16th August 2007 | Draft

Universal Declaration of Patent Responsibilities

a draft proposal

Discussion of the issues that are the focus of this proposal is provided separately in From Patent Rights to Patent Responsibilities: obligations incumbent on owners and licensors of intellectual property (2007)

Comment

The following proposal is designed to focus the debate on those responsibilities for use of intellectual property incumbent on owners of such property and on those to whom use is granted by them in some way. This contrasts with current practice in which any such responsibility is left to others, notably regulatory authorities -- if they have been envisaged and irrespective of whether they have an appropriate mandate and adequate means of imposing constraints on use of the property.

As noted, the device used in formulating the above draft proposal is that of a slight adaptation of the Universal Declaration of Human Responsibilities, proposed by the InterAction Council in 1997 (as amended in 1998) for consideration by the United Nations as a complement to the Universal Declaration of Human Rights (1948). No action has since been taken on the original proposal (available in many languages). In a reaction to it, the UN approved a Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (53/144, 9 December 1998).

The focus on patent rights follows from an analogous draft proposal for a Universal Declaration of Responsibilities of Human Intercourse (2007), derived in the same manner -- and with which some relevant commentary is also associated. Just as that proposal benefitted from both a specific and a general connotation of "human intercourse", that on this Universal Declaration of Patent Responsibilities also benefits from multiple connotations highlighted by the possibility of more specific variants:

- Universal Declaration of Responsibilities for Intellectual Property (namely technical and otherwise)
- Universal Declaration of Responsibilities for Technical Patents (namely specifically technology-related)
- Universal Declaration of Evident Responsibilities (namely rendered explicit in some way)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family to intellectual property is the foundation of freedom, justice and peace in the world and implies obligations or responsibilities,

whereas the exclusive insistence on patent rights can result in conflict, division, and endless dispute, and the neglect of responsibilities arising from ownership of such property can lead to lawlessness and chaos,

whereas the rule of law and the promotion of human rights depend on the readiness of men and women to act justly,

whereas global problems demand global solutions which can only be achieved through ideas, values, and norms respected by all cultures and societies,

whereas all people, to the best of their knowledge and ability, have a responsibility to foster a better social order, both at home and globally, a goal which cannot be achieved by laws, prescriptions, and conventions alone,

whereas human aspirations for progress and improvement can only be realized by agreed values and standards applying to all people and institutions at all times,

whereas the Universal Declaration of Human Rights addresses itself to the inalienable rights of humanity, and to the protection of all people against abuse of power by governments or institutions of governments, this proposed declaration is a moral appeal which addresses itself to issues of conscience and ethical behaviour relating to intellectual property. While governments are clearly responsible for just and equitable laws, there are many matters of conscience for which we must be our own judges.

Now, therefore,
The General Assembly
proclaims this Universal Declaration of Patent Responsibilities as a common standard for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, should contribute to the advancement of communities and to the enlightenment of all their members. We, the peoples of the world thus renew and reinforce commitments already proclaimed in the Universal Declaration of Human Rights: namely, the full acceptance of the dignity of all people; their inalienable freedom and equality, and their solidarity with one another. Awareness and acceptance of these responsibilities for intellectual property should be taught and promoted throughout the world.

Fundamental Principles for Humanity

Article 1
Every owner of intellectual property, regardless of gender, ethnic origin, social status, political opinion, language, age, nationality, or religion, has a responsibility to ensure that its use enhances the treatment of others in a humane way.

Article 2
No owner of intellectual property should thereby lend support to any form of inhumane behavior; all people have a responsibility to strive for the dignity and self-esteem of all others.

Article 3
In using their intellectual property, no person, no group or organization, no state, no army or police stands above good and evil; all are subject to ethical standards. Everyone has a responsibility to promote good and to avoid evil in their use of intellectual property.

Article 4
All people, endowed with reason and conscience, in their employment of intellectual property, should accept a responsibility to each and all, to families and communities, to races, nations, and religions in a spirit of solidarity: What you do not wish to be done to yourself, do not do to others.

Non-Violence and Respect for Life

Article 5
Every person has a responsibility to respect life in their use of intellectual property. No one has the right to injure, to torture or to kill another human person through such use, and notably through the use of patented technology. This does not exclude the right of justified self-defense of individuals or communities.

