

Washington Declaration on Intellectual Property and the Public Interest

Kluwer Copyright Blog
September 8, 2011

Lucie Guilbault (Schulich School of Law.)

Please refer to this post as: Lucie Guilbault, 'Washington Declaration on Intellectual Property and the Public Interest', Kluwer Copyright Blog, September 8, 2011, <http://copyrightblog.kluweriplaw.com/2011/09/08/washington-declaration-on-intellectual-property-and-the-public-interest/>

The global intellectual property landscape has witnessed important changes in recent years. Most notably, the public interest dimension of intellectual property has emerged as a paramount concern. Though there seems to be a fairly broad agreement on the need for a more balanced intellectual property system which effectively promotes innovation, views diverge on how to best achieve it. The Global Congress on Intellectual Property and the Public Interest brought together scholars, policymakers, and policy advocates to discuss and to deliberate about the opportunities for constructing a positive policy and research agenda. The result: a resounding Washington Declaration on Intellectual Property and the Public Interest has been released by a group of over 170 policymakers and advocates from approximately 35 countries who met August 25-27 at American University Washington College of Law.

The Declaration opens with a preamble, making two fundamental statements:

1) International intellectual property policy affects a broad range of interests within society, not just those of rights holders. Thus, intellectual property policy making should be conducted through mechanisms of transparency and openness that encourage broad public participation. New rules should be made within the existing forums responsible for intellectual property policy, where both developed and developing countries have full representation, and where the texts of and forums for considering proposals are open. All new international intellectual property standards must be subject to democratic checks and balances, including domestic legislative approval and opportunities for judicial review.

2) Markets alone cannot be relied upon to achieve a just allocation of information goods - that is, one that promotes the full range of human values at stake in intellectual property systems. This is clear, for example, from recent experiences in the areas of public health and education, where intellectual property has complicated progress toward meeting these basic public needs.

Informed by these two broad principles, the Congress adopted a series of specific recommendations calling for action, focusing on several issues including: putting IP protection in its place, valuing openness and the public domain, strengthening limitations and exceptions, setting public interest priorities for patent reform, supporting cultural creativity, checking enforcement excesses, implementing development agendas, and requiring evidence-based policy making.

These recommendations aim at bringing some balance and fairness back into the way intellectual property rules are devised at the international, regional and national levels.

The Declaration is open for signature: <http://infojustice.org/washington-declaration>