

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](mailto:FN-OMB-IntellectualProperty)  
**Subject:** Comments on intellectual property  
**Date:** Tuesday, February 23, 2010 7:42:06 PM

---

In response to <http://www.whitehouse.gov/blog/2010/02/23/intellectual-property-and-risks-public>

First, let me say that I find it extremely encouraging that you are interested in hearing from ordinary citizens such as myself. The issues at hand affect us directly and every single day and, yet, we usually are not heard above the din of the industry lobbyists that have direct access to the legislative and executive branches. Unfortunately those lobbyists have a decidedly different idea of what Intellectual Property protection should be than someone such as myself. Again, thank you for the opportunity to be heard.

I read your blog post on the WhiteHouse.Gov blog and while I am not an expert on the issues (I leave that to many others from whom I am sure you will hear) I am concerned about several things you presented in that short post.

The first statement that caught my attention was "One of the reasons that I care about this is because I believe it is enormously important that the United States remain a global leader in these forms of innovation – and part of how we do that is by appropriately protecting our intellectual property." You seem to be tying "protecting intellectual property" to advancing innovation. In fact there are many current studies that show that stronger intellectual property protection REDUCES innovation. I am sure you will receive many references to this so I leave it to others to supply the references. It concerns me that many companies are choosing to Litigate rather than Innovate, some are set up as strictly IP holding companies that do not innovate AT ALL but simply feed off other companies trying to Innovate. The current IP environment is decidedly dangerous for the actual innovator, hardly advancing your stated goal.

You make mention of toothpaste containing "dangerous chemicals" ... I fail to see why that is an Intellectual Property issue. I acknowledge that it is a serious issue but where does IP come to play here?

Your post covers a wide span of items: "counterfeit car parts, illegal software, pirated video games, knockoff consumer goods, dangerous counterfeit medicines, and many other types of products – including very sophisticated technology." I think this is a Red Herring. You lump serious safety issues with video games, a rather unfair pairing to say the least. Again, I fail to see where unsafe products is an Intellectual Property issue. Perhaps "counterfeit car parts" would be considered under IP as a Trademark issue but I believe that Trademark should be acknowledged as a CONSUMER PROTECTION issue. There is a trend recently to use Trademark similarly to Copyright; I believe it is critically important to remember that Trademark is for protection of the Consumer to avoid being duped into buying something that it is not. It is NOT protection of the Trademark owner against other lawful uses of the Trademarked word, phrase, or image. The key being the focus on Consumer protection and other LAWFUL uses. An extreme we are currently experiencing is the International Olympic Committee making outrageous trademark claims against such institutions as the Oregon Olympian, a newspaper that has been publishing for years under the shadow of the mountain of the same name. There

are numerous examples of IP being abused in the courts or, even, the threat of the courts, to stifle lawful activities. The "IP industry" is ever active to expand and even abuse the IP privileges that it already has, to further extend and strengthen IP laws to its specifications only increases the caliber of the gun that you put in its hands.

But the real issue that I wish to comment on is that copyright and patent, as written in the Constitution ([Article I, Section 8, Clause 8](#) of the [United States Constitution](#)) is specifically to "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."

It is my contention that the current direction of Intellectual Property legislation goes COMPLETELY AGAINST that requirement in the Constitution. That, today, IP laws are repeatedly and consistently used to hold back innovation and "the Progress" and that the extensions, again and again, of the "limited Times" goes contrary to the desires of the original crafters of the Constitution as well as against the best interests of the general populace today. "limited" is key here! The current direction of IP in the United States is toward UNlimited. Please, please stop this progression.

Yes, we must protect our citizens from illegal and dangerous goods but where does it make sense that Mickey Mouse is a threat to us, the populace, that the images of the iconic mouse need to be protected for dozens of years? And why does a car repair shop have to force its employees to stop playing the radio while they work because some customer might "overhear" it or, otherwise, pay outrageous "performance fees?" Why can't I make a legal copy of a DVD for safe keeping because my grandchild tends to be a bit heavy-handed and scratches the original? The current DMCA makes that a crime. The list goes on and on where the "Progress of Science and useful Arts" is hindered, hampered, and prevented by willful misuse of the "limited" monopoly granted by current laws.

These are the fruit of our current IP laws as crafted by the Industry. Please grant us, the citizens of these United States, some sanity back in the Intellectual Property laws.

Thank you for giving us, the consuming public, a voice in the process. That is a refreshing change, to say the least!

William C Waggoner  
Bethel, CT  
203-947-0630