

Geneva Declaration on the Future of the World Intellectual Property Organization

Humanity faces a global crisis in the governance of knowledge, technology and culture. The crisis is manifest in many ways.

- Without access to essential medicines, millions suffer and die;
- Morally repugnant inequality of access to education, knowledge and technology undermines development and social cohesion;
- Anticompetitive practices in the knowledge economy impose enormous costs on consumers and retard innovation;
- Authors, artists and inventors face mounting barriers to follow-on innovation;
- Concentrated ownership and control of knowledge, technology, biological resources and culture harm development, diversity and democratic institutions;
- Technological measures designed to enforce intellectual property rights in digital environments threaten core exceptions in copyright laws for disabled persons, libraries, educators, authors and consumers, and undermine privacy and freedom;
- Key mechanisms to compensate and support creative individuals and communities are unfair to both creative persons and consumers;
- Private interests misappropriate social and public goods, and lock up the public domain.

At the same time, there are astoundingly promising innovations in information, medical and other essential technologies, as well as in social movements and business models. We are witnessing highly successful campaigns for access to drugs for AIDS, scientific journals, genomic information and other databases, and hundreds of innovative collaborative efforts to create public goods, including the Internet, the World Wide Web, Wikipedia, the Creative Commons, GNU Linux and other free and open software projects, as well as distance education tools and medical research tools. Technologies such as Google now provide tens of millions with powerful tools to find information. Alternative compensation systems have been proposed to expand access and interest in cultural works, while providing both artists and consumers with efficient and fair systems for compensation. There is renewed interest in compensatory liability rules, innovation prizes, or competitive intermediators, as models for economic incentives for science and technology that can facilitate sequential follow-on innovation and avoid monopolist abuses. In 2001, the World Trade Organization (WTO) declared that member countries should “promote access to medicines for all.”

Humanity stands at a crossroads – a fork in our moral code and a test of our ability to adapt and grow. Will we evaluate, learn and profit from the best of these new ideas and opportunities, or will we respond to the most unimaginative pleas to suppress all of this in favor of intellectually weak, ideologically rigid, and sometimes brutally unfair and inefficient policies? Much will depend upon the future direction of the World Intellectual Property Organization (WIPO), a global body setting standards that regulate the production, distribution and use of knowledge.

A 1967 Convention sought to encourage creative activity by establishing WIPO to *promote* the protection of intellectual property. The mission was expanded in 1974, when WIPO became part of the United Nations, under an agreement that asked WIPO to take “appropriate action to promote creative intellectual activity,” and facilitate the transfer of technology to developing countries, “in order to accelerate economic, social and cultural development.”

As an intergovernmental organization, however, WIPO embraced a culture of creating and expanding monopoly privileges, often without regard to consequences. The continuous expansion of these privileges and their enforcement mechanisms has led to grave social and economic costs, and has hampered and threatened other important systems of creativity and innovation. WIPO needs to enable its members to understand the real economic and social consequences of excessive intellectual property protections, and the importance of striking a balance between the public domain and competition on the one hand, and the realm of property rights on the other. The mantras that “more is better” or “that less is never good” are

disingenuous and dangerous -- and have greatly compromised the standing of WIPO, especially among experts in intellectual property policy. WIPO must change.

We do not ask that WIPO abandon efforts to promote the appropriate protection of intellectual property, or abandon all efforts to harmonize or improve these laws. But we insist that WIPO work from the broader framework described in the 1974 agreement with the UN, and take a more balanced and realistic view of the social benefits and costs of intellectual property rights as a tool, but not the only tool, for supporting creative intellectual activity.

WIPO must also express a more balanced view of the relative benefits of harmonization and diversity, and seek to impose global conformity only when it truly benefits all of humanity. A "one size fits all" approach that embraces the highest levels of intellectual property protection for everyone leads to unjust and burdensome outcomes for countries that are struggling to meet the most basic needs of their citizens.

The WIPO General Assembly has now been asked to establish a development agenda. The initial proposal, first put forth by the governments of Argentina and Brazil, would profoundly refashion the WIPO agenda toward development and new approaches to support innovation and creativity. This is a long overdue and much needed first step toward a new WIPO mission and work program. It is not perfect. The WIPO Convention should formally recognize the need to take into account the "development needs of its Member States, particularly developing countries and least-developed countries," as has been proposed, but this does not go far enough. Some have argued that the WIPO should only "promote the protection of intellectual property," and not consider, any policies that roll back intellectual property claims or protect and enhance the public domain. This limiting view stifles critical thinking. Better expressions of the mission can be found, including the requirement in the 1974 UN/WIPO agreement that WIPO "promote creative intellectual activity and facilitate the transfer of technology related to industrial property." The functions of WIPO should not only be to promote "efficient protection" and "harmonization" of intellectual property laws, but to formally embrace the notions of balance, appropriateness and the stimulation of both competitive and collaborative models of creative activity within national, regional and transnational systems of innovation.

The proposal for a development agenda has created the first real opportunity to debate the future of WIPO. It is not only an agenda for developing countries. It is an agenda for everyone, North and South. It must move forward. All nations and people must join and expand the debate on the future of WIPO.

