



Written by [Michael Tennant](#) on January 19, 2012

Is SOPA on the Ropes?

The stated purpose of the bills, as their names imply, is to prevent piracy of copyrighted works such as motion pictures, music recordings, and books. They also contain provisions to disrupt the sale of counterfeit pharmaceuticals and other goods. The main targets of the legislation are “pirate” websites located in foreign countries where the United States has no jurisdiction and therefore no way of shutting them down.



In the absence of such jurisdiction, the U.S. government would put the onus on “U.S.-directed” websites to prevent Americans from accessing these foreign websites or even knowing they exist. *Wired*, which blacked out the headlines on its home page as its SOPA/PIPA protest, summarizes the major provisions of the bills and the dangers the magazine sees in them:

Under the current wording of the measures, the Attorney General would have the power to order ISPs to block access to foreign-based sites suspected of trafficking in pirated and counterfeit goods; order search engines to delist the sites from their indexes; ban advertising on suspected sites; and block payment services from processing transactions for accused sites. If the same standards were applied to U.S.-based sites, Wikipedia, Tumblr, WordPress, Blogger, Google and Wired could all find themselves blocked.

Such requests would need to be reviewed and approved by a judge. But accused sites would get little notice of a pending action in U.S. courts against them, and, once blacklisted, have little effective means of appeal.

The bill, *Wired* says, is “an audacious power grab” that could result in “a destruction of the internet as we know it.”

The main supporters of the bill are, of course, companies that depend to a large degree on copyright, patent, and trademark protection of their products, including the Motion Picture Association of America, Viacom, Nike, and L’Oreal. They claim that piracy hurts their bottom lines, in turn resulting in reduced employee rolls.

That is probably true. But it also true that the proposed remedy of Congress is, in the words of *Time’s* [Jerry Brito](#), a “[cure] worse than the disease.” SOPA and PIPA, he argues, “allow the government to target foreign sites by essentially disappearing them,” creating “government blacklists of forbidden information.” This, he adds, “would send the wrong message.”

And not just to China or Iran, which already engage in [similar practices], but to liberal



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democracies that might want to block information they find naughty. Imagine if the U.K. created a blacklist of American newspapers that its [courts found violated celebrities' privacy](#)? Or what if France blocked American sites it believed contained hate speech? We forget, but those countries don't have a First Amendment.

The result could be a virtually broken Internet where some sites exist for half the world and not for the other.

In addition to civil liberties concerns, there are practical reasons to oppose SOPA and PIPA, not least of which are the economic effects of the bills. "The language of SOPA is so broad, the rules so unconnected to the reality of Internet technology and the penalties so disconnected from the alleged crimes that this bill could effectively kill e-commerce or even normal Internet use," [eWeek](#) wrote.

The biggest danger to e-commerce lies in the legal liability for websites that may inadvertently, through user-supplied content, link to sites the government wants blocked. Wikipedia notes on its [extensive page on SOPA](#), which was kept available during the blackout:

Booz & Company on November 16 published a Google-funded [study](#) finding that almost all of the 200 venture capitalists and angel investors interviewed would stop funding digital media intermediaries if the bill became law. More than 80 percent said they would rather invest in a risky, weak economy with the current laws than a strong economy with the proposed law in effect. If legal ambiguities were removed and good faith provisions in place, investing would increase by nearly 115 percent.

"The worst part of this bill," Holmes Wilson of the advocacy group [Fight for the Future](#) told the [Guardian](#), "is that the vast majority of the damage will be invisible — it will be all the companies that never start because this bill has effectively killed them."

Besides being dangerous, the legislation will be relatively useless in combating copyright infringement. In the digital age, it is simply too easy to duplicate works and to evade strictures against doing so. As [Wired](#) points out, "SOPA and PIPA damage industry by reinforcing an untenable faith in the status quo, and an equally untenable fear of innovation. It reveals a mindset that continues to hold back media companies as they vie to compete on the new platforms that have already transformed their businesses, ready or not."

This is one of the reasons many libertarians and even some conservatives are beginning to question the very notion of intellectual property. Government protection of IP "focuses the attention of business leaders on stopping losses rather than promoting innovation and building new products," [Wired](#) avers. Sheldon Richman, in a recent article on IP for the [American Conservative](#), cites one example of this phenomenon: "James Watt's steam engine improved very little while his patents were in effect — he was too busy suing anyone he could for patent infringement. Only once the patents expired in 1800 did improvements in the steam engine accelerate."

Was the SOPA/PIPA Internet blackout successful? In terms of bringing attention to the matter, it probably could not have been more successful. As of this writing, [Wikipedia](#) reports, "Google News contains 7,200 articles on the blackout," and "more than 90 million people have seen the Wikipedia blackout page." Many millions more have seen the references to the bills on other websites participating in the protest.

When it comes to stopping the legislation, the results are more mixed. SOPA's author, Rep. Lamar Smith (R-Texas), remains unmoved, [calling](#) the blackout a "publicity stunt" that promotes "fear instead



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of facts.” He vowed to continue to move forward with the bill, which is scheduled for markup in February. Senate Majority Leader Harry Reid (D-Nev.) still plans to bring PIPA up for a vote on January 24.

While some other denizens of Capitol Hill, such as House Minority Leader Nancy Pelosi (D-Calif.), Rep. Darrell Issa (R-Calif.), and Rep. Ron Paul (R-Texas), expressed their opposition months ago, others are being forced to reexamine their stances in the face of Wednesday’s protests. According to [Ars Technica](#), as of this writing 17 Congressmen and Senators, including six former cosponsors of the bills, have announced their opposition to SOPA and PIPA since the blackout began. Thus, even if Smith and Reid do proceed as planned, their respective bills are far less likely to pass than they were just a few days ago. Then, with any luck, the voluntary blackout of websites will not be a harbinger of things to come.



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