

Thank you Madame Chair for providing Knowledge Ecology International (KEI) the opportunity to speak today.

2013 marked the successful conclusion of the Marrakesh Treaty, the culmination of a 5 year negotiation to facilitate the cross-border sharing of protected works for persons who are blind, visually impaired and reading disabled. The Treaty has yet to enter into force and to this end, we urge member states to intensify their efforts to ratify this Treaty. We request the Standing Committee on Copyright and Related Rights (SCCR) to review the technical assistance relating to the treaty, to ensure that countries have information about implementation strategies that are not complex or burdensome.

The Marrakesh treaty began a debate on the three step test, and we hope this debate continues, for greater sophistication about where the three-step test applies, and where the three-step test does not apply, and how it should be evaluated in a manner consistent with social and development objectives.

One of the challenges for WIPO will be to fashion a pragmatic and thoughtful strategy for addressing norm setting in the area of user rights in copyright, and exceptions that relate to institutions like schools and libraries that serve end users. WIPO is also being asked to resolve the outstanding requests for new legal protections for broadcasting organizations. KEI hopes that in all cases, WIPO will identify the problems it is being asked to solve, and relate norm setting, if required, to those problems, in ways to promote the public interest and expand lawful access to knowledge.

In discussions of patents and health, we ask WIPO to take note of discussions at the World Health Organization on the delinkage of R&D costs and prices for products. In our view, unless R&D costs and rewards for successful investments are delinked from product prices, it will be impossible to imagine access to medicine for all, a mandate of the 2001 Doha Declaration on TRIPS and Public Health.

We underscore our support for the African Group/Development Agenda Group submission to the SCP on patents and health. We note that technical assistance experts often fail to distinguish between compulsory licenses that are granted under the procedures of Part II of the TRIPS, concerning patent rights, and those granted under Part III of the TRIPS, concerning the remedies for infringement of those rights. For example, the most commonly used mechanisms for

obtaining a compulsory license in the United States are those associated with Part III of the TRIPS, including in particular Article 44 of the TRIPS. Under the structure of the TRIPS agreement, Article 44 compulsory licenses are not subject to the restrictions that exist for Article 30 and 31 of the TRIPS. Consequently, we support the African Group/DAG request for the International Bureau to

*Organize a technical workshop on state practice involving the compulsory licensing of medical technologies, including the application of TRIPS Articles 30, 31 and 44.*

KEI supports the African Group/DAG proposal for the International Bureau to “commission a framework study by independent experts” to document state practice on compulsory licensing including the provision of empirical data on the royalty rates set in each case.

Regarding the WIPO Development Agenda, we would like to recall the words of the Chilean Ambassador who reminded us that the Development Agenda was not a one-off event, but rather an indissoluble part of the Organization.

Finally, we urge member states to take a larger role in the management of the WIPO office of the chief economist, and the WIPO work on Global Challenges. It is not obvious to KEI that those offices are providing support that will address the pressing needs to overcome access barriers to new drugs for cancer, and to identify areas where the existing systems of exclusive rights impose unacceptable costs on society, and fail to stimulate innovation to meet important needs.

In this regard, member states may want to reflect on the type of economic analysis that would help member states understand the costs and benefits of extended terms for patents and copyrights, to evaluate the merits of alternatives to exclusive rights, including those implemented within the existing WTO TRIPS framework, as well as scenarios that would require changes in that framework.

Any system for inducing investments in R&D for cancer drugs that excludes access by 80 percent of the global population is morally repugnant, and WIPO should be among those engaged in fixing and reforming this.