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Compiled by Prof. Robin Mansell and Dr. Bart Cammaerts

# Multilateral Institutions and the

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## 1. INTRODUCTION

The World Intellectual Property Organization (WIPO) was established in 1967 as a specialized agency of the United Nations to arbitrate intellectual property rights issues (WIPO

# TRIP AGREEMENT

distribution landscape, which has galvanized this copyright debate and attracted new interest groups, while threatening others. Vaidhyathan (2005, p. 123) argues that digital media have "exponentially expanded the power of individuals to master their own media spaces and manipulate texts and images in ways that seem to signal an age of 'semiotic democracy.'" At the same time, losses are being felt in industries whose traditional business models center on monetization through copying and distributing media such as the recording or newspaper industries (Shirky, 2008).

Debates about copyright and balance have become influential in changing the makeup of a significant part of WIPO's audience: observer organizations. An increasing number of civil society organizations have focused their attention on WIPO. Civil society can be defined as a "non-state and non-business sector and is typically formed by non-governmental and non-profit initiatives" (Hintz, 2005, p. 244). Until around 2001, alternative points of view, for example from civil society organizations, were absent at WIPO or were badly outnumbered by other influential industry stakeholders (Matthews, 2006). According to Boyle (2004, p. 9), the participation of civil society organizations at WIPO is critical because, "When intellectual property implicates everything from access to essential medicines and free speech to education and online privacy, it cannot be made according to the assumptions of a narrow coterie of lawyers and industry groups." Many civil society groups do not argue against the concept of copyright, but for the protection of access to information from unnecessarily strong copyright (Kapczynski, 2008).

Political marketing theory is often associated with electoral processes in democratic polities, however in this study, a political marketing framework will be used to

political actor, has been affected by the increase in attention on copyright issues, specifically in the increased participation of civil society organizations. WIPO has been forced to respond to audiences through marketing and outreach efforts, but still faces challenges in targeting and segmentation, and market competition in the form of not only competing products but

## 2. LITERATURE REVIEW

### THEORETICAL OVERVIEW

#### *Defining Political Marketing*

The concept of political marketing will be used to analyze how WIPO promotes awareness of copyright and other intellectual property issues to audiences, and how audiences view this outreach strategy. Political marketing theory is a cross-disciplinary concept combining political science and marketing, which stems from the use of economic framework to analyze politics by economists like Downs and Schumpeter (Mayhew, 1997, p. 67). Political marketing theory is frequently used in the context of electoral politics. Political marketing differs from commercial marketing in the goal of gaining political ground, for example through winning an election, versus gaining in profitability (Newman & Perloff, 2004, p. 19). Newman (1999, p. xiii) defines political marketing as, "The analysis, development, execution, and management of strategic campaigns by candidates, political parties, governments, lobbyists and interest groups that seek to drive public opinion, advance their own ideologies, win elections, and pass legislation and referenda in response to the needs and wants of selected people and groups in a society." Other theoretical approaches related to the study of audiences like media effects or behavioral research are also means to evaluate media impact however, these approaches will not be addressed here (Hall, 1980; Street, 2005, p. 19).

In this study, the theory of political marketing will be recontextualized to analyze WIPO as multilateral institution and political actor that operates in a political arena. In political marketing, actors can include not only politicians and political parties, but also non-party actors like public organizations, pressure groups, and even terrorist organizations (McNair, 1995, pp. 7-10). Newman's definition encompasses a range of actors like lobbyists and interest groups, and a range of activities for example advancing an ideology or referenda, which relate to WIPO as part of a polity outside the electoral paradigm. In this study, political marketing will be summarized as how political actors, interest groups, and stakeholders seek to reflect their own ideologies and drive the opinions of audiences, in order to direct policy agendas and establish norms.





