

Treaty targets Internet, not knockoff purses

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San Francisco Chronicle

April 27, 2010

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/04/26/ED4T1D43NL.DTL>

On April 21, negotiators released the draft of the Anti-Counterfeiting Trade Agreement - a treaty containing the biggest changes to international intellectual property law since 1994. Negotiating governments have until now stonewalled attempts to access the agreement, which has prompted terrified speculation about border agents seizing laptops to search for downloaded songs. The draft reveals what many expected: The Internet, not counterfeit purses, is what is at issue here.

The agreement does three things:

1. It evinces zero respect for international law by arbitrarily creating new institutions and ignoring old ones.
2. It seeks to standardize Internet law to the most stringent standard available.
3. It lays the infrastructural groundwork for privacy and free-speech problems.

In international Intellectual Protocol law, developed countries push for strong IP protection because it benefits domestic industries. Developing nations, whose citizens are less able to afford premium prices for music or medicine, belatedly enter into institutions created by developed countries, and try to carve out exceptions that preserve basic human rights.

ACTA shows no respect for existing institutions: It instead creates an oversight committee of original treaty parties. ACTA's existence demonstrates that when developed nations can't get what they want out of existing institutions, they're more than happy to bypass them.

The agreement attempts to apply parts of U.S. law retroactively to other countries, which won't work. ACTA looks to export one of the most stringent copyright regimes, the U.S. Digital Millennium Copyright Act, without also creating uniform exceptions (called "fair use" in the United States).

ACTA also exports the U.S. standard for criminalizing Internet piracy - in the United States, if you've downloaded enough music, you can go to jail for that downloading alone. In other countries, to be imprisoned, you have to sell the infringing content on a "commercial scale."

The most troubling feature of ACTA is how it intends to enforce these laws. ACTA creates an information-sharing investigative infrastructure easily abused by nefarious regimes.

International law has, until now, left room for individual countries to experiment with balancing concerns about Internet policy with IP incentives. ACTA, outside of existing institutions, aims to bully

countries to a uniform standard under enforcement mechanisms that threaten privacy and freedom of speech.

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