Unzipping the World Summit on the Information Society

by Alan Toner

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The World Summit on the Information Society (WSIS) has already attracted the attention of the critical media community. Here, Alan Toner of Autonomedia and New Yorks Information Law Institute examines whats at stake at the Summit and how its agenda reflects changes in the post-industrial location of power, describing some working strategies for intervention in the WSIS process from independent and contestatory communications groups formed outside last years European Social Forum.

A TALE OF TWO TERMS

We begin with a tale of two terms: the well aired and well known Information Society, and its rather furtive and less well known relation, intellectual property (IP). One of the decades great shibboleths, Information Society was a phrase recycled throughout the 90s by policy hacks, academics and gurus alike. Employed variously to herald the expansion of digital networks, the permeation of labour by information processes, and the shift from tangible to intangible goods, Information Society seemed to imply something inexorable, a consequence of the massive mediatisation of the preceding years, outside any one set of strategic interests something, we were constantly reminded, we would all have to adapt to.

What this rhetoric largely occluded was the wave of expansionist intellectual property laws which accompanied the informaticisation of society. These legal constraints, at whose epicentre sits the Trade Related Aspects of Intellectual Property Rights (TRIPS), annex to the General Agreement on Trades and Tariffs (GATTs), have served a very strategic set of interests within the post-industrial scene. They have effectively reversed the notional role of IP laws from the protection of cultural production and scientific/technological innovation to the limitation of these creative forces, and served to fix relations between advanced post-industrial states and the former third world. They have done this

by creating copyright monopolies which drive concentration of ownership, push up costs of entry into markets, and exclude effective activity for many independent actors.

Advanced post-industrial states now compel others to observe legal norms that effectively disallow certain forms of innovation, production and organisation. The states thus impacted are effectively limited, through control over invention and information, to a role as factors in the system of global production that has the major powers of the North at its centre. The agreements ensure that even where production is transferred to these areas due to lower labour and production costs, the profits continue to flow to New York, London and Zurich.

Copyright laws protect commerce from competition and from its own customers, allowing it to charge a rent on the past which finances domination of markets in the present and which, in turn, is taken to guarantee the future. This putative guarantee comes at a certain price: software licenses checked at gunpoint in Brazil; 40 people arrested in Madrid in a swoop on pirate CD/DVD network (industry lobbyists insist such operations bankroll terrorism); a Russian software engineer arrested and jailed in the United States after a conference presentation of his work before thousands; indigenous Indians in Chiapas rioting after a police raid on a market of infringing goods; an 18-year-old Norwegian prosecuted for enabling a Linux based DVD player; American citizens sharing music prosecuted as felons; university researchers charged with criminal trade secrets offences for publishing knowledge derived from their own research works; China summarily executing trademark pirates as disciplinary examples. In AIDS-ravaged sub-Saharan Africa and Asia, pharmaceutical companies have instigated actions through the WTO and in national courts to prevent the cheap manufacture of the anti-retrovirals necessary for people to survive. Where once corpses accumulated to the advance of colonialism or the indifference of commodity capital, now they hang in the profit and loss scales of Big Pharma, actuarially accounted for and calculated against licensing and royalty revenue. With the aid of stringent IP law, companies are able exercise a biopolitical control that takes to new extremes the tendency to liberate capital by restricting individual and collective freedoms and rights even the right to life itself.

INTRODUCING WSIS

You might be forgiven for imagining that one of the first imperatives of an occasion such as the World Summit on Information Society, due to take place in Geneva in December 2003, would be to address the social terrors being carried out in the defence of intellectual property. Unfortunately such topics are firmly off the agenda. The stated objective of the WSIS is defined as the building of

a common vision and understanding of the information society in full regalia.[1]
WSIS is presented in the literature promoting the event as