not only image and reputation, but also through value definition (Lees-Marshment & Lilleker, 2005, p. 401). Butler and Collins (1999) emphasize creating product value for consumers by defining, developing and delivering values through political marketing in order to appeal to target audiences like voters. They divide political marketing theory into 'structural characteristics,' and 'process characteristics' (Butler & Collins, 1999, pp. 56-71). Structural characteristics include the organization, the product and the market. Organization characteristics relate to the resource base, possible negative perceptions of marketing, and the use of volunteers. The product refers to the person, party or ideology, and the loyalty and mutability of a product. The market refers to the electorate or audience, as well as to regulations, the social and ideological affirmation of voting, and counterconsumers who vote to prevent a candidate from winning. Process characteristics include value defining, developing and delivering. Value defining emphasizes how organizations establish core values, leaders and candidates. Value developing relates to how values are communicated, and the use of audience feedback through the use of polls for example. Value delivering reflects how politicians or parties deliver their purported values to audiences (Butler & Collins, 1999). This model emphasizes how product value is established in an electoral polity, where value is "the reason to buy" a product (Butler & Collins, 1999, p. 57). In this study, the structural characteristics are particularly relevant in defining how WIPO's outreach efforts relate to political marketing.

### *Propaganda Versus Political Marketing*

There is some confluence between the concepts of propaganda and political marketing. It is important to address the concept of propaganda in order to analyze the extent to which WIPO, outreach efforts fit within the paradigm of political marketing. According to Street (2001, p. 110), there is much disagreement and confusion about the differences between propaganda and political marketing. Lasswell defines propaganda as, "The management of collective attitudes by the manipulation of significant symbols," and that "such significant symbols are paraphernalia employed in expressing the attitudes and they are als1 (m) - 1 Tf [ -1 (h)anpro(v) -1 ( -1 (h)f) -1 ( ) -170 (c) (h)et( ) -1 ( ) -142 (t) (h)mploed in.

share only 'superficial' similarities. Street (2001, p. 110) argues against the negative connotation of propaganda as being manipulative in that propaganda can be viewed as a legitimate state activity. For example, public service announcements about health and safety issues, like wearing a seatbelt or warnings against the risks of drugs can be considered state propaganda. To Street (2001, p. 110), "This type of propaganda is legitimate in a way that promoting the party political interest of those who manage it is not." Thus, the perceived intent behind a campaign can connote propaganda.

Despite the claims of confluence between propaganda and political marketing, propaganda differs from political marketing in its didactic style, unidirectional flow of information and inability to conform to public opinion (O'Shaughnessy, 1999, pp. 726-8). Political marketing also differs from propaganda by focusing on the consumer. According to Scammell (1995, p. 9), unlike the role of the product in political marketing, in propaganda the product is 'sacrosanct' and not consumer-oriented, and public opinion is in turn malleable to that product. Thus, the role of the audience in informing a campaign is an essential element in delineating political marketing from propaganda in that a successful marketing campaign may push a product like an ideology, but is at the same time responsive to audience opinion.

### *The Market: Political Marketing Audiences*

Market segmentation and targeting are also used in both commercial and political marketing to position a product, and relate to the concept of modes of reception (Butler & Collins, 1999, pp. 58-62; Blumler & Gurevich, 2005, p. 109). WIPO's audiences, ranging from member states, to observer organizations, to interested publics, present a challenge in targeting and market segmentation. Targeting and segmentation are closely linked in that segmentation is the division of audiences based on "tastes, preferences, interests, needs" and that these segments then require different modes of persuasive appeals for a successful campaign (Gandy, 2001, p. 145). The segmentation of audiences involves modifying communications strategies to target different sub groups (Maark, 1995, pp. 31-37). To Dalhgren and Gurevich (2005, p. 382), digital information and audience fragmentation has

(blogs) can serve as niche news sources for interested audiences as well as intermediaries between politics and publics. Benkler (2006) argues that because of Internet Communications Technologies (ICTs) there has been a shift from a mass-mediated public sphere to a 'networked public sphere,' based on the potential for greater participation in media. Bennett (2001, p. 8) similarly argues that the "capacity to transform time, space, costs, and the very roles of information producers and consumers also enables the rapid adaptation and transformation of political organizations, and the creation of new sorts of power relationships." Because of ICTs, audiences and media sources can potentially converge, where instead of a structured dialectical flow between political entities, media and the public, members of the public can fulfil a dual role as audience and media intermediary.

