

La voix des Consommateurs
à travers le monde

The global voice
for consumers

La voz global para la defensa
de los consumidores



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Country Watch Lists as Global Norm-Setting Instruments on Copyright Flexibilities

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The normative foundations for copyright protection

- Copyright originally recognised as a monopoly right
 - Derives from press regulation, not property law
 - Normative basis in utilitarianism not natural rights
- More recent shift to thinking of copyright as property
 - *Intellectual property* popularised by WIPO in 1967
 - Knowledge sharing described as *piracy* and *theft*

Implications of the Access to Knowledge movement

- WIPO Development Agenda invites a further shift
 - Neither *monopoly* nor *property* but *human rights*
 - Advocacy for a treaty on Access to Knowledge
- Introduction of new protections of rights holders to be counterbalanced with new copyright flexibilities

Mechanisms for influencing copyright norms towards property

- Media campaigns and funded research
 - “You wouldn't steal a car”
 - Associating sharing with piracy, theft and terrorism
 - Technical measures
 - Multilateral policy fora and unilateral norm-setting
 - ACTA negotiations
 - USTR Special 301 Report
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About the USTR 301 Report

- Mandated under s.182 of the Trade Act of 1974
- Issued by the United States Trade Representative
- Public input invited by 17 February 2009
- Government input invited by 2 March 2009
- Previous reports based strongly on input of PhRMA and International Intellectual Property Alliance
- Released around 30 April each year


Objectives of the USTR 301 Report

- Claims “to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection”
- Includes a Priority Watch List of egregious offenders
- Imposes TRIPS-plus expectations
 - eg. criticises compulsory licensing of drug patents

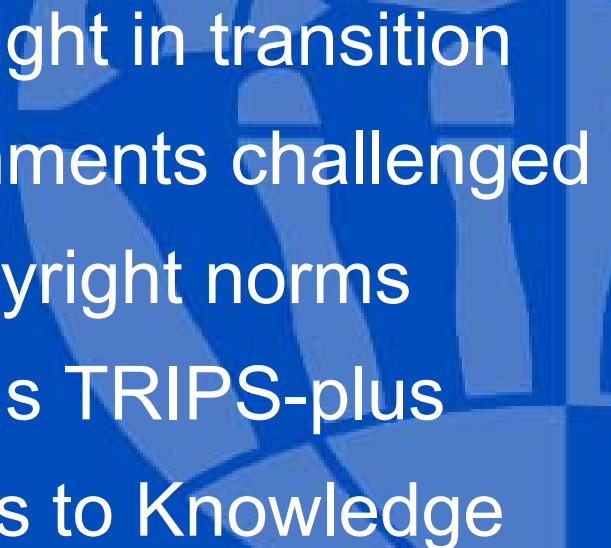
Mechanisms for influencing copyright norms towards A2K

- Media campaigns and funded research
 - WBU's *Right to Read* global campaign
 - CI research on impact of new copyright flexibilities
 - Substitution of shrinking *public domain* commons with Creative Commons and FOSS
 - Consumers International IP Watch List
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Why an IP Watch List for Consumers?

- As an advocacy tool
 - To help drive a shift in copyright normativity
 - As a counterpart to the USTR 301 Report
 - To balance its global normative impact
 - To disseminate global best practices
 - To eventually feed into an international instrument
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Conclusion

- The normative foundations of copyright in transition
 - Rights-holders and captured governments challenged
 - Watch lists can influence global copyright norms
 - USTR Special 301 Report towards TRIPS-plus
 - CI's IP Watch List towards Access to Knowledge
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Contacts and references

- USTR Special 301 Report
 - <http://www.ustr.gov/>
- Consumers International IP Watch List
 - <http://A2Knetwork.org/watchlist>
- Jeremy Malcolm
 - jeremy@ciroap.org



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www.consumersinternational.org