



Business Goes to Washington ...

Taft College Foundation – Mini-Leadership Summit
May 2017

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Professor of Political Economy
Stanford GSB
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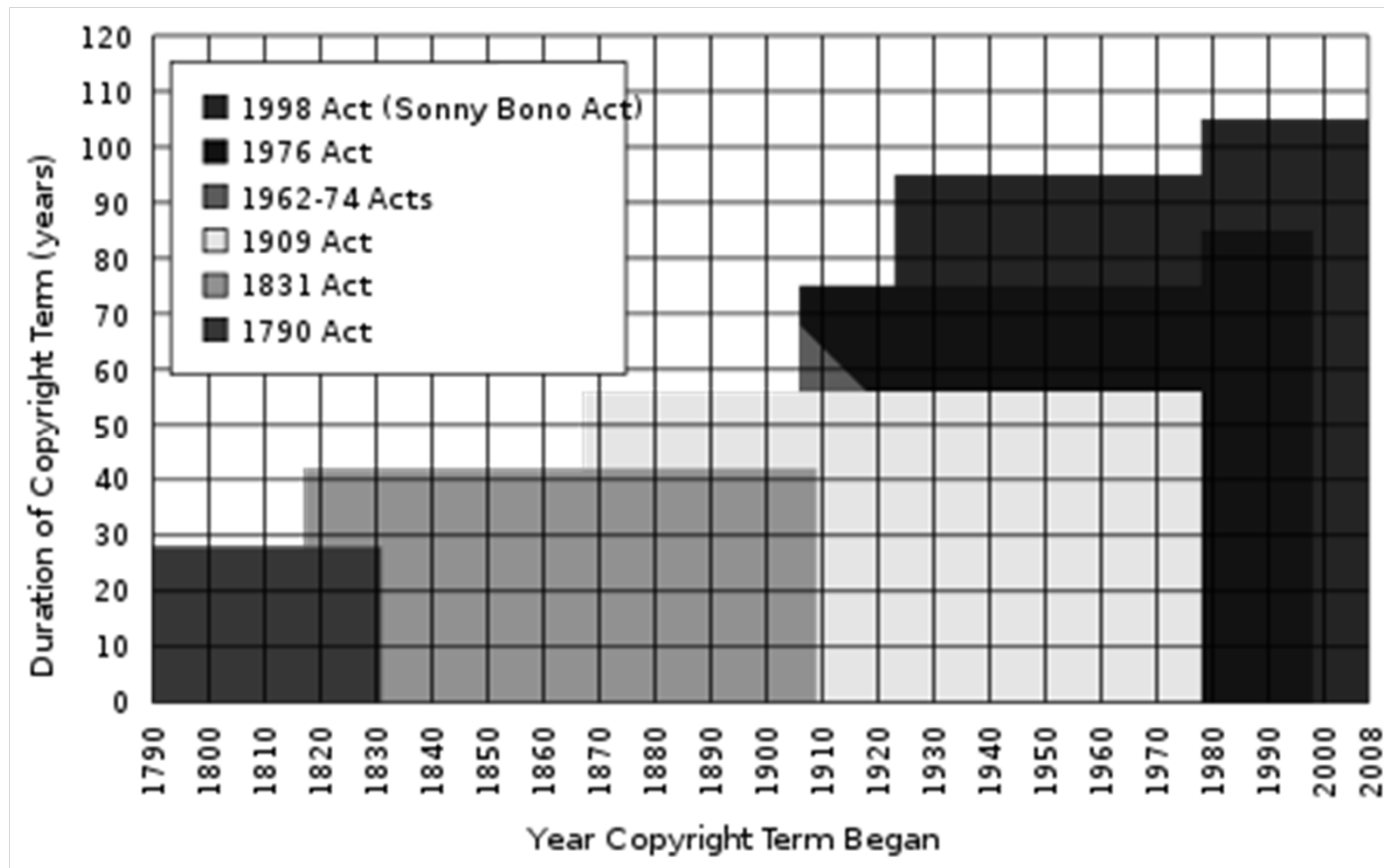