Article 6
Disputes between states, groups or individuals, regarding the use of intellectual property, should be resolved without violence. No government should tolerate or participate in acts of genocide or terrorism, nor should make use of intellectual property as a means of abusing women, children, or any other civilians as instruments of war. Every citizen and public official has a responsibility to use intellectual property in a peaceful, non-violent way.

Article 7
Every person generating intellectual property is infinitely precious and must be protected unconditionally from the consequences of their creativity. The animals and the natural environment also demand protection from such consequences. All people have a responsibility to protect the air, water and soil of the earth for the sake of present inhabitants and future generations.

Justice and Solidarity

Article 8
Every person with a right to use intellectual property has a responsibility to behave with integrity, honesty and fairness. No person or group should rob or arbitrarily deprive any other person or group of their own intellectual property.

Article 9
All people employing intellectual property, given the necessary tools, have a responsibility to take into account, in doing so, the need to overcome poverty, malnutrition, ignorance, and inequality. Through their right to use of such property, they should promote sustainable development all over the world in order to assure dignity, freedom, security and justice for all people.

Article 10
All people employing intellectual property have a responsibility to develop their talents through diligent endeavor; they should have equal access to education and to meaningful work. Everyone should lend support to the needy, the disadvantaged, the disabled, and to the victims of discrimination and misuse of intellectual property.

Article 11
All intellectual property and associated wealth must be used responsibly in accordance with justice and for the advancement of the human race. In the process of using such property, economic and political power must not be handled as an instrument of domination,
but in the service of economic justice and of the social order.

Truthfulness and Tolerance

Article 12

All people employing intellectual property have a responsibility to speak and act truthfully. No one, however high or mighty, should speak lies. The right to privacy and to personal and professional confidentiality is to be respected by those employing intellectual property. No one is obliged to tell all the truth to everyone all the time.

Article 13

With respect to use of intellectual property, no politicians, public servants, business leaders, scientists, writers or artists are exempt from general ethical standards, nor are physicians, lawyers and other professionals who have special duties to clients. It is for the professions and their members to establish appropriate ethical codes relating to the use of intellectual property which reflect the priority of general standards, such as those of truthfulness and fairness.

Article 14

With respect to use of intellectual property, and as an aspect of it, the freedom of the media to inform the public and to criticize the institutions of society and governmental actions is essential for a just society. It is the responsibility of those involved to exercise their freedom with a sense of responsibility and discretion.

Article 15

While religious freedom must be guaranteed, the representatives of religions have a special responsibility to avoid expressions of prejudice and acts of discrimination toward those of different beliefs regarding use of intellectual property. They should not incite or legitimize hatred, fanaticism and religious wars, but should foster tolerance and mutual respect between all people employing intellectual property.

Mutual Respect and Partnership

Article 16

All men and all women have a responsibility to show respect to one another and understanding in their partnership and any associated use of intellectual property. No one should subject another person to sexual exploitation or dependence. Rather, sexual partners should accept the responsibility of caring for the well-being of each other.

Article 17

In all its cultural and religious varieties, bonds associated with use of intellectual property require love, loyalty and forgiveness and should aim at guaranteeing security and mutual support.

Article 18

Sensible family planning is the responsibility of every couple in developing their intellectual property. The relationship between parents and children should reflect mutual love, respect, appreciation and concern. No parents or other adults should exploit, abuse or maltreat children.

Conclusion

Article 19

Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the responsibilities, rights and freedom set forth in this Declaration and in the Universal Declaration of Human Rights of 1948.

The only reference to obligations in the 1948 Universal Declaration of Human Rights is Article 29: "Everyone has duties to the community in which alone the free and full development of his personality is possible."

Not everyone at the time thought that was enough. Mahatma Gandhi, on being consulted about that Declaration, wrote: "The Ganges of rights originates in the Himalaya of responsibilities." Many have continued to note the ineffectively addressed issues of Western bias in the original Declaration -- resulting in the formulation of alternative declarations, such as the Universal Islamic Declaration of Human Rights (1401/1981).

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Article 30 of the Universal Declaration of Human Rights could therefore be usefully interpreted as: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein -- or to avoid any responsibility set forth in the Universal Declaration of Patent Responsibilities.