

More fallout over SOPA/PIPA

Friday, 20 January 2012

What is now being broadly characterized as the apparent demise of SOPA and the Protect IP Act in the wake of Wednesday's Internet blackout is generating some interesting and varied responses. Senate Majority Leader Reed announced this morning that the Senate vote on the Protect IP Act will be postponed, and C/Net reports that Stop Online Piracy Act (SOPA) will also be put on hold in the House Judiciary Committee. And the NY Times reported yesterday that the MPAA's Christopher Dodd would welcome a summit meeting with Internet companies, and many former Congressional supporters of the bill have retracted their support.

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Senate Majority leader Harry Reed (Dem-Nevada) announced this morning that the vote on the Protect IP Act (which had been scheduled for next Tuesday) has been postponed. And the NY Times reported on Thursday that the MPAA's Christopher Dodd would welcome a summit meeting between Internet companies and content companies. The Times also states that...the startlingly speedy collapse of the antipiracy campaign by some of Washington's savvy players not just the motion picture association, but also the United States Chamber of Commerce and the Recording Industry Association of America signaled deep changes in antipiracy lobbying in the future. By Mr. Dodd's account, no Washington player can safely assume that a well-wired, heavily financed legislative program is safe from a sudden burst of Web-driven populism.

Only two days earlier, the MPAA issued an aggressive press release chastising some technology companies for resorting to stunts that punish their users or turn them into their corporate pawns, rather than coming to the table to find solutions to a problem that all now seem to agree is very real and damaging. The Tuesday release went on to say it is an irresponsible response and a disservice to people who rely on them for information and use their services....[and] an abuse of power given the freedoms these companies enjoy in the marketplace today.

One must wonder how the MPAA would check such abuses of power, would they want to take measures against tech companies for taking certain political positions as well? In any event, in what appears to be somewhat of a turn around in their rhetorical style, they are now calling for a summit.

Fox News has also reported that the former Democratic Senator is angry enough with the president to threaten the withdraw of support for his re-election.

Hollywood's top lobbyist and former Sen. Chris Dodd is threatening to cut off campaign funds to President Obama's re-election effort because of anger over the White House appearing to side with tech companies in a bitter fight over anti-piracy legislation. In an exclusive interview with Fox News, Dodd fired off a warning to Obama -- his former Senate Democratic colleague in this election year -- "don't take us for granted."
<http://www.foxnews.com/politics/2012/01/19/exclusive-hollywood-lobbyist-threatens-to-cut-off-obama-2012-money-over-anti/>

Meanwhile, the Globe and Mail reports that several previous supporters of SOPA and the Protect IP Act have renounced their support including Senators Marco Rubio (R-Florida), John Cornyn (R-Texas) Missouri Roy Blunt (R-Missouri) and John Boozman (R-Arkansas) as well as Representatives Ben Quayle (R-Arizona), and Lee Terry (R-Nebraska) who were both SOPA co-sponsors.

In his statement announcing his withdraw of sponsorship of the Protect IP Act, Sen Boozeman said:

Over the past few weeks, the chorus of concerns over Congressional efforts to address online piracy has intensified. I can say, with all honesty, that the feedback I received from Arkansans has been overwhelmingly in opposition to the Senate bill (S.968, the PROTECT IP Act) in its current form. That is why I am announcing today that I intend to withdraw my support for the Protect IP Act.

I will have my name removed as a co-sponsor of the bill and plan to vote against it if Majority Leader Reid brings it to the floor in its current form.

Even Sen. Charles Grassley (R-Iowa) the senior member of the Senate Judiciary Committee and co-author of PIPA has withdrawn his support, at least for now.

