

# Google attorney slams ACTA copyright treaty

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[http://news.cnet.com/8301-13578\\_3-20004450-38.html](http://news.cnet.com/8301-13578_3-20004450-38.html)

PALO ALTO, Calif.--An attorney for Google slammed a controversial intellectual property treaty on Friday, saying it has "metastasized" from a proposal to address border security and counterfeit goods to an international legal framework sweeping in copyright and the Internet.

The Anti-Counterfeiting Trade Agreement, or ACTA, is "something that has grown in the shadows, Gollum-like," without public scrutiny, Daphne Keller, a senior policy counsel in Mountain View, Calif., said at a conference at Stanford University.

Both the Obama administration and the Bush administration had rejected requests from civil libertarians and technologists for the text of ACTA, with the White House last year even indicating that disclosure would do "damage to the national security." After pressure from the European Parliament, however, negotiators released the draft text two weeks ago.

The international adoption of ACTA could increase the liability for Internet intermediaries--such, perhaps, as search engines--Keller said. "You don't want to play Russian roulette with very high statutory damages."

One section of ACTA says that Internet providers "disabling access" to pirated material and adopting a policy dealing with unauthorized "transmission of materials protected by copyright" would be immune from lawsuits. If they choose not to do so, they could face legal liability. Fair use rights are not guaranteed

"It looks a lot like cultural imperialism," Keller said at the Legal Frontiers in Digital Media conference. "It's something that really snuck up on a lot of people."

Jamie Love of the Knowledge Ecology International advocacy group, which has criticized the ACTA process, reported last year that Keller had signed a nondisclosure agreement that provided her with access to the early draft text. Other organizations whose representatives signed the confidentiality agreement, according to Love's Freedom of Information Act request, include Verizon, eBay, Public Knowledge, Intel, News Corp., and the Consumer Electronics Association.

Sherwin Siy of Public Knowledge, who signed the nondisclosure agreement, wrote at the time that it didn't provide much access: "We were allowed to view a draft of one proposed section as we sat in a (government office) with some of its negotiators and counsel. We were not allowed to take any copies of the text with us when we left the meeting about an hour later."

The U.S. Trade Representative said in a statement last month that recent ACTA negotiations in New Zealand were "constructive." The Motion Picture Association of America called ACTA an "important step forward" that deserves to be adopted.

The next ACTA meeting is in Switzerland in June.

[Disclosure: McCullagh is married to a Google employee not involved in ACTA.]