

Copyright Lobby Squelches Reform-Minded Viewpoint

By Christopher Barnett

Recently, a staffer with the Republican Study Committee, which is an influential caucus of Republicans in the U.S. House of Representatives, wrote a [policy brief](#) arguing for reform of the nation's copyright laws as being consistent with his interpretation of conservative political principles. In the brief (which has since been purged from the RSC's website), the staffer argued that U.S. copyright law has evolved into a system that is inconsistent with the intent of the nation's founders, and he suggested possible reforms including making statutory damages less punitive in nature, expanding the scope of fair use, instituting penalties for false copyright claims and setting more restricted limits on copyright terms.

That staffer is now out of a job. After reportedly receiving numerous calls from lobbyists with the entertainment industries and other big copyright interests, the RSC pulled and retracted the brief and informed the staffer, Derek Khanna, that he would no longer be working for the RSC when Congress re-convenes in 2013.

Regardless of one's opinion of Mr. Khanna's proposals, the fallout from the publication of his memo is disturbing. Intellectual property legislation typically is not as contentious as some of the more hot-button issues addressed in the nation's capital, but this episode nevertheless demonstrates the extent to which many politicians can be strongly and quickly influenced to action by Big Content stakeholders. Those stakeholders' zeal in protecting their perceived interests may be shocking to some, though it is perhaps uncomfortably familiar for businesses that have been targeted for software audits by aggressive publishers like Autodesk or IBM or by trade groups like the Business Software Alliance (sorry...now calling itself: "BSA | The Software Alliance") and the Software & Information Industry Association (SIIA).

What remains to be seen is whether the "[Streisand Effect](#)" will kick in to give the issues raised by Mr. Khanna renewed vigor precisely because of the efforts made to silence him. There are many who believe that the nation's more powerful copyright holders have long used those copyrights improperly as swords to maximize revenues and dominate markets, rather than as shields to protect and encourage creativity and innovation. It will be interesting in coming months and years to see if the reform bug takes hold in Congress.



About the author Christopher Barnett:

Christopher represents clients in a variety of business, intellectual property and IT-related contexts, with matters involving trademark registration and enforcement, software and licensing disputes and litigation, and mergers, divestments and service transactions. Christopher's practice includes substantial attention to concerns faced by media & technology companies and to disputes involving new media, especially the fast-evolving content on the Internet.

Get in touch: cbarnett@scottandscottllp.com | 800.596.6176