There must be a moratorium on new treaties and harmonization of standards that expand and strengthen monopolies and further restrict access to knowledge. For generations WIPO has responded primarily to the narrow concerns of powerful publishers, pharmaceutical manufacturers, plant breeders and other commercial interests. Recently, WIPO has become more open to civil society and public interest groups, and this openness is welcome. But WIPO must now address the substantive concerns of these groups, such as the protection of consumer rights and human rights. Long-neglected concerns of the poor, the sick, the visually impaired and others must be given priority.

The proposed development agenda points in the right direction. By stopping efforts to adopt new treaties on substantive patent law, broadcasters rights and databases, WIPO will create space to address far more urgent needs.

The proposals for the creation of standing committees and working groups on technology transfer and development are welcome. WIPO should also consider the creation of one or more bodies to systematically address the control of anticompetitive practices and the protection of consumer rights.

We support the call for a Treaty on Access to Knowledge and Technology. The Standing Committee on Patents and the Standing Committee on Copyright and Related Rights should solicit views from member countries and the public on elements of such a treaty.

The WIPO technical assistance programs must be fundamentally reformed. Developing countries must have the tools to implement the WTO Doha Declaration on TRIPS and Public Health, and “use, to the full” the flexibilities in the TRIPS to “promote access to medicines for all.” WIPO must help developing countries address the limitations and exceptions in patent and copyright laws that are essential for fairness, development and innovation. If the WIPO Secretariat cannot understand the concerns and represent the interests of the poor, the entire technical assistance program should be moved to an independent body that is accountable to developing countries.

Enormous differences in bargaining power lead to unfair outcomes between creative individuals and communities (both modern and traditional) and the commercial entities that sell culture and knowledge goods. WIPO must honor and support creative individuals and communities by investigating the nature of relevant unfair business practices, and promote best practice models and reforms that protect creative individuals and communities in these situations, consistent with norms of the relevant communities.

Delegations representing the WIPO member states and the WIPO Secretariat have been asked to choose a future. We want a change of direction, new priorities, and better outcomes for humanity. We cannot wait for another generation. It is time to seize the moment and move forward.

Signing the Geneva Declaration on the Future of WIPO (*as of October 12, 2004*)

- Consumers International
- Médecins Sans Frontières (MSF), Access to Essential Medicines Campaign
- International Federation of Library Associations and Institutions (IFLA)
- Martin Khor, Third World Network
- Cory Doctorow, European Affairs Coordinator, Electronic Frontier Foundation
- Sir John Sulston, Winner of 2002 Nobel Prize for Physiology or Medicine Former Director of the Wellcome Trust Sanger Institute, Cambridge, UK
- Burton Richter, Paul Piggott Professor in the Physical Sciences, Stanford University, Nobel Laureate, Physics, 1976
- Michel Rocard, former Prime Minister of France, Member of the European Parliament
- Paul A. David, Professor of Economics & Senior Fellow of the Stanford Institute for Economic Policy Research, Stanford University, Senior Fellow of the Oxford Internet Institute & Professor Emeritus of Economics and Economic History, University of Oxford, Emeritus Fellow of All Souls College, Oxford
- Philippe Aigrain, Founder and CEO, Society for Public Information Spaces
- George Konrad, former President of International P.E.N.
- Stéphane Hessel, Ambassador of France, Member, International Collegium
- Lawrence Lessig, Professor of Law at Stanford Law School, Founder of the Stanford Center for Internet and Society, Chairman of the Creative Commons
- Jean Claude Guedon, Professor of Comparative Literature at the University of Montreal, Canada
- Bernt Hugenholtz, Professor of Law, Institute for Information Law, University of Amsterdam
- Jerome H. Reichman, Bunyan S. Womble Professor of Law, Duke University School of Law, Durham, NC USA
- Yochai Benkler, Professor of Law, Yale Law School
- William W. Fisher III, Professor, Harvard Law School
- James Love, Consumer Project on Technology
- Rishab Aiyer Ghosh, MERIT, University of Maastricht, Netherlands.
- Trans Atlantic Consumer Dialogue (TACD)
- Celine Charveriat, Oxfam International
- Alan Cox, Linux Project
- Peter Drahos, Professor and Head of Program, Regulatory Institutions Network, Research School of Social Sciences, Canberra, Australia
- Jean Ann Fox and Mark Silbergeld, Consumer Federation of America
- Ed Mierzwinski, Public Interest Research Group

