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**Sent:** Monday, March 15, 2010 6:05 PM  
**To:** FN-OMB-IntellectualProperty  
**Subject:** Comments on the Joint Strategic Plan

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Victoria Espinel  
Intellectual Property Enforcement Coordinator  
Office of Management and Budget  
Executive Office of the President  
Filed via email

Dear Ms. Espinel:

As a content producer myself (I'm a musician), I am intensely interested in copyright enforcement. I am, however, concerned that the ACTA proposals will actually harm me rather than help me. I'm concerned that we're about to put a new set of rules in place that are all about the benefits to large, corporate copyright holders and which completely neglect protections for citizens, consumers, and small-audience producers. In particular, I am concerned about over-zealous and over-aggressive enforcement.

As a case in point, I will point out that current legislation and enforcement all seems to place the burden of proof on the accused infringer rather than on the accuser. Legitimate uses have been taken down by organizations claiming copyright interest which actually have none. Blanket accusations based on IP addresses - about as accurate as arresting everyone in the house because someone made a supposedly obscene phone call.

Claims of damages and loss need to be carefully examined; their bases and evidence needs to be examined and validated. We don't let people tell the IRS what taxes they think they should pay; we make them prove it. If we are about to add costs to enforce and monitor, then we need to make sure that the costs incurred accurately reflect reality, not the predictions of a business model which has not been adjusted for change.

Cutting off Internet access is no longer a relatively minor impact to a single individual; so much of our lives have moved onto the Internet that terminating a household's access cuts them off from vital communication links, often including basic phone service. This is even more clearly unfair in cases where users are falsely or mistakenly accused; doubly so in a "we'll cut you off first and you prove we shouldn't have" environment. Ironically, most of the resources that would allow this to be proved will no longer be available to the accused -- because they can't get to the Internet anymore.

Internet service providers should not be required or asked to violate users' privacy in the name of copyright enforcement beyond the scope of the law. Efforts to require or recommend that ISPs inspect users' communications should not be part of the Joint Strategic Plan.

The anti-circumvention provisions of the Digital Millennium Copyright Act criminalize users who are simply trying to make legal uses of the media they have bought. These need to be repealed. No one can tell me where I can read my newspaper, but I must only listen to music or watch movies I purchase where the vendor tells me I may, and I may not back them up. Sometimes I can't even lend - or give - them to a friend.

Breaking digital locks on media should not be illegal unless they are being broken for purposes beyond time- or

source-shifting. The government should not spend its resources targeting circumventions for legitimate purposes. We have reached comic opera craziness when someone can't get a copy of an antique photo without doing weeks of research to try to find the original copyright holder and get written permission. We need recognition of Creative Commons status by the OMB to allow sharing that is actively desired by the copyright owners (such as myself). We do not need shotgun accusations without proof.

Any plans or agreements on IP enforcement, like the proposed Anti Counterfeiting Trade Agreement (ACTA) should be made open and transparent. In dealing with questions of copyright and the Internet, too much is at stake for our country's laws and policies to be made out of the public eye.

Sincerely,

Joe McMahon

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