[a] dynamic process [which] promises a fundamental change in all aspects of our lives, including knowledge dissemination, social interaction, economic and business practices, political engagement, media, education, health, leisure and entertainment. We are indeed in the midst of a revolution, perhaps the greatest that humanity has ever experienced [...] The roles of the various partners (Member States, UN specialised agencies, private sector and civil society) in ensuring smooth coordination of the practical establishment of the information society around the globe will also be at the heart of the Summit and its preparation [...] the anticipated outcome of the Summit is to develop and foster a clear statement of political will and a concrete plan of action for achieving the goals of the Information Society, while fully reflecting all the different interests at stake. [2]

Such nebulous policy extravaganzas have been a regular staple of the international scene since the Stockholm Conference on the Environment in 1972, and have ranged thematically from women (Beijing 1995) to sustainable development (Johannesburg 2002). These events have been a key theatre for the emergence of so-called civil society, a panoply of NGOs seeking recognition as representatives of minority constituencies, universal values or specialist knowledge. Such constituencies, it is argued, are easily neglected during the legislative process, but necessary in enabling deliberative democracy. An increasingly obvious trait of such affairs has been their inconsequentiality, especially when juxtaposed with the unforgiving machinations of the World Trade Organisation or the potentially lethal repercussions of being the subject of assistance from the World Bank/IMF. Promissory rhetoric and problem-solving enthusiasm may provide a compelling tenor for the media function such events serve, but are misleading as a guide to actual efficacy. WSIS, first mooted at the decision making plenary of the International Telecommunications Union (ITU) in Minneapolis, 1998, seems little different. The summit co-host, Tunisia, has already flagged its engagement with the issues by arresting and imprisoning web activist Zouhair Yahyaoui, editor of online journal TUNeZINE and ardent critic of Tunisias human rights record. In April, Yahyaoui began a second hunger strike in jail.

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[1]Resolution adopted by the General Assembly 56/183, World Summit on the Information Society

[2]From Wsis.org

FUTURES PAST

Information and communications have been the subject of two previous international initiatives since the Second World War. The first, the UNs 1948 Conference on the Freedom of Information, also in Geneva, was overshadowed by Cold War tensions.

But ensuing attempts at the World Intellectual Property Organisation (WIPO) to revise the Paris Convention governing industrial property (patents and trademarks) and to expand the role of compulsory licensing at the UN Conference on Trade and Development (UNCTAD) were more successful. At UNESCO, demands for a New World Information and Communication Order (NWICO), premised on a critique of media concentration and cultural domination of third world countries by foreign states and commercial interests, postulated the centrality of informational flows to economic development and argued that systemic inequalities in such flows obstructed countries from developing local media industries that could allow them to represent themselves.

Out of the Declaration on Mass Media at UNESCO's 1978 conference came the establishment of a commission to study communications issues, which two years later published Many Voices, One World, better known as the MacBride Report, setting out a program promoting diversity of ownership, plurality of opinion and guarantees of cultural identity[3]. Despite the moderation of its claims, the MacBride report incensed media and broadcast associations, especially in the US, culminating in the 1981 Declaration of Taillores demanding that UNESCO abandon attempts to regulate news content and formulate rules for the press. Right-wing analysts such as the Heritage Foundation characterised UNESCO as having an anti- Western bias,

rampant budgetary mismanagement, and advocacy of policies that undermine freedom of the press and free markets [....] advocacy of a new world information order (NWIO) to counter an alleged pro-Western bias in global news agencies; specifically, the organisation sought the licensing of journalists, the creation of an international code of press ethics, and increasing government control over the media [...] [4]

Ultimately the United States left UNESCO in 1984 (depriving it of 30 percent of its budget) followed shortly thereafter by Britain and Singapore. All

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[3]Useful background to this period is to be found in Susan Sells *Power and Ideas: North-South Politics of Intellectual Property and Antitrust* (Albany: State University of New York Press, 1997)