Political branding and information management relate to how political entities manage and control public perception of their marketing message. Political branding is closely linked to political marketing and the management of information about a product. A brand is a "distinguishing name and/or symbol (such as a logo, trademark, or package design) intended to identify the goods or services of either one seller or a group of sellers, and to differentiate those goods or services from those of competitors" (Aaker, 1991, p. 7). Political branding is the decision-making process of how a consumer makes a choice about a product based on the product's importance to the consumer, its emotional appeal, and whether it is identified with the norms of a group (Schweiger & Adami, 1999, p. 349). Brand positioning is, "The act of designing the company's offering and image to occupy a distinctive place in the mind of the target market" (Kotler & Keller, 2006, p. 310). In addition to promoting individual politicians as brand representatives, political branding can apply to ideas. A proposal or concept like copyright can be branded in order to gain acceptance among politicians and the public.

The concept of information management also relates to how political marketing and other forms of public communication are managed and controlled by organizations, and in the case of this study, multilateral institutions. According to McNair (1995, p. 149), information management can be defined as activities that are "designed to control or manipulate the flow of information from institutions of government, to the public sphere beyond." Information can therefore be a means to manage public opinion (McNair, 1995, p. 149). Downs wrote about the impact of 'imperfect information' in the context of political parties and voters, e

lack of knowledge about voters can harm the ability of a party to attain votes and the equivalent of a bigger market share. Keck and Sikkink's (1998) description of 'information politics' similarly argues that media power is demonstrated through control of information. According to Keck and Sikkink (1998, p. 19), "Nonstate actors gain influence by serving as alternate sources of information." They argue from the perspective of activist organizations in that framing issues, for example in terms of right and wrong, can be a persuasive use of media (Keck & Sikkink, 1998, pp. 19-20). The ideas of brand m

reflect populist democratic models, but may still reflect the complex relationships between political power and audiences (Graber, 2005, p. 495). Some theorists like Street (2005) emphasize election-specific indicators in their interpretation of political marketing, like the centrality of the political candidate's image, the influence of professional political consultants,



industry organizations and their views on WIPO outreach. Additionally, while other intellectual property topics like patents and trademarks are also dealt with at WIPO, this study focuses on the promotion of copyright and interest groups related to copyright because of digital information and its role in galvanizing WIPO audiences.

## CONCEPTUAL FRAMEWORK

Political marketing theory will be used to analyze WIPO's outreach strategy for the promotion of copyright by comparing and contrasting the points of view of WIPO representatives and members of WIPO's audience. Butler and Collins' (1999, pp. 57-71) conceptual framework of the structural characteristics of political marketing will be used as a starting point for the analysis of interview data. In adapting this framework to analyze the data in this study, the focus will be on structural characteristics: the organ21 (a) - -1-272 (o) -1 (



multilateral institutions, and the political rubric of international fora. Secondly, this theoretical framework will be used to analyze how audiences have affected WIPO's outreach strategy and how control of information and image affect the perceived efficacy of WIPO in the area of copyright arbitration. The increase in interest of civil society groups, and other interest groups is a change for WIPO. How WIPO deals with this change relates to the broader idea

### 3. RESEARCH DESIGN AND METHODOLOGY

#### RESEARCH STRATEGY

The method of depth interviewing was chosen in order to analyze how WIPO personnel view WIPO's marketing strategy, in comparison to the views of other members of WIPO's political marketing audiences. Depth interviews are usually one-to-one interviews, based on a semi-structured set of questions that allow the interviewer to direct the interview while maintaining a conversational tone with the interviewee (Gaskell, 2000, p. 45). The goal of this type of qualitative interviewing technique is to understand the worldview of respondents by exploring a range of opinions, and how individuals represent issues through discourse (Gaskell, 2000, pp. 39-41). A thematic interview process was used, where the theoretical framework served as a starting point for the structure of the interviews. Other research methods like surveying were not chosen because the goal of this study is to gain depth information about stakeholder viewpoints and the rationale behind those viewpoints. Content analysis and critical discourse analysis were also not chosen because the purpose of this study is to focus viewpoints, not the analysis of content. However, these methods would be useful for further analysis of WIPO marketing and promotional materials, or civil society promotional materials that counter WIPO outreach efforts in future research.

