

## **A Global Norm for Fairness and Morality in IP Law: an Unattainable Goal?**

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Is there a global standard for fairness and morality in world IP system? If there is, should and can this standard be adopted? This paper tries to answer these questions by looking into the root of fairness and morality in the context of religious, philosophic and legal debates, and then providing historical and doctrinal evidences to show whether the goal of adopting a global fairness and morality in IP system is attainable. The paper argues that the goal is attainable because human being, as the same specie, consciously or unconsciously holds a universal standard of justice, from which the sense of fairness and morality derived. This argument is also supported by the adoption of similar fairness and morality provisions in national legislation and judicial practices around the world (e.g., increasing number of countries opt to US style of “fair use” in their copyright laws), as well as the endorsement of the fairness and morality provisions in the major international IP treaties by overwhelming majority of countries (e.g., 175 out of 195 for Berne Convention, 177 out of 195 for Paris Convention, and 164 out of 195 for TRIPS). The paper further argues that a global standard of fairness and morality is necessary for the development of the world IP system and for promoting social development in lesser-developed countries. Based on this argument, the paper embarks on the difficult questions who and how should decide the standard from both historical and geo-political perspectives. Finally, the paper argues that, while it is necessary to adopt a global standard for fairness and morality, it is equally important to preserve flexibility in the application of the standard because of the cultural and political diversity of individual countries (e.g., East v. West) and uneven stage of social and economic development (e.g., developed v. developing countries).