

## *Deviant Globalization: The Next Step in the Multilateral Protection of Intellectual Property*

**Doris Estelle Long**

Professor of Law & Chair, Intellectual Property, Information Technology & Privacy Group  
The John Marshall Law School  
7long@jmls.edu

The official signing of the Anti-Counterfeiting Trade Agreement (ACTA) marks the beginning of another phase of disengaged multilateralism. Like earlier periods, it could prove to be one of experimentation. One area of experimentation can and should be the effort to incorporate the needs and practices of the informal economy. This informal economy plays a vital role in local markets and on the internet. It exists beyond, but not necessarily disconnected from, the traditional, regulated (formal) market. While there is an underground and illicit element to this informal economy (what I refer to as deviant globalization, because it deviates from what is perceived as “normal” or “regulated” globalization), there is also an element of allowing individuals to create an economically viable destiny. More importantly, the informal market contains its own “standards” and customs which could serve as potential models for re-imagined IP standards for the 21<sup>st</sup> Century. With its focus on practical economics and social justice, deviant globalization would help clarify future IP protection policy choices. It places the focus on the needs of an effectively working marketplace. Thus, harmful goods (such as counterfeit drugs) would be subject to more creative methods of enforcement. Similarly, access debates would focus increasingly on rational compensation and use schemes. In this new era of deviant globalization and multilateral disengagement, new balances should be struck which fully recognize the incorporate the legitimate concerns and goals of the informal economy and deviant globalization.