

Observations to the Summary

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I will not necessarily speak about all the major aspects of the subject-matter that we have been discussing for two days here at this congress. However, I will say a few words about what I think to be very serious international political aspects of the issues covered by the program of the congress. When speaking about political aspects, I refer in a way to a basic question: what is the prospective for the preservation and future development of the traditional copyright system as we know it, and as it has been modernized by the WIPO “Internet treaties,” one of the most important makers of which is just Mihály Ficsor who has organized this congress and proposed its program. Dealing with political aspects in this context seems to me inevitable, since we are not working in a vacuum; there is a political environment which we have to take into account. I have to speak about this. Certainly that is why I — as a government official — have been invited by Mihály to this gathering where otherwise mainly academics, researchers, representatives of interested non-governmental organizations and practicing lawyers are present

I have been involved for 30 years in the more or less murky waters of policy making and implementation in the international intellectual property field. Things have changed a lot during this period, and it must not come as a surprise if I say that nowadays, in many quarters, the perception of intellectual property is not very favorable. There are a lot of reasons for that but I will not go into them. What can we do about it? I think that it is not easy to answer this question; and, if we take into account the status of ALAI, we have to recognize that this organization may not be in the frontline of political battles. Nevertheless, ALAI has the tradition of acting as a kind of international copyright observatory and as an organization whose ideas and positions are, in general, also treated with respect by politicians.

It is, however, equally important for ALAI not to try to discuss the copyright issues and work out proposals in a way that only or mainly concentrates on some theoretical aspects. It is important to realize in what environment we live today and what we can do to further develop the international copyright system.

And of course, the crucial point will be the day if and when we try to transform the Internet Treaties into obligations under the TRIPS Agreement in the World Trade Organization. That will be the real testing point.

So, where are we now? First, we should see and recognize that we reached the peak of the development of the international system of the protection of intellectual property in the middle of the 1990s with the adoption of TRIPS Agreement in 1994 and then the WIPO Internet Treaties — the WCT and the WPPT — in 1996, which took place in a surprisingly peaceful climate.

As I perceive it, generally speaking, there is still a positive attitude in government circles to intellectual property. Copyright is seen as an important legal tool to promote creativity and availability of valuable works. For example, the European Commission has taken a number of initiatives to improve and harmonize copyright protection in the European Union and to achieve an appropriate level playing field for this.. The Commission should be complimented for all these initiatives which have been taken.

What are then the challenges to intellectual property that I perceive? The first one, what you have all heard about, is the problems concerning pharmaceutical patents and more generally biotechnological patents. Although it does not relate to copyright, it reflects a new kind of challenge to intellectual property in general and it may also have an impact on the future development of copyright and related rights. The second one is the discussion provoked exactly by the Internet Treaties and the InfoSoc Directive concerning access to information and information technology in general. The third one is what I would call a general diplomatic climate, in particular, around intellectual property in the field of the trade policy.

More specifically, when we speak about copyright, there are four major challenges. The first one is the emergence and development in the last 20 years of what may be called “industrial copyright”. We have copyright protection for computer programs and original databases, and we even have in the European Union a sort of investment-protection for database makers. The second one is that there is an increasing resistance in users groups against copyright and this is something that we have discussed also today. The third challenge is coming from some countries who went to the Cancún meeting of WTO with the slogan “never more TRIPS, never more!”. And the fourth one is that we have to realize that now WIPO negotiations – I do not speak this time about WTO negotiations but about WIPO negotiations – in Geneva, and thus the further development of the international system of intellectual property protection – are to a large extent in the hands of diplomats and/or trade officials; not in the hands of intellectual property experts and the representatives of IP offices as 15 or 20 years ago. For example I have chaired this year the meeting of the WIPO Enforcement Committee. Before it, there had been great expectations that there some practical tools would be developed to fight piracy and counterfeiting. Nothing came out of it, because it was before the Cancún meeting of the World Trade Organization and nobody wanted to make any commitment on anything.

What can we do about it? I think that we present at this congress can do a lot about it. The first thing to do is to stress the legitimacy of the copyright system and raise public awareness about it. Legitimacy, in the sense that copyright should not be seen only as an instrument for payment of royalties to owners of rights in foreign countries. The stress should rather be on the beneficial effects of exclusive rights for the countries' domestic creators. Public awareness – I can only recommend a book which was published by WIPO, Kamil Idris, a book called “Intellectual Property: a Power Tool for Economic Growth”. That is something that should be read widely because – I think you will agree with that - it is a rather good book setting out the arguments for why intellectual property is so important.

My second point is that you have – directly or indirectly – a lot of contacts in developing countries. It is important to build up efficient and smoothly operating legislative, administrative and enforcement structures. In particular, enforcement structures.

The third thing one can do is to look to the “quid pro quo” – as I would say. The developing countries have widely accepted, reluctantly or not, the TRIPS Agreement and the intellectual property system under it. What they want now for this is some sort of recognition for their genetic resources, traditional knowledge and folklore. I think one should be open for those demands because for them it is an important political “quid pro quo”.

My final remark will be that I am unable to offer you a forecast what will happen; probably you do not know it either. Now that the Ministerial Meeting in Cancún is over, either it can be easier to negotiate new obligations in the intellectual property field, or it can be much harder, there can be much more reluctance to undertake any obligation whatsoever. I do not know what the result will be, but I think that we can all play a positive role in the development to a better understanding of IP and copyright.

Thank you so much.