



September 4, 2003

VIA FACSIMILE AND U.S. MAIL

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James E. Rogan
Under Secretary of Commerce for Intellectual Property
Director of the United States Patent and Trademark Office
U.S. Patent & Trademark Office
2121 Crystal Drive
Crystal Park II
Suite 906
Arlington, VA 22202

Dear Under Secretary Rogan:

I am writing to you on behalf of the American Association of Law Libraries, the American Library Association, the Association of Research Libraries, the Medical Library Association, and the Special Libraries Association. We write to express our surprise and dismay at recent statements reportedly made by the United States Patent and Trademark Office. According to press reports, the PTO openly chastised the World Intellectual Property Organization for its favorable reaction to a proposal made to WIPO Director General Kamil Idris in a July 7 letter signed by several dozen distinguished scientists, academics, technologists, open-source advocates, consumer advocates, librarians, industry representatives and economists worldwide. The letter proposed that WIPO hold a conference on open and collaborative models for development of public goods. We urge the PTO to reconsider its position and support the holding of such a conference in 2004.

The application of open and collaborative models raises important intellectual property issues for the international community that WIPO should be addressing. These models are experiments in creative use of intellectual property law to achieve socially responsible and productive ends. The letter itself discusses the importance of these models to such varied efforts as development of the Internet and World Wide Web, the Human Genome Project and other biotechnological research, promotion of civil uses of global positioning system technology, and access to academic research in the developing world, as well as the benefits to software development and use of free and open source access to software code. While the PTO's comments apparently focused on the propriety of WIPO's addressing the utility of free and open source software, these other examples

reflect the potentially profound importance of open and collaborative models to myriad additional aspects of social and economic development as well.

Open source software is itself clearly an important topic for WIPO to consider. Its use and potential are intimately related to copyright and patent law and policy. It is essential that this model be taken into account as the international community considers the future of intellectual property rights relating to information technology. Consideration of other open and collaborative models similarly will be critical to sound development of patent and other forms of intellectual property protection. In short, consideration of these models falls squarely within the scope of WIPO's mandate as the primary international forum for intellectual property policy.

It is well established that WIPO's mission includes anticipating the priorities of member states and focusing on challenges and opportunities presented by new technologies and business practices. It is also clearly recognized that industry and non-governmental organizations are important WIPO constituents in their own right. In fact, an express goal of WIPO is to develop increasingly strong relationships with the various segments of civil society. These principles and objectives are articulated, for example, in the Vision and Strategic Direction of WIPO, endorsed by the Assemblies of the Member States of WIPO in their Thirty-Fourth Series of meetings, Geneva, September 20 to 29, 1999. Accordingly, the United States and the other member states should applaud, not condemn, WIPO's enthusiastic response to this civil society proposal to address an important intellectual property topic arising from new technologies and business practices.

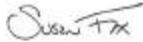
We are deeply distressed by reports that the PTO, instead, expressly reprimanded WIPO, calling for the organization to improve its stewardship of interactions with nonprofit groups and other non-member organizations. The United States has long acted as a leading supporter of public participation at the international level. We highly value this commitment and applaud the efforts the United States has made to enable civil society to monitor, inform and participate in the activities of numerous international bodies. We trust that any statements the PTO may have made were misconstrued, and urge the PTO to clarify and reaffirm its commitment to active public participation at WIPO and to WIPO's efforts to seek and benefit from the input of civil society.

We appreciate that WIPO must operate within strict budgetary constraints, and that its annual program is accordingly carefully defined. Hosting any conference requires the expenditure of significant resources of time and money. The topic of open and collaborative models is important and timely, however. We believe a conference to address this topic should be viewed as a priority for 2004. Press reports state that the PTO has said that the conference is beyond the scope of the proposed 2004-2005 program and budget, and that it is too late in the process to attempt to incorporate the event. We respectfully disagree. While such a conference may not have been expressly contemplated during its preparation, the Revised Proposal for Program and Budget 2004-2005 includes a number of programs the articulated goals of which could be substantially furthered by a conference on open and collaborative models. Such programs include:

Program 5, "Copyright and Related Rights;" Program 7, "Selected Issues of Intellectual Property Protection;" and Program 11, "Intellectual Property for Development and Prosperity; Creation of IP Culture."

We respectfully request that the PTO support, at the next Program and Budget Committee meeting scheduled for September 8-10, the inclusion of a conference on open and collaborative models in the program and budget for 2004.

Sincerely,



Susan Fox
Executive Director
American Association of Law Libraries



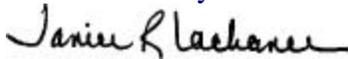
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The **American Library Association** (“ALA”) is a nonprofit educational organization of approximately 65,000 librarians, library educators, information specialists, library trustees, and friends of libraries representing public, school, academic, state, and specialized libraries. ALA is dedicated to the improvement of library and information services and the public’s right to a free and open information society.

The **Association of Research Libraries** (“ARL”) is a nonprofit association of 123 research libraries in North America. ARL’s members include university libraries, public libraries, government and national libraries. Its mission is to shape and influence forces affecting the future of research libraries in the process of scholarly communication. ARL programs and services promote equitable access to and effective uses of recorded knowledge in support of teaching, research, scholarship and community service.

The **American Association of Law Libraries** (“AALL”) is a nonprofit educational organization with over 5,000 members nationwide. AALL's mission is to promote and enhance the value of law libraries to the legal and public communities, to foster the profession of law librarianship, and to provide leadership in the field of legal information and information policy.

The **Medical Library Association** (“MLA”) is a nonprofit educational organization of more than 900 institutions and 3,800 individual members in the health sciences information field committed to educating health information professionals, supporting health information research, promoting access to the world's health sciences information, and working to ensure that the best health information is available to all.

The **Special Libraries Association** (“SLA”) is a nonprofit, educational organization serving more than 13,000 members of the information profession, including special librarians, information managers, brokers, and consultants.