

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Written submission from public for Coordination and Strategic Planning of the Federal Effort Against Intellectual Property Infringement
Date: Tuesday, February 23, 2010 5:03:13 PM

Dear Sirs,

I am specifically directing my submission toward part 2, providing specific recommendations for accomplishing objectives of the Joint Strategic Act. I have three, specific recommendations

1. In my opinion, the single, most valuable thing the Strategic Plan being formulated could do is to protect the average, law-abiding citizen, one who is clearly not intending to violate copyright nor profit from someone else's intellectual work, from being harassed by over-zealous intellectual property holders. A perfect example is someone who videotapes their toddler in the kitchen while a radio in the background plays a song, then posts it on YouTube, or someone who snaps a photograph of a companion that happens to capture a sculpture or trademarked image in the background and posts it on Flickr. Clearly, in situations like this, the use of an intellectual work was entirely coincidental, and has absolutely no impact on the value of that work, yet there have been numerous occasions such as these where people were harassed by a large corporation, forced to remove their work, and sometimes forced to hire attorneys to defend themselves. This is clearly wrong, and should be specifically banned by the Strategic Plan. The status quo is simply ridiculous.

2. I would also recommend the panel strengthen the doctrine of Fair Use. A child writing a report about, say, Abraham Lincoln should be able to freely copy a picture into their report without running afoul of copyright law. Someone producing a parody should be free to use a well-known song or soundbite. Such creative acts enhance our collective intellectual experience, and we all benefit from others' ability to develop creative work without fear of harassment. Intellectual property owners might argue that the line between fair use and outright appropriation of intellectual property is blurred, but I disagree: I think virtually anyone can see the difference between, say, a college report on Victorian mores that includes impressionistic art, and a black market book containing impressionistic art being sold for personal gain. It all comes down to divining the intent of the artist, and I have yet to see an instance where the intent isn't obvious.

3. Finally, I recommend that we scale back the ability of copyright holders to continue to renew, ad infinitum, their copyright protection. Currently, there are online programs that are able to find specific Bible passages: such a program would be illegal if the Church continued their copyright on the Bible. What a beautiful world it would be if people were free to index and cross-reference old video clips, historic novels, and old reference works, in order to enable deep searches of these intellectual tomes, and to mix and match them in new ways in order to put them to new purposes. Patents, after all, run only 20 years, because society has seen the value of allowing others to eventually come in and attempt to improve either the design or the manufacturing of a particular innovation. The same should be true of copyrighted work.

I applaud the fact that you're seeking public input, rather than rely exclusively on the large media conglomerates. If I see anything in the final plan that strengthens the hand of the average citizen in

their innocent or inadvertent use of copyrighted work, then I will know you were sincere in seeking it.

Cordially,

John Cleave

