



Electronic Frontier Foundation

February 22, 2005

World Intellectual Property Organization
International Bureau
P.O. Box 18
CH-1211 Geneva 20
Switzerland

BY EMAIL, MAIL AND FACSIMILE TRANSMISSION: +41 22 733 54 28

Dear Sir/ Madam,

We are writing on behalf of the Electronic Frontier Foundation (EFF) to seek clarification of WIPO's policies on civil society NGO participation in the two upcoming April 2005 meetings to consider the proposal to establish a WIPO Development Agenda (document WO/GA/31/11) – the Inter-sessional Inter-governmental meeting to be held on April 11-13, 2005, and the meeting of the Permanent Committee on Co-operation for Development Related to Intellectual Property on April 14-15, 2005.

As you know, the WIPO General Assembly resolution of October 4, 2004, that adopted the Development Agenda Proposal provided that WIPO-accredited NGOs would be invited to attend these meetings as observers. EFF has been advised that it will be allowed to attend, as an accredited permanent observer NGO, and we are pleased to confirm our participation. However, we understand that WIPO is considering limiting the number of delegates that EFF and other permanently-accredited civil society NGOs may bring to two persons. This would appear to diverge from procedure at the Standing Committee on Copyright and Related Rights, where we are permitted to bring five delegates. We also understand that other civil society NGOs that are not already accredited as observers are being denied the opportunity to participate in these important meetings as ad-hoc observers.

As you are aware, the majority of currently accredited WIPO NGO observers (at least outside of the Traditional Knowledge IGC arena) represent commercial rightsholders' interests. The WIPO Development Agenda Proposal encompasses a range of issues and substantive subject matters. Limiting participation in the April meetings to currently-accredited NGOs will exclude many civil society organizations with special expertise in the matters in the Development Agenda Proposal and is likely to render the discussions unbalanced and unrepresentative of developing nations' interests. In particular, EFF understands that one of the recognized leading experts in the field of development and its relationship to Intellectual Property rights regimes, the International Center for Trade and Sustainable Development, is not currently accredited as an NGO observer and thus would not be allowed to attend the meetings.

We applaud WIPO for undertaking such a timely and forward-looking investigation into the relationship between Intellectual Property and development. In order to obtain the most balanced and comprehensive understanding of the issues raised by Brazil and Argentina's proposal, EFF respectfully recommends that WIPO give careful consideration to both the number and identity of the organizations that will be permitted to attend the Development Agenda Proposal meetings and adopt procedures to ensure procedural fairness in the range of views represented.

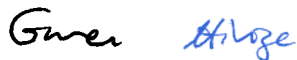
We write to seek WIPO's clarification of the following matters:

- (a) Will ad hoc observer civil society NGOs be permitted to attend?
- (b) Will there be a limit on delegation size for accredited civil society permanent observer NGOs?
- (c) What procedures and processes will be used to ensure equal representation of civil society NGO and rightsholder perspectives?
- (d) Will WIPO be limiting the number of participating civil society NGOs that can make floor statements?

As many NGOs are beginning their preparations for the April meetings, we would be grateful to receive WIPO's response by the close of business on Friday, February 25, 2005.

Thank you for your assistance.

Sincerely,



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