



Conference on College Composition and Communication

Intellectual Property Caucus of the Conference on College Composition and Communication
Intellectual Property Committee of the Conference on College Composition and Communication
Conference on College Composition and Communication (CCCC)

Office of Management and Budget
Executive Office of the President
Attention: Victoria A. Espinel
United States Intellectual Property Enforcement Coordinator

intellectualproperty@omb.eop.gov
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500
March 24, 2010

Re: Public Comment on FR Doc. 2010-3539; The Joint Strategic Plan

On behalf of the Conference on College Composition and Communication (CCCC), an organization of 6,000 scholars worldwide that supports and promotes the teaching and study of college composition and communication, we offer a response to The Joint Strategic Plan as authorized by the Prioritizing Resources and Organization for Intellectual Property Act of 2008, Public Law 110-403 (Oct. 13, 2008). We understand that the interagency intellectual property enforcement advisory committee is developing a strategy for “enforcement against intellectual property infringement.” To that end, we respectfully submit these comments for your consideration.

Concerns and Requests

We are deeply concerned about the call for comments and its exclusive focus on rightholders' interests. If anything, the Constitution makes clear that rightholders' interests are secondary to the more vital role of promoting education; Article 1, Section 8 of our Constitution reads:

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.

John Logie (2006a) reminds us that the very first US copyright law (1790) was explicitly titled “an act for the encouragement of learning.” Simply put, copyright law was originally invented to assist and promote learning through innovation.

Thus, we are most concerned that there is no request for information ***about how specific enforcement methods may inhibit innovation and education and thus curtail development of the US intellectual property economy over the long term.*** For example,



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enforcement methods that discourage users from exercising fair use rights might result in a loss of new intellectual property development. As you move forward, take caution not to forget the original intent of copyright law. We ask that, as you consider others' comments regarding "public education and awareness programs for consumers," you not exclusively focus on anti-infringement. We urge you also to provide educational materials that inform users what rights they have under fair use, through licensing and shareable materials such as those provided through creative commons, and through legal protections and rights afforded by using materials in the public domain.

Justification for Request

Because the call for comments places assumptions before evidence, the data collected through this call will be necessarily incomplete. We urge you to collect information on how excessive or inappropriate enforcement of infringement may negatively affect the US economy, and how the public's exercise of fair use rights contributes positively to learning and innovation thereby driving US economic development (Lessig, 2004, 2008).

We ask that the office also request public comments and data on controversial "policies and procedures employed by the U.S. Government," that have prevented and/or discouraged legitimate uses of copyrighted materials. For example the DMCA, designed to protect copyright, has prevented content developers from creating educational documentary films and educational video materials. It has negatively impacted teachers who work in the area of media literacy and writing instruction (See evidence from the 2009 DMCA Rulemaking Hearings <http://www.copyright.gov/1201/>). It has impaired students' ability to create and innovate in the area of digital writing.

Further, we have evidence from our members of other such problems: at one of our member's institutions of higher education, student internet accounts are regularly shut down for using certain bandwidths that are in fact perfectly legal, but presumed illegal by the technological measure employed by that institution. Students are then prevented from legally using their internet accounts for months until they can be restored; this harms students' ability to learn and participate in the active life of the college. The institution's actions in this case are purely based on fear of legal liability (Logie, 2006b; Reyman, 2010; Westbrook, 2006).

These are just a few examples of the harm caused by over-zealous and improper enforcement of intellectual property rights. Rather than focusing most of your energies on creating new policies to police copyright, we urge you to examine the ineffective policies that are already in use by the U.S. government. By examining ineffective policies and procedures, the new office can do as much to reduce infringement and increase the benefit to the US economy as it can through implementing new policies. In line with the original intent of copyright law, we ask you to consider the interests of education, creation, and innovation as you move forward.

Committee Rationale

In the 1990's, as digital writing became an unavoidable part of our daily lives working with students, the National Council of Teachers of English (NCTE) and the Conference on College Composition and Communication (CCCC) established the Intellectual Property Caucus. Since its creation in 1994, the IP Caucus regularly sponsors its own events at the annual CCCC Convention. Caucus members undertake projects -- such as new instructional materials;

articles, books, and websites; policy statements; and conference plans -- to support research, publication, and action on IP issues.

In 1996, the Intellectual Property Committee was established through the CCCC. The IP Committee is composed of nine members who represent different constituencies among the NCTE/CCCC memberships. Its primary charge is "to keep the CCCC and NCTE memberships informed about intellectual property developments." The IP Committee also proposes policy statements on a variety of issues to be considered by the Executive Committee and NCTE/CCCC memberships.

The most recent work of the IP Caucus and the IP Committee can be found online at <http://www.ncte.org/cccc/committees/ip>. As you will find, individual members of both IP groups are constantly engaged in new research and activist projects.

The IP Caucus members are available for further consultation on these issues, and any of us would be honored to participate in further conversations as you move forward.

Respectfully Submitted this 24 day of March, 2010

**The Intellectual Property Caucus-CCCC
The Intellectual Property Committee-CCCC
Conference on College Composition and Communication (CCCC)**

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