Good afternoon. I will be discussing issues concerning access to knowledge, in particular, how restrictive intellectual property rights are being used to lock-down and deny peoples’ rights to be informed and to be aware.
First, what is knowledge? According to Yale Law Professor Yochai Benkler, the term knowledge refers to 4 different things:

- **“Human knowledge”** compromises education, know-how and the creation of human capital through the learning of new skills.
- **“Information”** is news, medical information, data and factual reports.
- **“KEGs”** are goods where the inputs to production involve significant amounts of scientific and technical knowledge, e.g. Drugs, electronic hardware, computer software.
- **“Tools for KEGs”** are those which produce KEG.

The goal of A2K is to improve access to these four components of the knowledge economy (or more aptly called ecosystem).
According to Jack Balkin, in any discussion involving access to knowledge, we must constantly remind ourselves that access to knowledge:

• Is grounded on a demand of justice
• Yes, it concerns economic development but it also involves the social, political and cultural advancement of an individual and the community
• Discussions may revolve primarily around IPR issues, but the solutions and the goals are not limited to IPR
Peoples and communities, especially those belonging to developing and underdeveloped nations, are locked out from knowledge through:

- **Privatization** – emphasis on private control and regulated access to knowledge, no commons (shared spaces which are fertile ground for creativity), no increase in works in the public domain which people can use copyrighted works; Disney did not original create Snow White, Cinderella, merely borrowed works, but now other can’t use Disney’s work due restrictive

- **Criminalization** – any form of copying can result in legal liability; an erosion of fair use; in the digital age, merely viewing a website results in copyir

- **Blurring** – control and access to knowledge (in the sense of IPR) is being skewed too much in favor the individual creator at the expense of the public enjoy that work, the pendulum has swung too far in favor of private rights

- **Erosion** – impact of globalization, bio-piracy / stealing of traditional knowledge, commercialization, western ways of thinking, moves to standardize

- **Commercialization** – instead of being able to freely share and access knowledge, presently pay-to-access, pay-per-view, license-to-view, monoculture
Software patents  
Anti-Circumvention Legislation (DMCA)  
Digital Rights Management  
Piracy of Traditional knowledge  

- (Software patents) IPR is primarily subdivided in copyright, trademarks and patents; IPR permit limited monopolies over an intellectual creation; patents are considered more powerful because peoples’ own independent efforts (parallel creation); in U.S. allows patents for software and business processes; Amazon.com’s one click, how to display web pages, updating programs online,  
- (DRM) DRM permits the copyright holder to completely control how one uses or accesses a copyrighted work; technology is used to restrict the uses  
- (Anti-circumvention) An off-shoot of the problem of DRM, laws like the U.S. Digital Millennium Copyright Act (DMCA) make it a crime to try to c DVD or videogame CD (part of fair use) one cannot do so because of DMCA; destroys interoperability; with DMCA, not only is one wrongfully locked out of knowledge but it becomes a crime to talk  
- (Traditional knowledge) Multinational companies obtain traditional knowledge from local communities, commercial it, knowledge becomes closed i
In a study by William W. Fisher and William McGeveran of the Berkman Center for Internet & Society of the Harvard Law School, the following were determined as obstacles to educational uses of copyrighted works:

- Uncertain or unfavorable copyright laws
- Digital rights management (DRM)
- Difficulties in obtaining rights to use
- Undue caution by gatekeepers

- It almost impossible to use another person’s work now without the fear of being sued; relying on fair use, according to Professor Lawrence Lessig, is an invitation to be sued; fair use is a defense not a right; DRM, DMCA prohibits circumvention and copying; making compilation of works as a text book is not permitted;

- DRM is a form of technology that controls how content or copyrighted work is used, viewed, read, accessed, communicated, copied, modified and distributed by the end-user, it is only the copyright owner’s rights which are being protected, example Adobe ebooks locked down with DRM, visually-impaired people

- Most works still covered by copyright are no longer available, accessible, out of print books, unused music and video catalogues, so IPR only benefits film, need to get releases from director, actor, producer, music, etc., extremely difficult and time consuming

- Copyrights are normally no longer with the actual creator of the work, they have been assigned to intermediaries like publishers, music companies, sold; in general, these intermediaries do not want or are unwilling to let other people use their copyrighted works (because of control issues, copying/
Tools for Unlocking

Free and open source software (FOSS)

Creative Commons

Copyleft

Open standards

Sui generis systems

Traditional knowledge

However, there are growing counter-movements against overly restrictive IPR.

• (FOSS) When one buys software, it’s covered by a end-user’s license agreement (EULA), you can only install it in a specified number of computers, the program is running, as licensee, one has few rights but a lot more restrictions; with FOSS, there is a stark contrast, FOSS is a kind of computer pro
requirement is that the user must also allow subsequent users such rights to his or her work, viral nature

• (Copyleft) Copyright is used to control and restrict how people use one’s content, copyleft stands copyright on its head; instead of restricting use, copy must also allow others to freely use, modify, distribute his work, copyleft allows for more open and free creation of works

• (Creative commons) Creative commons uses the same logic of copyleft in order to preserve the commons, importance of having a commons (materia their content, instead licenses that restrict, creative commons licenses permit others to use a particular work without the commons restrictions of norm

• (Open standards) Open standards/format – knowledge, data or information are stored, saved, communicated, transferred in some form, Microsoft Wo has to use or purchase a particular software from vendor, if the vendor goes out of business, your data is locked out; problem of interoperability, like A

• Sui generis system – this is present in the Intellectual Property Code, indigenous peoples’ rights, special needs, special protection,

• Traditional knowledge – strengthen role and preservation of traditional knowledge, communal knowledge, customs, let community benefit from it, pr
Actual cases in ASEAN where access to knowledge is being fought for or preserved:

- Government offices and agencies in Singapore, Malaysia, Thailand and the Philippines are using FOSS instead of proprietary software and they have achieved savings and other benefits (security, no vendor lock-in, etc.)
- Representative Teodoro Casino filed the “Free/Open Source Software (FOSS) Act of 2006” otherwise known as the Philippine FOSS Bill; it requires the mandatory use and procurement by government of FOSS, migration of government to FOSS; requires the use of open standards/formats in all government ICT systems; FOSS in education
- There have been a number of other advocacies and researches like Copy/South and Asia Commons where IPR rules are examined,