

WIPO General Assembly

Forty-Sixth (25th Extraordinary) Session
Geneva, September 22 to 30, 2014

REPORTS ON OTHER WIPO COMMITTEES

prepared by the Secretariat

1. The present document contains information reports which are being submitted to the WIPO General Assembly in a consolidated document on the work of the following WIPO Committees: Standing Committee on the Law of Patents (SCP), Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), Committee on WIPO Standards (CWS) and Advisory Committee on Enforcement (ACE).

2. *The WIPO General Assembly is invited to take note of the Reports on Other WIPO Committees (document WO/GA/46/7).*

[Annexes follow]

I. REPORT ON THE WORK OF THE STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

1. During the period under consideration, the Standing Committee on the Law of Patents (SCP) held its twentieth session from January 27 to 31, 2014. The meeting was chaired by Mr. Mokhtar Warida (Egypt).

GENERAL ACTIVITIES

2. Following the decision taken at its nineteenth session, held from February 25 to 28, 2013, the SCP continued to address the following five topics during its twentieth session:

(i) exceptions and limitations to patent rights; (ii) quality of patents, including opposition systems; (iii) patents and health; (iv) the confidentiality of communications between clients and their patent advisors; and (v) transfer of technology.

3. The discussions at the twentieth session were based on a number of proposals submitted by various delegations¹ and documents prepared by the Secretariat. Delegations discussed those proposals from various viewpoints, and the Committee deepened its understanding of the above-mentioned topics. In particular, a seminar on exceptions and limitations to patent rights,² as well as a sharing session on countries' use of health-related patent flexibilities, held during that session of the SCP, provided a good opportunity for Member States to share their experiences in implementing and making use of various flexibilities and to discuss related challenges and solutions.

4. In addition, during that SCP session, in accordance with the decision by the Assemblies held in December 2013, the Deputy Director General of the Global Issues Sector and the Director of the Global Challenges Division informed Member States on the patent-related aspects of the activities of the IP and Global Challenges Program (Program 18).

5. As regards the item "future work", without prejudice to the mandate of the SCP, the Committee agreed that its work for the twenty-first session be confined to fact-finding and should not lead to harmonization at this stage.

¹ Regarding the topic "exceptions and limitations to the rights", the discussions were based on proposals submitted by the Delegation of Brazil (documents SCP/14/7 and SCP/19/6). With respect to the topic "quality of patents, including opposition systems", the discussions were based on: (i) proposals by the Delegations of Canada and the United Kingdom (documents SCP/17/8 and SCP/18/9); (ii) a proposal by the Delegation of Denmark (document SCP/17/7); (iii) proposals by the Delegation of the United States of America (documents SCP/17/10 and SCP/19/4); (iv) a proposal by the Delegation of Spain (document SCP/19/5); and a proposal made by the Delegation of the Republic of Korea, the United Kingdom and the United States of America (document SCP/20/11 Rev). Concerning the topic "patents and health", the discussions were based on proposals submitted by the Delegation of South Africa on behalf of the African Group and the Development Agenda Group (documents SCP/16/7 and 7 Corr.), and by the Delegation of the United States of America (document SCP/17/11).

² The Seminar addressed the five exceptions and limitations, i.e., private and/or non-commercial use; experimental use and/or scientific research; preparation of medicines; prior use; and use of articles on foreign vessels, aircrafts and land vehicles. It consisted of the following three segments: (i) a presentation of documents SCP/20/3 to 7 by the Secretariat; (ii) presentations by the Chief Economist and two external speakers on, *inter alia*, the effectiveness of exceptions and limitations when addressing developing concerns and how national capacities affect the use of exceptions and limitations; and (iii) presentations by Member States of case studies on implementation of the above exceptions and limitations.

6. As regards the topic “exceptions and limitations to patent rights”, the Committee agreed that, based on input received from Member States, the Secretariat would prepare for its next session a document on how the following remaining³ four exceptions and limitations were implemented in the different Member States, including practical challenges, without evaluating the effectiveness of those exceptions and limitations, namely, (i) acts for obtaining regulatory approval from authorities, (ii) exhaustion of patent rights, (iii) compulsory licensing and/or government use and (iv) farmers’ and/or breeders’ use of patented inventions. In addition, a half-day seminar as proposed in document SCP/19/6 will be organized.
7. Regarding the topic “quality of patents, including opposition systems”, it was agreed that during the twenty-first session of the SCP, the Committee would have an information sharing session among Member States regarding experiences on international work sharing and collaboration.⁴ In addition, the Committee agreed that, based on information received from Member States, the Secretariat would prepare and submit, for the twenty-second session of the SCP, the following two studies which would be a collection of factual information without analysis or recommendations: (i) a study on inventive step⁵; and (ii) a study on sufficiency of disclosure⁶. It was also agreed that the Secretariat would improve the WIPO webpage (PCT-PPH) on work sharing initiatives.⁷
8. With respect to the topic “patents and health”, it was decided that the Secretariat, in collaboration, to the extent possible, with the WHO and WTO, would carry out a feasibility study on the disclosure of International Nonproprietary Names (INNs) in patent applications and/or patents. The Committee also decided that the Secretariat would prepare a study on the role of patent systems in promoting innovative medicines, and in fostering the technology transfer necessary to make generic and patented medicines available in developing countries/least developed countries. In addition, it was agreed that the potential of a study on the implementation of flexibilities concerning different types of exhaustion of rights in Member States and its contents would be discussed at the next session of the SCP.
9. Concerning the topic “confidentiality of communications between clients and their patent advisors”, the SCP agreed that the Secretariat would publish the information contained in document SCP/20/9 on the SCP electronic forum website in a more accessible and user-friendly format, and be updated regularly. In addition, the Committee would conduct, at the next session, a half-day seminar on the confidentiality of advice from patent advisors and practical experiences of clients as well as patent advisors.
10. As regards the topic “transfer of technology”, the agreement reached by the Committee was to request the Secretariat to collect further practical examples and experiences on patent-related incentives and impediments to the transfer of technology from members and observers of the SCP, in particular from least developed countries, taking into account the dimension of absorptive capacity in technology transfer.