#### METHODS AND PROCEDURES

##### *Sampling*

The interviewees are grouped into four categories: WIPO Personnel, Civil Society Observer Organizations, Industry Observer Organizations, and Member States (Appendix 1). First, background research on WIPO, copyright, and political marketing theory was done to establish the themes to be addressed in the interview questions, and to locate individuals for interviews. The interviewee selection strategy was to contact representatives from the list of dozens of WIPO observer organizations including civil society organizations, industry organizations, in addition to member states representatives (WIPO Observer Organizations, n.d.). The se0000 0 0

in terms of sampling, and so WIPO headquarters was contacted via email, requesting further information about arranging interviews with personnel. EM in the WIPO Outreach Department acted as a 'gatekeeper' interviewee by assisting in scheduling interviews with her colleague MI, and the WIPO copyright lawyers, CC and VL (Appendix 1)(Odendaht & Show, 2002, p. 307).

Research on WIPO stakeholders was conducted to find a sample that represented a diverse group of stakeholders. Many interviewees were contacted through the 'snowball' sampling process, where recommendations from interviewees led to locating and arranging interviews with other individuals in their professional or social network (Warren, 2002, p. 87). Twelve of the 15 interviews were set up through this networking method. Approximately, 14 additional organizations including the U.K. Intellectual Property Office and Canadian Copyright Office (both WIPO member states), were contacted via a combination of email and cold calling but declined to be interviewed or failed to respond to an interview request. Thus, this sample of interviews represents a convenience sample because the interview sample was achieved primarily through networking.

This strategy can have the drawback of being unrepresentative of a diversity of opinion due to contacting individuals who may share similar viewpoints (Flick, 2002, pp. 69-70). However, for this study, this method

guidelines, such as explaining the purpose of the project, how interviews and transcripts would be used, and determining how the interviewee preferred to be referred to within the study, for example only using the first name for some degree of anonymity. The interview guides did evolve after the first few interviews, from emphasizing changing audiences in a broad sense, to focusing more directly on civil society organizations, after the first interviewees expressed unexpectedly strong views on the significance of civil society organizations.

### *Interview Process*

Five interviews were conducted in person, and were recorded onto cassette tape. The face-to-face interviews were conducted with U.K.-based interviewees, and with some WIPO personnel at WIPO headquarter-1 (a) 000 318 3 -1 (O)TJ ET Q 4Ggene(v) -1 (a) -1 (, ) -167 Sqwiterlanc

project with the categories: the organization, the product, market audiences, and market competition (see Table 1). The interview transcripts were then coded and analyzed according to this framework (Appendix 4).

While thematic coding can provide insight into the relationship between theory and empirical research, some drawbacks of this approach include the possibility of projection or cultural bias on the part of the researcher, and lower inter-rater reliability due to the subjective nature of coding qualitative data (Boyatzis, 1998, p. 35). Additionally, in segmenting and coding interview data, it is possible to use data out of context, which could misconstrue results (Coffey & Atkinson, 1996, p. 52). However, the benefit of coding is that it provides a way to systematically link thematic categories together and identify key concepts and patterns within interview data to enable analysis (Coffey & Atkinson, 1996, pp. 26-7).

### *Depth Interview Limitations*

The depth interview process has some limitations, such as the possibility of miscommunication between the interviewer and interviewee. For example, miscommunications can include the interviewer's lack of understanding 'local' language or terms, the reliance of an interviewee's account on events that happened at another time and place, subjects that go unmentioned because they are taken for granted, or the omission of relevant information that may seem too sensitive or political (Gaskell, 2000, p. 44). In conducting the interviews in this study, one communications challenge was navigating the tension between the interviewee's openness and personal opinion with their concern about their responsibility to accurately reflect their organization's views. For example, some interviewees provided information 'off the record' which was therefore not included in the results for ethic 183 0 0-1 (t14 540 (d) -1 (3 (r) -1 Q q 00000 71-1 (e) ) -1 (x)20) -3183 0 0 00 0 0 0.060

conversational way, and it was more difficult to establish quick rapport over the phone with some interviewees. Subsequently, phone and computer-based interviews were frequently more factual in tone and shorter in length.

