

Sign Wash Declaration on IP and Public Interest

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With the U.S. round of the Trans-Pacific Partnership Agreement (TPPA) underway in Chicago, intellectual property and information policy experts from around the world have released a Washington Declaration on Intellectual Property and the Public Interest that challenges the dominant direction of the negotiations on intellectual property in U.S. trade agreements.

The Declaration was created through a consultative process with over 180 experts from 35 countries in six continents at the Global Congress on Intellectual Property and the Public Interest, August 25-27 at American University Washington College of Law.

Citing an "unprecedented expansion of the concentrated legal authority exercised by intellectual property rights holders" through recent trade agreements, the experts call for new efforts to "re-articulate the public interest dimension in intellectual property law and policy."

The Declaration's recommendations are guided by two overarching points.

First, "International intellectual property policy affects a broad range of interests within society, not just those of rights holders." The Declaration thus concludes that "intellectual property policy making should be conducted through mechanisms of transparency and openness that encourage broad public participation." In direct opposition to the procedures being followed for the TPPA, where negotiations are being conducted behind closed doors over text never released to the public, the Declaration calls for intellectual property agreements to be made only "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." And in a challenge to the U.S. position that it will enter the controversial Anti-Counterfeiting Trade Agreement without congressional approval, the Declaration calls for all international intellectual property agreements to "be subject to democratic checks and balances, including domestic

legislative approval."

The Declaration's second major theme is that "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." A full range of policies to promote public interest values must include, it explains in detail,

- * the use of other legal doctrines, like human rights and consumer protection laws, to cabin intellectual property rights expansion,
- * promotion of open access, open educational resources, open government and related open information policies;
- * strengthening limitations and exceptions that are needed to promote creativity, innovation and other socially beneficial uses of information and its products
- * setting public interest priorities in patent reform, including a more diverse structure of incentives for innovation;
- * supporting cultural creativity through experimentation with new systems to reward and empower authors with, instead of in opposition to, new technologies for information diffusion;
- * checking excesses in intellectual property enforcement with more safeguards, procedural fairness and proportionality in enforcement in our courts, at borders and on the internet;
- * implementing development agendas, which take account of the economic, social and cultural development interests of all countries, throughout international intellectual property policy making; and
- * requiring evidence, "rather than faith or ideology," to be the core of all policy-making.

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