- Felix Cohen, Director, Consumentenbond, the Dutch Consumers' Association
- Benedicte Federspiel, The Consumer Council, Denmark.
- Spring Gombe, Health Action International (HAI)
- Roman Macaya, Ph.D., Executive Director, National Chamber of Generic Products, Costa Rica
- Professor Michael Geist, Canada Research Chair in Internet and E-commerce Law, University of Ottawa, Faculty of Law
- Cliff Bamford, Retired Senior Architect for Internet Operations at Microsoft
- Istvan Rev, Central European University and Open Society Institute
- Pamela Samuelson, Chancellor's Professor of Law and Information Management, University of California at Berkeley
- Julie E. Cohen, Professor of Law, Georgetown University Law Center
- John Howkins, Director, IP Charter
- Damien Cirotteau, Media Innovation Unit, Firenze Tecnologia, Firenze, Italy
- Robin Gross, IP Justice Executive Director
- Dr Tim Hubbard, Head of Human Genome Analysis, Wellcome Trust Sanger Institute, Cambridge, UK
- Dr. Volker Grassmuck, Helmholtz-Zentrum fuer Kulturtechnik, Humboldt University, Berlin, co-founder of privatkopie.net
- Sacha Goldman, Audiovisual Producer, General Secretary, International Collegium
- Richard Elliott, Director of Legal Research & Policy Canadian HIV/AIDS Legal Network
- Mr. B.K. Keayla, Convenor, National Working Group on Patent Laws, New Delhi, India
- American Library Association
- American Association of Law Libraries
- Association of Research Libraries
- Special Libraries Association
- Dr Graham Duffield, Herchel Smith Senior Research Fellow, Queen Mary Intellectual Property Research Institute, Centre for Commercial Law Studies, Queen Mary, University of London, U.K.
- Mike Godwin, Legal Director, Public Knowledge
- Professor Kevin Outterson, West Virginia University College of Law
- Ken McEldowney, Executive Director, Consumer Action
- Robert Weissman, Director, Essential Action
- Nicola Ballenden, Senior Health Policy Officer, Australian Consumers' Association
- Pedro de Paranagua Moniz - IDCID International Trade Law and Development Institute - Brazil
- Brian Kahin, Visiting Professor, School of Information, Ford School of Public Policy and Department of Communication Studies, University of Michigan
- Professor Michael H. Davis, Progressive Intellectual Property Law Association, Cleveland, Ohio
- Dean Baker, Co-Director, the Center for Economic and Policy Research
- Michelle Munro, Policy and Program Advisor, HIV/AIDS and Health, CARE Canada
- Ville Oksanen, Chairman, Electronic Frontier Finland
- N. H. Israni, Chairman - IPR Committee, Indian Drug Manufacturers' Association
- Bruno Berthelet, Bureau d'Etudes en Génie Informatique, Hasgard
- Marko Ulvila, Coalition for Environment and Development, Finland
- Vera Franz, Information Program, Open Society Institute
- Darius Cuplinskas, Information Program, Open Society Institute
- Veni Markovski, Chairman of the Board, Internet Society - Bulgaria
- Andreas Dietl, EU Affairs Director, European Digital Rights
- Daniel de Beer, Researcher, Vrij Universiteit Brussel, Belgium
- Marlyn Tadros, Ph.D., Executive Director, Virtual Activism - Center for Knowledge Society
- Enrique A. Chaparro, IFIP TC11 & Fundacion Via Libre, Buenos Aires, Argentina
- San Patten, MSc., Community-Based Research Coordinator, Alberta Community Council on HIV
- Martin Olivera, Asociate a SOLAR! Software Libre Argentina
- Mr Chr.A. Alberdingk Thijm, SOLV Advocaten
- DeeDee Halleck, Deep Dish Satellite Network
- Andrea Glorioso, Technical Coordinator, Media Innovation Unit - Firenze Tecnologia (Firenze, Italy)
- David Vaver, Professor of Intellectual Property & Information Technology Law, University of Oxford; Director, Oxford Intellectual Property Research Centre, St Peter's College, Oxford
- Richard Neill, Trinity College, Cambridge University, U.K.
- Richard R. Nelson. George Blumenthal Professor of International and Public Affairs, Columbia University, New York, NY

