

**STATEMENT BY THE
FREE SOFTWARE FOUNDATION EUROPE (FSFE)
TO THE SECOND SESSION OF THE
PROVISIONAL COMMITTEE ON PROPOSALS
RELATED TO A WIPO DEVELOPMENT AGENDA
(Geneva, 26-30 June 2006)**

Mr. Chairman,

the Free Software Foundation Europe (FSFE) has various comments to make in relation to the document PCDA/1/6 Prov. 2 and the discussions that followed.

Regarding item B22, the FSFE is surprised to see Free Software and Creative Commons described as activities outside the mandate and scope of copyright. Additionally, we understood the distinguished delegate of Mexico to have made similar remarks. As also explained also in our "Free Software Essentials Reference" paper, the vast majority of Free Software is using copyright licensing for its software.

Similarly, Creative Commons consists of a set of modular copyright licenses for artistic works. We assume that it was not the intention of WIPO to declare copyright in general outside its scope. So our recommendation is to rephrase point B22 along the lines of **intensifying activities** in all uses of the copyright system, including Free Software and Creative Commons.

Regarding items A18 and 25 as well as C13,15,16 and 18, the Free Software Foundation Europe would like to direct the attention of the assembly to the difficulties of the European Commission in trying to reestablish a competitive market in Europe vis-a-vis Microsoft. This case provides an excellent demonstration of the difficulties experienced by industrialised countries to limit monopoly abuse, and why publicly available technical specifications are **not** sufficient to maintain an Open Standard.

This is increasingly being understood by legislators in several countries, such as Denmark. In its motion B103, the Danish parliament defines an Open Standard along three criteria. Any such standard should be a) well documented with its full specification publically available, b) freely implementable without economic, political or legal limitations on implementation and use, and c) standardized and maintained in an open forum (a so-called standards organisation) through an open process.

There were various reasonings for this motion, and FSFE would like to emphasise the second point in particular: "It is a political task to ensure that the use of information technology by public authorities ensures the democratic rights of all citizens to be able to freely receive digital information from public authorities and to be able to freely send digital information to them. These political goals can only be met if the public sector demands that software, that is used in the public sector and for communication with the public sector, is based on open standards." (*translation by groklaw.net*)

In short: Open Standards are essential to stop the spread of software dependencies from one group of users or organisation to another.

Mr. Chairman,

as the distinguished delegate of India pointed out in his statement, Free Software is an important element of capacity building, it is the best choice to give independence to governments, and it helps the "common man and woman." We see this point as relevant in particular to items A2, 6, 7, 11, 12, 14 and 15, also B9, 11, 27 and 28 and C1, 3, 10, 11, 12.

Free Software is relevant to WIPO not only in terms of being licensed under copyright, it is also relevant in so far as WIPO is planning to make massive use of software for many of its Development Agenda activities, especially A11, 12, 14, B9 and D11.

For all these items, should the general assembly agree to move forward with them, Free Software and Open Standards will be essential building blocks for WIPO in its development related activities.

It is our understanding that by spurring this debate, the Development Agenda can generally help making WIPO adapt to future challenges. It is increasingly understood that independence of political organisations and structures from the corporate interest of single vendors is a critical issue for democracy. Several political bodies around the world have already adapted their procurement policies in ways that will secure their independence and political mandate by introducing preference for Free Software. FSFE believes that WIPO as an organisation faces similar issues in all its activities, and should take them into consideration in due time.

As a closing remark let me add that FSFE also considers items E7 and 8 to be central in WIPOs quest for more transparency, democracy and all-stakeholder involvement. We therefore encourage all delegations to offer their support to these points.

Thank you, Mr. Chairman.

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