It's critical we protect the intellectual property rights of our businesses and fight online infringement, but at the same time

we can't do harm to the internet, the Constitution, or the ability of businesses to grow and innovate. Internet piracy is illegal, and we need to find a way that works for all sides. The current Protect IP Act needs more due diligence, analysis, and substantial changes. As it stands right now, I can't support the bill moving forward next week.

http://www.grassley.senate.gov/news/Article.cfm?customel_dataPageID_1502=38636

Just how substantial the changes need to be for Grassley to get back on board remains to be seen, but it is clear that he and many of his colleagues have been somewhat overwhelmed by the quickness of events.

On the other hand, the floor manager for SOPA in the House, Rep Lamar Smith (R-Texas) had issued a statement sounding much like the MPAA's with a heading Chairman Smith responds to Wikipedia Publicity Stunt Wikipedia Promotes Fear not Facts stating:

It is ironic that a website dedicated to providing information is spreading misinformation about the Stop Online Piracy Act. The bill will not harm Wikipedia, domestic blogs or social networking sites. This publicity stunt does a disservice to its users by promoting fear instead of facts. Perhaps during the blackout, Internet users can look elsewhere for an accurate definition of online piracy.

http://judiciary.house.gov/issues/issues_RogueWebsites.html

Smith has also taken issue with the internet companies who have supported the protest. In a signed editorial published in Fox News, Rep. Smith levels serious charges against Google:

Unfortunately, one of the reasons why you can't believe everything you read about the Stop Online Piracy Act is because some critics of this bill have generated enormous profits from illegal websites that sell stolen intellectual property.

For instance, Google has directed consumers to these illegal sites by featuring them prominently on their search function. This includes sites with counterfeit drugs that could endanger the lives of Americans.

In August, Google paid \$500 million to settle a criminal investigation into the search engine's active promotion of illegal foreign pharmacies that sold counterfeit and illegal drugs to American patients.

Google's conduct demonstrates there is a need for the government to step up enforcement of intellectual property rights online and provide increased protections to American consumers.

<http://www.foxnews.com/opinion/2012/01/19/truth-about-sopa/>

It's interesting to note the contrast between Smith's stepped up rhetoric and the attempt by some of his colleagues to moderate their positions. Is Smith merely holding down the fort until his nervous colleagues regain their will to proceed after the controversy dies down--- or will he become increasingly isolated from them? Will the political skillful Chris Dodd be able to broker an understanding between the content and internet companies as the NY Times piece suggests, or will the angry Chris Dodd as portrayed in the Fox report further alienate himself from the Obama Administration?

The sense that there is an important shift in process is also signaled by Forbes, which said on Wednesday that the dramatic showdown yesterday has larger implications for brands and intellectual property owners. The balance of power has shifted from traditional lobbyists to social media activists, from IP creators to users and from brands to their consumers.

In the same article, Forbes provides several tips for their corporate readers in how to engage with consumers in what they are now calling the post-SOPA world. Stop thinking of your creative work as property. Think of it as permission. Permission to engage, permission to show interest, permission to promote.

Work with your customers rather than suing them there aren't very many successful business models that involve suing your customers, particularly in a world where the mainstream media is attuned to social media.

Keep moving Creating lots of great new creative is the best way to generate attention, interest and new streams of revenue.

Rethink your business model Indie bands learned quickly that that they couldn't make money by recording, so they distributed their songs freely to build an audience for touring. If using your brand IP has become widespread consumer behavior it may be smarter to try to harness the activity than fight it.

Be generous. Be tolerant. As Coca-Cola discovered, a more tolerant attitude towards consumers interacting with your IP can yield unexpected benefits.

While these indications support the view that there may indeed be a significant shift taking place, the developments, and particularly the text of any upcoming amendments, needs to be monitored closely. What is clear though is that the Internet protests taken together with a broad grass-roots based campaign which made good use of social media has had an impact on many legislators who had previously hardened positions.

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While deferral of the actions in the House and Senate are good signs, a careful reading of the context including the statements from both Reed and Smith suggest that PIPA may not be quite dead yet, it may just be resting in a tactical retreat to give its proponents some needed time to lick their wounds and regroup.

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