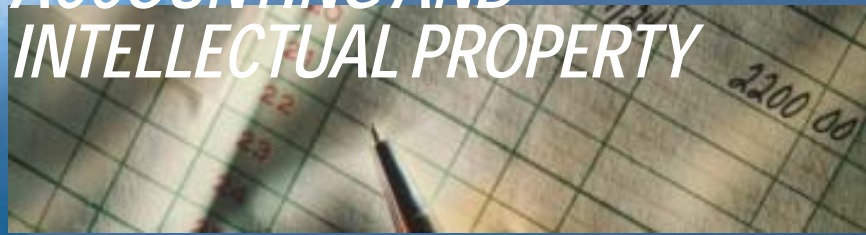


Geneva, May/June 2004

## *SAVVY MARKETING: MERCHANDISING IP*

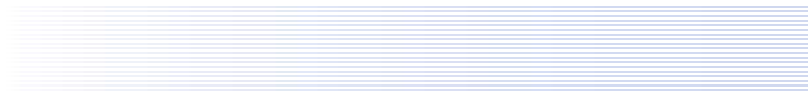


## *ACCOUNTING AND INTELLECTUAL PROPERTY*



## *WORLD IP DAY: HIGHLIGHTS FROM AROUND THE GLOBE*





*WIPO'S MISSION STATEMENT*

*To promote through international cooperation the creation, dissemination, use and protection of works of the human spirit for the economic, cultural and social progress of all mankind.*

# Table of Contents

- 2** ▶ ***IP and Business***  
Savvy Marketing: Merchandising of IP Rights
- 6** ▶ ***Accounting and Intellectual Property (Part I)***
- 10** ▶ ***World Intellectual Property Day***
- 15** ▶ ***Venice Hosts International Conference on Design***
- 17** ▶ ***High-Level Events in Tokyo Commemorate 100<sup>th</sup> Anniversary of JIII***
- 18** ▶ ***Global Congress on Combating Counterfeiting***
- 19** ▶ ***Committee Meetings***  
12<sup>th</sup> Session of the SCT Recommends Updating Trademark Law Treaty  
Member States Discuss Ways To Further Harmonize Patent Law  
PCT Reform: Sixth Session of the Working Group
- 22** ▶ ***News Roundup***  
The Director General Meets Italy's Minister of Productive Activities  
Korean Artist Holds Exhibition at WIPO  
Special Program Highlights Importance of Intellectual Property for SMEs  
IP Forum for OECD and EU Enlargement Countries
- 24** ▶ ***Calendar of Meetings***
- 25** ▶ ***WIPO/ITC Guide on Intellectual Property for Exporters***



Geneva,  
May - June 2004

# SAVVY MARKETING: MERCHANDISING OF IP RIGHTS

*"Good merchandising will always take the consumer from deciding whether they are going to buy to which are they going to buy,"* said Stewart Goldsmith, Vice-President of Sales for Todson.<sup>1</sup>

On a shelf crowded with look-alike products, it is the products that bear not only distinctive trademarks and designs but also images of well-known characters, real or fictional,



Fans are eager to buy the merchandised t-shirts or sports gear of their favorite team or player

that are most likely to catch the eye. Such characters, who often positively influence buying decisions, appear on a whole range of products. This is known in legal jargon as character merchandising (fictional characters), personality merchandising (real persons, living or dead), or simply as merchandising of intellectual property (IP) rights. It is important to note that in common business parlance, merchandising refers to a whole range of allied activities that improve

access to and visibility of products. This article deals specifically with the merchandising of IP rights.

The merchandising of IP rights can be a lucrative addition to a business strategy. It is an important way to improve the visibility and appeal of products on display in retail outlets. However, successful merchandising attracts copiers and imitators, who produce counterfeit products. Skillful use of the tools of the IP system helps businesses relying on merchandising to prevent or deal effectively with such violations of IP rights.

## Why consider merchandising?

The merchandising of IP rights can be a useful business strategy either to enter new domains of use of existing IP assets (through licensing out), or to market and/or advertise products and services by exploiting the popularity of other's IP (through licensing in).

Advantages for the *company owning IP assets and licensing out* include:

- ▶ Licensing out IP rights, such as brands, designs, artwork, to other companies can be an **additional source of income** for a business as it allows a business to **enter new product categories** in a relatively risk-free and cost-effective way.
- ▶ Merchandising is also an invaluable **marketing tool**, as it increases the merchandiser's brand exposure, enhances the brand's image, and leads it to new markets. For sport teams, for example, merchandising helps foster a sense of

belonging amongst their fans who feel proud to wear their team's merchandised goods, such as t-shirts and caps.

- ▶ Merchandising may also be an effective tool to **attract sponsorship** for special events (sport events, art exhibitions, music concerts, benefit dinners, etc), as it strengthens the association between the sponsor's brand and the event.