#### 4. RESULTS AND INTERPRETATION OF DATA

Based on the theoretical research and thematic coding process described in the previous sections,

would work everywhere in the world. So we're providing kind of broad ideas or outlines or







information can be accessed by interested audiences. Mass media, like television news, for example is an impractical resource for detailed information on WIPO treaty negotiations.

### *Propaganda Versus Political Marketing*

Different aspects of WIPO's outreach efforts are viewed as more propagandistic than others by civil society organizations. GH argues that WIPO marketing materials are propagandistic because of the absence of any reflection on current debates about copyright:



## MARKETING AUDIENCES

### *Changing Audiences*

A common theme amongst most interviewees from WIPO lawyers, to the U.S. Government official, to observer groups was the impact of civil society organizations at WIPO in recent years at copyright meetings and treaty negotiations. Observer organization respondents like PB and GH, view their increased involvement at WIPO as a response to how their concerns about intellectual property were being ignored. GH states that a major reason EFF became involved at WIPO was in response to the Digital Millennium Copyright Act (DMCA), the U.S. implementation of the 1996 WIPO Internet treaties, which has been criticized for reasons including permitting unrestricted use of digital rights management technologies and the criminalization of circumvention measures (Samuelson, 2003a). ML, on the other hand, views WIPO as a forum for Creative Commons' approach to licensing:

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To EM, WIPO audiences consist of not just the member state offices, but members of the public like musicians and filmmakers. Subsequently, the scale of these audiences makes segmentation and targeting extremely difficult due to language and budgetary issues. CC, a copyright lawyer for WIPO, states:

*The issues have become more complex also, involving a broader range of interests... You have not only the traditional broadcasting companies but you have all the telecom companies you have a broad range of new players who were not there before. (CC, WIPO)*

According to MI:

*We respond to the requests from member states... They all have different needs...with regards to intellectual property. So they in turn are also influenced by - whether it's lawyers or companies or civil society NGOs in their countries. So all of those decisions influence us. (MI, WIPO)*

In addition to member state IP offices, observer organizations also receive outreach materials from WIPO, though some interviewees question this product value. JB of the International Publishers Association (IPA), argues: 'We're not the target audience. It's like preaching to the converted. We don't need to be one of the recipients of their material.' (JB, IPA).

To PB of IP Justice, the materials that are sent are not necessarily the information she needs. When researching the Development Agenda developments, PB refers to using the WIPO website for information:

*I just try to figure [it] out; try to go through all their amendments and stuff and try to organize a little bit; I'm intending to put a wiki online and so everyone can see stuff in there because it's so big, and I think it's a big problem for all of us because there are 45 proposals on the desk at the moment. (PB, IP Justice)*

While IP Justice receives outreach materials, and PB uses the website to research the Development Agenda, she lacks accessible information about current WIPO issues.

## MARKET COMPETITION

### *Media and Control of the Product*

WIPO faces market competition in the form of competing ideas and information online that can overshadow and adapt WIPO's political marketing products. According to interviewees from civil society organizations (GH, CD, PB, TH), WIPO's control over the accessibility and relevancy of information is lacking. The ability to control the message and to use feedback from audiences to modify a marketing campaign is critical in the success of a marketing campaign and in managing public opinion (McNair, 1995, p. 149). The increased interest of niche media actors has created an alternative media link between audiences and WIPO. The use of blogs to write about WIPO meetings in real time is one example of how NGOs have been able to translate WIPO information and news into accessible and adaptable products. GH describes how the Electronic Frontiers Foundation (EFF) started the 'blogging WIPO campaign' during the Broadcasting Treaty negotiations from 2004 to 2007. In this campaign, EFF attendees would summarize and comment on WIPO meetings while they were happening. In addition to EFF, other organizations like Third World Network have also blogged about WIPO meetings and events, beginning in 2004 with news about the call for the Development Agenda to the latest General Assembly meeting in 2007 (Third World Network Blog on WIPO, n.d.). These updates have been posted on various websites like EFF and Boing Boing (Hinz, 2008; Doctorow, 2004). According to GH:

