

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: A public view on the overall costs of unauthorized copying.
Date: Thursday, February 25, 2010 11:50:22 AM

Dear Ms. Espinel:

First, my apologies should I have not addressed you by your proper honorific. I plead ignorance of what it should be. If you include it on any correspondence, I will happily use it henceforth.

Intellectual property is a contentious issue currently. Technology has changed what can be done with Intellectual Property, with much complaining by the holders of losses due to copyright infringement. Yet there is no comment about the losses to the public by repeated copyright extensions. After all, copyright, patent, and trademark, was explicitly enumerated in the Constitution, as being "for a limited time". After which, the Intellectual Property enters the public domain, as it is the public itself, though the Constitution, that allowed the existence of Intellectual Property at all.

Copyright extension for existing works constitute a taking from the public, every bit as much as copyright infringement constitutes a taking from the Intellectual Property owners. Despite *Eldred V. Ashcroft*, it is still a limited, wasting asset, not a perpetual property. A balanced look at the losses declared by the various respondees to your request ought to be balanced by a list of revenues accrued by the very same said respondees, for work that would have gone into the Public Domain, but were held in extended copyright, by both the 1978 joining of the Berne convention, the 1989 modification to the 1978 joining treaty, and in particular the 1998 Sonny Bono Copyright Term Extension Act. I will note that by the end of the Sonny Bono Copyright Term Extension Act, the public domain will have had only one (1) year of work added in the last forty (40) years. These extensions cost the public money, for which they are not compensated. A disclosure of these costs are every bit as important as estimates of infringement losses.

Nor is extension of copyright a necessity. Consider Patent, please. It is currently shorter than it was at the beginning of the Republic, but there is no shortage of new inventions. Why should copyright have been extended, over and over again, to long past the lifespan of any creator. Since dead people don't create, no further additions to the public domain could be contemplated from dead sources, except posthumous releases already covered by separate portions of the copyright acts.

In summation, a balanced look at the costs of copyright infringement should be balanced by the losses to the general public by copyright holders maintaining their copyrights long after they should have entered the public domain, based upon the revenues accrued by the same copyright holders for such items. For policy decisions, both sides of the equation need to be enumerated for a valid look at costs and benefits.

Sincerely,

George P. Snoga, U.S. Citizen