- Andrew Pam, Chief Scientist, Xanadu. Partner, Glass Wings. Manager, Serious Cybernetics. Board Member, Electronic Frontiers Australia
- Alberto Cammazzo, on behalf of PLUTO Project
- Lauren Gelman, Center for Internet and Society, Stanford Law School
- Yovko Lambrev, Free Software Association - Bulgaria
- Philippa Lawson, Executive Director, Canadian Internet Policy and Public Interest Clinic (CIPPIC), University of Ottawa, Faculty of Law
- Jaco Aizenman L., Founder, FSC - Free Software Consortium
- Dr. Marc Holitscher, Senior Researcher, University of Zurich, International Relations Department, Switzerland
- Peter Suber, Open Access Project Director, Public Knowledge, Research Professor of Philosophy, Earlham College
- Samuel E. Trosow, Assistant Professor, University of Western Ontario
- Frannie Wellings, Electronic Privacy Information Center
- Nicola Bernardini, Media Innovation Unit - Firenze Tecnologia
- Michael Landau, Professor of Law, Director, Intellectual Property Program, Georgia State University
- Aidan Hollis, Associate Professor, Department of Economics, University of Calgary
- Dr Guido Westkamp LL.M., Senior Lecturer in Intellectual Property, Queen Mary Intellectual Property Research Institute, London
- Malla Pollack, Visiting Associate Professor, Univ. of Idaho, College of Law
- Mark Davison, Associate Professor Mark Davison, Faculty of Law, Monash University
- Dave Burstein, Chair Fast Net Futures Conference, Special Correspondent, WBAI-FM 99.5
- Maria Amelia Viteri-Burbano, American University
- Taran Rampersad, Editor, Linux Gazette
- Robin Koshy, Centre for Trade and Development, New Delhi
- Kathy Bowrey, Faculty of Law, University of NSW, Australia
- Dr Ian Brown, University College London and President, European Digital Rights
- Chandrakant Patel, Geneva Representative, SEATINI
- Dr. Rainer Kuhlen, Department of Computer and Information Science, University of Konstanz
- Dr. Simon Moores, Director, Zentelligence Research, Ltd.
- Roopa Rathnam, Oxfam GB, India
- Dinyar Godrej, Co-editor, New Internationalist, Rotterdam, The Netherlands
- Dr Markus Kuhn, Lecturer, Computer Laboratory, University of Cambridge, UK
- Francis Norton, Author and Developer, Norton Online Publishing
- Charles Medawar, Social Audit Ltd
- Gazanfer Aksakoglu, Member HAI, Professor and Head, Department of Community Medicine, Dokuz Eylul University, Izmir, Turkey
- Dr Andrew Herxheimer, Co-founder, DIPEX, Emeritus Fellow, UK Cochrane Centre
- Marco Cappato, former MEP, Executive Director of Associazione Luca Coscioni for freedom of scientific research
- Douwe Korff, Professor of International Law, London Metropolitan University, London (UK)
- Rik van Riel, Red Hat, Inc
- Shanthi Pal, Essential Drugs and Medicines Policy, World Health Organization
- Professor Brook K. Baker, Northeastern U. School of Law
- Michael Teimman, Chief Technology Officer, Red Hat
- Patrick Nielsen Hayden, Senior Editor, Tor Books
- Peterson Maina, Chairman, Circuits & Packets Community
- Duncan Stewart Linedata Services, Inc., Massachusetts
- Hugh Hancock, Artistic Director, Strange Company
- Neil Gorman - Sr. Executive Assistant - Ethical Technologies, Illinois
- Michael L. Love Ph.D, Department of Biophysics and Biophysical Chemistry, School of Medicine, Johns Hopkins University
- Claudia Koltzenburg, M.A., Projektmanagement DFG-Projekt GAP - German Academic Publishers
- Chun Eung Hwi, General Secretary, PeaceNet
- Cormac Russell, Producer/Game Designer, 1Up Studios
- Mark C. Langston, Sr. Unix SysAdmin, GOSSiP Project
- Asomiddin Atoev, Consultant, Public Fund Civil Initiative on Policy of Internet, Tajikistan
- Khalil Elouardighi, ACT UP-Paris
- Dr Matthew Rimmer, Faculty of Law, ANU, Australia
- Computer Professionals for Social Responsibility
- Jonathan Weinberg, Professor of Law, Wayne State University

- Prof. Dr.F.W. Grosheide, Molengraaff Institute for Private Law, Center for Intellectual Property Law (CIER), Utrecht University
- Nils Philippsen, Software Developer, Red Hat GmbH, Germany
- Jeremy Hunsinger, Center for Digital Discourse and Culture, Virginia Tech
- Marjut Salokannel, LL.D. Director, Academy of Finland Project
- Sasha Costanza-Chock, Free Press Global Communication Project
- Jeff Kuntzman, M.L.S., Internet Librarian, Denison Memorial Library, University of Colorado at Denver and Health Sciences
- Chris Evich, Associate Technical Engineer, Red Hat
- Stephen M. Maurer, Lecturer, Goldman School of Public Policy, University of California at Berkeley
- Philippa Saunders, Essential Drugs Project, London
- Robert Virkus, Enough Software, Germany
- Jonathan Tasini, President Emeritus, National Writers Union, UAW Local 1981
- Asociación de linuxeros de Córdoba Córdoba, Spain, www.linuxcordoba.org
- Tomislav Medak, Multimedia Institutem, Zagreb, Croatia.
- Alvaro Villalobos Jugo, Director Ejecutivo, ADIFAN-Asociación de Industrias Farmacéuticas de Origen y Capital Nacionales, Peru
- João Miguel Neves, ANSOL - Associação Nacional para o Software Livre, Portugal
- Jeremy Douglass, University of California, Santa Barbara, United States
- Boatema Boateng, Department of Communication, University of California, San Diego, California
- Carla Hesse, Professor of History, University of California, Berkeley
- Bernard Hugueney, computer science engineer, teacher and research scientist, France
- Sally Burch, Executive Director, ALAI, Ecuador
- Osvaldo León, President, ALAI, Ecuador
- Eduardo Tamayo, ALAI, Ecuador
- Serafin Ilvay, ALAI, Ecuador
- Graham Greenleaf, Professor of Law, University of New South Wales, Sydney, Australia
- Harold L. Burstyn, Patent Attorney and Adjunct Professor, L. C. Smith College of Engineering & Computer Science, Syracuse University
- Dipl. Psych. Peter Pirron, Mannheim, Federal Republik of Germany
- James Governor, Principal Analyst, RedMonk, LLC
- Javier Perez, Independent IT Consultant
- Martin Svoboda, Director, State Technical Library, Prague, Czechia
- Eric Mueller Systementwicklung/System Development, Gustavsburg, Germany
- Markus Beckedahl, Chairman of Netzwerk Neue Medien e.V. (Network New Media), Germany
- Roger J. Weeks, Systems & Network Administrator, Mendocino Community Network
- Christof Wolf, independent filmmaker, Germany
- Paula Graham Consultant, alt+synergy, London
- Jefferson Berlin, Vice President, SD&A Teleservices, Inc., ElSegundo, CA
- Rui Soares, Consultant, Lisbon - Portugal
- Wolfgang Draxinger, lead programmer - DARKSTARgames, Munich, Germany
- Gerald Wilhelm, Software Developer, Berlin, Germany
- Daniel Jacober, Unix System Engineer, Switzerland
- Dr. Jens Eickhoff, EADS Astrium, Friedrichshafen, Germany
- Rainer Kuisl, Nuremburg, Germany, IT-Professional
- Michael Kassnel, software developer, Germany
- Jeff Snyder, composer, New York
- Brian Scott, Professor, California State University Northridge
- Julia & Tarik Banzi, Al-Andalus
- Larisa Mann, University of California at Berkeley
- Hugh Stimson, Intern, Smithsonian Conservation Research Center
- Johannes Lechner, IT Project Manager and Consultant, Germany
- Dr. Thomas Bliesener, Mélix - Especialistas en Software Libre, México
- Beth Burrows, President, The Edmonds Institute, Edmonds, Washington
- Jed Cousin, Technical Director, Atomic XR, Inc. St. Cloud, MN
- Romain FARAUT, IT & Financial Specialist
- Dr. Tigran Zargaryan, Yerevan State University Library, Head of Automation Department
- Pedro Mendizábal Simonetti, President, CPSR-Perú
- Misha Verbitsky, EPSRC Advanced Fellow. Glasgow University, Math Department
- Bernd Schrader Systemadministration, Germany
- Frank Warmerdam, Geospatial Programmer, Ontario, Canada
- Lenore Coral, Chair, Music Library Association Legislation Committee, Music Library Association

