

**Statement of Leonard A. Leo, Executive Vice President
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My name is Leonard A. Leo, and I am the Executive Vice President of the Federalist Society for Law and Public Policy, of the United States. I want to begin by thanking the Secretariat for admission of the Federalist Society as an observer to these proceedings. I also want to complement the Director General of WIPO and the International Bureau on its fine work over the preceding years.

There has in the recent years been much debate on the proper agenda, mission and direction for WIPO. I am very interested in ensuring that there is a high level of dialogue, representing all perspectives, on the proper agenda for this body. Therefore, I want to read into the record a statement of an Empowerment Agenda, supported by a long list of experts in the field of intellectual property. This Empowerment Agenda seeks the international recognition and protection of intellectual property as a means of assisting developing countries. It is the firm belief of the supporters of the Empowerment Agenda that the robust enforcement of intellectual property rights will lead to positive development in developing countries. We offer this agenda as a potential framework for further discussion and dialogue by this esteemed body.

Intellectual Property as a Tool of Empowerment for the Developing World: An Empowerment Agenda

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The recent controversy regarding a Development Agenda at WIPO is misguided in some respects, as many aspects of the Development Agenda seek to protect the developing world from intellectual property. This point of view has things exactly backward. Private rights are a vehicle for securing economic independence, not a mechanism for oppression.

The people of the developing world need to be empowered, not protected. They are just as innovative, creative, and hard working as any other people. All too often, however, they are prevented from using their hard work and creativity to improve their lives. If only the people of the developing world were allowed the freedom and security they need to control their own lives and make their own decisions, then they could build a bright future for themselves, for their families, and their countries.

The aim of development should therefore be to build helpful institutions and empower individuals so that they are free and able to benefit from their own creativity and effort. Among the keys to fostering such freedom are the rule of law, the ability to securely save and invest, enforceable contracts, and clear, enforceable property rights, including intellectual property rights. Although intellectual property rights alone are not sufficient to empower people, they greatly aid in the task by giving artists, musicians, traditional craftsmen, writers, innovators, and other creators the opportunity to make a living from their endeavors, build businesses, and develop an independent livelihood.

The World Intellectual Property Organization (“WIPO”) is a salutary example of an organization that promotes development by encouraging the empowerment of individuals in developing countries. WIPO sees intellectual property as an engine for growth and a tool for empowering individuals. By promoting private rights, WIPO promotes the freedom of individuals to better their lives.

What WIPO and the developing world need is an “Empowerment Agenda” to promote WIPO’s effectiveness in helping the people of developing countries to secure the full benefit of their creativity. WIPO need not change its current mandate to do so. One of the WIPO’s most important current missions is providing technical assistance to countries in implementing their IP systems. We should consider how we can redouble WIPO’s efforts in this area, helping countries to remove the impediments to building IP systems that effectively operate to provide the greatest help to those who need the benefits of IP rights the most.

Some of the key elements of an Empowerment Agenda should include:

1. Recognizing that one of the development-oriented goals of WIPO should be to assist developing countries in building systems that benefit their own citizens most, allowing them to create, innovate and enjoy the fruits of innovation.

2. Enhancing WIPO's capabilities to provide technical assistance and advice, especially in the areas of:
 - a. Bringing the products of IP to market;
 - b. Securing investment capital for IP driven businesses;
 - c. Building the infrastructure of an entrepreneur-friendly, innovation and creativity driven economy (assistance with technical expertise like law and accounting; business and investment advice); and
 - d. Removing barriers to effective implementation.
3. Promoting public-private partnerships with developed world institutions. In particular, universities in the developed world can partner with their counterparts in the developing world, providing advice on commercializing basic research, as well as providing advice on business, technical, and legal issues.
4. Determining best practices for regional cooperation in securing IP rights, supporting development of regional IP organizations and encouraging use of work already done by PCT examination centers.
5. Focusing on piracy, particularly the kind of piracy that steals from local creators or undermines their ability to build local industries. The impact of piracy should be studied, and methods for ameliorating piracy should be identified.
6. Studying how IP can be strengthened while making it more effective for empowering the citizens of developing countries. Identifying and removing barriers to enforcement.
7. Promoting ways to get traditional products to market, through establishing, promoting and recognizing geographic indicators for native agricultural and cultural products.
8. Studying how to promote knowledge transfer by removing barriers to foreign direct investment in technical and creative work.
9. Promoting removal of barriers to short term help, like donation by pharmaceutical companies of essential medicines, including taxes, redundant regulatory screening, and infrastructure problems.

In conclusion, we believe that technical assistance that focuses on using IP rights to empower individuals could help unlock the tremendous potential of the creative, innovative people of the developing world.

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