³ The twentieth session of the SCP discussed the following five exceptions and limitations: private and/or non-commercial use; experimental use and/or scientific research; preparation of medicines; prior use; and use of articles on foreign vessels, aircrafts and land vehicles (documents SCP 20/3 to 7).

⁴ In this regard, the Committee shared the understanding that discussions on work sharing and collaboration do not imply any automatic acceptance of work sharing products and do not prejudice the sovereign rights of Member States in processing patent applications and patents in accordance with the applicable law.

⁵ The study should contain the following elements: the definition of the person skilled in the art, methodologies employed for evaluating an inventive step and the level of the inventive step.

⁶ The study contains the following elements: the enabling disclosure requirement, support requirement and written description requirement.

⁷ As regards this topic, the Committee also agreed that document SCP/20/11 Rev. would be added to the working documents listed in the agenda of the next session of the SCP.

11. In addition, the Committee agreed that the information concerning certain aspects of national/regional patent laws⁸ would be updated, based on the comments received from Member States.

12. The summary of the discussions at the twentieth session of the SCP is contained in the Summary by the Chair (document SCP/20/12).

CONTRIBUTION OF THE SCP TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

13. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements extracted from the preliminary draft Report⁹ of the twentieth session of the SCP (document SCP/20/13 Prov., paragraphs 160 to 165) are reproduced hereafter:

“160. The Delegation of Egypt, speaking on behalf of the DAG, attached great importance to the coordination mechanisms developed for the implementation of the Development Agenda. It considered that the Committee was entitled to contribute to the Development Agenda recommendations, as it had done in 2012 and 2013. Therefore, in its view, that agenda item should become a standing item on the agenda of the SCP, which would enable the Committee to set up recommendations. The Delegation observed that, since the Development Agenda had been adopted, the Committee had made efforts in that area by tackling with a number of important subjects for Member States and guaranteeing a balanced implementation of the recommendations involving every Member State. In its opinion, the consideration of all national legislations, avoiding any marginalization and working with a common focus, would make it possible to get good results. The Delegation expressed its belief that those were the underlying principles for the work of the Committee, in accordance with recommendation 17 of the Development Agenda. The Delegation further stated that the work on quality of patents was connected with recommendations 8, 10 and 17, and that strengthening of the IP infrastructure and increasing quality could lead to the implementation of those recommendations. The Delegation was of the opinion that the Committee had been able to achieve progress in the area of technology transfer and the implementation of the recommendations of the Development Agenda. However, it considered that it was necessary to make more efforts to implement them. The Delegation explained that its Group was in the process of adopting recommendations for the implementation of other recommendations under the Development Agenda and expressed its willingness to cooperate with all Member States in the SCP.

“161. The Delegation of South Africa, speaking on behalf of the African Group, noted that the Committee was taking stock of how it had contributed to the mainstreaming of the Development Agenda in its areas of work. It underscored that the patent system was a key in the IP framework that directly impacted national socio-economic development and societal welfare. It noted that there was a growing recognition that the current IP system was focusing heavily on ensuring rights to IP holders, without adequately ensuring that the public interest was taken into account. Subsequently, that was leading to the thought of the Delegation that the IP system was not working as it was originally intended. While the

⁸ http://www.wipo.int/scp/en/annex_ii.html

⁹ In accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), the preliminary draft Report of the twentieth session of the SCP has been made available on the SCP Electronic Forum to the members and observers of the SCP to comment on it, prior to its submission to the twenty-first session.

Delegation recognized that there had not been a discussion in the Committee on some of those aspects, it emphasized that it was necessary to have a more open and frank discussion about some of the current inefficiencies of the system. It considered that such discussion could only happen if there was a willingness and commitment to improving the system, where needed, both for the benefit of Member States and the future viability of the system itself. To that end, the Delegation welcomed the discussions that had taken place in the Committee on a wide range of issues, including exceptions and limitations to patent rights and patents and health. However, it noted that the Committee had to go beyond the theoretical debate to address issues that were the subject of intense debate outside WIPO but had not yet been addressed in the Committee. The Committee, therefore, should not be afraid of discussing and better understanding how patents were used in the market, and how those uses promoted or hindered innovation, technological growth and development. It considered that only through frank discussions, the Committee could be expected to generate the collective will and actions needed to improve the system. It stated that, similarly, more tangible discussions were needed on how patents could better contribute to addressing the challenges humanity was facing in the areas such as food, energy, security, environment, disaster management, climate change and education. It hoped that there would be an open and constructive engagement on those important issues in the Committee. It considered that the long prevalent and naive assumption that providing patent holders with stronger rights would by itself foster innovation and attract investments had presently been rejected in light of global economic realities and experience. In its opinion, so far, there had only been an academic discussion in the Committee on how countries could optimally calibrate the level of protection of IP rights, using exceptions and limitations, as well as other flexibilities. The Delegation, therefore, considered the establishment of an analysis on that issue would allow WIPO to play its dual role, in assisting countries and in establishing evolving and tailor-made IP policies. Noting that the SCP had started an important and necessary discussion on various development-related aspects of the patent system, the Delegation welcomed that positive step and looked forward to a meaningful translation of those discussions into concrete elements of a work program. It reminded the Committee that many critical issues had not yet been addressed and could become the subject of honest and constructive consideration leading to their integration in a holistic, development-oriented and balanced work program for the SCP.

