

**FREE SOFTWARE FOUNDATION EUROPE
ON BEHALF OF THE
UNITED NATIONS WORLD SUMMIT ON THE
INFORMATION SOCIETY (WSIS)
PATENTS, COPYRIGHTS AND TRADEMARKS (PCT)
WORKING GROUP OF CIVIL SOCIETY**

Mr. Chairman,

Let me first express my congratulations to you for once more chairing this assembly and thank you for helping ensure a good participation of observer organisations throughout the process.

Mr. Chairman,

I am addressing you in my function as co-coordinator of the WSIS Patents, Copyrights and Trademarks (PCT) Working Group of Civil Society, which is the thematic working group for issues of knowledge regulation, software and the internet of the global Civil Society represented at the World Summit on the Information Society (WSIS).

During the first summit in Geneva, we witnessed how the member states of the United Nations formally agreed that knowledge dissemination and sharing are fundamental building blocks of a knowledge society. Quoting article 42 of the Declaration of Principles:

“Intellectual Property protection is important to encourage innovation and creativity in the Information Society; similarly, the wide dissemination, diffusion, and sharing of knowledge is important to encourage innovation and creativity. Facilitating meaningful participation by all in intellectual property issues and knowledge sharing

through full awareness and capacity building is a fundamental part of an inclusive Information Society.”

It is in this spirit that we see the Development Agenda proposed by the Friends of Development: patents, copyrights and trademarks are designed to limit access and knowledge sharing. If applied wisely and with measure, they can foster creativity and innovation. If applied carelessly, they can kill both along with their potential benefit for society: progress. This holds true for any nation in this world, rich or poor, north or south.

The Friends of Development propose within their Development Agenda to apply benchmarks to WIPO's policies and treaties in order to maximise their benefit for all of humankind, including, but not limited to, the developing nations.

The PCT Working Group strongly supports the proposal made by the Friends of Development for a Development Agenda, from which we expect positive consequences for the implementation of the WSIS plan of action.

Furthermore, we wish to share some of the points that were important for the debate during the World Summit on the Information Society and that we feel will add substance to the Development Agenda proposal.

Mr. Chairman,

As the global civil society represented at the WSIS stated in its essential principles of 14. November 2003: *“Human knowledge, including the knowledge of all peoples and communities, also those who are remote and excluded, is the heritage of all humankind and the reservoir from which new knowledge*

is created.”

In the past years, we have witnessed an ongoing expansion of the duration of copyright, and thus the timespan during which that reservoir remains subject to limited access. At the same time, the barriers to access have been raised by means of anti-circumvention policies and approaches to put violations under criminal law.

In the information society, knowledge is circulating and outdated faster, not slower: to adapt to that fact, the duration of copyright should be shortened considerably. For this we would also like to focus your attention on the WSIS Declaration of Principles, article 26:

“A rich public domain is an essential element for the growth of the Information Society, creating multiple benefits such as an educated public, new jobs, innovation, business opportunities, and the advancement of sciences.”

The internet has not only paved the way for the knowledge age, it also represents the latest seminal innovative step of humankind. It was made at a time when the barriers to access were much lower. A comparable breakthrough might be made impossible by these increased barriers: we should reconsider these barriers to make sure we do not disable the next breakthrough; this in particular refers to the anti-circumvention provisions and approaches at criminalising copyright violations, but is not limited to them.

Mr. Chairman,

Patents are another area in need of review that we identified throughout the WSIS: they can be an excellent tool to promote innovation, but their effects differ between areas.

Scientific studies for instance show that software is an area in which patents are harmful: they stifle innovation and pose a significant threat to competition; evidence for this has been collected by several renowned institutions, including the Massachusetts Institute of Technology (MIT), the Boston University School of Law, Price Waterhouse Coopers, US Federal Trade Commission and Deutsche Bank Research.

Similar effects may exist in other areas and can serve to undermine the patent system overall. We therefore encourage the Member States to start a dialog with the goal of establishing clear and binding ruleset to limit the scope of the patent system. These should take into account the full diversity of areas and ensure the stability and functioning of the patent system as a tool for innovation.

Given the scope and significance of these issues, only few of them can be adequately dealt with on committee level. Mainstreaming the development dimension into all of WIPO's activities requires the continuation of the overarching IIM process.

We sincerely hope that progress, wisdom, courage and global vision shall prevail in this necessary debate.

Thank you, Mr. Chairman.