Opening remarks to the 2010 ATRIP Congress

The opening remarks to the 2010 ATRIP Congress by Magnus Graner, the Secretary of State at the Swedish Ministry of Justice:

First of all I would like to thank ATRIP and its President, Professor Jan Rosén, for inviting me to give this welcoming address. The International Association for the Advancement for Teaching and Research in Intellectual Property – that is indeed an impressive name and it indicates an important goal. Rightly so, and I am more than pleased to see that the association assembles scholars and professors from all areas of Intellectual Property Law and from many countries around the whole globe. It is my understanding and hope that you share common goals in a time of increasing demands on the system of intellectual property rights. The overall topic, or approach, of this congress – individualism and collectiveness in Intellectual Property Law – is really excellent and brings many thoughts to my mind. That is a perfect starting position.

I’ll start off by making a very general remark, but still, in my mind, necessary to state. We are all aware of the importance of intellectual property rights for the development of our economies. This importance is based on societal progress. Modern economy is largely based on knowledge-based industry. This puts great demands on the system of intellectual property rights. We need to maintain the incentive to create and invest in intangible assets. But we must also take into account the interests of users and the society at large.

This could be the most important – and difficult – question related to intellectual property rights today.

Technological development and societal advancement alters the underlying conditions for creative processes, as well as the possibility to exploit intangible goods and services on the market. We need to take this into account when developing the intellectual property system. Traditionally, the intellectual property rights system is based on an individualistic point
of view – it focuses on one author or one inventor at a time. Especially, copyright has traditionally been very individualistic. The moral rights are the ultimate example of this approach.

One important aspect is the exploitation of rights on the market. Traditionally, it has been difficult for copyright-holders to manage their rights individually. The advancement of new forms of mass-communication and exploitation – for example the Internet – once again puts the individualistic stance into question. To give one example: a recently published investigation, initiated by the current Swedish government and headed by the ATRIP President, Professor Jan Rosén, has proposed the introduction of a general provision on an extended collective license. This investigation is now circulated for comments among interested stakeholders. The concept of such a general provision is interesting. It is good to know that related issues will be discussed during this congress.

Another aspect is the increased collectiveness of the creative processes. Many creative goods and services are the result of collective efforts: a single product may have several rights holders, or there may be co-ownership of rights. This is especially true regarding audiovisual and multimedia products. It is important to strike a fair balance between the interests of the individual primary right holders and the interests of the exploiter to bring the creative goods onto the market.

Times change and the intellectual property rights system needs to keep up. Underlying principles must be upheld, however, maybe in an altered manner. The question is how we achieve a balance between legal, technological and societal demands.

Lawmakers need thorough information about the demands brought on the intellectual property rights system by the current developments of technology and society. Legal research has an important and necessary role to play in this process. I am confident that the discussions at this ATRIP conference will contribute to future policymaking.

I would like to draw attention to one aspect which doesn’t always get the attention it deserves. As the system of intellectual property is under increasing criticism, I think there is a great demand for, as well as genuine need for valid information and education in this field of law. Respect for intellectual property can be established in many ways. Enforcement is one way. But the system of intellectual property rights needs legitimacy within society, among people! Information and education play a vital part in creating and sustaining this legitimacy. Therefore, you scholars and scientists have a very important role to play!

I wish you all an interesting as well as thought-provoking congress – the program, the context and yourselves are guaranteeing this.