[4]Brett D. Schaefer, *Look Before Leaping to Rejoin UNESCO*, Executive Memorandum #746:
http://www.heritage.org/Research/InternationalOrganizations/EM745.cfm

of these negotiations had taken place in multilateral fora, a terrain for which the Reagan administration had little taste, preferring the conditions of bilateral negotiation where US economic and military clout could be wielded with less modesty. Companies such as Pfizer and IBM, as well as trade associations like the Motion Picture Association of America (MPAA) decided that the genteel style of WIPO, the numerical supremacy of the developing countries, and the lack of an enforcement mechanism for international copyright and patent treaties, made it unsuitable for their purposes. That same year, amidst a sharpening debt crisis that undermined the solidarity of the Group of 77, negotiations to revise the Paris convention collapsed, followed twelve months later by the termination of the negotiations for a code on technology transfer. But despite its jettisoning, the spectre of the NWICO continues to haunt old cold warriors such as the World Press Freedom Campaign, who periodically circulate scare stories of its return.

INFORMATION (REAL)POLITIK

The US Administrations new bilateral trade-based strategy debuted in 1983 in the form of the Caribbean Basin Economic Recovery Act, which offered duty-free access to US markets for certain goods, contingent on compliance with US intellectual property norms a template later employed in numerous other bilateral deals. The following year, US copyright industries united to establish the International Intellectual Property Alliance (IIPA) which was to pursue a trade route towards copyright enforcement. The IIPAs first achievements were the amendment of the US Trade Act to allow the initiation of formal trade retaliations against non-compliant states under Section 301, and conditioning access to US Markets via the Generalised System of Preferences to those satisfying the stipulated level of intellectual property protection. In some cases staff were actually dispatched to countries such as the Dominican Republic to rewrite copyright law. [5]

Subsequently India and Brazil, two countries formerly at the forefront of the enforcement drive in the UN, were singled out for action under 301. In 1986, with the Uruguay Round of the GATT negotiations on the horizon, the IIPA was supplemented by a new industry group, the Intellectual Property Committee (IPC), determined to ensure that corporate IP concerns be inserted into the negotiation agenda and fully integrated into any ultimate agreement. It was

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[5]For more on the shift to a trade based paradigm of intellectual property see *Information Feudalism: Who Owns the Knowledge Economy?* Peter Drahos and John Braithwaite, New Press, 2003

the IPCs efforts to orchestrate business lobbying efforts on a global basis which culminated in TRIPS, now administered by the WTO. TRIPS will transfer an estimated 40 billion dollars from the poorest states over the next ten years, according to the World Bank, via patented medicines and seeds, and net rent transfers through royalties and licenses. [6]

MILITARY HUMANISM

The aftermath of the Trade Towers conflagration has been marked by an undisguised turn towards unilateralism by the United States. Clinton had proposed rejoining UNESCO, ending reliance on bilateralism, but recoiled in the face of fierce Republican opposition. Now such bellicose commentators see a missed opportunity: UN institutions, it is believed, hold great potential as a precinct for the continuation of military operations. Here, ideological dissemination and the promotion of cultural understanding can take place, a project Perry Anderson styles military humanism. [7]

Accordingly, after September 11, the US paid some of the dues it owed to the UN. George Bush announced his intention to rejoin UNESCO last September, just before presenting the evidence that would be used to justify the war on Iraq. While old foes of UNESCO like the Heritage foundation may have understood the logic of rejoining, they continued to support bilateral aid (better known as bribery), public diplomacy programs and voluntary contributions to the organisation. But increased accusations of unilateralism following the unendorsed assault on Iraq are encouraging the strategy of exploitation of organisations such as the UN. The fact that they exercise very little power only means that they cannot pose any real threat of constraint, either on business practice or military might. What they do offer, in the words of Ronald Koven are

real opportunities [...] to advance the ideological interests of the international coalition against terrorism [...] **September 11 demonstrated that US security can no longer be defined in purely military terms and that** *the extremist offensive against American cultural values must be answered through school curriculums, working for tolerance and rationalism and the correcting of*

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[6]ntellectual Property Rights and Economic Development, Keith J. Maskus, *Case Western Reserve Journal of International Law*, vol. 32 (2000), p. 471

[7]See, for example, Perry Anderson, Casuastries of Peace and War, in *London Review of Books*, Vol. 25, No. 5 dated 6 March 2003

cultural misperceptions in foreign publics. [My emphasis.] [8]

Kovens advocacy in favour of UNESCO is doubly significant in that he works for the World Press Freedom Committee, an outpost of cold war thinking and permanent sentinel against any attempt to reinvigorate the NWICO. Assumption of such a pro- UNESCO position by Koven signals that the organisation is now seen as favourable to the free flow of information.

