Anderson-Michael-20050314093005

To: Jule L. Sigall
Associate Register for Policy & International Affairs

Date: 03/14/2005

From: Michael Anderson

Comment:
I understand that constitutional concerns are in many ways a thing of the past when it comes to practical application of legalities. From a moral and societal perspective though, I think the US constitution still has some value as a source of insight.

Article 1, clause 8, section, 8, goes as follows: "[the congress shall have the power] ... To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries"

A highly reasonable clause, and the foundation of the patent system.

Note, however, that the clause specifically states that the intent is to "promote the progress of science and useful arts". It could therefore be argued that, in cases where securing such rights cannot conceivably, in any form, be said to promote said arts, granting such rights violates the spirit or even possibly the letter of the Constitution.

It would rather seem to be in accordance with the Constitution that if a beneficiary of such rights, having earlier been granted, cannot be identified even through strenuous means to reap the benefits of his or her previous innovation and use the rewards in further inventions, then the act most in the interest of society would be to release the copyright. If there exists no copyrightholder then, logically, there is no copyrightholder's interests to uphold.

Also a highly reasonable argument, and one I would like to put forward as a comment.