

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Open letter in response to the IPEC call for public comment on IP enforcement
Date: Wednesday, March 24, 2010 12:38:55 PM

Ms. Espinel:

I am writing in response to the Intellectual Property Enforcement Coordinator (IPEC) call for written comments on Intellectual Property enforcement.

First I would like to congratulate your agency on having the sense to ask the PUBLIC what is in the PUBLIC interest, rather than holding meetings behind closed doors with so-called "stake holders" (which means biased corporate enterprises with vested interests in protecting their monopolies). This is forward motion, and I do appreciate it.

Nevertheless, I am distressed to find you considering yet more draconian measures to impose disruptive market controls on an economy which is already flailing and thrashing due to the excessive influence of corporate monopolists on government decision making. "Intellectual Property" is killing us as a society, by actively impeding the much more important and fundamental goals of "Intellectual Freedom."

We must NEVER forget this.

"Intellectual Property" is a phantasm, describing a complex set of artificial restrictions on trade and abrogations of personal human rights. Even when beneficial, it always represents an intrusion -- not unlike the "command economies" of Soviet Russia that we were so hostile towards throughout the Cold War. And yet, we are preparing to make the same mistakes all over again, by ceding top-down controls on our daily behavior to a corporate-dominated hegemony that has inadequate regulation or representation to deserve that power over us.

Must we tolerate continued oppression? Must we be mocked by pompous officials callously asking in just what way we would like to be oppressed? Must we be reduced to hoping that our revolution, when it finally comes, will be less violent than the Russian one?

Or can some semblance of common sense and freedom be restored to our economic system?

It's impossible to make any kind of coherent response to your request for comment because it is framed in such a way as to hopelessly distort the issues.

For example, it asks in what ways we are harmed by "intellectual property" violations, without being more specific about which kinds of legal restrictions you are referring to.

The principle danger that is raised in your letter is of FRAUD: the knowing substitution of one product or supplier for another, in which a TRADEMARK violation is used to lie to the consumer.

Sensibly this is really a crime against the consumer, though our present law construes it as a violation of the rights of the original producer (the trademark holder). This works better in practice,

because it's much easier for a producer to enforce the trademark than to rely on class-action lawsuits every time a violation occurs.

Of this kind of enforcement, I am quite supportive. Trademarks are pretty good, and they do little harm, because they actually restrict very little. Legally, I can use a trademark to refer to the actual company without much consideration (although there are a disturbingly large number of cases of unenforceable legal threats of trademark litigation being used to censor negative commentary on a supplier -- a clear violation of free speech, which might be fought with a public awareness campaign, something IPEC could do).

Patents and copyrights, by contrast, have no place in this kind of discussion. So long as they are marked correctly, generic drugs and other products represent the free market economy at work, and we would be fools to interfere.

Of course, the companies that own the monopolies on the products -- and on the discussion of this so-called "Intellectual Property" -- feel differently. And why not? These monopolies allow them to benefit at public expense, with no need to innovate or improve their production processes at all.

Indeed, I would go so far as to say, that given the enormous cost to society of this kind of useless monopoly, patents are an absolute hazard to public safety, innovation, industrial development, and jobs.

Copyrights have some value -- in theory. But in reality, copyrights have become a bloated and oppressive mass of restrictions on future creativity: both in terms of their ridiculous duration and in terms of the bizarre extensions of control on other people's private property that publishers have claimed for themselves. Given the precedents of the "first sale doctrine" and the idea that copyright exists primarily as an incentive mechanism, and not as a real system of property rights, these growths are clear violations of the constitutional basis for copyright in the United States.

I still think we should have copyright, but it must be radically reformed and reduced to make it compatible with its supposed goals of promoting intellectual production rather than impeding it.

We cannot continue to stand for this corporatist nonsense. This is meant to be a nation of by and for real human citizens -- not incorporated businesses which already have too much power and influence and no system of public representation.

On one hand, I would propose that you abandon "intellectual property enforcement" (which actually means "intellectual freedom restrictions") since the restrictions in question are clearly unethical and extreme.

On the other, I would recommend stepping up the enforcement -- maybe doing so will make enough people aware of the oppression so that they will see the value of free culture and free software, and finally, bring about the political change that is needed to eliminate the cancer on our society that is deceptively labelled "Intellectual Property."

Thank you for your time,
Terry Hancock

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