

To the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America,

As a software developer, open source community member, and organiser of the LinuxSA Users Group, I have serious concerns with certain provisions of Chapter 17 (Intellectual Property Rights) of the Free Trade Agreement and I wish to express my support of the positions taken by Linux Australia Inc. and Electronic Frontiers Australia Inc. in their opposition to these provisions as documented at: <http://www.linux.org.au/fta/> and <http://www.efa.org.au/Publish/ipfta-paper.html>

If implemented, Chapter 17 of the Free Trade Agreement will import the worst of the US Patent system and the worst of their "Digital Millennium Copyright Act" (DMCA) into Australia, leaving Australian individuals and businesses at the mercy of US corporate interests, criminalising acts that currently are considered fair use, and will result in the lessening of innovation in computer software.

As an example of one of the problems the DMCA has caused, the respected UK-based Linux programmer Alan Cox resigned from his position on the committee of the USENIX Advanced Computing Systems Association and urged non-US citizens to boycott conferences in the USA as he said "with the arrest of Dmitry Sklyarov it has become apparent that it is not safe for non-US software engineers to visit the United States".

The US patent system is widely regarded as running out of control; it routinely grants patents on "inventions" that are obvious and not inventive such as web sites using database back-ends, one-click shopping, and how to use a laser pointer to exercise a cat. Permitting these obstructs true innovation and reduces competition; patents provide a very high degree of protection for a long period of time, and thus they should only be granted for truly unique inventions.

Lowering Australia's patent standards to that of the US will also particularly hurt the Australian small businesses that produce software, as defending against an over-broad bogus patent claim (such as have recently proliferated in the US) can easily take many years and cost millions of dollars.

I would also like you to consider that accepting Chapter 17 of the Free Trade Agreement will prevent Australia's Government from considering Intellectual Property Laws on their own merit, which can only be to the detriment of Australia.

Respectfully,
Geoffrey D. Bennett