- Guilherme Roschke, George Washington University Law School
- Professor Manuel B. Graeber, Head, Department of Neuropathology, Imperial College London, UK
- Bekir Gur, PhD Student, Utah State University, US
- Jon Lebkowsky, CEO, Polycot Consulting, L.L.C., Austin, Texas
- Saif Gangjee, Doctoral Researcher in Intellectual Property Rights, Faculty of Law, University of Oxford
- Nick Harvey, Editor, Nilgiri Press
- Sergio Ferraris- Sud Nord Multimedia, Roma Italy
- Robyn Briese, CIEL
- Stephan Beirer, Dipl.-Phys., Theoretical Biophysics, Humboldt University, Berlin, Germany
- Alexis Grant, MSc -- Speech and Language Processing, University of Edinburgh
- Hendrik Belitz, Postgraduate research fellow, Germany
- Dr. Guenter Bechly, Staatliches Museum fuer Naturkunde Stuttgart, Germany
- Bertram (Chip) Bruce, Professor, Library & Information Science, University of Illinois at Urbana-Champaign, USA
- Dipl.-Technoinform. Thorsten Gecks, Lehrstuhl für Angewandte Informatik III (Robotik und Eingebettete Systeme), Universität Bayreuth
- Frank Klomp, CRM Alliance BV, Amsterdam, The Netherlands
- Alfred Peters, IT-Architect, Hannover, Germany
- Jens Ziemann, Red Hat GmbH, Germany
- Meri Koivusalo, Coalition for Research and Action for Social Justice and Human Dignity (CRASH), Helsinki, Finland
- Dirk Ricken, Institut für Allgemeine Nachrichtentechnik, Hanover, Germany
- Hans Klein, Associate Professor of Public Policy, Georgia Institute of Technology
- Urs P. Thomas MBA, PhD, Website Publisher, EcoLomics International, Geneva
- Zack Cerza, New Maintainer with the Debian Project.
- Julian Jonker, University of Cape Town Faculty of Law, South Africa
- Michael Lines, University of Alberta, Canada
- Russell McOrmond, Ottawa, Ontario, Canada. Host of digital-copyright.ca and co-coordinator of GOSLINGcommunity.org
- Roger Rohrbach, Ecstatic Communications, San Francisco, CA
- Dharmaraju, Programme Manager, Oxfam GB, Hyderabad, AP, India
- Mark H. Webbink, Sr. Vice President and Deputy General Counsel - Intellectual Property, Red Hat, Inc. Raleigh, NC
- Anna Marie Stirr, Columbia University Department of Music, New York, NY
- Alexandre Oliva, Free Software Developer, Red Hat, Inc., Brazil
- Daniel Phillips, Red Hat Inc.
- David Woodhouse, Linux kernel developer, Red Hat Inc.
- Karsten Wade, RHCE, Technical Writer
- John Ellsmore, FACING PAGES, Canterbury VIC, Australia
- Alex Maier, Marketing Assistant EMEA, Red Hat GmbH, Dornach bei München
- Dr. Robert S. Stephenson, E-learning Architect, Associate Professor, Biological Sciences, Wayne State University, Detroit MI
- Dr. Michel J. Menou, Consultant in Information and Knowledge Management, Visiting Professor of Information Policy, City University London, Les Rosiers sur Loire, France
- Dr. V B LAL, Senior Consultant, IP Project, Indira Gandhi National Open University (IGNOU), New Delhi (India)
- Anuranjan Sethi, Law Student, NALSAR University of Law, Hyderabad, India
- Nelson Cruz, Editor of PCManias.com, Portugal.
- Eric E. Johnson, Software Developer, Redwood City, CA, USA
- James Deville, Deville Computers and Consulting, Bothell, WA, USA
- Heather Ford, Creative Commons Southern Africa
- Helena Bendova, librarian of the Institute for German Studies, Philosophical Faculty of the Charles University in Prague, Czech Republic
- Ivonne Valeria Muñoz Torres, MCE, Digital & E-Security Rights Management, México
- Valérie Peugeot, Vecam, France
- Michael Ashburner FRS, Professor of Biology, University of Cambridge
- Nicolas Cahen, ICT Assessor, Centro Cultural Poveda (www.poveda.org) Santo Domingo, República Dominicana
- Wim Vandeveld, G.A.T. - Grupo Português de Activistas sobre Tratamentos de VIH/SIDA, Lisboa, Portugal
- Suzanne Hillman, Quality Assurance Red Hat, Inc.
- Carlos Passarelli, Brazilian Interdisciplinary AIDS Association (ABIA), Brazilian Network for People Integration (REBRIP)
- Kjetil Kjernsmo, Oslo, Norway
- Matthew Davis, RHCE, Red Hat Global Support Services

