

**UNITED NATIONS COMMISSION ON SCIENCE AND TECHNOLOGY
FOR DEVELOPMENT (CSTD)**

**Contribution to the CSTD ten-year review of the implementation of WSIS
outcomes**

Submitted by

WORLD INTELLECTUAL PROPERTY ORGANIZATION

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WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) CONTRIBUTION TO
THE 10-YEAR REVIEW OF THE IMPLEMENTATION OF THE OUTCOMES OF
THE WORLD SUMMIT ON THE INFORMATION SOCIETY (WSIS) IN THE FIELD OF
COPYRIGHT AND RELATED RIGHTS

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This contribution has been prepared by the Secretariat of the World Intellectual Property Organization (WIPO) in response to the Economic and Social Council (ECOSOC) resolution 2013/9, which requests the United Nations Commission on Science and Technology for Development (CSTD) to collect inputs from all facilitators and stakeholders concerning progress made over the past 10 years in the implementation of the outcomes of the World Summit on the Information Society (WSIS). Below are the responses to the questionnaire for CSTD's 10 year review of WSIS implementation¹.

Status of WSIS Implementation (Addressing Questions 1 to 3)

The Internet, new information and communication technologies, and the digital economy present both challenges and opportunities for the international community and the intellectual property (IP) system. The World Intellectual Property Organization (WIPO) has been fully engaged in the process of adapting the international IP framework to the evolving needs of the Information Society. Using a multi-stakeholder approach, WIPO addresses many issues related to the intersection between IP and the digital environment at the international level; among these are the technologies that enable management of IP rights on the Internet, the international framework for copyright limitations and exceptions, the emerging role played by users in the creation and distribution of content, and the role of Internet intermediaries. The commitment of WIPO to contribute to the development of an inclusive and development-oriented Information Society is reflected in past and in the planned future activities of the Organization.

Major developments have changed the conditions in which content and information are created and distributed online. Among others, making and circulating high-quality copies of media products has become easy, fast and very cheap; users are increasingly more engaged in creating content, for instance in platforms such as social networks, blogs and wikis. Both trends have contributed significantly to the development of a "people-centered, inclusive and development-oriented Information Society"; however they are also creating some challenges in terms of maintaining the balance within the IP system, guaranteeing its enforceability, and promoting incentives for creation.

The Geneva Declaration of Principles and Plan of Action of the World Summit on the Information Society (WSIS) encourages the development of a global Information Society by harnessing the potential of information and communication technologies (ICTs) to promote the Millennium Development Goals (MDGs). The Geneva Declaration recognizes that "education, knowledge, information and communication are at the core of human progress, endeavor and well-being" (paragraph 8); and it further emphasizes the importance of removing barriers to equitable access to information; of ensuring a rich public domain; and of raising awareness of different software models to ensure affordable access to software (paragraphs 25 to 28).

The IP system has evolved in recent years, both nationally and internationally. These changes have also been inspired by the principles enshrined in the WSIS outcomes. Governments have proven that multilateral processes can address effectively concrete impediments to the establishment of a "people-centered, inclusive and development-oriented Information Society." For instance in the context of Action Line C3 "Access to information and knowledge", the international community adopted, in June 2013, the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT), which is the latest addition to the body of international copyright treaties administered by WIPO.

¹ <http://unctad.org/en/Pages/CSTD/WSIS-10yearReview.aspx>

The instrument has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions to exclusive copyright rights for the benefit of the blind, visually impaired and otherwise print disabled (VIPs). It requires Contracting Parties to introduce a standard set of limitations and exceptions to copyright rules in order to permit reproduction, distribution and making available of published works in formats designed to be accessible to VIPs, and to permit exchange of these works across borders by organizations that serve those beneficiaries.

On parallel tracks, Member States remain engaged within the WIPO Standing Committee on Copyright and Related Rights (SCCR) in discussing possible legal instruments addressing the need for limitations to copyright for the benefit of libraries and archives, educational and research institutions, and people with disabilities.

In addition, the current legal framework provides for the flexibility to enable and promote “open” licenses, such as Open Source Software and Creative Commons; these are often seen as effective tools to enhance inclusiveness and access to knowledge.

Challenges in the Implementation of WSIS and New Trends in the ICT Environment (Addressing Questions 4 to 6)

There is an unprecedented opportunity for making the developing and least developed countries part of the global digital marketplace. The developing world has traditionally been content rich and distribution poor. The Internet is a global stage. Worldwide, there are 2.7 billion people online. In the developing world, Internet penetration will reach 31% by the end of 2013. In addition, more and more content is being delivered through mobile platforms and there are, according to the International Telecommunication Union (ITU), 6.8 billion mobile subscriptions, 5.2 billion of them in the developing world. The gap between technologically developed and other countries remains a significant challenge. There is a need to focus on the opportunities provided by the IP system for using and benefiting from the digital environment and thereby helping to bridge the “digital divide”.

Internet intermediaries are key drivers in the development of the Internet as well as in distributing creative content. They host, locate and search for content and facilitate its distribution. Their increasing influence in recent years, as well as their evolving role, has led to a debate regarding their responsibility in relation to guaranteeing the respect of basic rights, including copyright. This controversy is a direct result of the Internet’s phenomenal development – the web 2.0, user-generated content (UGC) websites, the wide spread of online streaming websites, and free hosting of large files are just some of the many examples of the constantly evolving online environment. Furthermore, the landscape has become more fragmented as court decisions worldwide have taken diverging approaches to defining the circumstances under which such intermediaries bear responsibility for infringing content on their networks. This scenario increases the need for balanced research and discussion of best practices and tentative solutions at the international level.

It has become clear that metadata and identifiers enabling users to locate and access content, including information identifying the creator and providing licensing information where appropriate, are an essential tool for the development of a balanced and people-centered Information Society. Interoperability of these identifiers and metadata is important to ensure that content is accessible for multiple purposes, including to provide access to content for beneficiaries of copyright exceptions, and enable users to find and use content that is in the public domain. The development of interoperable and standardized identifiers is one of the major challenges at the intersection between IP and ICTs. It requires the engagement of all stakeholders in the field and public authorities, both at the national and international level, could also contribute to this goal.

Copyright protects the moral and economic interests of creators through a system of intangible property rights provided in national laws and international treaties. The traditional model of returning value to creators and their business associates is rapidly changing in the light of the convergence of digital technology and the distributional power of the Internet. There are more stakeholders and the revenue stream struggles to guarantee appropriate incomes to the weaker players in the value chain, notably first line creators and other artists. There is a corresponding need for governments and stakeholders to better understand the role of copyright in regard to those technological developments. The key challenge is to strike the balance between various interests, while maintaining the necessary incentives for creation. In this respect, it is essential to work towards a greater awareness of intellectual property. Awareness is a pre-condition for achieving respect for IP, whose essential goal remains providing incentives for creation and innovation.

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