

IPA Intervention for the Sixth Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore; Geneva, 16 March 2004

IPA, International Publishers Association, represents publishers globally through national, regional and specialized associations in 65 plus countries.

IPA thanks WIPO for compiling such extensive reports on expressions of folklore and traditional knowledge. The protection of these subjects is of great importance to IPA with its diverse membership spanning all five continents.

In what follows we refer more specifically to document number 6/3, entitled "Traditional Cultural Expressions / Expressions of Folklore Legal and Policy Options prepared by the WIPO Secretariat.

IPA has attentively listened to the interventions of all the member states, in particular also the interventions by the distinguished delegates of Nigeria and the Russian Federation.

IPA addresses the member States on three main points:

1. Traditional Knowledge as a third pillar of IPRs

The IPR system is a balanced system with clearly defined rights, their ambit and depth leading to legal certainty. A presumption of freedom applies. For example: Idea/expression dichotomy of copyright. At the moment expressions of culture are a relatively open concept that does not yet meet with the habitual rigor of clear definition and identification of what ought to be protected and what not. If TK is to become truly the third pillar of IPRs, the necessary rigor should be pursued further. Also it may be that not all states are at idem over what items of expression of folklore may merit protection. Maybe there is scope for a deliberation on what items are sufficiently identified and where a sufficient consensus exists for defining which aspects of these items require protection against what conduct.

2. Beneficiaries of rights

IPA encourages WIPO and the Member States to search for alternative mechanisms of protection that designate, involve and empower beneficiaries of a possible international protection scheme more directly and strongly than would be the case under a *domaine public payant* system.

3. Database protection:

The IPR system also evolves: IPA strongly supports the international protection of non-original databases. Without some form of defense, databases are vulnerable to exploitation and piracy by free-riders. We understand from the documents, that in this aspect, database publishers are very much in the same situation as those wishing to disseminate traditional expressions of folklore. IPA remains confident that a suitable arrangement can be devised to allow different forms of IPRs to co-exist. Thanks you.