- Pat Goodrich, Student Services Coordinator, Virginia Tech Graduate School, Blacksburg, VA, USA
- Dr Michael Spence, St Catherine's College, University of Oxford
- Organisation-Electronic Information for Libraries-eIFL.net
- Dirk Ricken, Institut für Allgemeine Nachrichtentechnik, Hannover, Germany
- Kalyanee Shah, President, SEWA, Nepal
- Council of Canadians
- Dr. Luis Baliarda, Presidente, La Camara Industrial de Laboratorios Farmaceuticos Argentinos (CILFA)
- Mirta Noemi Levis, Secretaria Ejecutiva, La Asociación Latinoamericana de Industrias Farmaceutica (ALIFAR)
- Adam J. Goldberg, Consumers Union
- Karsten Hopp, Red Hat Deutschland
- Jens Hardings, Universidad de Chile, Chile
- Alessandra Nilo, President, Gestos-Soropositividade, Comunicação e Gênero
- Diana Andrade, Directora Comunicación y Proyectos, Intercom - EcuaneX, Ecuador
- Chantal Moukoko, Université de Douala, France
- Florian Oelmaier, CEO SyTrust GmbH, Germany
- Gajanan Wakankar, Ambassador (Retired) of India to Jordan, INDIA
- Gino Cintolesi Brill, Barcelona, Espana
- Kay E. Vandergrift, Professor Emerita, School of Communication, Information and Library Studies, Rutgers University
- Gabriela Giacomini, independiente, ARGENTINA
- Jane Anne Hannigan, Professor Emerita, Columbia University, New York
- Sharon McQueen, Lecturer and Doctoral Candidate, School of Library and Information Studies, University of Wisconsin - Madison
- Marimuthu Nadason, President, ERA Consumer Malaysia
- John Lozier, Executive Director, Harping for Harmony Foundation, Morgantown, WV
- Till Westermayer, Netzwerk Neue Medien e.V., Germany
- Bjoern Fay, Mathematisches Institut, Justus Liebig-Universitaet Giessen, Germany
- Comedia - the Swiss media union
- Marleen Stikker, Director, Waag Society / for old and nieuw media, Amsterdam
- Paul Keller, Head Public Research, Waag Society / for old an nieuw media, Amsterdam
- Guillaume Coté , ingénieur en informatique, Paris, France
- Bejon Misra, Chairman, Consumer Coordination Council (CCC) , Delhi, India
- Nicolas Taffin, C&F editions, France
- Juan Gabriel López Guix, University of Barcelona
- Olga Drossou, Heinrich Böll Foundation, Berlin
- Jin Kien, Tan, Southeast Asian Council for Food Security and Fair Trade (SEACON)
- Emilija Banionyte, Lithuanian Research Library Consortium, President
- Susan Nevelow Mart, Reference Librarian, University of California - Hastings College of the Law
- Alexander G.D. van der Wolk, Amsterdam, the Netherlands
- KARLA PRUDENCIO IMAÑA, Legal Assistant, Sorvill, Patent and trademark Consultants , La Paz, Bolivia
- Andrea Ines Palomeque Liendo, Consultora Propiedad Inrtelectual, La Paz - Bolivia
- Erika Dueñas, Lic en Relaciones Internacionales, Gerente Ejecutiva de la Cámara de la Industria Farmacéutica Boliviana, La Paz - Bolivia
- M.Angélica Sánchez Vogel, Vicepresidenta Ejecutiva, Asociación Industrial de Laboratorios Farmacéuticos Chilenos, Asilfa A.G.
- Eric J. Iversen, NIFU STEP center for innovation research: Oslo, Norway
- Daille Pettit, Acquisitions/Collections Librarian, James Madison University, Harrisonburg, VA
- Mauro Guarinieri, Chair, Board of Directors, European AIDS Treatment Group
- Ketevan Lapachi, PhD, Tbilisi, Georgia, Co-Founder of Association for Competition and Consumer's Sovereignty (AC&CS), Former Deputy Head of the State Antimonopoly Service of Georgia
- Luk Naets, secretary, ecological consumerorganization Velt from Belgium
- Claudine Xenidou-Dervou , Catherine Synellis, Sasa Tzedaki, Anna Frangkau, Steering Committee of the Hellenic Academic Libraries Link, Greece
- Josue Aranda Rojas, Librarian, Mexico
- Matthias Mehltau, Chaos Computer Club, Berlin, Germany
- Clara Gonnelli, president, ACU, Associazione Consumatori Utenti onlus, Milan, Italy
- Audrey Nay, Teacher Librarian, NSW, Australia
- EKPIZO-Consumers Association the Quality of Life - Greece
- Bernard Lang, Directeur de Recherche à l'Institut National de Recherche en Informatique et en Automatique (INRIA), France