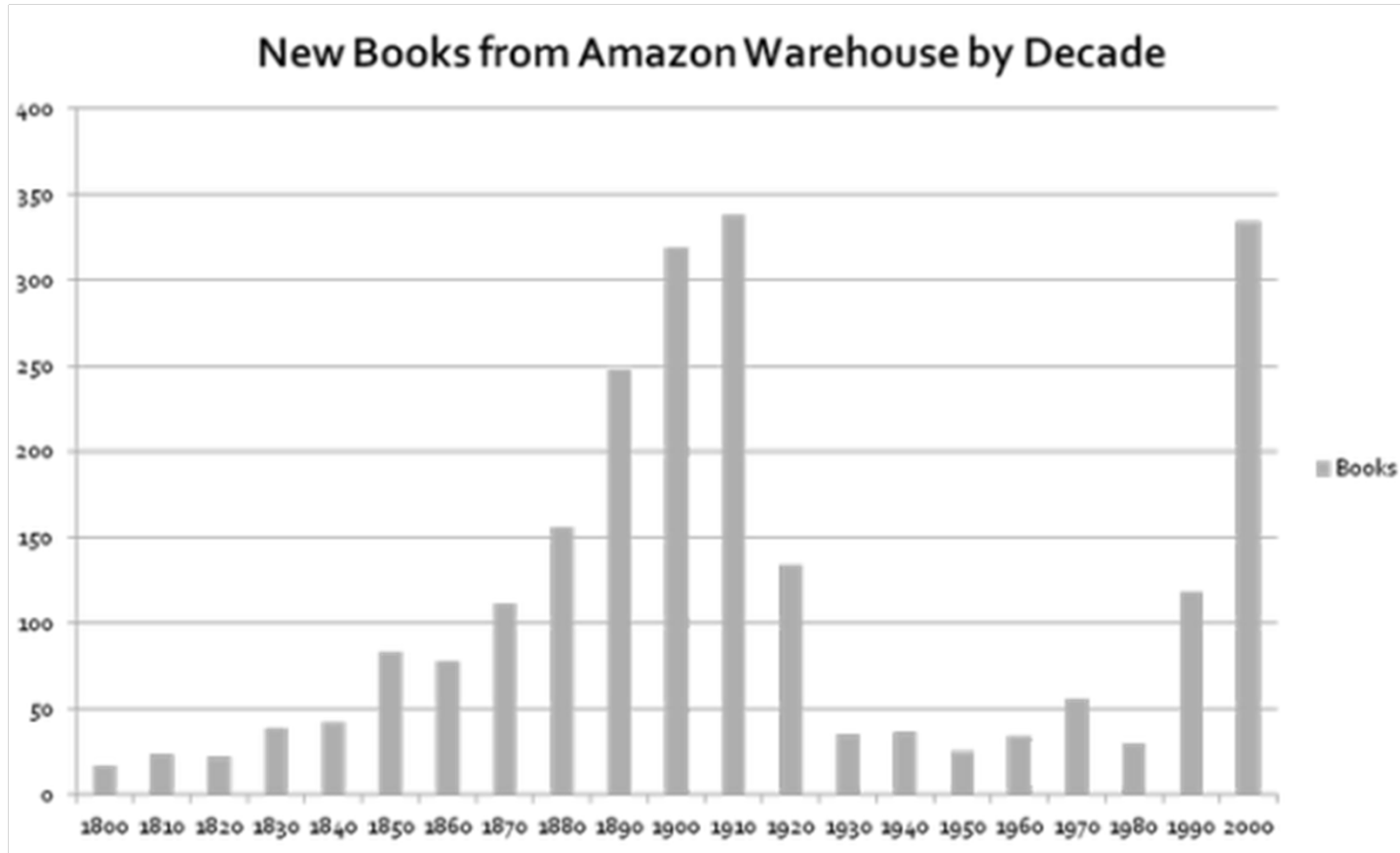
Patents Vs. Copyright

- US Constitution, Article 1, section 8, clause 8:
 - “The Congress shall have Power ... 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.”
- Basis for US copyright law and patent law.
 - Congress required to pass laws to make this precise.
 - Copyright passed in 1790 & extended multiple times since.
 - Patent law also passed in 1790. Term length 14 years from issuance.
 - Patent protection is now 20 years from filing (~3 years to process).
 - Term has barely budged since 1790... despite many attempts.
- Why not?
 - Dispersed vs. concentrated costs.
 - (In 2011 US was last country to switch to “first to file” priority.)

- Expansion of U.S. copyright law (Assuming authors create their works by age 35 and live for seventy years).



Shaping Markets





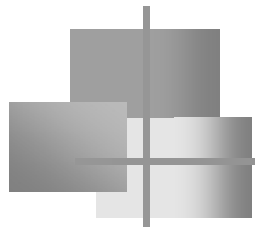
Copyright in 2011

- Put yourself in the shoes of Disney CEO, Bob Iger.
 - You've successfully extended copyright when needed.
- Your main worry is enforcement.
- Enforcement is difficult:
 - Finding infringers on the internet is difficult.
 - Stopping them from re-infringing is difficult.
- How can copyright be enforced more effectively (from Disney's perspective)?



Disney Goes to Washington ... Again

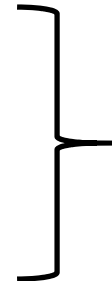
- Who can liability be extended to?
 - Internet Service Providers (ISPs)
 - Advertising networks.
 - Payment facilities.
 - Users
 - U.S. & foreign companies & users
 - ...
- What bill optimizes enforcement for Disney?
 - Everyone!
 - Particularly users.
- Strategy: Who should Disney go after?
 - What fights can it win? We need a tool to calculate political power ...



Calculating Political Power

- 5 main sources of political power:

- Direct votes: jobs!
- Money.
- Coverage.
- Solved collective action problem.
- Information/Framing: A good message.



Distributive Politics
Spreadsheet



Coalition

- Who is on Disney's side?
 - Media companies (cbs, nbc, Viacom, etc)
 - MPAA
 - RIAA (Recording Industry Assoc America).
 - SAG, Am Fed of Musicians, Am Fed of Television & Radio Artists...
 - US Chamber of Commerce.
 - Labor Unions – AFL-CIO.
 - Pharmaceutical companies.

ISSUE: Protect Owners from Copyright Infringement					OBJECTIVE: Pass the SOPA Bill			
Pro Groups	Subst. (Op. Costs)	Total Benefit	Per Cap.	#s	Coverage	Political Resources	Cost of org.	Exp. Infl.
Large Content Creators (Disney etc.)	Self-enforce, technology	Very Large	Large	Moderate	Moderate	Large	Small	Large
Support Service Organizations	None	Small	Small	Moderate	Moderate	Moderate	Huge	Small
Small Content Creators (independent artists)	Few	Moderate	Large	Moderate	Large	Small	Huge	Small
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ISPs	None	Large	Large	Moderate	Moderate	Moderate	Small	Mod.
Payment Processors	None	Large	Large	Moderate	Moderate	Large	Small	Mod.
Online Advertisers	None	Large	Large	Moderate	Moderate	Large	Small	Mod.
American Library Assoc.	None	small	Small	Large	Large	Small	Mod.	v. small
Users	None	Large	Small	V. Large	Very Large	Large	Large	Small
Civil Liberties (ACLU)	None	Small	Small	Moderate	Mod.	Mod.	Small	v. small



Disney: 1st Best vs. 2nd Best

- Disney prefers enforcement against everyone.
 - Including users.
- SOPA doesn't apply to users: Why not?
- How would the spreadsheet change if it did?

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Will Disney Win?

- Political Power:

- Direct votes: jobs!
- Money.
- Coverage.
- Solved collective action problem.

} Distributive Politics
Spreadsheet

- Information/Framing: A good message.

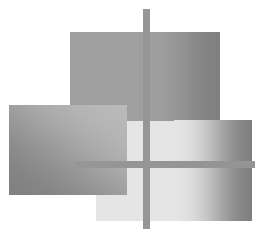
- The “Institution” matters.

- Players → the Playing field.
- To become law, a bill must pass the house, the Senate, and be signed by the President.
- ... plus advance through committee & overcome Senate filibuster!

- The field is tilted in favor of the defenders.

- Does Disney have enough power?

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-
- A missed opportunity...

ISSUE: Protect Owners from Copyright Infringement					OBJECTIVE: Pass SOPA bill – content websites			
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American Library Assoc.	None	small	Small	Large	Large	Small	Mod.	v. small
Users	None	Large	Small	V. Large	Very Large	Large	Large	Small
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SOPA & PIPA Timeline

- PIPA introduced in Senate on May 12, 2011.
- SOPA introduced in the House on October 26, 2011.
 - Introduced by Lamar Smith (R-TX).
- Many co-sponsors of each bill.
 - SOPA had 31 co-sponsors.
 - PIPA sponsors include Sen. Marco Rubio (R-FL)
 - Bipartisan support in both houses.

