

Civil Society Coalition Statement to the Third Inter-Sessional Intergovernmental Meeting on the WIPO Development Agenda

July 21, 2005

Thank you Mr Chairman. We welcome your re-election to the chair.

The Civil Society Coalition (CSC) is a network of over 25 public interest NGOs of varying sizes and interests. Currently, the members of CSC are headquartered in more than twelve developed and developing countries, and include groups that are working in areas such as public health, agriculture, the development of free software, trademarks and domain names, copyright policy, the protection of non-copyrighted elements of databases, traditional knowledge, folklore and access to genetic resources.

The CSC supports the proposals of the Group of Friends of Development (FoD), to make fundamental changes in WIPO in order to integrate the development dimension into its mission and activities, consistent with the WIPO agreement with the United Nations to accelerate economic, social and cultural development, by promoting creative intellectual activity and facilitate the transfer of technology related to industrial property to the developing countries.

The original Development Agenda proposal tabled in September 2004 noted that the establishment of a treaty on access to knowledge and technology as a possible mechanism to ensure an effective transfer of technology to developing countries. The elaboration of the Development Agenda submitted by the FoD on April 6, 2005 to WIPO further emphasized that "in order to ensure the credibility of the IP system . . . more has to be done in order to ensure that peoples all over the world have access to knowledge and technological development."

There is an emergent consensus among many nations on the need for new initiatives to promote access to knowledge as evidenced in the recommendation put forth by the 130 Heads of State and Governments of the G-77 countries and China, which met at the Second South Summit in Doha, Qatar in June 2005. This recommendation called upon WIPO to "include in all its future plans and activities including legal advice a development dimension that includes promoting development and access to knowledge for all."

The broad constituency of stakeholders that supports the elaboration of a possible treaty on access to knowledge include groups representing librarians, educators, blind people and the visually impaired, scientists, academic scholars, development groups, consumer organizations, free software advocates, public interest civil society groups, governments and innovative corporations.

An access to knowledge (a2k) treaty should protect, enhance and expand access to knowledge, and to facilitate the transfer of technology to developing countries.

The elaboration of possible elements of a treaty should focus on several issues, including for example:

1) provisions regarding limitations and exceptions to copyright and related rights, including but not limited to:

a. Minimum limitations and exceptions to copyrights, such as those related to

- i. distance education,
- ii. rights of persons with disabilities
- iii. the first sale doctrine for library use,
- iv. minimum limitations on liability for internet service providers (ISPs)
- v. regulation of digital rights management and measures regarding circumvention of technological protection measures, in order to ensure traditional rights of consumers, educators and others,
- vi. measures to provide access to orphan works,
- vii. limits on the term of protection for copyright and related rights,
- viii. and updated version of the Berne Appendix that takes into account new technologies,

2) provisions regarding initiatives to promote cooperation and investment in open access databases and scientific journals, free software, expanded access to government funded research, archives of public broadcasting, and other projects that expand the knowledge commons,

3) Measures to facilitate the development of open standards, including those that are essential for free software and essential knowledge goods,

4) Agreements to ensure that patents rights do not inhibit certain research experimental uses, practical measures to ensure the implementation of Paragraph 4 of the Doha Declaration on TRIPS and Public Health, and

5) Cooperation to implement Article 40 of the TRIPS, concerning the control of anticompetitive practices.

The elements of a possible treaty on access to knowledge could be discussed in existing committees such as the Standing Committee on Copyright and Related Rights (SCCR) and the Standing Committee on the Law of Patents (SCP).