A CONFERENCE WITHOUT CONTENT

This evacuation of power from UN organisations poses a dilemma : what can be meaningfully discussed at WSIS? The draft declaration indicates the questionable content of the information society concept itself, comprising 71 different points and resuscitating a ruse reminiscent of the heights of the dot com folly: addition of prefix E- to any given area of human activity to cast it as an ICT issue (E-administration, E-Learning and so on). Meanwhile substantial media-themes have been marginalised to such an extent that the European Broadcasters Union recently threatened to pull out of the WSIS altogether unless its concerns were addressed. Such an embarrassing scene would be the ultimate disaster for the Swiss, who are hosting their first UN event since they joined the organisation in September 2002, desperate for a diplomatic and publicity triumph.

It is in this light that the pious discourse on the digital divide must be considered. This great divide is a matter which thoroughly exercises policy lovers within the G8, who established the suggestively titled DOTForce to suggest how the chasm might be bridged by free market means, of course. Rhetoric and reality starkly diverge: development agencies set a target of connecting every family and village by 2005 in a context of constantly dwindling budgets and the emasculation of sources of self- financing such as the Accounting Rate Mechanism. [9] Likewise the sole surviving product of the NWICO debate within UNESCO,

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[8] James H. Ottaway Jr. and Ronald Koven, The New UNESCO, *The Washington Post*, Wednesday, July 17, 2002; Page A23

[9] Elsewhere the revenue-sharing Accounting Rate Mechanism instituted by the ITU has been discarded. This term refers to the calculation by which telephone companies divide income from calls between the country of origin and that in which it is received. Until recently this figure was 50% of a fictitious fixed rate, distinct from both cost of provision or charge to the user. This system once constituted an important source of income for developing countries in 1996 the United States, for example, had a deficit of 5.6 billion dollars, much of which flowed to poor neighbouring countries. From 1997 the FCC announced a reduced accounting rate, practically capping the amounts transferred. Although the ITU responded with an alternative proposal in 1999, it was by this time too late and many countries had adopted the FCC system. Interestingly, legal restraints on the domestic market for sex-lines in the US catalysed the use of innovative routing mechanisms via peripheral nations such as

the International Program for the Development of Communication (IPDC) has been so denied resources as to cripple it entirely: in 2001, contributions to the IPDC program at UNESCO hit an all-time low of US$1.25 million. Given that major donors slashed aid through the 90s US development funding is smaller as a proportion of the total economy than at any time since the advent of official statistics the likelihood of any tangible effects arising from the programme is negligible.

FEAR ON THE TABLE

Whilst eschewing controls upon capital, the modern states appetite for the restriction of individual and collective freedom continues unabated. Thus the exception to the taboo on regulatory initiatives at WSIS: the Cybercrime Treaty, presented at the second preparatory meeting for the Summit under the legend Taming the World Wide Web.

Negotiations on the treaty began in secrecy between the Council of Europe, the US Department of Justice and assorted intelligence interests in 1997. Its text, finalised in November 2001, bolstered police powers of search and seizure and expanded existing international cooperation programs for the collection of evidence and the interception of communications. The treaty, a policemans wish-list, pays no heed to individual rights and privacy in its articulation of an authoritarian programme of data accumulation. Particularly startling, however, is Article 10, requiring the institution of criminal punishments for copyright infringements where such acts are committed wilfully, on a commercial scale and by means of a computer system. Criminal sanctions in copyright law have historically been circumscribed to commercial counterfeiting operations, but as this provision does not require any pecuniary motivation, it would enable, for example, the criminal prosecution of users of file sharing systems who share their music with others. In a similar vein Article 6 criminalises possession, manufacture or distribution of devices that can be used to gain illegal access.

