

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Subject: A call for reason
Date: Tuesday, March 02, 2010 12:39:37 PM

Dear Victoria Espinel,

As an American citizen and digital media artist, copyright issues are a part of my everyday life and it is important that they be treated seriously. It is also important that they be treated rationally.

I agree with some of the sentiments in your recent statement (<http://www.whitehouse.gov/blog/2010/02/23/intellectual-property-and-risks-public>) regarding counterfeit goods, particularly those that pose a public safety risk. However, it seems to me that these sorts of violations are already covered as well as can be expected under the current laws. The issue of counterfeit toothpaste is not primarily a copyright issue, it is an FDA or customs concern. Stolen logos may have been employed to achieve the deception, but this in itself is not what makes this example so serious. The same goes for the counterfeit car parts you mention. The types of people that are in the business of putting dangerous chemicals in counterfeit toothpaste to increase profits are not going to be deterred by stronger copyright laws.

It appears that in your statement you have used examples such as the counterfeit toothpaste and car parts in an attempt to instill fear in the public, to make them think that stronger copyright laws with harsher penalties will do something to stop these things from happening in the future. The reality is that harsher copyright penalties will for the most part be employed on a smaller scale against less serious violations. They will not, in the vast majority of cases, be used to ensure the public's safety. Harsher copyright penalties will be used primarily against individuals, not companies or organized crime rings, who are involved in simple intellectual property theft (pirated software, music, movies, etc.). I am not suggesting that such theft is harmless. However, it is more akin to low level shoplifting than grand larceny and terrorism (which is the image I get from your description of the toothpaste counterfeiters).

What I ask is that you please be reasonable in your approach to copyright enforcement. The American public that I know does not support massive multi-million dollar fines for middle class mothers and teenagers who have hopped on the filesharing bandwagon. People who share files without benefiting monetarily should not be treated the same as a counterfeiting ring producing pirated DVDs for commercial sale and profit. In keeping with a free and open internet, ISPs should not be responsible for the data that passes through their networks as long as they are responsive to properly filed takedown notices. This is good for the American economy, and the continued spread of American culture and ideals. Americans are great innovators, and there is no better place for innovation than the internet.

Finally, say it like it is. Do not lump pirated music in with deadly counterfeit toothpaste. Do not make it seem like the majority of copyright enforcement deals with protecting the health and

safety of the American public, it does not. Copyright enforcement is (and always will be) primarily about economics, and while this is certainly important, the nature of the crime must always be taken into account. Please, be reasonable, do not create harsher penalties for regular copyright violations. Do not continue using a blanket approach to violations, this will only increase the occurrence of injustices like the Jammie Thomas case.

Stand up to the massive corporate lobbying effort that I know is underway. Stand up for reason.

Thank you,
-Ben Baker-Smith