Google Trends

sopa

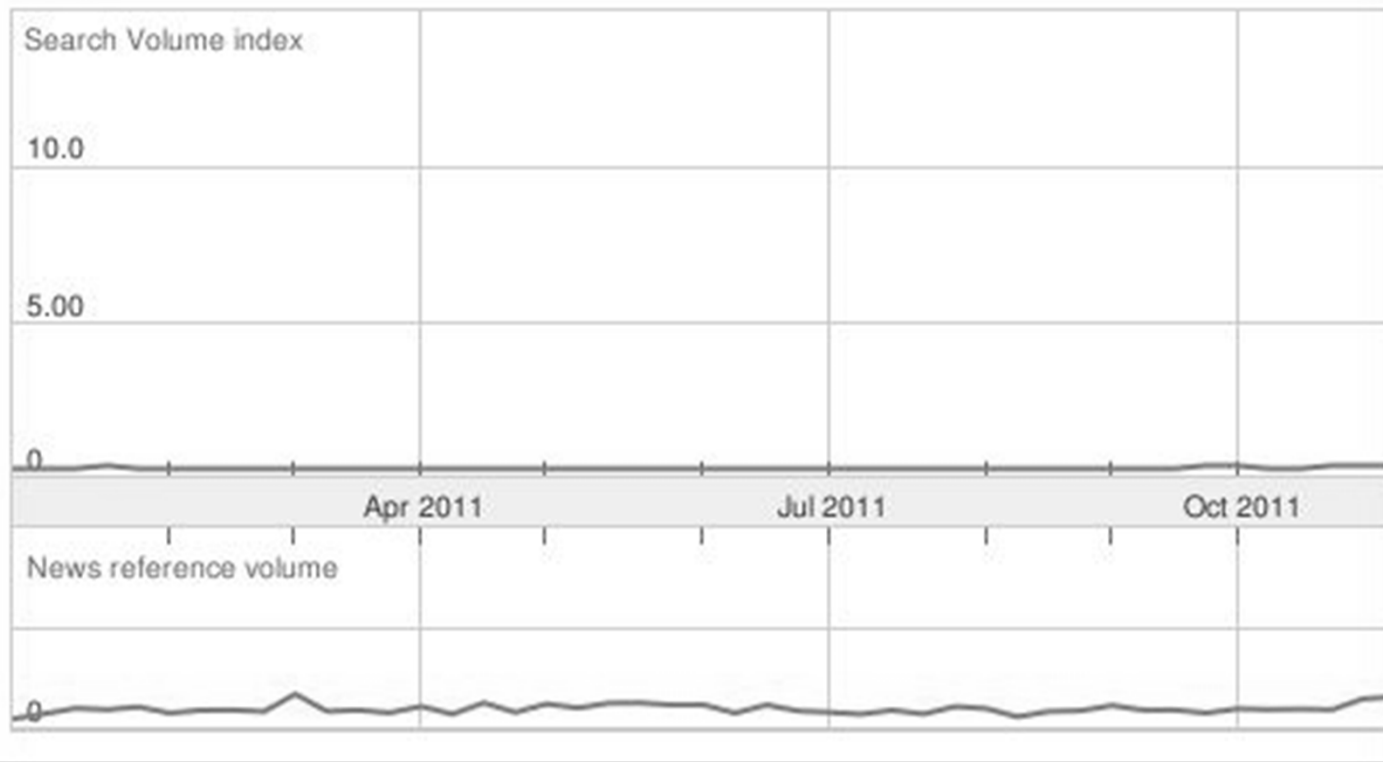
Tip: Use commas to compare multiple search terms.

Searches Websites

- Scale is based on the average traffic of **sopa** from United States in 2011. [Learn more](#)
- An improvement to our geographical assignment was applied retroactively from 1/1/20

sopa

1.00



Google Trends

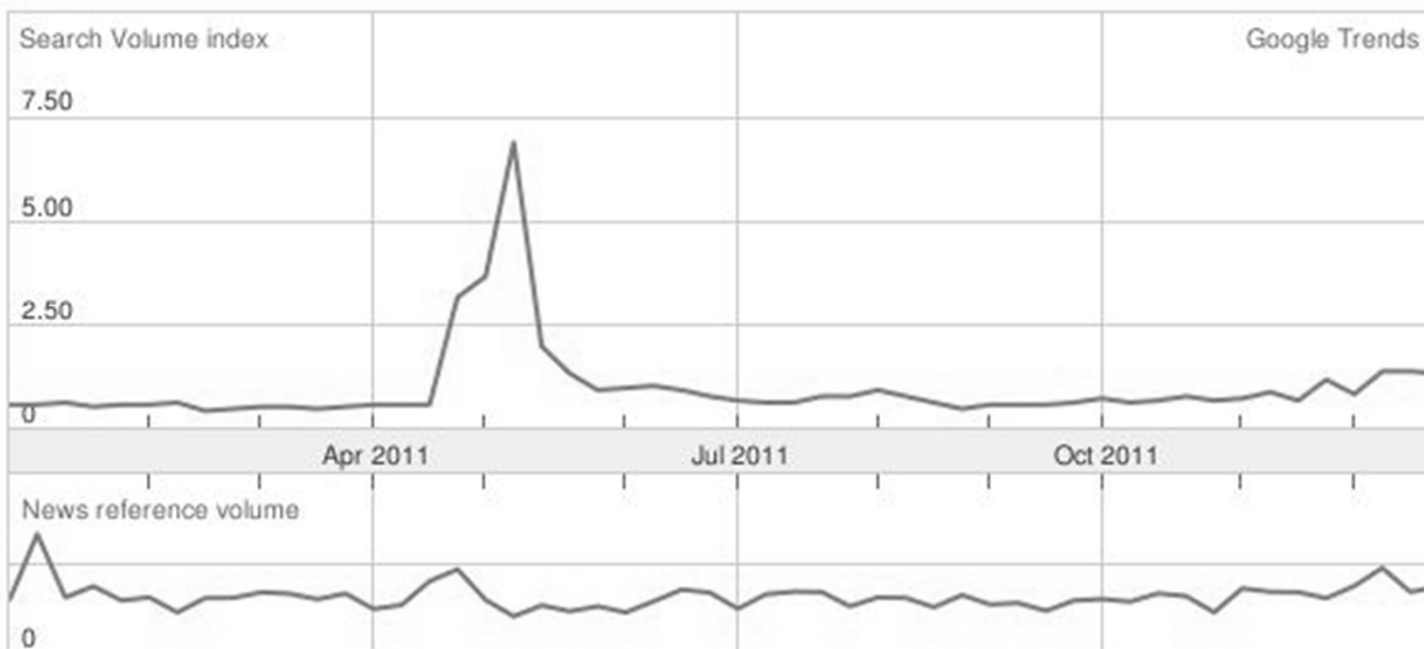
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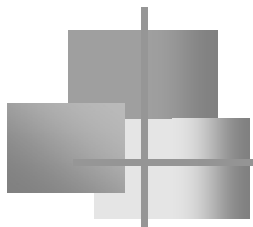
Searches Websites