“162. The Delegation of the United States of America did not support the proposal of including the agenda item as a standing item in the agenda of the SCP. It stated that it should be continued to be treated as a temporary agenda item.

“163. The Delegation of Japan, speaking on behalf of Group B, endorsed the statement made by the Delegation of the United States of America. In its understanding, that item was not a standing agenda item but a provisional one.

“164. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, supported the statements made by the Delegations of the United States of America and Japan on behalf of Group B.

“165. The Representative of the TWN supported the statement made by the Delegation of South Africa on behalf of the African Group.”

II. REPORT ON THE WORK OF THE STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT)

14. During the period under consideration, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) held two sessions, namely the thirtieth session (November 4 to 8, 2013) and the thirty-first session (March 17 to 21, 2014). Both sessions were chaired by Mr. Adil El Maliki (Morocco).

TRADEMARKS

15. The thirtieth session of the SCT considered a revised version of a Study on the Protection of Country Names (document SCT/29/5 Rev.) and a revised Draft Reference Document on the Protection of Country Names Against Registration and Use as Trademarks (document SCT/30/4). A large number of delegations expressed support for continuing work on this topic. Some delegations proposed the continuation of this work, including work on a possible future Joint Recommendation in that area. Other delegations asked for further study on specific aspects of the topic, such as the role of countries as brand owners.

16. The thirty-first session of the SCT considered a proposal presented by the Delegation of Jamaica for a Draft Joint Recommendation Concerning Provisions on the Protection of Country Names (document SCT/31/4). A number of delegations expressed support for that proposal, although some of them were of the view that the proposal needed to be further developed. Other delegations considered that it was premature to start text-based negotiations on this matter and preferred that further analysis be devoted to related issues, such as the consequences of any additional protection on currently applied trademark rules and procedures. The Delegation of Jamaica indicated that it was prepared to further develop its proposal and to submit it to the next session of the SCT. The Chair of that session concluded that the SCT would consider a revised version of the proposal by the Delegation of Jamaica at its thirty-second session. In preparation for that session, the Delegation of Jamaica, with the assistance of the Secretariat, would amend its proposal taking into account the comments made at the present session as well as with additional comments to be provided by delegations in writing, prior to the thirty-second session of the SCT.

17. Furthermore, the Secretariat presented during both sessions updates on trademark-related aspects of the expansion of the Internet Domain Name System (DNS) of which the SCT took note with the request to the Secretariat to be kept informed on future developments in the DNS.

INDUSTRIAL DESIGNS

18. Regarding the work of the SCT on industrial designs, reference is made to document WO/GA/46/9 (Matters Concerning the Convening of a Diplomatic Conference for the Adoption of a Design Law Treaty).

GEOGRAPHICAL INDICATIONS

19. At the thirtieth session of the SCT, the Delegation of the United States of America presented a proposal for a new two-pronged work program on geographical indications for the SCT (document SCT/30/7). Concerning that proposal, a number of delegations noted that it was presented only at the start of the meeting and further time for its consideration was needed. However, a large number of delegations were of the view that the SCT should pursue work on geographical indications including other issues, such as the protection of geographical

indications in the Domain Name System. The Chair of that session stated that all Delegations were invited to present their proposals for this Agenda item in time before the next session of the SCT.

20. The thirty-first session of the SCT considered two proposals for work on geographical indications, namely a proposal by the Delegation of the United States of America to prepare a current survey of existing national geographical indication regimes (document SCT/31/7), and a joint proposal by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland, concerning the protection of geographical indications and country names in the Domain Name System (document SCT/31/8 Rev.).

21. A number of delegations expressed support for the proposal by the Delegation of the United States of America contained in document SCT/31/7. Other delegations did not support this proposal.

22. Also, a number of delegations expressed support for the proposal jointly sponsored by the Delegations of the Czech Republic, Germany, Hungary, Italy, Republic of Moldova and Switzerland, presented in document SCT/31/8 Rev. Other delegations indicated either that they needed more time to reflect on it, or that they could not support it.

23. The Chair concluded that, since delegations did not reach agreement on these issues, the SCT would revert to them at its next session.

CONTRIBUTION OF THE SCT TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

24. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations”, the following statements extracted from the draft Report of the thirty-first session of the SCT (document SCT/31/10 Prov., paragraphs 215 and 216) are reproduced hereafter:

“215. The Delegation of Egypt, on behalf of the DAG, requested that the Development Agenda issue become an agenda item on the future meetings of this Committee. The Delegation recalled Development Agenda Recommendation 15, which stated that WIPO norm setting activities should be inclusive and member-driven, take into account different levels of development, take into consideration a balance between costs and benefits, and be a participatory process, which takes into consideration the interests and priorities of all WIPO Member States and views of other stakeholders and be in line with the principle of neutrality of WIPO Secretariat. The Delegation said that Cluster A, also relating to technical assistance and capacity building, was addressed by delegations. Observing that the Chair proposal on technical assistance contained concrete provisions for the technical assistance article to be included in the DLT, the Delegation also welcomed the fact that the mandate given to the SCT by the General Assembly regarding the work on the text on technical assistance was observed. The DAG stated that it looked forward to further streamlining the text through resolving the existing brackets of some of the existing provisions regarding technical assistance and capacity building for developing countries and LDCs, and to the implementation of a possible future DLT treaty.

