

**IP Justice Statement**  
**WIPO IIM on the Development Agenda**  
**20-22 June 2005**  
**By IP Justice Executive Director Robin Gross**

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I would like to thank the Chair for the opportunity to comment at this important meeting. I am the Executive Director of IP Justice, an international civil liberties organization that promotes balanced intellectual property law. IP Justice has submitted a full policy statement for this meeting, which is available on our web site at [ [www.ipjustice.org](http://www.ipjustice.org) ].

IP Justice fully supports the Friends of Development proposal, and I would like to focus on a few key points.

- **First**, WIPO has a UN mandate to promote economic, social and cultural development among its members, most of which are developing countries. While IP Justice does not blindly assert that all IP protection necessarily hinders development, we do call for an independent, fact-based, case-by-case review of the balance of costs and benefits of IP rights for development in various countries.
- **Second**, in order to promote this type of customized review, IP Justice supports the creation of the WIPO Evaluation and Research Office as an independent body reporting to the General Assembly. This would allow stronger and more coherent oversight by all WIPO members and enhance WIPO's credibility by matching the practices of other international organizations such as the World Bank and the International Monetary Fund. It would be of little value to delegate the evaluation of broad effects on national development to a committee with a narrow mandate

covering only technical assistance for IP enforcement, and which does not report to the General Assembly.

- **Third**, IP Justice supports amending the WIPO Convention to conform to UN Millennium Development Goals, to strengthen member-driven governance, to clarify the Development Dimension as essential to WIPO and distinct from mere technical assistance, and to include public interest groups formally in WIPO processes. These steps will strengthen WIPO's mandate and credibility as a UN Specialized Agency.

- **Finally**, IP Justice supports WIPO reform that embraces the following principles:

A. WIPO must weigh both costs and benefits of IP rules. The UK and Asian Group join the Friends of Development in this position, and many developed countries recognize the social costs of granting monopoly rights, and the need to balance them with social benefits.

B. A "one-size fits all" approach does not foster development in all countries, especially an approach that maximizes IP protection at the expense of public interests. It makes little sense to impose policies that favor IP exporting nations onto countries that are overwhelmingly IP importers. In the past, developed countries refused to recognize other nations' IP rights, when it was in the best interests of their own national development.

C. IP laws need to protect flexibilities and limitations to rights. Developed countries have several precedents limiting the scope of IP protection, including Fair Use, the First Sale Doctrine, and use by libraries. Internationally, TRIPS provides for some flexibility in the implementation of IP laws according to domestic needs, to protect public health and to promote public interests vital to national development.

**D. WIPO needs more transparency and member-driven public-interest participation.**

For WIPO to serve its members' needs effectively, all interests must understand and participate in making WIPO decisions, which have profound effects on everyone.

**E. IP is not a goal in itself. It must foster the public goals of innovation, creativity, and technical development.** When it fails to do so, its social costs outweigh its benefits.

**F. Freedom of expression needs greater protection in a digital environment.**

Publishers increasingly use “digital locks” or other technological means to control the use of information, which often over-ride the consumers' rights to use IP. Since it is often illegal to bypass those restrictions, civil liberties including freedom of expression and privacy need particular care and protection in the digital world.

**In conclusion**, IP Justice fully supports a treaty for access to knowledge and calls for a substantive, good-faith discussion of WIPO's Development Dimension, proceeding from the Friends of Development proposal and resulting in formal amendment to the WIPO Convention. It is crucial for development priorities to be driven by all WIPO members, and for decision-making and administrative procedures to be fully transparent, appropriately structured, and formally responsive to a broad range of stakeholders.

If IP Justice can provide any additional information or feedback, we would welcome an opportunity to do so. Thank you.