

**Academics Appeal to ITSSD:
Become an Advocate for Change to the Int'l IPR Regime -
Promote Open Source/Universal Access to Knowledge**

APPEAL

From: arif [mailto:arif@uottawaglobe.ca] **On Behalf Of** donna.arif@rogers.com
Sent: Monday, April 30, 2007 9:34 AM
To: info@itssd.org
Subject:

Mr. Kogan,

I find some of your terms funny, like open-source extremists. For me, all I would like is that people who are doctors, nurses, public health workers etc. have a good education, which means that schools of health in developing countries should have internet access and access to scientific articles. The most efficient way to do this is to remove the user-fee for scientific articles, rather than recirculate by providing aid money that ends up back where it came from after passing through bureaucracies. That means they can do empirical research with literature review, and would be able to integrate local knowledge which what exists in the literature. Then, without such a large reliance on expertise from beyond the country, people could go about things like malaria prevention and prevention of water-borne diseases. Those of us that work in international development know that the greatest inefficiency in solving the problems of development is the international component, involving a mish-mash of civil society and UN involvement, rather than development coming from within. The vicious cycle of poverty is that modern problems have arrived in countries without modern knowledge, people are poor and this leads to ill health, people have ill health so they cannot become wealthy, people need knowledge to become health and wealthy, but if they are neither of these they cannot get it. The best development will be national development, or local development. The best thing for us to do is allow the internet to be a global library so that problem-solvers can reach for what they need. People still go to bookstores when there are libraries.

I would like to persuade you to become an advocate for a change in the IPR regime to allow universal access to knowledge. We should think of this as a scientist or innovator trying to solve a problem. How do we promote R and D, while making access to knowledge universal? How do we generate prosperity while at the same time ending poverty? How do we have free trade and freedom for people?

Be good,

A

SOURCE

<http://www.uottawaglobe.ca/globe/?q=en/site>

uottawaglobe.ca development group

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Arif



International Health, Development,
Human Rights and Global Citizenship
University of Ottawa - Canada's University

RESPONSE

From: lkogan [lkogan@itssd.org]

Sent: Wed 5/9/2007 4:28 PM

To: donna.arif@rogers.com'

Subject: GENERATING PROSPERITY THROUGH PRIVATE PROPERTY,
INCLUDING IPRs

Dear Ms. Arif,

I thank you for your thoughtful articulation concerning one component of the problem of poverty.

However, if you believe that the answer to solving poverty is to give away knowledge like aid to those in need, you are dismissing the most important deficiency of all: acknowledgement of the essential elements of human nature: pride, incentive and self-help.

All of the aid and money in the world will not solve the problem of poverty, though it may help out in natural disasters and similar emergencies. Financial and in-kind aid and knowledge 'give-aways' only enhance welfare dependence; they do

NOT enhance welfare. Rather, self-help, education, economic incentives and pride are the key elements necessary to help the poor to rise above poverty and welfare dependency. In other words, the poor must be 'enabled' to provide for themselves and their children, and this begins with the individual economic freedoms. The truly self-motivated persons, who are rewarded for their risks and efforts, are the ones who usually produce the most and contribute the most extensively to their societies. This is encouraged through establishment of rule of law and recognition and enforcement of private property rights.

IPRs, as with any other form of private property are economic incentives – plainly and simply. They reflect an agreement with society that, in exchange for the time, effort and cost of innovating, in the end, providing information to and for the betterment of society, society will provide a limited period of 'exclusivity' – an exclusive private property right in the created work or innovation, and its use, distribution, reproduction, importation, etc. Copyrighted scientific papers, computer software as well as patents for drugs, medical devices, etc. appropriately reflect this quid pro quo. It is only when the period or scope of exclusivity goes beyond a reasonable point that societal interests are no longer well served.

If you go back in history, you will note that copyrights were truly intended to span the lifetime of authors so that such persons could enjoy the fruits of their labors while they were alive, with society remaining the ultimate beneficiary following their deaths. While that period of exclusivity is now approximately 75 years, it was previously, during the US revolutionary period, approximately 20 years. Correspondences concerning the need for extending copyright protection to authors' works, exchanged between James Madison and Thomas Jefferson, for example, make clear reference to the morbidity charts of that era, as the basis of a reasonable period of exclusivity for copyrights. Patents still are provided for only 20 years, although the lifespan of the inventors is far longer. In addition, the cost of developing new patentable knowledge has continued to increase at an astronomical rate. Arguably, the period of exclusivity provided for patents should be extended to reflect the longer lifespans of inventors, as well as the rapidly escalating costs of invention and innovation. Should not the inventors and innovators be adequately compensated for their costs, labors and efforts during their lifetimes? This explains why preclinical testing data generated for the purpose of establishing safety and efficacy, which is part of the invention and innovation process, is treated as a separate but related private intellectual property right, and why an added term of 3-10 years is provided for such right and to compensate for delays caused by the regulatory review process.

It must be remembered that the patent application process itself, just like the copyright registration process, is an act of disclosure to the public. The public ultimately benefits from those disclosures, through the dissemination of knowledge in the marketplace, and the ability to derive new knowledge therefrom, with adequate compensation for use, reproduction, etc. being paid to the inventor/authors during the period of exclusivity. Thereafter, such knowledge falls into the public domain and is universally accessible to all at NO CHARGE.

Not the ITSSD, I or its Advisory Board can subscribe to the new ethic that civil society open source extremists, as regards healthcare and information technologies and scientific knowledge, wish to impose upon the world by changing the basis for the international IP regime. Nor can we subscribe to the universal access/open source knowledge paradigm championed by countries like Brazil, Thailand, France and others. Do you all really think that requiring open source software in order to satisfy government procurement requirements will liberate the poor? In any event, which model of 'open-source' are you and the others referring to?? The Stallman GPL model or the Berkeley model? We and many others believe that the Berkeley model, if needed at all, provides the best compromise between a purely open system of global knowledge, and one which is proprietary-based.

Purely open and universally accessible knowledge is wonderful in the abstract. However, it is both against human nature, and against the social compact that has worked so well in the past, especially during the post-WWII period. The old adage that 'you get what you pay for', rings as true today in this case as in any other during any time in the past. Given human nature, people don't invest much in that which they are not compensated for, and people who continue to receive things without charge inevitably learn not to appreciate them.

People just don't solve problems without being adequately compensated. Recognition and respect for private property, including IP, is what is universally needed, not more universally accessible handouts. And, it is the market, not academic elitists or bureaucrats, who should determine the worth and value thereof.

Now, that would be the greatest gift to humankind, especially the poor, of all!

Sincerely,

Lawrence A. Kogan, Esq.
CEO
Institute for Trade, Standards and Sustainable Development (ITSSD)