“216. The Delegation of Japan, on behalf of Group B, said that it believed that the Development Agenda had been fully mainstreamed in the WIPO activities in the field of industrial design, trademark and geographical indications, including the work at the SCT. It believed that the work relating to the DLT during the SCT contributed to the Development Agenda relating to norm setting, in particular Recommendation 15. The negotiations had been conducted in an inclusive and member driven manner, and the negotiations had taken into account the study on the potential impact of the work of the SCT, including technical assistance, which gave due consideration to the level of developments and costs and benefits. The streamlining of the formalities of design applications could contribute to the improvement of the environment and, as a consequence, would enable more investors to enter into the market. The Delegation added that the implementation of the DLT would benefit developing countries and LDCs, especially SMEs in those countries. Group B further stated that the work done at the SCT on trademarks and geographical indications also contributed to an increased understanding. The Delegation also said that an increased investment in the economy would promote economic development, which was a goal achieved through the implementation of the Development Agenda. In conclusion, Group B believed that that the Development Agenda could continue to be implemented in a positive way in the field of the SCT.”

III. COMMITTEE ON WIPO STANDARDS (CWS)

25. During the period under consideration, the Committee on WIPO Standards (CWS) held its fourth session from May 12 to 16, 2014. The meeting was chaired by Ms. Oksana Parkheta (Ukraine).

ADOPTION OF THE AGENDA

26. Discussions were based on document CWS/4/1 Prov. The Delegation of Egypt, speaking on behalf of the Development Agenda Group, proposed the inclusion of a new item that would read “CWS contribution to the implementation of the respective Development Agenda Recommendations”. During the discussions, delegations expressed different views with regard to the proposed new item as well as on the possibility to redraft the title of Item 4 of the draft agenda, in order to explicitly cover the proposed new item.

27. Following the completion of informal discussions on remaining Agenda Items 5 to 17 and in view of the fact that there was no agreement on the agenda, the CWS agreed to adjourn the session. The Chair requested the International Bureau to facilitate, in coordination with the Vice-Chair, the organization of informal consultations on this matter and to create the conditions to continue the consultations until there was agreement on the draft agenda, such that the meeting could be reconvened in order to adopt the agenda and complete the unfinished business.

INFORMAL CONSULTATIONS ON GENERAL ACTIVITIES

28. The Chair conducted informal consultation sessions to discuss the issues under Items 5 to 17 of the proposed draft agenda. The conclusions/decisions of these discussions should be considered as informal.

29. A proposal was discussed to create a new Task to develop a data dictionary and XML schemas for inclusion of copyright orphan works in WIPO Standard ST.96. It was proposed during the consultations to modify the title of the new Task, to be limited to the study of the feasibility to extend WIPO Standard ST.96 for the standardization of metadata of copyright orphan works and to report the outcome of the study; where possible, to present a proposal for

consideration by the CWS at its next session to develop a data dictionary and XML schemas for inclusion of copyright orphan works in WIPO Standard ST.96.

30. Although several delegations supported the proposal to create the new Task, some delegations expressed reservations and were not in a position to agree on the creation of this new Task during the informal discussion. The discussion was therefore not completed.

31. The questionnaire “Numbering of applications and priority applications – former practices” was approved along with a request to the International Bureau to conduct a survey and present the results at the next session of the CWS.

32. The status report on the work of the ST.14 Task Force was noted. The Task Force was requested to focus on the recommendations for non-patent literature of the Task.

33. The work of the XML4IP Task Force and the report of the Task Force Leader were noted, and the arrangement for assistance in the preparation of Annex VI to ST.96 was reviewed. It was noted that the XML4IP Task Force plans to complete the development of XML Schema version 2.0 in 2014 and subsequently finalize the preparation of Annexes V and VI.

34. WIPO Standard ST.26 “Recommended standard for the presentation of nucleotide and amino acid sequence listings using XML (eXtensible Markup Language)” was adopted. An Editorial Note was approved to be included in WIPO Standard ST.26 requesting industrial property offices (IPOs) to postpone the preparations for implementation of the Standard until the recommendations for the transition from WIPO Standard ST.25 to ST.26 are agreed on by the CWS at its next session.

35. The CWS noted the result of the work of the Legal Status Task Force. In particular, it was noted that the Task Force provisionally agreed that the new standard should provide recommendations to promote efficient exchange of patent legal status data by IPOs in order to facilitate access to that data by IP information users, IPOs, IP data providers, the general public and other interested parties.

36. The proposals to revise WIPO Standard ST.60 were approved and the editorial changes to its Appendix 2 were noted.

37. The CWS noted the progress report on the work done by the Trademark Standardization Task Force and approved the proposed calendar, according to which the proposal for new WIPO standard(s) should be presented for consideration and adoption at the next session of the Committee.

38. The CWS agreed that Parts 7.6 and 7.7 should be kept in the WIPO Handbook and regularly updated. The CWS approved a tentative work plan for updating Part 7 of the WIPO Handbook and agreed to create a new Task to ensure the continuing maintenance and update of Part 7 of the WIPO Handbook.

