

Free Software Foundation Europe (FSFE)

Opening Statement to the 14th session of the Standing Committee on the Law of Patents ([SCP/14](#)) – Geneva, January 25-29, 2010

The Free Software Foundation Europe would like to congratulate you on your election to the Chair of this very important committee, as well the two Vice-Chairs. We are confident that under your able guidance, discussions will be productive, inclusive and balanced. We would also like to congratulate Mr Pooley on his new office as Deputy Director General of WIPO, and wish him success in his work.

We thank the Secretariat once more for the preparation of the Report on the International Patent System (SCP/12/3 Rev 2), which is an excellent and comprehensive document. We welcome the evidence-based approach which permeates large parts of this important document. We also commend the Secretariat for its hard work in preparing the preliminary studies now before this committee.

We note in particular that the report on the international patent system (SCP/12/3 Rev 2) states a clear economic rationale for the patent system, describing it as one among several tools to promote innovation and development. The report invites us to consider where this particular tool can be productively applied; but also to think about where other regulations – or indeed the absence of regulation – would do more to promote innovation and development.

In the light of these considerations, we strongly support the proposal made by Brazil to create a working program in this committee for the discussion of limitations and exceptions, and their effectiveness in addressing development concerns.

Getting the relationship between patents and standards right will be key to safeguarding and promoting innovation in the technology sector.

In order to make use of the broad selection of tools we have available to promote innovation, we believe that this committee's work programme should include a discussion of open and collaborative approaches to innovation. We note the support which groups such as the International Chamber of Commerce have just now expressed for these approaches. The committee would also be enriched by a discussion of Open Standards as an approach to enabling innovation and lowering the bar to market entry.

With regard to the so-called Anti-Counterfeiting Trade Agreement (ACTA) that is being negotiated in Mexico this week, we urge the SCP to call on the negotiating countries to disclose the drafts for this agreement, so that its consequences for the patent system can be discussed, and we do not duplicate efforts. FSFE strongly objects to the intransparent manner and secrecy in which the negotiations for ACTA are being conducted. Such intransparency and secrecy are not conducive to building confidence into the outcome of this negotiation process.

With these preliminary remarks, we would like to conclude our statement. We are looking forward to making more specific comments at the time the preliminary studies are discussed.

Karsten Gerloff

President, Free Software Foundation Europe

Geneva, January 25 2010

*A digital version with links to references studies and information is available upon request, all
FSFE statements also available at <http://fsfe.org/projects/wipo/>.*