Advantages for the *licensee* include:

- ▶ Companies that manufacture low-priced mass-market goods, such as coffee mugs, candies or T-shirts, may **make their products more eye-catching**, glamorous, fun and attractive by using a well-known brand, famous character, artistic work, or other appealing element on them.
- ▶ Companies that launch a new product on the market may **advertise** their product by associating it with a personality or fictional character whose renown may make the product more attractive to consumers.

## Character and personality merchandising

**Character merchandising** is the use of fictional characters to promote the sale of various products and/or services. **Personality merchandising** is the term used when real persons or characters are involved. Character and personality merchandising increase the appeal of products or ser-

<sup>1</sup> Source : Press-World, 23 March 2003, <http://sports.press-world.com/v/44004.html>.

vices to potential customers who have an affinity with that character. In fact, character and personality merchandisers believe that the main reason for a consumer to buy certain goods is not because of the product itself but because of the name or image of the celebrity, or fictional character that is reproduced on the product.

Examples of character or personality merchandising include:

- ▶ gummy candies in the shape of the fictional character Pink Panther;
- ▶ t-shirts bearing the name and image of the fictional clownfish character Nemo;



- ▶ perfume bottles bearing the name of singer Jennifer Lopez;
- ▶ advertising campaigns for Omega watches with the tennis star Anna Kournikova.

**Fictional characters** typically derive from film cartoons (Mickey Mouse, Bugs Bunny, Nemo); toy creations (Barbie, Action Man); television series (Teletubbies, The Simpsons, Sesame Street); live action feature films (Star Wars); comic books (Smurfs, Tintin); fiction books (Harry

Potter, Winnie the Pooh); newspaper strip cartoons (Peanuts); and computer games (Lara Croft).

**Real persons or characters** used for merchandising are usually famous actors, musicians and singers (The Rolling Stones, Britney Spears), sports celebrities (David Beckham, Tiger Woods), and potentially any person with a marketing potential. It is estimated, for example, that David Beckham earns as much as US\$18 million a year from his endorsements<sup>2</sup> for Vodafone, Adidas, Pepsi, and others. He is so popular in Japan that his name is on Meiji candies and on a chain of health and beauty salons.<sup>3</sup>

Preliminary authorization is needed to use the various property, personality or other rights, such as copyright and trademark rights, vested in characters. This is generally established through transfer agreements, license agreements or product/service endorsement agreements.

**"Property rights"** are the rights attached to a fictional character. They include the right to use a fictional character (or more precisely his name, image, appearance, etc.), the right to receive the benefits resulting from its use and the right to dispose of it.

**"Personality rights"** or **"publicity rights"** are the rights attached to, *inter alia*, the name, image or appearance of a real person. Those rights include the right to use the essential personality features and to receive the benefits resulting from such use.

Created by Georges Remi, the Belgian artist better known as Hergé, **Tintin** has become one of the best-known cartoon strip characters around the world. The hero is a young reporter, who lands in fascinating adventures while traveling the world. The



first strip appeared in 1929 in a Belgian newspaper. Tintin went on to feature in a number of animated films for television and cinema, and had an influence on the art world through the work of Andy Warhol and Roy Lichtenstein.

Tintin has appeared on a Belgian postage stamp and on Euro coins. There is also a tremendous merchandising empire surrounding Tintin: wallpaper, bed linen, kitchenware, furniture, shower curtains, alarm clocks, watches, keyrings, underwear, etc. The relentless marketing of Tintin has become the center of a multi-million Euro industry and has made him a symbol of value.

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<sup>2</sup> Endorsement refers to a person informing the public that he/she approves of the product or the service or is happy to be associated with it.

<sup>3</sup> Source: USA TODAY, 5/08/2003.

It is good practice to act with caution before using a celebrity's image for merchandising! A photographer who takes a snap of a famous musician, for example, should obtain prior explicit permission from the musician to sell products bearing the musician's photograph.

### **Merchandising strategy**

A company wishing to earn additional income by making its IP assets available to manufacturers for the merchandising of their products should develop a strategy which includes the following:

- ▶ Protection of IP rights: The company should make sure it owns property rights in the trademarks, logos, designs or characters that it wants to use for merchandising.
- ▶ Search of potential licensees: The company should actively look for potential users and convince them of the commercial potential of the company's IP rights.
- ▶ A means of identifying the right licensee – a trustworthy and diligent partner: Partners may be specialized merchandising companies, professional designers, or student in an art college. The Internet is a good source of information on potential licensees. Information can also be obtained from licensing associations, such as the International Licensing Industry Merchandisers' Association (LIMA).<sup>4</sup>

- ▶ An assessment of foreign markets: Merchandising may be used to gain access to new markets. Usually, the licensees are responsible for local manufacture, localization, logistics and distribution.
- ▶ Market research on how to represent the company: The company's image is the most important part of the merchandising process. The company should therefore research how competitors are representing themselves on the market, and study the consumer tastes.
- ▶ An identification of the right type of products.: It is important to offer a range of goods which corresponds to the image of the business and to the profile of the consumers. While Chanel may merchandise its brand on an exclusive leather design keyholder, a bike store may be better off with cheap t-shirts and hats, and a sports team may distribute binoculars with a sponsor's name to help fans get a closer look at the athletes.



