

No. 5

George Wardle

From: Nick Taylor 5921(a)
 Sent: Thursday, 4 March 2010 7:24 p.m.
 To: trademarks
 Subject: Invitation for Submissions on Enforcement in the Digital Environment

Hello

Thank you for allowing me to submit my recommendations.

My name is Nick Taylor. I am the Director of IT for The Association of Football Statisticians, an entrepreneur and a computer programmer with around 30 years of experience. I am also a musician, a film-maker, an artist and a writer. I am qualified to comment.

My thoughts and recommendation on ACTA are as follows:

BACKGROUND

1) The Intellectual Property Industries are all adaptations to a set of technological conditions - The Age of Paper, The Age of Plastic. These conditions only existed for a relatively brief period of time and are now on the wane.

2) Because of this change, the current laws surrounding Intellectual Property are unworkable. They're unenforceable and beyond that, profoundly counter-productive to the vitality of a culture. Our culture has become strangled by a self-serving, and frankly out of control legal system. Every major content release (from Avatar to the iPad) provokes a barrage of legal claims - and the threat of legal action has an chilling effect on creativity - with the worst effects being felt by business creativity.

IP law is now a huge business - a monster, which produces no net value. To the culture at large, it's a parasite. It serves itself. It does not serve creativity, in spite of what it claims.

Beyond this, the newly emergent IP insanity grants a de-facto monopoly to those that can afford IP lawyers. It is weighted to favour a few very wealthy corporations. That is why they're spending millions lobbying for the extension of its powers.

3) The copyright-enforcement industry has successfully bought off the American government, which is now attempting to bypass the democratic process in smaller countries to establish:

- a) laws, written in secret, concealed from any democratic input.
- b) laws that once formed, are beyond sovereign/democratic control - without breaking international treaties/law.
- c) a general "moral" environment which allows for the corporate ring-fencing / "ownership" of a culture - which until the age of plastic, was a part of our common-wealth.

So

Our IP laws are in desperate need of reform - they need to be scrapped, and replaced with something that promotes cultural vitality.

These need to be based on the understanding that all culture builds on previous culture, and overbearing IP law robs society of its birthright.

ACTA

1) ACTA is part of an unremitting, well-funded lobbying campaign to give large, foreign corporations power over the most vitally democratising influence that we've seen in the last 500 years - possibly ever.

The Internet is more important than the Entertainment Industry. Period.

2) ACTA is an attempt to impose laws on us which we won't be able to change without breaking international treaties - and as previously stated, these are already bad laws.

3) All of our existing communication methods - from the telephone to the typewriter, newspapers, radio, television... are increasingly contained by the Internet. Corporate or even governmental wire-tapping of this medium is incredibly dangerous.

I'll repeat: ISP deep-packet-sniffing is wire-tapping.

4) The figures that the Entertainment Industries use to assess their lost sales are lies. Ludicrously facile and obvious lies, but they appear to be the founding "facts" of this lobbying drive.

RECOMMENDATIONS

Withdraw from all ACTA negotiations immediately, because:

a) Colluding with foreign governments and corporations to circumvent our democratic processes in an attempt to attack the fundamental machinery of our democracy is treason.

Not only should the people responsible for our involving us in this attempt to subvert our sovereignty lose their jobs, but they should probably also go to prison.

b) The attempt to make ISPs deep-packet-inspect their customer's lives, is no different from wholesale wire-tapping.

This is absolutely unconscionable - and any government attempting to grant itself this power should be removed from office immediately.

c) The fundamental concept of Intellectual Property is profoundly flawed, unenforceable, and damaging to our culture. It is in chronic need of reform. Building these laws into the fundamental structure of our communications systems, is counter-productive, dangerous, and morally repugnant.

So far New Zealand seems to be a lone voice of sanity in this matter - but it does not go far enough. We need out. Completely. Now.

All the best,

Nick Taylor