

# Treaty On Access to Knowledge (A2K)

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# Introduction

- Treaty on Access to Knowledge (A2K) is a new WIPO treaty currently being developed in order to “protected and enhance [expand] access to knowledge.”
- Current Draft (9 May 2005) located at:  
<http://www.cptech.org/a2k/consolidatedtext-may9.pdf>

# Importance of Access To Knowledge and Opposing Trends

- Traditional Approach – Copyright == Compromise
  - Authors/publishers want to maximize their “return on investment” - if works can be copied w/o consequence no strong incentive to create works
  - Public (and authors) want/need a large pool of freely available knowledge
    - Having works constantly enter the public domain benefits society at large b/c there is greater pool of creative expression to draw from
    - Example – Burnett’s Secret Garden; after entering public domain many new versions created:  
<http://tinyurl.com/aqlqy> [law.asu.edu]
  - Compromise – Allow authors exclusive economic rights for limited time
- Current Trend – Maximize Copyright Protection
  - Copyright Producers believe that new technologies == new ways to pirate
  - Fear of piracy blocks many positive applications (esp. internationally)
  - Copyright viewed as a means to combat piracy
    - Retroactive copyright extensions
    - GATT and WIPO being used to deploy “minimum levels” of protection worldwide

## Timeline for Treaty on Access To Knowledge (A2K)

- Aug 2004 – At 31<sup>st</sup> WIPO General Assembly Argentina & Brazil proposed a new development agenda:  
[http://www.wipo.int/documents/en/document/govbody/wo\\_gb\\_ga/pdf/wo\\_ga\\_31\\_11.pdf](http://www.wipo.int/documents/en/document/govbody/wo_gb_ga/pdf/wo_ga_31_11.pdf)
  - WIPO's should focus on “broad development goals” rather than limiting itself “to the promotion of intellectual property protection” [WO/GA/31/11]
  - Current WIPO efforts may require developing nations to agree to higher protection standards than even TRIPS
- Oct 2004 – Argentina and Brazil’s Proposal for the Establishment of a New Development Agenda for WIPO accepted by the WIPO General Assembly
- April 2005 – 1<sup>st</sup> Inter-sessional intergovernmental Meeting on a Development Agenda for WIPO – Initial A2K discussions
- May 2005 – London A2K Workshop resulting in 1<sup>st</sup> version of the A2K Treaty
- Sept 2005 – New Development Agenda (including A2K) on WIPO General Assembly’s Agenda

# A2K Overview

- **Goals [A2K Part 1 Preamble]**
  - Create “opportunities to participate in development of knowledge resources”
  - Support “innovation, development and social progress” by maximizing the “opportunities arising from technological progress.”
  - “Protect, preserve and enhance the public domain, which is essential for creativity and sustainable innovation”
- **Main Provisions**
  - Part 3 – Exceptions and Limitations to Copyright
  - Part 4 – Limitations on patents (subject matter, types, uses)
  - Part 5 – Expanding the Knowledge Commons
  - Part 6 – Promotion of Open Standards
  - Part 7 – Control of Anti-Competitive Practices

# A2K Copyright Provisions

- General Limitations and Exceptions to Copyrights
  - Art 3-1(a)(i),(iii),(iv), Art 3-2 – Teaching/Distance Learning Exemptions
  - Art 3-1(a)(ii) – Criticism/Parody Exemption
  - Art 3-1(a)(v), Art3-4 – Library Exemptions
  - Art3-1(a)(vii), Art3-3 – Accessibility Exemption
  - Art 3-1(a)(viii), Art3-8 – Exemptions for “orphan” works
- Art 3-6 – Digital Rights Management
  - Art 3-6(b)(i-v) – Allow DRM to be bypassed/circumvented in certain situations
  - Art 3-6(e),(f) –Does not allow the right to bypass DRM be waived via contract
- Other Provisions
  - Art 3-5 – Exemptions for ISPs
  - Art 3-9 – Members agree that copyrights will not be extended retroactively beyond the requirements of TRIPS
  - Art 3-12 – Simplified compulsory license to copyrighted works for developing countries