

## US Ambassador: Over-Focus On Development “Will Kill” WIPO

Published on 17 December 2010 @ 10:30 pm

By [William New](#), Intellectual Property Watch

The World Intellectual Property Organization is headed in a controversial direction, and a focus on development at the expense of protection of intellectual property rights will mean the end of the agency, the United States Ambassador Betty King said yesterday.

“If we get to a system where the protections of patents are abrogated in the name of development, then we certainly will kill that organization,” she said, referring to WIPO. “So I worry very much about that.”

The remark is possibly a reflection that the 2007 WIPO Development Agenda intended to ensure WIPO is development-friendly is having the more profound effect on the United Nations body’s activities sought by the Agenda’s proponents.

Speaking to reporters at her end of year briefing at the mission, the refreshingly plain-speaking King took a direct shot at WIPO. “I also spent a lot of time, controversially, on the World Intellectual Property Organization,” she said. “That controversy will only increase as time goes by.”

Intellectual property rights are of enormous importance to the US economy. King described the US belief in the patent system (she also referred to books so theoretically was defending the copyright system too), which gives a monopoly to inventors for a limited time during which they can charge high prices to recoup their investment – and after which lower priced generic versions may compete. This can be a tough argument in policy environments, where governments represent poor populations that cannot wait years for the generic version of a life-saving drug.

King took aim particularly at the recently formed Development Agenda Group ([IPW, Development, 26 April 2010](#)), a negotiating bloc at WIPO made up of former proponents of the WIPO Development Agenda adopted in 2007. The group includes some of the world’s largest and fastest-growing economies such as Brazil, Egypt, India, Indonesia and South Africa.

“I am all pro development,” King said, pointing to her background in development work. “I and the rest of the Obama administration certainly are committed to development. But I’m also committed to protecting the rights that were legally granted to American companies and other companies for the work that they do.”

King cited the US programme in recent years of posting an increased number of intellectual property experts in key capitals around the world (including most of the key Development Agenda Group [DAG] countries), and said the programme has worked because the number of patent applications has risen from a broader range of countries. She singled out Egypt, which showed particular leadership in the DAG this year.

Despite the gains in patenting in capitals, “this group in Geneva seems hell-bent on shortening these patents and creating more exceptions.” She suggested these countries may be motivated by an attempt to boost the market for their domestic generic drug industries.

International intellectual property laws come with built-in exceptions and limitations to the monopolies and exclusivity the rights grant. But King said that “if you create too many exceptions to a rule, you may as well not have the rule.”

She referred to efforts within WIPO to negotiate a narrow exception to copyright to increase affordable access to books for visually impaired people ([IPW, WIPO, 15 November 2010](#)), which she said the

United States supports. But she sharply criticised efforts by some to ensure that other kinds of exceptions also are addressed in WIPO, an effort that has been associated with the African Group, supported by libraries and open access supporters.

In recent years, the pendulum of copyright has swung toward stronger protection and enforcement, and in response an access to knowledge movement has emerged to ensure that public access to protected material is not curtailed to the point where it harms creativity and innovation. Traditionally, anyone has right to access these materials through a series of exceptions such as for libraries, education or journalists.

There are two sides to the argument, and King took the copyright holder side, indicating that while access is desirable, the denial or abrogation of book authors' rights "would eventually mean we will never have a book."

She also referred to the US *[Note: she said "we"]* bringing musician Stevie Wonder – who is visually impaired -to WIPO earlier this autumn ([IPW, Copyright Policy, 20 September 2010](#)), and that his message was he wants people to have access but he also values the importance of royalties to the creators. "We have to maintain certain procedures to continue to get movies and books and all of that," she concluded. *[Clarification: Stevie Wonder was brought to WIPO by the Computer and Communications Industry Association, Wonder's manager, and the WIPO secretariat.]*

When asked about US-led plurilateral negotiations for an Anti-Counterfeiting Trade Agreement ([IPW, Bilateral/Regional Negotiations, 6 December 2010](#)) outside WIPO, King stopped short of calling WIPO "irrelevant", but said it is being threatened.

"The frustration with the lengthy negotiations and the length of those negotiations over matters that we should be able to resolve have been hung up, as you know, for a very long time," she said, adding that to the level of its director, WIPO is aware that people who seek patent protection may find ways around WIPO. The director general of WIPO, Francis Gurry, signalled that he got the message this week ([IPW, WIPO, 16 December 2010](#)).

"I don't think that intellectual property rights and development need to be in conflict with each other. I think there are ways in which WIPO can ... help those countries develop their own patent applications."

"But," she said, "if we get to a system where the protections of patents are abrogated in the name of development, then we certainly will kill that organization. So I worry very much about that."

The official transcript of Ambassador King's remarks is [available here](#).

**[Update] Separately, Lawrence Kogan of free-market US think tank the Institute for Trade, Standards and Sustainable Development issued a paper that found US technology innovations face a gathering disaster of compulsory licensing and royalty-free interoperability frameworks in other countries. ITSSD [press release here](#). <<http://www.prnewswire.com/news-releases/itssd-us-high-tech-innovations-face-gathering-perfect-storm-of-compulsory-licensing-and-royalty-free-interoperability-frameworks-abroad-111988199.html> >**