As must now be clear, behind the WSIS broad and general view of knowledge dissemination, social interaction, economic and business practices, political engagement, media, education, health, leisure and entertainment lies a very specific and ongoing set of strategies designed to use control of information,

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Guyana, who receives up to 40% of its Gross Domestic Product from such calls. See Frederick E. Allen, When Sex Drives Technological Innovation and Why It Has To.
http://www.plannedparenthood.org/education/updatearch.html

and information property, to advance Northern interests on the global scene. Meanwhile the US intends to make sure that these same strategies cannot be simultaneously used against its interests. Its intentions in this respect were signalled clearly by the Intergovernmental Statement which concluded the European Regional Preparation Meeting for WSIS in Bucharest, whose principle 6 is worth quoting at length:

A global culture of cyber-security needs to be developed security must be addressed through prevention and supported throughout society, and be consistent with the need to preserve free flow of information [...] Information Communications Technologies can potentially be used for purposes that are inconsistent with the objectives of maintaining international stability and security and may adversely affect the integrity of the infrastructure within States, to the detriment of their security in both civil and military fields, as well as in relation to the functioning of their economies. It is also necessary to prevent the use of information resources or technologies for criminal or terrorist purposes [...] In order to build confidence and security in the use of ICTs, Governments should promote awareness in their societies of cyber-security risks and seek to strengthen international co-operation, including with the private sector.

Subsequent briefings in Washington, hosted by the International Telecommunications Advisory Committee, reiterated the administrations commitment to advancing the security agenda in Geneva, insisting that it is one of only three areas (the others being training and infrastructural expansion) where any agreement is foreseeable. So far the US has manifested relative indifference to the WSIS, and the impact of the security agenda will hinge upon the degree to which they apply their muscular approach to the Summit. In the meantime the usual triggers for moral panics on the net drugs, terrorists, money launderers and paedophilia can be expected (recent reports of the use of p2p tools for sharing child porn are an example) as well as the continued blurring of the category of cyberterrorism to potentially include any radical use of new media technologies.

THE PROBLEM WITH NGOS

In April 2002, 15 months after the closure of applications of the job and just four months before the first preparatory conference, an executive director of the WSIS secretariat was appointed: Pierre Gagne, a Canadian bureaucrat with the ITU. The lateness of this appointment means that no significant decisions can be taken at the Summit, even by the usual low standards of such specta-

cles. Unfortunately, the ITUs insistence that the WSIS would be a new type of summit, built on a multi-stakeholder model involving states, intergovernmental organisations, business and civil society, has not come to very much. There has been little opportunity to make a mark on the Summits direction. Contact with the organisers is mediated through a WSIS secretariat comprising three divisions, the civil society element being managed by the Swiss Fondation de Devenir, which has assumed the role of mediating the mediators. NGO participants discovered that while decisions on procedural form were to be discussed in the ITU building (where Pakistan and China were doing their utmost to have participation limited strictly to state-actors), they themselves were to be quarantined across the road where a programme of discussions had been scheduled for them by the Civil Society Directorate.