- Maria Jesus Morillo, National Library, Spain
- Mataiasi Labati, Executive Director, Consumer Council of Fiji
- Peter Macinnis, author and encyclopedist, Sydney, Australia
- Marietta Gargatagli, Profesora universitaria, Universidad Autónoma de Barcelona. España
- Zapopan Martín Muela Meza, PhD Candidate, Department of Information Studies, University of Sheffield, United Kingdom
- Emilija Banionyte, President, Lithuanian Research Library Consortium
- KONG Sidaroth, Open Forum Information Exchange Coordinator, Open Forum of Cambodia, Phnom Penh/Cambodia, Member of the APC Council
- Kate Makowiecka, Copyright Coordinator, Murdoch University, Perth, Western Australia
- Somaya Langley, Web Audio Analyst, National Library of Australia
- Amalia Pastora Pati, Médica - Licenciada en Letras, UNiversidad Nacional de Rosario, Argentina
- Andrew Garton, Director/Producer, c2o/Toy Satellite, Collingwood, Australia
- Lic. Ronald M. Nostas A., PRESIDENTE, La Cámara de la Industria Farmacéutica Boliviana, CIFABOL, La Paz - Bolivia
- Lic. Erika Dueñas Loayza, GERENTE EJECUTIVA, La Cámara de la Industria Farmacéutica Boliviana, CIFABOL, La Paz - Bolivia
- J.G. López Guix, Autonomous University of Barcelona
- Emilija Banionyte, Lithuanian Research Library Consortium, President, Vilnius Pedagogical University Library, Director, Vilnius, Lithuania
- Gustavo Gómez, Director Programa de Legislaciones y Derecho a la Comunicación, Asociación Mundial de Radios Comunitarias - regional América, Latina y el Caribe (AMARC-ALC), Montevideo, Uruguay
- Wim Vandeveld, President, G.A.T. - Grupo Português de Activistas sobre Tratamentos de VIH/SIDA, Lisboa, Portugal
- Joshua Sarnoff, Washington College of Law, American University, Washington DC
- Mariana Baranchuk, Carrera de Csas. de la Comunicación - Facultad Ciencias Sociales - Universidad de Buenos Aires
- John S James, AIDS Treatment News
- Dra. Jimena Mendivil Boggetti, Bioquímica - Farmacéutica, Registros y Marcas Laboratorios Farmaceuticos Lafar
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- Association Francophone des Utilisateurs de Linux et des Logiciels Libres (AFUL)
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- Monseñor Pablo Cabrera, Biblioteca Central de la Facultad de Filosofía y Humanidades
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- Eka Basilaia, Project Coordinator, eIFL-Direct, "Georgian Integrated Library and Information System Consortium", Georgia
- Erhard Nielsen, Project Coordinator and Copyright Consultant, Faculty of Humanities, University of Copenhagen, Denmark
- Alicia Ocaso, Librarian, Uruguay
- Kong Sidaroth, Open Forum Information Exchange Coordinator, Open Forum of Cambodia, Phnom Penh/Cambodia
- Charles Oppenheim, Professor of Information Science, Loughborough University, UK
- Sean Cubitt, Screen and Media Studies, University of Waikato, New Zealand
- Ana Lía Gabrieloni, Facultad de Humanidades y Artes de la Universidad Nacional de Rosario (UNR), Consejo Nacional de Investigaciones Científicas y Técnicas de la República Argentina (CONICET), Argentina