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- An improvement to our geographical assignment was applied retroactively from 1/1/2011. [Learn more](#)

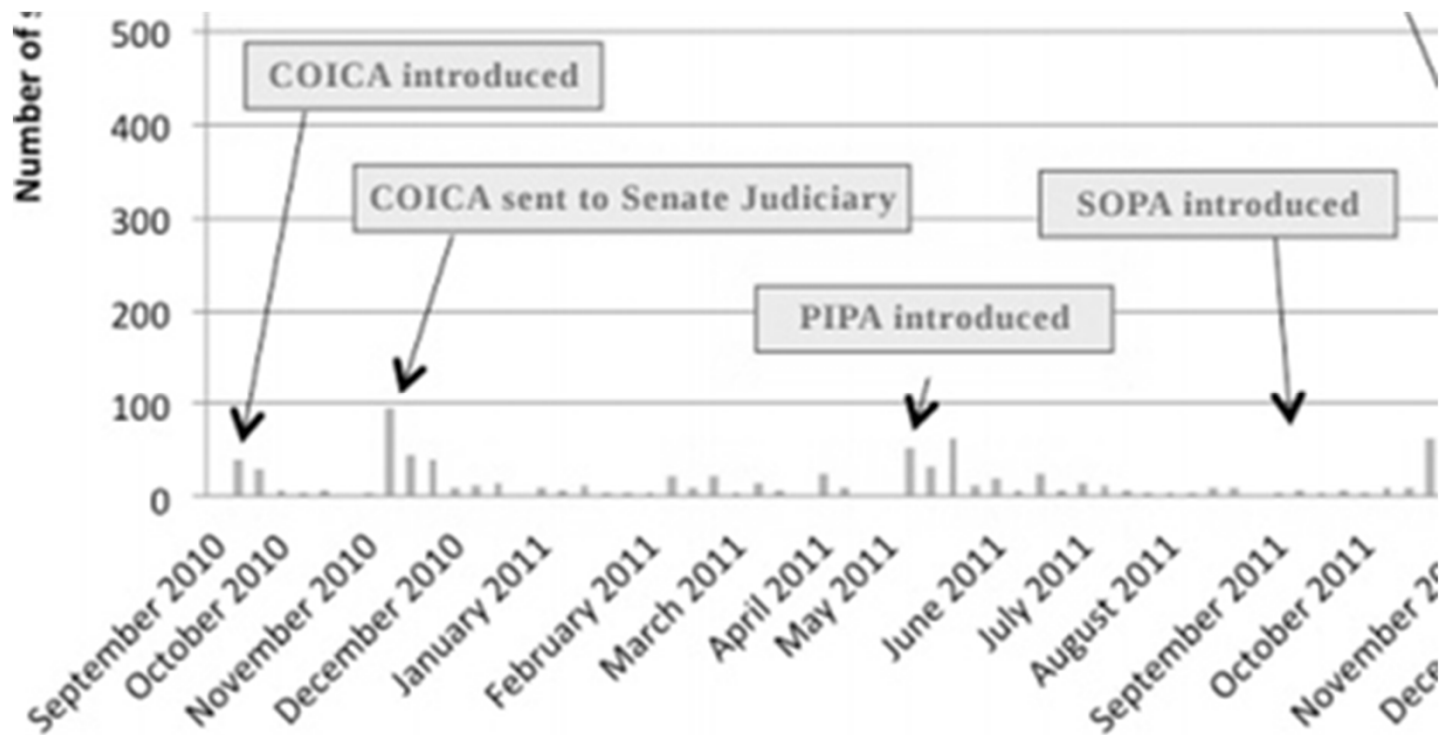
pipa

1.00





Number of News Stories





Predicting the Outcome...

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A large, black, serif letter 'W' logo, which is the primary symbol for Wikipedia.

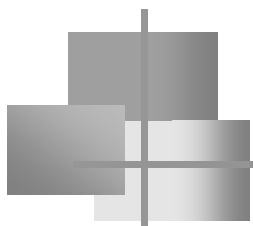
WIKIPEDIA
WIKIBEDIA

Imagine a World Without Free Knowledge

For over a decade, we have spent millions of hours building the largest encyclopedia in human history. Right now, the U.S. Congress is considering legislation that could fatally damage the free and open Internet. For 24 hours, to raise awareness, we are blacking out Wikipedia. [Learn more.](#)

Contact your representatives.

Your ZIP code:



Google Search

I'm Feeling Lucky

Tell Congress: Please don't censor the web!

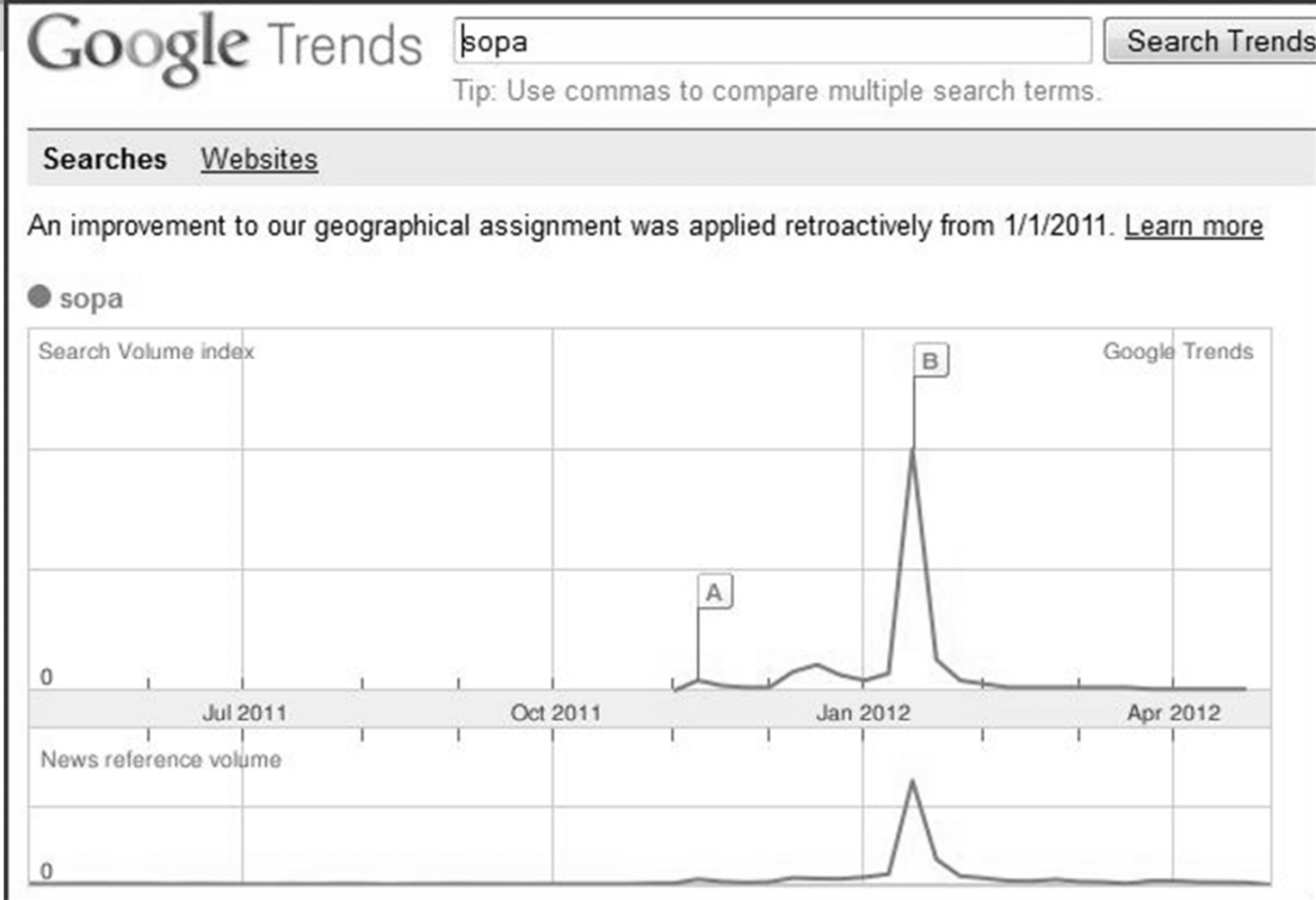
[Learn more about searching on Google with SSL. Go to classic Google.](#)