The very participation of the NGOs, restricted though it is, raises questions. To what extent is their involvement solicited merely to give the Summit legitimacy? Without the NGOs the emptiness of the windy sermonising might be all the more apparent. On the other hand, the absence of any real decision making intent at WSIS means that there is scarcely a process to launder. And social movements as a whole have not agitated effectively around intellectual property and technology, despite the centrality of such themes for those involved in movement communications. As a result efforts at cooption by state and intergovernmental actors would be premature. Some hope for NGO activity comes in the form of Communication Rights in the Information Society (CRIS), a campaign formed at the World Social Forum in Porto Alegre in November 2001 from a pre-existing alliance of NGOs known as the Platform for Communication Rights including such organisations such as the Association for Progressive Communications and Computer Professionals for Social Responsibility. CRIS is highly critical of the official WSIS agenda for its fixation on technical issues, neglect of the social context, and fetishisation of the digital at the expense of what may be more accessible and useful technologies radio. CRIS formulates an explicitly dialogic conception of communication rights predicated on the potential to produce and disseminate messages, as well as the freedom to receive them. Its aspiration is towards a democratisation of the media, rather than the restraint of private actors by the state (although some of its constituent groups continue to advocate ownership controls on a national level).

CRIS have pressured the ITU for more transparency, financing for non-Western participation and adoption of content relevant to its communication rights agenda. Unlike other NGO participants they see the WSIS as a context to be instrumentalised in a broader struggle rather than an end in itself. This attitude turns out to dovetail well with the strategies of the radical media contingent which will be present in Geneva during the WSIS. Indeed, the two groups met in April this year to discuss the potentials for interaction both in- and outside the Summit.

COMMUNICATIONS INSURGENCY

Protagonists in an ad hoc network born at The Hub, an autonomous space parallel to the official European Social Forum (see *Mute* 25) had already begun organising their own campaign around the WSIS prior to this meeting. Their Geneva meeting brought together these hubbers, largely focused on autonomous media infrastructures and the possibility of social economies existing in defiance of intellectual property, members of the Make World organisation, representatives of CRIS and Italian elements of the Indymedia collective. Together, these groups initiated the organisation of an event immediately prior to the Summit, offering the opportunity to discuss the substantive issues denied delegates at the WSIS in the context of a critique of liberalisation, privatisation and free competition. Against this discursive background, the event will also offer the opportunity for emancipatory communications and participation in a polymedia lab dedicated to broadcasting by any means necessary via television, radio, streaming media and wireless networks. The event will foreground skills and knowledge sharing. Providing an interface for remote participation through multidirectional streaming and other tools will both open the event to greater participation and also addresses another theme confronted at the ESF Hub in Florence: namely, the means to go beyond summit-hopping and focus on embedded local processes. This environment of experimentation will be accompanied by continuous workshops in practice, advocacy and theory.

Alongside these actions, CRIS have proposed a one day seminar to take place inside the vast Palexpo complex in which the plenary sessions will take place, and where some of their members have to be present as part of national delegations. CRIS has three main aims: to bring together governments and NGOs disaffected by the neoliberal paradigm, initiate concrete projects that could have a more enduring impact in areas such as spectrum allocations policy, and to develop a more radical declaration on the information society that will counter the asinine production of the official summit .

The vagueries of the WSIS agenda offer the chance for an agitation that is broader still, going well beyond questions immediately related to digital regulation and media to embrace the fight against patents for access to essential medicines, restrictions in movement of knowledge under trade secret laws and technology transfer. The hope is that extramural opposition to the WSIS, in collaboration with informed participants on the inside, can monitor any dangers, and exploit what benefits there are to be had from discussing the issues shadowed at the Summit with delegates extracted from its hallowed precincts.

Rather than surrendering to what passes for substantive discussion in those climes, social radicals are mustering the critical tools assembled in recent years to effect an *in situ* demonstration of communications insurgency. Geneva 2003 does offer a rare chance for substantial exchanges with media workers from outside the post-Fordist core, extending existing global networks, and building bridges to material and immaterial workforces affected by and effecting informational regimes.

Practically, an orientation-blueprint for this counter-event may be provided by Yochai Benklers dissection of the communications structure into three layers: physical, logical and content. [10] The physical layer comprises not only the machines but the copper wire, cables, satellites and spectrum. Logical tasks are performed by (for example) webservers, mail servers and operating systems. The content layer entails entertainment and other forms of informational inputs. According to this model, really existing communications freedom is predicated upon the existence of non-proprietary options at each level. The ad hoc event outside WSIS addresses these three layers in its focus on the capacity of unlicensed wireless networks to liberate carriage from the physical infrastructure, the free and open source software development of network and productivity tools, and the protection of a non-proprietary space of creative and informational work.

