


From: 
To: FN-OMB-IntellectualProperty
Subject: Comment/Suggestion on Part II of PRO IP - US Income from the offenders!
Date: Tuesday, March 23, 2010 10:46:33 AM

"The IPEC requests written submissions from the public that provide specific recommendations for accomplishing one or more of the objectives of the Joint Strategic Plan"

Comments/suggestions regarding Part II of PRO IP:

Cost is sometimes difficult to establish in Intellectual Property. An example is an author whose works are stolen, plagiarized and copied, placed on Local or International Internet sites. In both International and Local cases, ISPs (Internet Service Providers) often refuse to take any action, even if given clear evidence of the infringement.

1) Place "immediate" fines in the laws that ISPs who fail to take action must pay \$x per day (\$100 per day, PER INFRINGEMENT, for example) for each case of infringement on which they fail to take action, after being properly notified by the victim or the victim's representative.

2) Write the law so that, If the International ISP fails to take action (after being properly notified), their ENTIRE NETWORK may be blocked by the US, at the major Internet routing points (root servers), from any traffic to/from the US.

3) For "local" ISPs within the US, the ISP will be blocked, at the major Internet routing points (root servers) from any traffic or commerce on the Internet, until they take action against the offender. This will give the ISP GREAT incentive to take action, without requiring costly court orders.

NOTE: There must be an 'arbiter' for these cases, who can take SWIFT action to verify the ISP was properly notified; verify the victim is being infringed upon; and Fine and/or Block the ISP. The ISP is allowed 14 business days after notification to remove the infringed material and/or ban the infringing party.

4) If the ISP fails to take action, in addition to the daily fines that accumulate until they take action, the ISP also must bear any and all court costs, if the case goes to trial. This may include "damages" to the victim, as well as other administrative costs borne by the PRO IP arbitration committee.

5) The ISPs must write their Subscriber policies/agreements so that the Subscribers AGREE to having their COMPLETE IDENTITY FULLY DISCLOSED on a "Copyright Infringer's Database," if they are found guilty in a court of law or by the Copyright Infringement Arbitration Committee; if in a court of law, the offense MUST BE CLASSIFIED AS A FELONY! The Infringer's Database (like the "sex crimes" database) must be made available FREE, in readable form, on the US Government's web site (omb.eop.gov - or other appropriate locations). In this way, the Database

will act much like a "Copyright Better Business Bureau," useful to various interested parties doing background checks, determining who is ethical to do business with, etc.

6) Ultimately, allow the "victim" to claim damages/fines against the "offender." Maybe allow the victim to receive a percentage of the fines the US government collects; but most certainly, the 'victim' should be allowed a 'judgment' against the 'offender,' especially if the case goes to trial. Upon conviction, the offender must re-imburse all costs borne by the ISP in the offense; thus giving relief to the ISP - though that relief may have to be granted through the offender's forfeiture of their real and personal property; as well as a continuing percentage of any income for a certain period of time, or until ISP fines and victims's damages are mitigated.

In these ways, the government can build up income from these infringements and let the public know the SERIOUS nature of such infringements; and that these infringements will not be tolerated. But, to make this work, the Copyright Czar must be allowed to freely interact and request information with/to/from the ISPs - WITHOUT REQUIRING COURT ORDERS!

NO ISP SUSBScriBER'S PERSONAL INFORMATION WILL BE RELEASED TO THE PUBLIC INFRINGEMENT DATABASE, UNTIL/UNLESS THE SUBSCRIBER IS FOUND GUILTY BY THE ARBITRATION COMMITTEE OR A COURT OF LAW; AND TAGGED WITH AN OFFENSE/CASE #. ONLY THE COPYRIGHT CZAR & ARBITRATION COMMITTEE WILL BE AWARE OF THE IDENTITY OF THE INFRINGER, UNTIL THE OFFENSE HAS BEEN CONFIRMED BY LAW OR BY COMMITTEE.

Upon properly compensating all fines/costs/victims involved and/or other satisfactory remedies under law and/or arbitration, the offender's name may be removed from the public database.

Regards,

TJM