The Opposition Frames SOPA

- Sergey Brin:
 - “SOPA would put the U.S. on par with most oppressive nations in the world.”
- Electronic Frontier Foundation (EFF):
 - “Massive piece of job-killing Internet regulation. This bill cannot be fixed; it must be killed.”
- Alexis Ohanian, co-founder of Reddit:
 - “He’s of the firm position that SOPA could potentially obliterate the entire tech industry.”
- Lukas Biewald, founder of CrowdFlower:
 - “It’ll have a stifling effect on venture capital ... No one would invest because of the legal liability.”
- *How can they get their message out? ...*

When Did You Hear About SOPA?



A [SOPA Drama: Google, Facebook Oppose Stop Online Piracy Act in Congress](#)
Slate - Nov 17 2011

B [SOPA and PIPA](#)
YouTube - Jan 18 2012

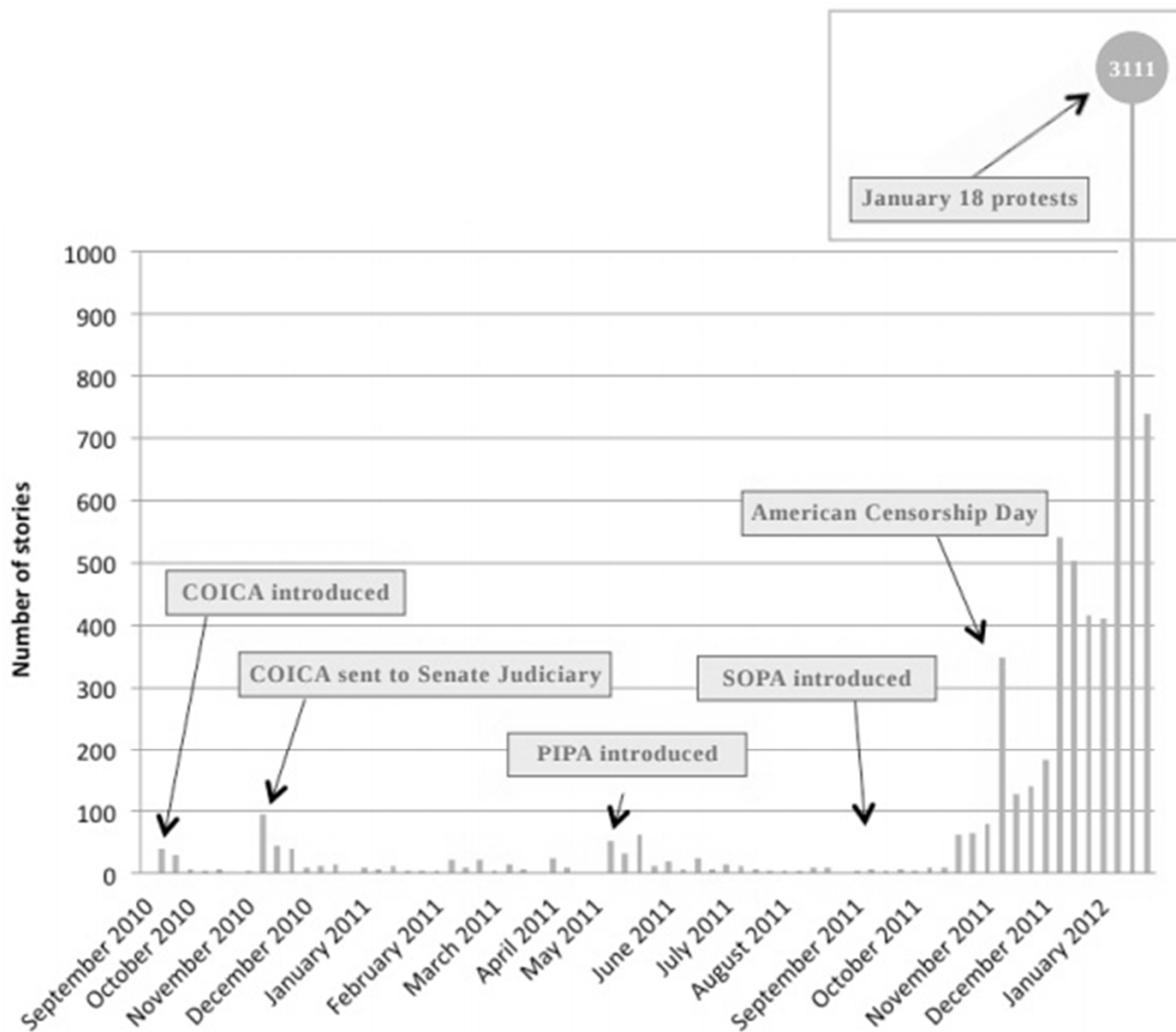


Figure 1: Number of stories published each week related to COICA, SOPA, or PIPA



Opponents Strategize Too!

- High publicity helps organize the unorganized.
- Predictor of success: Can you grab the public's attention?
- Can they frame the issue to attract public support and mobilize them?



