

From: [REDACTED]
Sent: Tuesday, March 16, 2010 1:36 AM
To: FN-OMB-IntellectualProperty
Subject: Re: Comments on the Joint Strategic Plan

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

Dear Ms. Espinel:

A maximal copyright regime in which free speech is stifled is no benefit to our society. Our democracy should not be sacrificed on the altar of entertainment companies' profits. Any strategic plans for enforcement of copyright should strike a balance between the incentives provided to producers of copyrighted material and the harm those incentives cause to legitimate uses of that media.

As an author, computer programmer and publisher, copyright is an issue that matters to me both because I want my work to be protected, and also because I produce and publish media which I consider of value to society. Despite being careful not to commit acts of infringement, the act of publication in a legal regime of maximal copyright and disproportionately punitive penalties means that whenever I publish a talk on my web site, I have to accept the risk that someone will accuse me of infringement, despite my best efforts to avoid it.

Proponents of maximal copyright tend to make exaggerated claims of losses they have suffered as a result of infringement. Study after study shows that these claims are not only overstated, but likely backwards--in many cases, supposed infringement actually increases profits, as infringing activities serve to spread word of mouth, which in turn increases sales. Making law on the basis of these claims is not only rash, but harmful to the common good.

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. I use the internet for work. I use it as my home telephone service. I use it on a daily basis to participate in our democracy.

I do not want my Internet service provider to try to track what I do. I don't feel that I have anything to hide, but it's wrong for government to impose that kind of adversarial relationship between me and my ISP. I do not want to have to worry that when I use bittorrent to distribute audio recordings of religious talks for the web site that I maintain, I will accidentally choose a filename that matches some pop song I've never heard, and suddenly find myself without Internet service, or with all my media destroyed by an overzealous sysadmin in response to a DMCA takedown notice, as happened recently with Google's Blogspot service.

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 criminalize behavior that isn't criminal: it breeds disrespect for the law.

Another thing that breeds disrespect for the law is an attempt to pass a law that would be extremely unpopular without public debate. If ACTA were being debated in public, it would already have been shot down, because it benefits a relatively few at the expense of almost everyone. That's not a reason to keep the negotiations secret. Keeping them secret is a blatant attempt to the protective mechanism of democracy. The negotiations should be transparent, and all the parties to the negotiations should prepare to live with the consequences of that transparency, even if it means they don't get everything they wanted out of the negotiation.

Sincerely,

Edward Lemon
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