*When we started participating...it would routinely take five months to get the notes of a meeting....There was also in fairness, a concern that sometimes the information had been um perhaps tailored to appear in official documents and was less reflective of some of the dynamics of the actual meeting, so that what people were left with five months later if they could read the 230 or 240 page report, was perhaps not an accurate reflection of what was actually being discussed. (GH, EFF)*

This use of new media reflects Benkler's (2006, p. 212) concept of the 'networked public sphere' in which the "practical elimination of communications costs" through ICTs has enabled individuals or groups to establish networks, and act as "participants in the public sphere as opposed to its passive readers, listeners or viewers." The use of blogs in this case, is not only as a news source, but as a surrogate information source for what WIPO is simultaneously presenting in reports online and in its magazine articles at a slower pace.

This appropriation of information can be described as a form of 'indirect counter marketing' in that WIPO news and information are being redistributed and refined by alternative media sources stemming primarily from civil society organizations. The concept of counter marketing is frequently referred to in the context of ads to prevent people from smoking cigarettes or in ads promoting one soda as being unlike a competing brand (Hicks, 2002). In this case, counter marketing is indirect because the intent is not to replace or confront WIPO's political marketing product (Hicks, 2002, p. 48). TH describes blogging about meetings as an initial 'culture shock' to WIPO:

*We can very quickly publicize the positions of the member states. So if you have a member state that's making a really good position, taking a really good position on something, well we can tell everyone, see, this is great. Or conversely and usually it's the other way around is how it's used is when you get a member state that's coming out with a really bad position. (TH, eIFL)*

GH describes this blogging campaign as a 'public service,' by providing information both in a public forum, and in a readable and timely fashion:

*We've had emails from people around the world, groups who are watching our blog posts and who tell us that, y'know we're the only source of information they get, they've transcribed the information we've provided. All of our notes have been made available to the public domain with a specific goal of trying to get information out and about for people who knew what was being discussed and could see what the country representative had said. (GH, EFF)*

CD who was part of the blogging circle for EFF during the Broadcast Treaty negotiations, describes how this use of new media encountered some initial resistance from member state delegates and from WIPO personnel, but eventually the blogging campaign garnered acceptance:

*The delegation from a Pacific Rim nation came up to me and said, "We just got shuffled into the WIPO world in a departmental shuffle, we have no idea what's going on here. We tried to read the Secretariat's report and it was just impenetrable so we read yours, so now we know, this is how we briefed ourselves." So we're the official stenographers and we're the official historians! (CD, Formerly EFF)*



The live-blogging of these meetings reached audiences ranging from those interested in EFF, to members of the public via well-known blogs, to member state delegations.

Hintz (2005, p. 244) argues that many civil society organizations utilize third sector media by virtue of being excluded from mainstream media like commercial or public sector

counter marketing product can cross organizational and ideological lines because it represents a relevant and mutable product, with greater product value (Butler & Collins, 1999). In acting as a source for WIPO information, sites like EFF and Third World Network are not attempting to compete directly with WIPO, however their market positioning and ability to deliver value enables these sites to fill an information gap in the market.

### *Brand Competition*

It can be argued that the concept of branding an idea like copyright or on a larger scale, of WIPO as an organization, is inapplicable because of WIPO's built-in audience of





groups or member states whose priorities may conflict with those of civil society organizations. In the broader picture, WIPO, along with other multilateral institutions from the World Trade Organization to NATO (the North Atlantic Treaty Organization), face a question of how to maintain relevancy in norm-setting and arbitration when interest groups are becoming greater in number, more diverse in perspective, and more vocal. WIPO's move toward a political marketing strategy and its growing awareness of its audiences reflect a shift in awareness of WIPO not only as a technical organization but as a political actor that must maintain its position in a competitive political arena. A political marketing strategy is not a panacea for multilateral institutions seeking to maintain relevancy in the face of competition from other fora like plurilateral negotia

example the inaccessibility and delay of WIPO reports, that can hamper the ability of audiences to be fully informed. According to Graber (1992, p. 1), media and informal arenas are alternative hearers of politics. By improving external communications in ways that not only offer educational material available to the public, but also

can be used to inform the public about the work of the organization, the



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