29%

Support

71%

Oppose

National Vote Count: 6,860



IBOPE Zogby Poll: 68% Oppose Online Piracy Act (SOPA)

More than half of likely voters aware of legislation

Utica, NY (PRWEB) January 17, 2012

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More than two-thirds of likely voters that are aware of the Stop Online Privacy Act (SOPA) are opposed to the legislation, and the same number (68%) say it infringes on First Amendment rights, a new IBOPE Zogby Interactive survey finds.

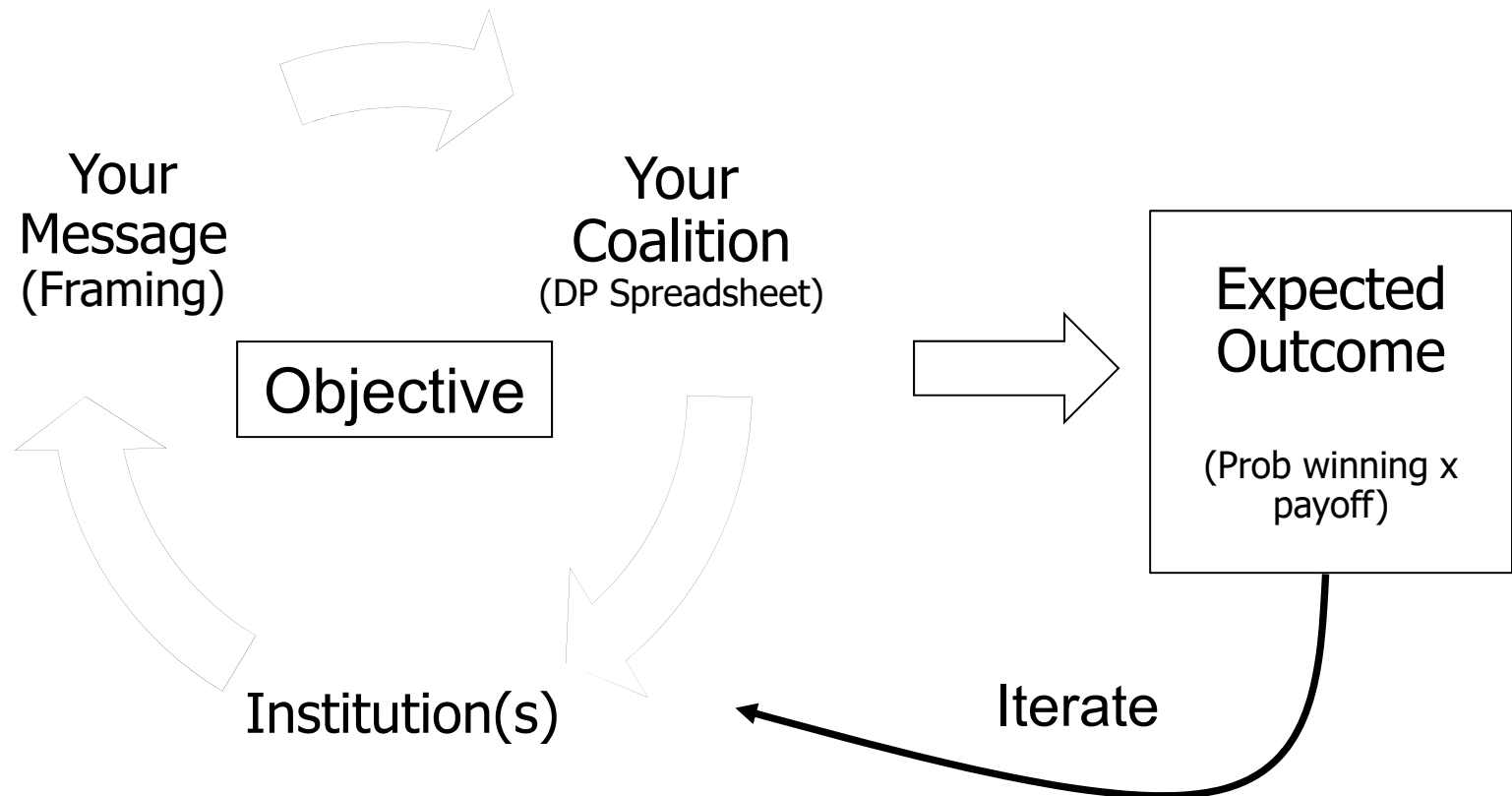
The January 10-12 poll of 2,050 likely voters shows nearly 60% are aware of the bill, which was recently put on hold by the U.S. House of Representatives. Of the 1,184 respondents who say they are somewhat or very aware, just 19% say that SOPA is needed to protect intellectual property rights and to ensure that artists producing creative content do not have their work stolen.

Democrats (25%) are more likely than independents (20%) and Republicans (16%) to say they support SOPA. Independents (13%) are least likely to say SOPA is needed to protect intellectual property rights, compared to Republicans (18%) and Democrats (24%).



IBOPE ZOGBY
international

Putting the Strategy Pieces Together



- The pieces need to be synchronized.
- Dynamics of strategy: Calculate expected outcome, then iterate and optimize!

