair Use" that are a legally viable defense to a claim of copyright infringement.) Any new copyright law should not deny due process to consumers based upon unsubstantiated claims by copyright holders.

In their zeal to protect their own intellectual property, copyright holders are often aggressive and overly-broad. For example, Warner Music Inc. served a DMCA takedown notice on renowned legal scholar and copyright reform advocate Lawrence Lessig for sharing a video on YouTube of a speech he gave on fair use and copyright. In a number of civil cases, the Electronic Frontier Foundation (EFF) and other organizations have stepped in and filed lawsuits against takedown abusers in an effort to protect fair use. However, such efforts are expensive, time-consuming, and often fraught with difficulty.

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.

Sincerely,
Abe Golden