- Roberto M Rodriguez Perlo - Técnico Sup. Comercialización - IBM Contr., Rosario - Argentina
- François Désarménien, France, Computer scientist, Free software and Open Source evangelist since 1990
- Ing. Luis Vazquez, Facultad de Ingeniería, Univ. de la República, Montevideo, Uruguay
- Howard Besser, Professor and Director, Moving Image Archive and Preservation Program, NYU's Tisch School of the Arts, Cinema Studies Department, New York, NY
- Prof. Analía Eliades, Docente de la Facultad de Periodismo y Comunicación Social de la Universidad Nacional de La Plata, Argentina
- Karim Aou, conseiller municipal (Parti Socialiste) à Villeurbanne, France
- Jean Dubosclard Directeur des services techniques en génie civil
- Nicole Dubosclard Ingénieur Conseil, gérante de Société
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- Jacques Tolédano, Correspondant des Amis du Monde Diplomatique, France
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- Nanci Oddone, Professor of Book and Libraries History, Information Science Institute, Bahia Federal University, Brazil
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- Henri Lacroix, Cadre fonction publique Lyon
- Union for the Public Domain
- Jason Baird Jackson, Assistant Professor of Folklore, Adjunct Assistant Professor of Anthropology, Department of Folklore and Ethnomusicology, Indiana University
- Guillaume Chenevière, Chairman, World Radio and Television Council (WRTVC), Geneva
- Dr Jacques Steyn, School of Information Technology, Monash University South Africa
- Jerome Barthelemy, Ircam, France
- Juan Carlos De Martin, Principal Research Scientist, IEIIT-CNR, Torino, Italy
- Pour Attac, le Secrétaire, Didier LVOVSCHI, France
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- Pablo Accuosto - Instituto del Tercer Mundo, Uruguay
- Jan-Ewout van der Putten, De Vereniging van Openbare Bibliotheken, (Netherlands)
- Federation of all Libraries and Documentation services), Netherlands
- Erik Jurgens, President, De Vereniging van Openbare Bibliotheken
- Jan-Ewout van der Putten, Secretary General, De Vereniging van Openbare Bibliotheken
- Vesna Brčić Stipčević, President, Hrvatska udruga za zastitu potrosaca, Zagreb, Croatia
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- Joyce C. Garnett, President, Canadian Association of Research Libraries
- Christian Cornelissen, German Chapter of the, Foundation for a Free Information Infrastructure
- Emma Cunningham, student, Los Angeles, CA, USA
- Layton Montgomery, Executive Secretary, the Mountain Forum
- Antonio Zugaldia, University of Granada, Spain
- GCubo, GNU/Linux User Group from Granada, Spain
- Dr Damian Tambini, Senior Research Fellow and Head of Programme, Programme in Comparative Media Law and Policy, University of Oxford
- Kenneth Field, Access Services/ Information Services Librarian, Bata Library, Trent University, Peterborough, Ontario
- S. Krishnaswamy, Professor, School of Biotechnology, Madurai Kamaraj University, Madurai, India
- K M Gopakumar, Affordable Medicines and Treatment Campaign (AMTC), Mumbai, India
- Dr. Dilip G. Banhatti, Member, WGAD(IAU) (= Working Group of the International Astronomical Union on Astronomical Databases), School of Physics, Madurai-Kamaraj University, India
- Vietnam Standard and Consumers Association (VINASTAS) - Member of Consumers International
- Cornelia Sollfrank, artist & cyberfeminist, Hamburg, Germany
- Geoffrey Su, Research and Program Officer / Agent de recherche et des programmes Canadian Association of Research Libraries / Association des bibliothèques de recherche du Canada

- Professor Michael J. Madison, Associate Professor of Law, University of Pittsburgh, Pittsburgh, PA, USA
- Silvia S. R. Reyes, Facultad de Humanidades y Artes, Universidad Nacional de Rosario, ARGENTINA
- Alex Macfie, Trewarren, Llanddewi Rhydderch, Abergavenny, UK
- Valerie J. Phillips, Assistant Professor of Law and, Co-Director of Native American Law Center, University of Tulsa College of Law
- Djilali BENAMRANE, économiste, France
- Kuisma Lappalainen, member of human right organisation Electronic Frontier Finland
- Ellie Clement, Librarian, Bradford, UK
- Barbara Fister, Gustavus Adolphus College
- Pedro Roffe, Senior Fellow ICTSD
- George Christodoulou, Librarian, Aristotlian University of Thessaloniki, School of Journalism and Mass Communication, Thessaloniki, Greece
- Melanie Dulong de Rosnay, University Paris II, CERSA, Creative Commons France
- David VIVAS EUGUI, Attorney at law, Geneva
- Johana VON BRAUN, P.D. candidate Queen Mary College
- Spyros Pierros, Municipal Library of Thessaloniki, Greece
- Rob Brian, Copyright Adviser, Australian Library and Information Association
- Dr Anthi Katsirikou, Member of the Board of the Greek Librarians Association, University of Piraeus, Greece
- Marcus Bornfreund, Professor of Law, University of Ottawa, Canada, Project Leader, Creative Commons Canada
- Ursula Lipovec Cebron working in University of Ljubljana, Slovenia
- Carlos Jesús Reyes Monserrat, Barrister, Candidate to the PhD. in Social Sciences at Universidad Central of Venezuela
- Rory McGreal, AVP Research, Athabasca University-Canada's Open University
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- Daniel Álvarez, Director, Fundación Derechos Digitales
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- Fabrizio Tarizzo, Italy
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- Ian D. Allen Ottawa, Ontario, Canada
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- Jon Noring
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- Andrew Yeomans, Herts, UK
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- Steve Mallett, <http://steve.osdir.com>
- Ben Wood, UK
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- David Kulawick, Ottawa, Canada
- Christian Wilcox, <http://codefuture.net>
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- Winfried Brenner
- Martin Goldhahn, Randaberg, Norway
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- Dipl. Phys. Marcus Werner, Germany
- Bernd Müller - Germany
- Frank Gerbig
- Dariush Thomas Sadoughian
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- Martin 'Helios' Steigerwald, Germany
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Colombia
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- Beatriz Rodríguez. México
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- Gilles Deviercy, France
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- Rachel Holt, MLS, Dallas, TX
- Ezendu Ariwa, UK
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- Josh Robinson, UK
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- Ignacio Ramirez - Uruguay
- Ian Barnett, Buenos Aires, Argentina
- Heather Formaini, Rozelle NSW,
Australia
- Thomas Klein, Germany
- Eli Edwards, California
- Bernard Dov Wisser, Alkmaar,
Netherlands
- Dr. Oscar LÓPEZ GOLDARACENA,
Montevideo, Uruguay
- Marcus M. Dapp, Switzerland
- James Mercer, Oxford, UK
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- María Escribano, Ireland