UNPACKING THE LAYERS OF STRUGGLE

At the infrastructural layer, hitherto comprising cable network, satellite and traditional telecommunications systems, advances in radio technology have rendered former spectrum policy schema redundant, premised as they were on broadcast and reception devices that required tight control over frequency usage to prevent interference. Spread spectrum, software-defined radio and ultra-wide band (UWB) radio technologies have transformed usage potential by allowing coordination by devices themselves. Conservative critics, perceiving a danger to establishment control of media infrastructures, are demanding the institution of full property rights in this spectrum, arguing that this will allow the formation of an effective secondary market and guarantee that the resource will find its useful and valuable application, consistent with free market doctrine. This conflict between open spectrum advocates and property-rights militants is only now coming into public view, as consciousness of spectrum issues has risen with the proliferation of community wireless networks on the unlicensed band around 2.4Ghz and the standard 802.11.

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[10] Jochai Benkler, From Consumers to Users, Shifting the Deeper Structures of Regulation Towards Sustainable Commons and User Access, 52 Fed. Comm. L.K. 561 (2000)

The International Telecommunications Union has responsibility for the international coordination of spectrum allocation and holds a World Radiocommunications Conference every two years, the next of which takes place in June. One of the items on the agenda there will be plans for the use of the frequencies above 5GHz where there are also some trenches of unlicensed spectrum, over which 802.11a devices are functioning. Ultra Wide Bandwidth advocates have argued for a full GHz of spectrum to be allocated to unlicensed use. The US military opposes this proposition with claims that it would interfere with radar operation. Campaigning on this issue towards the construction of alternative media infrastructures is forming an important part of provisions against the WSIS.

At the logical layer, language endorsing preferential use of free and open source software was excised from the Asian Regional Meeting for the WSIS in Tokyo, again at the behest of the United States. But there is a powerful movement to adopt and encourage non-proprietary software models, both on a national level in the former third world and regionally within Europe and some US States. Freedom from proprietary restrictions, it is hoped, might allow third world countries to circumvent obstacles to their autonomous development presented by IP-protected media tools, developing applications tailored to their social and cultural needs, and bringing important forces to the worldwide developer and software engineering community.

The content layer has seen celebrated conflicts in peer-to-peer information exchange using software such as Napster, Audiogalaxy and many others. Whilst every recombinant wanderer on the network may be denounced as copyright infringer or even felon, this *de facto* expansion of the public domain seems set to continue. Exploitation of the GATT/TRIPS provisions in legislatures from the US to the EU and continuous acquisition by the infotainment cartels have utterly failed to prevent the sharing of immaterial property in *ad hoc* autonomous distributed networks. To the establishments shivers of fear over revenues lost through piracy, the file-sharing subject responds with shivers of pleasure at the joy of collective access and continuous cooperative transformation. From Ogg to DivX, setting up file-sharing systems to disabling firewalls, technologies of sharing are being deployed, expressing our identity as commoners, confronting cartels with mass illegality. The task now is to valorise this process of giving and receiving within the network as a constitutive social relationship beyond the mere acquisition of media products. Information freedom no longer constitutes a radical demand in these terms. Instead, the potential of peer relations and resource sharing lies in the capacity for a true autonomous infrastructure and autonomy of action. Stripping the behemoths of their *warez* has been easy; cracking the iron curtain of market domination over individual preference may not prove so simple. This constitutes a real territory of conflict to be addressed

during the Geneva 03 event. Our informational freedom, as James Boyle has said, is at best potential:

No theory can grant it to us. It must be taken through collective action and imagination, through the postulation of a fictive we that becomes real only in the context of a practice which presupposes the very community it calls into being. The intellectual land-grab ... can be halted, and even pushed into reverse. [11]

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[11]Boyle, op. cit