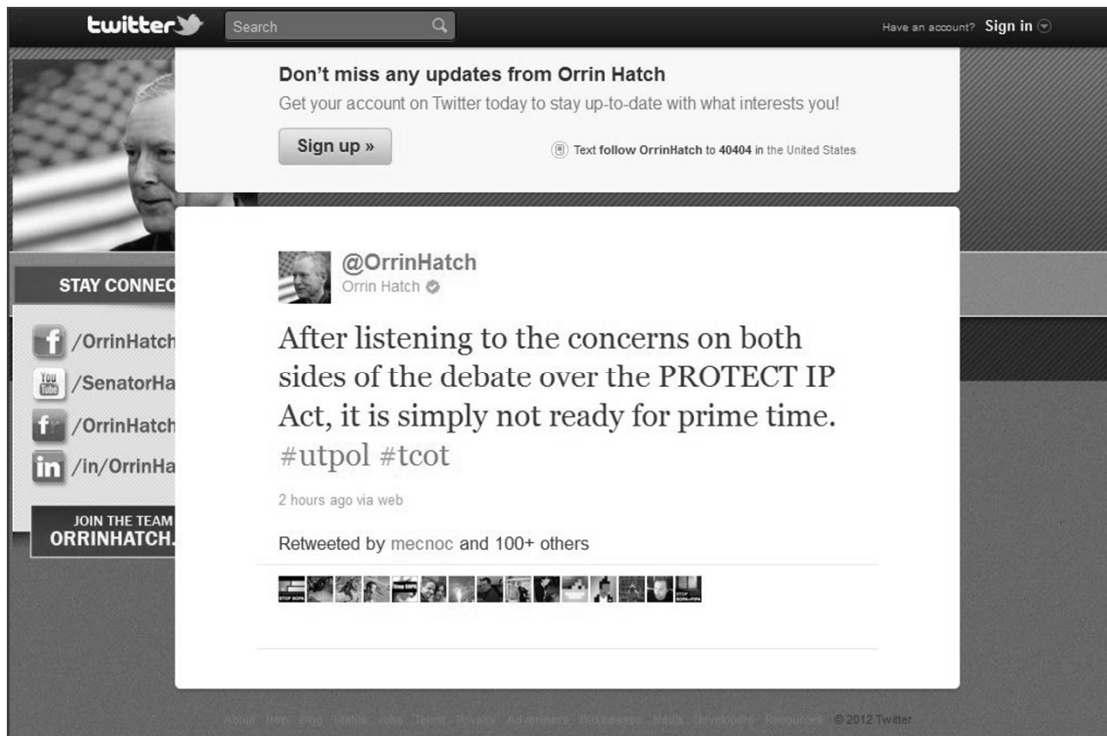


Support for SOPA Weakens

- The bargaining begins.
- The bill was revised on December 12, 2011.
- “Manager’s amendment.”
 - Only non-US sites.
 - Only sites that are designed and operated with the intent to promote copyright infringement.
- Will Google, Facebook, etc make a deal?
- No, but did propose an alternative (OPEN act). Why?

The End of SOPA (& PIPA)

- Support crumbles.
- Both bills die in January 2012.
 - Many bill co-sponsors pull out



The Conditionality of Political Support

- Why did politicians change sides?
 - Public awareness changes the calculus.
 - Information changes views (of politicians and the public alike).
 - Informational lobbying!



WASHINGTON -- With thousands of websites large and small blacked out Wednesday in protest of the proposed Stop Online Piracy Act, a House bill, and its Senate counterpart, the Protect IP Act, another co-sponsor of the legislation has withdrawn his support -- Sen. Marco Rubio (R-Fla.).

Home to the Disney World and Universal Studios theme parks, Rubio's Florida may be the most Hollywood-centric state outside California, and Rubio had been one of the first senators to sign on in support of Protect IP when Sen. Pat Leahy (D-Vt.) introduced it this past spring. In a frank statement posted to his Facebook page on Wednesday, Rubio hinted at a Beltway truth that many other wavering Protect IP and SOPA supporters have been hesitant to admit: More than one lawmaker signed on to the legislation without understanding its technical workings and potential problems, believing it to be an uncontroversial, bipartisan bill that would support American industries.

"Earlier this year, this bill passed the Senate Judiciary Committee unanimously and without controversy," Rubio wrote. "Since then, we've heard legitimate concerns about the impact the bill could have on access to the Internet and about a potentially unreasonable expansion of the federal government's power to impact the Internet. Congress should listen and avoid rushing through a bill that could have many unintended consequences."

Rubio called for Senate Majority Leader Harry Reid (D-Nev.) to "abandon" his plans to bring Protect IP to a floor vote early next week.



Disney's Strategy

- Did Disney make a mistake?
- Yes, but there was reason to believe ...
 - “The Valley guys generally start out with the view that politics doesn’t have any meaning, and that politicians are bumper stickers traveling as human beings. *They don’t understand it’s in their interest to pay attention.*” Tony Podesta
- Disney’s mistakes.
 - Poor timing: 2013 is not 2008 (or the 1990’s)
 - Should have sought protection when DMCA passed in 2000.
 - Lower profile: should have attached to another bill.
 - Needed to target selectively to fracture opposition.
 - If the public had not been made aware, a SOPA-like bill would have passed.
- The tech industry has finally woken up...

ROLL CALL

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Technology: New Power for the People

Could Online Advocacy Replace K Street's Traditional Model?

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By Janie Lorber

CQ Roll Call Staff

June 7, 2012, 5:58 p.m.

Holly McCall, a stay-at-home mom in the D.C. suburb of Vienna, Va., was shocked when she discovered that a 2-year-old federal regulation barred her from signing up for a credit card without her husband's approval. She launched an online petition, quickly gathered 33,000 signatures and within weeks found herself sitting face-to-face with one of the country's top financial regulators.

A meeting with Richard Cordray, the head of the new Consumer Financial Protection Bureau, would be a big get for even the most well-connected Washington, D.C., lobbyist. But for an increasingly powerful community of Internet activists, it was just the latest in a recent string of little-heralded victories, another moment in which citizen cyber-activism outperformed K Street clout.

A provision in a 2009 law overhauling rules for credit card issuers prevents companies from considering "household income" when approving an application. With no income of her own, McCall could open only a joint account with her husband, the family breadwinner. "I'm not sure I realized that I was doing anything akin to what the lobbyists do," said McCall, who worked as a Capital One marketing manager until four years ago. "My knowledge of the inner workings of

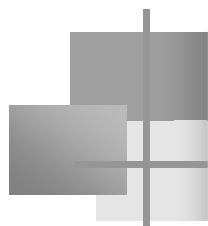


Mario Tama/Getty Images

Protesters of legislation to combat online piracy banded with websites to take a stand. In the end, a 24-hour blackout of popular websites helped turn the tide against the bills.

OUTLOOK

From the Editor: The



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CHANGE THE WORLD

Silicon Valley transfers its slogans—and its money—to the realm of politics.

BY GEORGE PACKER

MAY 27, 2013

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In 1978, the year that I graduated from high school, in Palo Alto, the name Silicon Valley was not in use beyond a small group of tech-conscious Apple





The Future of SOPA/PIPA

- Will that be the end?
- PIPA was a re-write of the Combating Online Infringement and Counterfeits Act (COICA) that failed to pass in 2010.
- It will be back.
- Were google, wikipedia, facebook, and friends watching?
 - What will they do?
 - Join forces with Disney and the content providers?