39. The CWS noted the progress report by the European Patent Office (EPO) and the International Bureau, concerning the inclusion, in databases, of information about the entry, and, where applicable, the non-entry, into the national (regional) phase of published PCT international applications.

40. The CWS considered the proposed Task List of the CWS and agreed on its final version understanding that it will be updated to reflect the agreements reached by the CWS at this fourth session.

41. Six presentations were made by the Delegations of Canada, Germany, Republic of Korea, Russian Federation and the United States of America, and the Representative of EPO. The CWS noted their recent activities and plans on using the WIPO Standards dealing with XML.

TECHNICAL ADVICE AND ASSISTANCE FOR CAPACITY BUILDING TO INDUSTRIAL PROPERTY OFFICES IN CONNECTION WITH THE MANDATE OF THE CWS

42. The CWS took note of the report (see Annex II) on activities of the International Bureau, related to providing technical advice and assistance to capacity building to IPOs regarding dissemination of IP standards information undertaken during the year 2013, as requested by the WIPO General Assembly at its 40th session held in October 2011.

IV. REPORT ON THE WORK OF THE ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

43. During the period under consideration, the Advisory Committee on Enforcement (ACE) held its ninth session from March 3 to 5, 2014. The meeting was chaired by Ambassador Thomas Fitschen (Germany).

GENERAL ACTIVITIES

44. The ninth session addressed the following work program:

- (1) Practices and operation of alternative dispute resolution (ADR) systems in IP areas; and
- (2) Preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for pirated or counterfeited goods.

45. The work program was addressed on the basis of 22 expert presentations.¹⁰ Under Item (1) of the work program, Mr. Trevor Cook, Attorney-at-Law commissioned by the Secretariat to prepare the background paper on ADR as a tool for IP enforcement, presented his paper which covered: types of ADR procedures that may be used for IP enforcement; legal and regulatory frameworks for ADR, in the context of IP enforcement; benefits and limitations of ADR as an IP enforcement tool; and the current use of ADR for IP enforcement. This was followed by the Secretariat's presentation of the activities of the WIPO Arbitration and Mediation Center, covering its caseload under the WIPO Mediation, Arbitration, Expedited Arbitration and Expert Determination Rules; and domain name dispute resolution.

46. Five presentations on national experiences followed. The Department of Intellectual Property Rights, Ministry of Commerce of Cambodia, presented its Preliminary Alternative Dispute Resolution (PADR) and the "recommendation service" provided in IP cases before the courts. The National Copyrights Institute (INDAUTOR) of Mexico presented the diverse ADR mechanisms offered by the Institute, including administrative settlement procedure, conciliation, mediation and arbitration. The Korean Intellectual Property Office (KIPO) presented the work of the Industrial Property Right Dispute Mediation Committee (IPRDMC) established under KIPO and its plans to invigorate this body. The Deputy Directorate General for Intellectual Property, Ministry of Education, Culture and Sports in Spain set out the extra-judicial copyright and related rights dispute resolutions systems in Spain, explaining the applicable powers,

¹⁰ Documents WIPO/ACE/9/3 to WIPO/ACE/9/24, WIPO/ACE/9/26 and WIPO/ACE/9/27.

composition, practice, and possible options for the future. Professors Barton and Cooper, California Western School of Law, United States of America, presented their report prepared for the United States Patent & Trademark Office, offering descriptions of some of the ADR methods available for domestic or international IP disputes. Finally, Dr. Michael Groß, the *Fraunhofer Gesellschaft*, Germany, and Ms. Sabine Fehringer, Attorney-at-Law, Austria, shared industry perspectives on the use of ADR in IP cases, particularly in relation to universities and research institutions.

47. Under Item (2) of the work program, the Secretariat introduced its activities in awareness raising to build respect for IP. Under the sub-item “Awareness Raising”, four national and one regional experiences were shared. The National Registry of Costa Rica presented its national project to “Establish a Culture of Respect for IP”; the Industrial Property Office of the Slovak Republic presented its pilot project for raising public awareness on IP and its enforcement, entitled “IP Awareness – IP Education – IP Enforcement”; the Intellectual Property Office of Trinidad and Tobago shared its national project on building respect for IP; the Companies and Intellectual Property Commission (CIPC) of South Africa introduced its “Be your Own Buy your Own (BYO²)” anti-piracy campaign; and the Intellectual Property and Competitiveness Department of the League of Arab States shared its efforts to combat piracy, counterfeiting and commercial fraud, showcasing animated cartoons which displayed with humor the importance of IP rights.

48. Under the sub-item “New Business Models”, the National Institute for the Defense of Competition and Intellectual Property Protection (INDECOP) of Peru reported on the campaigns of the Copyright Directorate, comprising an activity to promote the legal use of software by small and medium-sized enterprises (SMEs), an anti-piracy crusade undertaken with the private audiovisual sector, a “Buy Legal, Buy Original” campaign, a campaign to reduce illegal use of broadcast signals and audiovisual products and works, a campaign to promote the legal use of music and movies in overland transportation services, and educational projects. *Fundacja Legalna Kultura*, from Poland, explained the results of a social campaign, “Legal Culture” (“Legalna Kultura” in Polish), aiming to build awareness in the field of IP protection. The European Observatory on Infringements of Intellectual Property Rights provided a report on the different business models conceived by the industry to offer, through online technologies, various types of copyright content.

49. Under the sub-item “Supply Chain Security”, the European Commission explained its initiatives to incentivize the development of pro-active and inclusive voluntary agreements between stakeholders to prevent the development and spread of commercial scale IP infringing activities, highlighting upstream and downstream “due diligence” initiatives, which included the use of memoranda of understanding between rights holders and distribution and payment service providers, and the diffusion of supply chain auditing, respectively.

