

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: Intellectual Property Enforcement
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Victoria Espinel:

I was reading about your call for unbiased data regarding intellectual property. First, let me applaud your effort; it is extremely refreshing to hear of a government official who has more than an ear for the latest lobbyist spin. Certainly, our frequently-factually-ignorant legislators could learn a thing or two. I do hope you are successful in separating the wheat of true data from the chafe of breathless hyperbole from pro-profit groups which has here-to-fore been the loudest voice in the room, as illustrated in this article on Ars Technica: <http://arstechnica.com/tech-policy/news/2008/10/dodgy-digits-behind-the-war-on-piracy.ars>.

I want to state my beliefs up front: Intellectual Property law has for too long strayed from it's Constitutional beginnings towards one-sided protection of international corporations at the expense of the common good. As put forth in the Constitution, Congress has the authority, "*To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries*". This can in no way be construed to mean that the purpose of copyright is to allow creators to profit from their creations. What it does mean is that, in order to increase the pool of Public Commons, creators are given the incentive of artificial control over their creations *for a limited time*. Copyrights (and patents and trademarks) are a social contract wherein society agrees to abide by the copyright, *and the creator agrees to surrender control after that limited time*.

But the current stated of affairs, where giant media and publishing companies have lobbied for stricter and longer IP laws has pushed the bar much much too far in one direction, to the point where I feel rights holders have broken their end of that agreement. I am unaware of any copyrighted work which has moved into the public commons in the last 75 years. Retroactive copyright extensions are antithetical to the purpose of copyright; increasing the value of prior creations is a *disincentive* to create anything new. Why do copyrights, which are free and automatic, last several decades longer than patents, which are extremely expensive to obtain? How does society benefit when any piece of culture a person is familiar with will be locked up under copyright for the life of the author *plus* more than the life of another human being?

I hope you, as IP Czar can bring a balanced viewpoint to a government that has for too long represented only the side of Big Content, and not the side of the Public.

I hope you can appreciate the difference between commercial and non-commercial copyright infringement.

I hope you know the difference between copyright infringement and theft.

I hope you understand that the US government is not the profit assurance arm of the Recording Industry Association of America or the Motion Picture Association of America.

I hope you realize that media industry and communications industry consolidation is a Bad Thing.

I hope you can see that *nothing* included in the Anti-Counterfeiting Trade Agreement warrants it being negotiated in complete secrecy and with no Transparency.

I hope you get the data you're looking for, and that it represents the truth.

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