Cyber Intelligence Sharing and Protection Act

Cyber Intelligence Sharing and Protection Act of 2011



Full title	To provide for the sharing of certain cyber threat intelligence and cyber threat information between the intelligence community and cybersecurity entities, and for other purposes. – H.R. 3523
Acronym	CISPA
Citations	
Legislative history	
<ul style="list-style-type: none">• Introduced in the House as by Mike Rogers (R-MI) on November 30, 2011• Committee consideration by: House Select Committee on Intelligence	

The **Cyber Intelligence Sharing and Protection Act (CISPA)** is a proposed law in the United States which would allow for the sharing of internet traffic information between the U.S. government and certain technology and manufacturing companies. The stated aim of the bill is to help the U.S. Government investigate cyber threats and ensure the security of networks against cyber attack.^[1]

CISPA has garnered favor from corporations and lobbying groups such as Microsoft, Facebook and the United States Chamber of Commerce, which look on it as a simple and effective means of sharing important cyber threat information with the government.^[2] CISPA has been criticized by advocates of internet privacy and civil liberties, such as the Electronic Frontier Foundation, the American Civil Liberties Union, and Avaaz.org, because they argue it contains too few limits on how and when the government may monitor private individual's internet browsing information. Additionally, they fear that such new powers could be used to surveil the general public rather than to pursue malicious hackers.^{[3][4]}

Some critics saw CISPA as a second attempt at strengthening digital piracy laws after the anti-piracy Stop Online Piracy Act became deeply unpopular.^[5] Intellectual property theft was initially listed in the bill as a possible cause for sharing web traffic information with the government, though it was removed in subsequent drafts.^[6]

The legislation was introduced on November 30, 2011 by U.S. Representative Michael Rogers (R-MI) and 111 co-sponsors.^{[7][8]} It was passed in the House of Representatives on April 26, 2012.^[9] President Obama has argued that the bill lacks confidentiality and civil liberties safeguards and has threatened to veto it.^[10]



- Introduced November 30, 2011.
 - 112 co-sponsors in House.
 - Passed House on April 26, 2012, died in the Senate.
- Reintroduced in the House in 2012
 - President Obama threatened to veto.
- Reintroduced in the House in January 2015
- Intellectual property was removed as a possible cause for sharing Web traffic information with the government

Mozilla Criticizes CISPA for Having Broad, Alarming Reach

By Sarah Jacobsson Purewal, PCWorld May 2, 2012 6:58 AM

Mozilla has publicly decried the Cyber Intelligence Sharing and Protection Act (CISPA), a controversial cybersecurity bill recently approved by the House of Representatives that is now being considered in the Senate.

In a statement to *Forbes*, the head of Mozilla's Privacy and Public Policy Department said:

"While we wholeheartedly support a more secure Internet, CISPA has a broad and alarming reach that goes far beyond Internet security. The bill infringes on our privacy, includes vague definitions of cybersecurity, and grants immunities to companies and government that are too broad around information misuse. We hope the Senate takes the time to fully and openly consider these issues with stakeholder input before moving forward with this legislation."

The purpose of CISPA, which was introduced to the House in November 2011, is to allow the government and corporations to work together to protect the United States from foreign online attacks. The bill has been criticized because it includes a provision that would let companies share users' private data with government agencies, in the event of cyberattacks.



The bill passed last Friday after the House added new amendments that extended that controversial provision beyond just cyberattacks; companies will now be able to share users' private data in the event of "computer crime," exploitation of minors, and to protect individuals from "the danger of death or serious bodily harm."





More Recently: Trans-Pacific Partnership

Pro TPP

- Time Warner
- Comcast
- Twenty-Century Fox
- Disney Corporation
- Motion Picture Association of America
- Recording Industry Association of America
- Facebook
- Google
- Microsoft
- TechNet

Against TPP

- Freedom of Speech and Privacy Activists



Here's The Digital Privacy Battle At The Center Of Obama's Big Trade Deal

Posted: 03/13/2015 7:33 am EDT | Updated: 03/13/2015 8:59 am EDT

Open Internet advocates are still fighting for key privacy protections in a major trade pact the Obama administration is negotiating with 11 Pacific nations. But as talks over the deal enter their final stages in Hawaii this week, it looks like an uphill battle --

Internet freedom activists appear to be opposing important traditional allies: major tech companies and even Sen. Ron Wyden (D-Ore.).

!!!!

Chester and other groups, including the Electronic Frontier Foundation, worry that

data flow provisions in the trade agreement will enable big companies to fight and discourage strong privacy rules abroad. Since tech companies hold enormous amounts of information about Internet users, including sensitive personal data like medical information, privacy issues have become a major policy battleground in the tech universe. Major companies, of course, insist they already respect privacy and

aren't worried TPP will erode international privacy norms. Specific terms of the trade deal remain secret, however, making it difficult to determine what is actually in the pact.

David Weller, head of global trade policy at Google, acknowledged the concerns at a conference this week in Washington, D.C., telling The Huffington Post that "there has been some concern expressed that addressing cross border data flows ... whether it be TPP or other agreements, is somehow sort of overriding privacy." But he contended there's a way to balance market openness and regulation "without saying we're going to do cross border data flows and we're going to throw privacy out the window."



Framing, Framing Everywhere

- What has intellectual property got to do with Free Trade?
- Nothing (at least not much).
- Why connect the two?
- Who wants to be against Free Trade?
 - e.g., the number 1 issue that unites economists is the benefits of free trade!
- Other benefits: IP enforcement by foreign governments!
 - Trade “treaties” different treatment in Congress (“fast track”)



The Opponent's Arguments

The TPP would be a nightmare for Internet users everywhere — here are a few articles about the worst parts.

- Force sites to remove allegedly infringing content from the web without a court order — similar to SOPA. ([Read more](#))
- Create harsh criminal penalties for journalists and whistleblowers. ([Read more](#))
- Punish Internet users who share copyrighted material, even without any personal gain. ([Read more](#))
- Limit Fair Use to make copyright even more restrictive on creative innovation. ([Read more](#))

There are a lot of other reasons groups oppose the TPP beyond its impact on the free and open Internet. You can find out more information about those reasons at StopFastTrack.com.

- But no National Day of Action (with google going dark)...



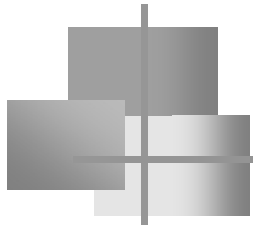
Summary Points – Interests

- Economic theory helps identify the relevant interests for a given issue
 - Industry structure matters!
- Collective Action Theory predicts who will solve their collective action problem and get active.
 - Organization matters!
 - Framing Matters
- Political Theory helps predict which interests will be active and their expected impact.
 - Coverage matters!
 - Timing matters!
- Ultimate objective: To predict which side of an issue will prevail.



Takeaways

- We frequently hear things like:
“Don’t mess with _____, they are politically powerful!”
- Why are they powerful? How can we measure power?
 - Because the CEO went to boarding school with the Senator?
 - Sometimes, even then each politician only holds so much power.
 - Because they can give the politician what he/she wants?
 - Most of the time.
- Coalition Strategies:
 - How strong is your side?
 - How strong is the opposition?
 - (Who will turn up? How will we frame the issue? High/Low profile? Etc.)
 - How do we evaluate this? How can you change the balance?



The Lesson of Politics

"We have no permanent allies. We have no permanent enemies. We just have interests."

Tony Podesta
Podesta Group

(paraphrasing Lord Palmerston, 19th century British P.M.)

~~Integrated~~ Strategy