50. Under the sub-item “Preventive Measures in the Online Environment”, three national experiences and two industry experiences were shared. The Ministry of Culture of the Russian Federation introduced the procedure under the “Amendments to Certain Legislative Acts of the Russian Federation Concerning the Protection of Intellectual Rights in Information and Telecommunication Networks and the Draft Federal Act on Amendments to Certain Legislative Acts of the Russian Federation in order to Stop Violations of Copyright and Related Rights in the Information and Telecommunication Networks”. The Motion Picture Association (MPA) of the United States of America described the formation and work of two voluntary mechanisms: (i) the Copyright Alert System and its Oversight Body – the Center for Copyright Information in the United States of America and (ii) Operation Creative in the United Kingdom. The Intellectual Property Office of the United Kingdom introduced the efforts made to tackle IP infringement online, including legislative frameworks, interventions, understanding consumer behavior, industry initiatives, education, and technological challenge. The Deputy Directorate General for Intellectual Property, Ministry of Education, Culture and

Sports of Spain explained the administrative and judicial procedure for infringements of copyright and related rights committed by providers of information society services which became operational in March 2012. The Alibaba Group of China presented its IP protection practices under its Internet platform-based business model, comprising *inter alia*, an online IP protection and complaint system, the development of an appropriate platform policy, proactive anti-counterfeit measures, working with different partners and taking multiple approaches to IP protection cooperation, an offline anti-counterfeit operation at the source, and positive guidance in IP protection, and shared related difficulties and challenges.

51. The Committee took note of the presentation by the Secretariat on recent activities of WIPO in the field of Building Respect for IP, which include assistance to Member States in the areas of legislation, training and awareness raising, and activities aimed at enhancing systematic and effective international coordination and cooperation to build respect for IP.¹¹

52. With regard to the Committee's future work, the Committee agreed to continue, at its tenth session, with the current work program: "Practices and operation of alternative dispute resolution systems in IP areas" and "Preventive actions, measures or successful experiences to complement ongoing enforcement measures with a view to reducing the size of the market for counterfeited or pirated goods."

CONTRIBUTION TO THE IMPLEMENTATION OF THE DEVELOPMENT AGENDA RECOMMENDATIONS

53. Further to the 2010 WIPO General Assembly decision "to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendations", the following statements extracted from the draft Summary by the Chair of the ninth session of the ACE, (document WIPO/ACE/9/29 Prov., paragraphs 48 to 52) are reproduced hereafter.

"48. The Delegation of Egypt, speaking on behalf of the DAG, believed that Development Agenda Recommendation 45, as well as other relevant Recommendations, for example on capacity building and technical assistance, were directly related to the competences of the ACE. It thanked the Secretariat and the presenters for the useful experiences, both on preventive actions to reduce the market for counterfeit or pirated goods, and on alternative dispute resolution mechanisms, shared during the ninth session of the ACE. The DAG believed that these activities represented a positive contribution to enriching the debate on how to build respect for IP. Nonetheless, the DAG believed that the ACE would still have to enlarge the scope of the discussions to make them consistent with the objective of building respect for IP, which was a much broader and inclusive concept than sheer IP enforcement. Policies and activities developed on the basis of this concept not only benefited from a greater degree of legitimacy but were also more likely to be effective, as they were based on a deeper understanding of the underlying causes of IP infringements. The DAG believed that it was in this light that the experiences brought to the ACE should be analyzed. Despite some progress made by WIPO in general, and the ACE in particular, the DAG believed that there was still a long way to fully implement the Development Agenda. The DAG members recognized that it was a work in progress and as such entailed a change of paradigm in the organizational activities, so that it could fulfil the mandate agreed upon by the Member States. Finally, the DAG hoped the activities to be set for the tenth session would contribute to improve the work of ACE in this direction, always having the Development Agenda Recommendations as a guideline, and the final goal of establishing a balanced agenda that addressed the interests of all Member States.

¹¹ Document WIPO/ACE/9/11.

“49. The Delegation of South Africa, speaking on behalf of the African Group, stated that the adoption of the Development Agenda Recommendations in 2007 had been a watershed moment in the organization and had sent a clear message that the organization was embracing development. Subsequent to that, the General Assembly of WIPO had adopted the Coordination Mechanism three years later. The 2010 WIPO General Assembly had approved this mechanism with a view that all relevant WIPO bodies should report on their contribution towards the implementation of the Development Agenda Recommendations. The Delegation emphasized that over and above its purpose of enabling the reporting to the General Assembly on the mainstreaming of the Development Agenda, the Coordination Mechanism was also meant to provide an opportunity to Member States to scrutinize cross-cutting issues and activities in the organization. In this regard, time had come that an agreement was reached on a standing agenda item on the contribution of the ACE to the implementation of the relevant Development Agenda Recommendations. As already stated at the 2012 General Assembly, the Delegation remained committed to the mainstreaming of the Development Agenda in all of WIPO’s work. It was pleasing to see that the activities conducted by the ACE were primarily premised on Development Agenda Recommendation 45. Taking note of document WIPO/ACE/9/2, the Delegation was of the view that, over and above other sources or activities, it provided a good basis for assessing the contribution of the Committee to implementing the Development Agenda. However, there was a need for more detailed information on the activities undertaken by the Secretariat. On the issues pertaining to international coordination and cooperation, the Delegation noted the importance of WIPO’s engagement with other intergovernmental organizations, international organizations, and other relevant stakeholders in the field of IP. In this area of WIPO’s work, more detailed information was also needed. In conclusion, the Delegation reiterated the need for a balanced approach between enforcement and development in the work undertaken by the Committee in line with Recommendation 45 of the Development Agenda.

