

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** Comments on the Joint Strategic Plan  
**Date:** Tuesday, March 23, 2010 4:17:49 PM

---

Re: Comments on the Joint Strategic Plan

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

Dear Ms. Espinel:

Although some of the following text draws from the websites of Public Knowledge and EFF, I want to assert that I fully agree with points of theirs that I have incorporated into my letter. In a few months, I'll be graduating with a Master of Information and Library Science degree and, throughout my postgraduate studies, I have seen how copyright restrictions or enforcement can be and are misused.

Copyright restrictions are so complicated that the individual citizen is at a great disadvantage when compared to large media corporations. The firms' legal departments and outside counsel seem determined to prohibit all use of copyrighted materials, even when that use is completely legal. Even more importantly, a shoot first and ask questions later style of enforcement (e.g., the abuse of take-down letters, etc.) puts the onus on the citizen to prove their innocence. Do we really prioritize corporate control higher than legally-protected intellectual freedoms? Are we truly interested in tossing aside the idea of innocent until proven guilty? Even the USA PATRIOT act was modified to require a statement of specific facts describing reasonable grounds for action.

Some measures -- like cutting off Internet access in response to alleged copyright infringement -- are draconian in the context of our increasingly media-driven environment. An individual's Internet connection is no longer a 'discretionary' expense, a luxury. The Internet, including wireless access, has become the central communication channel for many of us. It is how we access everything from basic phone service to global video conferences, from family news to financial transactions to emergency alerts. Restricting access to this channel is even more clearly unfair in cases where users are falsely or mistakenly accused.

A few other key points:

+ 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 can criminalize users who are simply trying to make legal uses of the media they have bought. Breaking digital locks on media should not be a crime unless they are being broken for illegal purposes. How can the circumvention be illegal when the use is fair? The government should not spend

its resources targeting  
circumventions for legitimate purposes.

+ 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.

According to your February 23 post on the White House blog, your goal is to use "government resources to be more effective in reducing any threat to our economy and our safety" and your first step toward this is to "find ways of measuring these threats and their impact on us." But jobs at large media corporations and the presence of counterfeit goods in the marketplace are not the only things at stake here. The intellectual freedom, privacy, and spirit of creative inquiry of American citizens also needs to be protected.

Please consider Justice Louis Brandeis' words from *Olmstead v. US* (1928): "It is also immaterial that the intrusion was in aid of law enforcement...the greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding." Although I certainly do not believe you yourself lack understanding, I fear that some very zealous corporations may use your good intentions in ways that run counter to the true public interest.

Thank you for your time and for accepting public comment.

Sincerely,

Kyle Napoli  
California