

Committee on Copyright and other Legal Matters (CLM)

THE IFLA POSITION ON THE GENEVA DECLARATION ON THE FUTURE OF WIPO

September 28, 2004

The International Federation of Library Associations and Institutions (IFLA) has joined several hundred other non-governmental organizations and individuals in signing the Geneva Declaration on the Future of the World Intellectual Property Organization issued September 29, 2004.

IFLA has taken this action because IFLA's core values include the "belief that people, communities and organizations need universal and equitable access to information, ideas and works of imagination for their social, educational, cultural, democratic and economic well-being."

Furthermore, IFLA's professional priorities call for IFLA to assume "a dual responsibility, both to the producers of intellectual property and to libraries as representatives of information users, because safeguarding and providing access to products of the mind are fundamental to the growth of knowledge."

While IFLA recognizes and applauds recent moves by WIPO that may respond to these professional imperatives - such as a new focus on adequate protection of traditional knowledge and the needs of the print disabled, and greater openness to NGO's like IFLA that represent the public interest - the Declaration rightly points out to WIPO and its member states that WIPO has thus far inadequately protected and promoted the balance between users and owners that is fundamental to effective intellectual property regimes.

IFLA therefore hopes that the Declaration will bring to WIPO's attention a number of important issues that have serious implications for education, libraries and other providers of information.

Freedom, prosperity and the development of society and of individuals are fundamental human values. They will be attained only through the ability of well-informed citizens to exercise their democratic rights and to play an active role in society. Constructive participation and the development of democracy depend on satisfactory education as well as on free and unlimited access to knowledge, thought, culture and information.

IFLA proclaims the fundamental right of human beings both to access and to express information without restriction. IFLA and its worldwide membership support, defend and promote intellectual freedom as expressed in the United Nations Universal Declaration of Human Rights. This intellectual freedom encompasses the wealth of human knowledge, opinion, creative thought and intellectual activity.

IFLA asserts that a commitment to intellectual freedom is a core responsibility of the library and information profession worldwide, expressed through codes of ethics and demonstrated through practice.

IFLA therefore urges WIPO to address the following important issues, as a matter of urgency, guided by the principles articulated by James Boyle:

1. THE IMBALANCE IN INTELLECTUAL PROPERTY LAWS

The preamble of the WIPO Copyright Treaty succinctly states "the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention".

IFLA is fully supportive of this statement. However, the balance has become distorted, at the expense of consumers of information. IFLA, therefore, urges WIPO to address the issues affecting the delicate balance between just demands of rights-owners and consumers of information. Of particular concern is the ever-lengthening extension of copyright terms, which is rapidly diminishing the public domain in

order to benefit the owners of a **tiny minority** of works that are still being exploited commercially.

2. MONOPOLY ON INFORMATION

The monopolization of information via restrictive intellectual property rules in both the print and digital environments, by rights owners, has led to a serious imbalance in the provision and accessing of information, which negatively affects education, research and development, not only in developed countries but more specifically, in developing countries. Efforts to develop new protections for databases containing facts and other public domain material are especially troubling.

3. TECHNOLOGICAL PROTECTION MEASURES

The WIPO Copyright Treaty states "the need to introduce new international rules and clarify the interpretation of certain existing rules in order to provide adequate solutions to the questions raised by new economic, social, cultural and technological developments." IFLA believes that educational and developmental needs have not been sufficiently taken into account in finding appropriate solutions.

More restrictive intellectual property laws, technological protection mechanisms and digital locking-up devices, as well as the overriding of permitted 'fair use' applications by contractual enforcement, have created serious barriers to accessing information and promoting research and innovation.

IFLA is particularly concerned that the legitimate professional activities of libraries are being seriously hampered in the process.

4. THE DIGITAL DIVIDE WIDENS

The chasm between the "digitally advanced" and "digitally deprived" continues to widen. Sophisticated intellectual property laws and technological transfer to developing countries have in many ways exacerbated the problems related to access to information and development. Developing countries are being expected to adhere to very strict international agreements, which developed countries did not have to, when they were in the developing stage. Technological activity consists mainly of learning to use, maintain, sustain and advance imported technologies, at a high price, rather than encouraging innovation and independence at the domestic level in developing countries. Current international copyright rules are therefore fostering the dependence of developing countries on advanced countries rather than bridging the divide.

5. FREE TRADE AGREEMENTS

IFLA is concerned that some developed countries are imposing stricter copyright laws on other countries, which far exceed the minimum requirements of the Berne Convention and the TRIPS Agreement. Many developing countries find it extremely difficult to adhere to current international intellectual property agreements. Now they are having to adopt even stricter copyright regimes, in exchange for favorable trade provisions, but are being set up for failure as they will not be able to honour these agreements.

IFLA therefore urges WIPO and the WTO to work together to adopt a totally new approach to intellectual property worldwide, taking into account the very different needs of developed and developing countries. IFLA supports the Proposal of Argentina and Brazil for a "Development Agenda" at WIPO.

Intellectual property laws need to be reviewed at the international and domestic level to ensure appropriate laws for countries at different stages of development. These laws must facilitate access to knowledge, advance innovation, accelerate development and restore the balance between the just demands of rights-owners and consumers.

LINKS

The Geneva Declaration on the Future of WIPO (www.futureofwipo.org)

UNESCO Public Library Manifesto, 1994 (<http://archive.ifla.org/VII/s8/unesco/manif.htm>)

Glasgow Declaration on Libraries, Information Services and Intellectual Freedom (<http://archive.ifla.org/faife/policy/iflastat/gldeclar.html>)

Boyle, James. *A manifesto on WIPO and the future of intellectual property*, 2004 Duke L.& Tech Review 0009 (www.law.duke.edu/journals/dltr/articles/2004dltr0009.html)

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