“50. The Delegation of the Czech Republic, speaking on behalf of the CEBS Group, noted that mutual trust and confidence in the positive impact of an efficient IP system on development could be built through the contributions of Member States and through discussions within the ACE. The CEBS Group emphasized that enforcement measures aimed at combating counterfeiting and piracy helped to create a predictable environment for investment which in turn promoted economic and social development, as was also stressed by the 2013-2014 Global Competitiveness Report: “The quality of institutions has a strong bearing on competitiveness and growth. It influences investment decisions and the organization of production and plays a key role in the ways in which societies distribute the benefits and bear the costs of development strategies and policies. For example, owners of land, corporate shares, or intellectual property are unwilling to invest in the improvement and upkeep of their property if their rights as owners are not protected”. A contribution to the Development Agenda Recommendations, in particular to Development Agenda Recommendation 45, was therefore intrinsic to enforcement. The CEBS Group also noted that the ACE was an excellent platform for all Member States to see the practices of others and build upon these experiences when establishing or improving their own legislative frameworks on issues related to enforcement. The CEBS Group comprised countries with different levels of development and per capita income. Despite this, or rather thanks to this, it was able to agree on the principle that the work of WIPO on enforcement was a valid contribution to economic and social welfare and numerous aspects of transfer of technology. The States of the CEBS Group were building upon experience shared by other members and by the Secretariat, and were reflecting upon this knowledge in their national projects and strategies; they relied on the ideas and practices presented by delegations during the past and present sessions of ACE. The CEBS Group believed that these dynamics should not be lost in future sessions. The States of the CEBS Group were also sharing their experience. For example, during the

last session, great focus had been dedicated to awareness raising through public education, specialization of IP courts through training programs and improvement of technical assistance, and a number of these elements had formed part of presentations delivered by its members to the ACE. Furthermore, in the course of the ninth session of the ACE, several presentations had contributed to sharing experience and knowledge regarding awareness building. In order for the ACE to be able to treat development issues with even greater efficiency, the CEBS Group encouraged higher numbers of Members facing such challenges to share their specific experience and problems they faced when putting in practice their enforcement policies. In this regard, the CEBS Group thanked the Delegation of South Africa for its presentation and document WIPO/ACE/9/18, where, among other valuable elements, it pointed out the importance of IPR for any country's social, economic and cultural development. This was done in the context of awareness raising, one of the topics of the ACE, and the CEBS Group could not but subscribe to this notion.

“51. The Delegation of Japan, speaking on behalf of Group B, believed that the core mandate of the ACE, namely, the exchange of experiences on the enforcement of IP rights, contributed to the Development Agenda, in particular, Recommendation 45. In many of Group B's own national experiences, it had found that international investors were attracted to markets where they saw stable business environments that were supported by the transparent, predictable, and effective rule of law. Whether or not effective IPR enforcement efforts were being practiced in a country was increasingly becoming a factor in the decision-making of investors when they examined which markets to enter, as well as from which markets to withdraw. Group B believed that an increase in investment in an economy not only promoted economic development, but also created the prerequisite platform for the promotion of technological innovation and the transfer and dissemination of technology. In this regard, the productive and active exchange of experiences on the two enforcement-related issues at the ninth session of the ACE had contributed to the implementation of the Development Agenda, especially Recommendation 45. The sharing of national experiences on a range of practices, including awareness raising, new business models, and alternative dispute resolution in IP areas, had certainly improved the understanding of delegations of the various paradigms being utilized around the world, and this would contribute to the respective and collective ideas of the members of the ACE as to how to proceed in this area. Group B believed that the Development Agenda could continue to be implemented in a positive way as relating to enforcement.

“52. The Delegation of the EU, speaking on behalf of the EU and its Member States, stated that discussions on IP were by their nature an exercise in balancing the interests of right holders and the benefit of society at large. This balance should be reflected in the enforcement strategies of each WIPO Member State and in full respect of IP conventions. The ACE mandate provided a forum for the exchange of views regarding these practices and played a key role in helping Member States inform their strategies according to their national needs. During the ninth session of the ACE, Member States had seen numerous presentations by countries that successfully utilized WIPO technical assistance and best practices discussed during previous sessions to improve and enhance their enforcement policies. The Delegation of the EU therefore saw the ACE as already contributing significantly to the implementation of the Development Agenda, especially Recommendation 45 and remained committed to continuing its active participation in this exchange of information with a view to moving the work of this important Committee forward”.

[Annex II follows]



CWS/4/13
ORIGINAL: ENGLISH
DATE: MARCH 18, 2014

Committee on WIPO Standards (CWS)

Fourth Session
Geneva, May 12 to 16, 2014

REPORT ON THE PROVISION OF TECHNICAL ADVICE AND ASSISTANCE FOR CAPACITY BUILDING TO INDUSTRIAL PROPERTY OFFICES IN CONNECTION WITH THE MANDATE OF THE CWS

Document prepared by the Secretariat

1. This report aims to implement the decision taken by the General Assembly in 2011 relating to the mandate of the CWS, and to provide regular written reports on the details of activities undertaken during the year 2013 in which the Secretariat or the International Bureau (IB) of WIPO “endeavored to provide technical advice and assistance for capacity building to IP Offices by undertaking projects regarding dissemination of IP standards information” (see paragraph 190 of document WO/GA/40/19). A complete list of such activities is available under the Technical Assistance Database (www.wipo.int/tad).
2. As IP standards are implemented in various systems and tools, the following activities also implicitly cover dissemination of relevant IP standards information.

TRAINING ON THE USE OF WIPO STANDARDS

Following a request by the Intellectual Property Office of Singapore, the International Bureau made a presentation on WIPO Standards, in particular on WIPO Standards regarding official gazettes, in a seminar on the “Promotion of Utilization of Intellectual Property Information” that was organized by the IP Academy of Singapore in October 2013. The following countries participated at the seminar: Cambodia, Laos, Myanmar, Philippines and Vietnam. The training was an excellent opportunity for participants to be introduced to WIPO Standards and further to obtain guidance on how to use them, as well as to enhance the work of the Committee on WIPO Standards. Trainings to increase the awareness on and use of WIPO Standards have proven to be a necessary contribution to the development of human

3. resources and institutional capacities of industrial property offices in developing countries, as well as to sensitize officials to the advantages of using WIPO Standards and to improve the dissemination and use of patent, trademark and industrial design information.

4. Seminars like the one referred to in the previous paragraph bring also the opportunity to exchange information and views on WIPO Standards and their implementation with officials of industrial property offices. These discussions are very useful to focus on matters of particular interest for particular industrial property offices in developing countries and raising the awareness, understanding and use of WIPO Standards worldwide in mid-term.

TECHNICAL ASSISTANCE FOR BUILDING INFRASTRUCTURE IN IP INSTITUTIONS

5. This program (Program 15) aims to enhance national and regional IP Offices' IP business systems and technical infrastructure so as to help them provide more cost-effective and higher-quality services to their own stakeholders. The assistance provided is aligned with the Development Agenda recommendations aiming at strengthening institutional and technical infrastructure of IP offices and institutions. The Program's services include technical consultancy; business needs assessment; project scoping and planning; business process analysis; ongoing development and deployment of customized business systems solutions for the administration of IP rights and for the exchange of priority documents, and of search and examination results; establishment of IP databases; assistance with digitization of IP records and preparation of data for online publications and electronic data exchange; training and knowledge transfer to staff of IP institutions; and support for the systems provided by WIPO. The assistance takes into account WIPO Standards on IP data and information where appropriate. On-site training, mentoring and regional training workshops account for a significant portion of the Program's work and are critical in achieving the desired results.

6. Within the framework of this program, more than 100 missions to IP Offices were undertaken in 2013. Activities took place in all regions with a total of 51 IP Offices. In some Offices more than one mission was undertaken. By the end of 2013, there were more than 65 IP Offices across the world actively using WIPO Business Solutions for the administration of their IP rights. For more information please consult the web site of WIPO's technical assistance program for IP Offices http://www.wipo.int/global_ip/en/activities/technicalassistance/

CAPACITY BUILDING OF IP OFFICERS AND EXAMINERS FOR UTILIZATION OF INTERNATIONAL TOOLS

7. Upon request, the following training courses and seminars on the use of International Classifications for officials and examiners of IP Offices were conducted in 2013. In this context the relevance of related WIPO Standards was explained.

- Regional Workshop on Nice, Vienna and Locarno Classification Systems (Manila Philippines) with the participation of Bangladesh, Brunei Darussalam, Cambodia, China, India, Indonesia, Lao People's Democratic Republic, Malaysia, Mongolia, Myanmar, Papua New Guinea, Philippines, Singapore, Sri Lanka, Thailand and Viet Nam;
- Sub-regional Training Workshop on Nice, Vienna and Locarno Classification Systems (Tangerang Indonesia) with the participation of Brunei Darussalam, Indonesia and Malaysia;
National Workshop on Locarno Classification in Kuala Lumpur, Malaysia.

BETTER UNDERSTANDING OF IP STANDARDS

8. In order to increase awareness of IP Standards in developing countries and to facilitate the physical participation by more developing countries in the preparation of a new or revised WIPO Standard, following the decision of the General Assembly in October 2011, the participation at the third session of the CWS of seven developing countries was funded by the

International Bureau, namely: Guinea, Iran (Islamic Republic of), Jordan, Myanmar, Surinam, Yemen and Zambia.

9. In October 2013, WIPO's web site was renewed and redesigned. In order to facilitate access to WIPO Standards documents, dedicated web pages give direct access to the list of WIPO Standards (http://www.wipo.int/standards/en/part_03_standards.html), and to the documentation and activities of the CWS (<http://www.wipo.int/cws/en/>).

PATENT DATA EXCHANGE

10. The IB has been working together with the IP Offices in certain groups of developing countries to promote the exchange of patent data with a view to providing users in those countries with greater access to patent information originating from those IP Offices. The exchange of patent data was organized in accordance with relevant WIPO standards. The patent collections of the following developing countries have been included in Patentscope during the year 2013: Bahrain, China, Egypt and United Arab Emirates.

11. The CWS is invited to take note of the 2013 activities of the International Bureau, related to providing technical advice and assistance for capacity building to IP Offices, regarding dissemination of IP standards information. This document will serve as a basis of the relevant report to be presented to the WIPO General Assembly to be held in September 2014, as requested at its 40th session held in October 2011 (see paragraph 190 of document WO/GA/40/19).

[End of Annex II and of document]