- ▶ A plan to jointly promote the business and the merchandise: For example, products should have the company website on their label, the company website should promote the merchandised products, mail order forms should be enclosed with merchandised products and company newsletters, etc.
- ▶ In addition, the company should clearly define the right relationship and terms for the licensing of its IP assets in a licensing agreement. (For more information on licensing please refer to "IP Licensing: Reaping the Benefits" in the May-June 2003 issue of the *WIPO Magazine*.)

### **Protecting IP rights**

Some elements used in merchandising may be protected by different types of IP, so a company must **choose the type of IP that provides it with the best protection**. For example, a cartoon character may be considered an artistic creation and therefore be protected under copyright, but it may also be protected as a trademark. In some countries, certain types of IP may not apply to merchandising. Thus a fictional character used in merchandising may be barred from copyright protection when it is used as an industrial design or as a trademark, or in advertising. A company should verify which type(s) of IP qualify(ies) for merchandising purposes.

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<sup>4</sup> See: [www.licensing.org](http://www.licensing.org).

IP assets must also be protected ***in all relevant markets***. IP rights are territorial, so it is necessary to obtain protection in potential export markets in due time.

A company offering its brands or trademarks for merchandising purposes must make sure that its marks are adequately protected ***for the relevant goods or services***. For example, a bike store may have registered its trademarks for bikes and other vehicles, but if it wants to merchandise its brand on t-shirts and hats, then it is well advised to register the trademark also for clothing and headgear in the countries where it plans to sell the merchandise. Note that the essential personality features of a fictional character may, under certain conditions, also be regarded as marks. (For infor-



mation on how to monitor usage of trademarks, please refer to "Trademark Usage: Getting the Basics Right" in the March-April 2004 issue of the *WIPO Magazine*.)

Industrial designs are relevant to protect the ornamental or aesthetic aspect of useful merchandising articles and should also be registered. Examples include a cartoon character

represented in the form of aesthetic designs for toys, jewelry, dolls, robots, puppets, action figures, brooches, pins, etc. The relevance of design protection will be important notably when copyright protection is excluded or reduced (mainly when an artistic work has been created with the intention of being industrially exploited).

Copyright itself does not depend on official procedures; nevertheless, it is strongly recommended to ***deposit and register*** works with the copyright office in countries where such office exists, and to place a ***copyright notice*** on the work. If copyrighted work is licensed out for merchandising purposes, the merchandising agreement should clearly indicate that the licensee must place a copyright notice each time the work is reproduced on the merchandising goods.

Licensors need to ***preserve control*** over the commercial use of their IP assets and should require that the licensee furnishes preliminary samples of the products on which the IP will be used. They should also ***take action against infringement***. It is up to the IP rights holder to identify any infringement or counterfeiting of IP rights and to decide on the measures to be taken. Depending on the form of protection and the legal tradition of each country, appropriate measures may be available to bar unlawful merchandising of IP through laws of unfair competition, trademark, copyright, industrial design, personality, publicity and/or privacy, defamation, confidence or similar laws.

## Conclusion

Businesses, universities, sport teams, and non-profit organizations should be aware of the commercial value of their IP, and generate revenues from the secondary exploitation of their brands, designs, artwork or any other merchandisable element. Equally, businesses that sell low-priced mass-market products should consider making use – with legal authorization – of other's designs, copyright material, characters and the like, to make their products more popular and attractive. For this, they will need a mix of IP-related legal knowledge, commercial contract drafting and negotiation skills, and plain good sense.



For more information on various practical aspects of the IP system of interest to business and industry, please visit the website of the SMEs Division at [www.wipo.int/sme/](http://www.wipo.int/sme/).

The next article in the IP and Business series will discuss non-traditional marks.

# ACCOUNTING AND INTELLECTUAL PROPERTY

## (Part I)

WIPO's Intellectual Property and Economic Development Department (IPEDD) is entrusted with the task of documenting and assessing how intellectual property (IP) works in practice as a tool for economic development and wealth creation. This article analyzes and explores the possibilities available to companies to report their IP under current financial reporting standards, and presents alternative reporting models that IP-rich companies may employ to enhance their reputation, image and worth in the market. The article will be published in two parts. The second part will explain how a company can develop an IP report.\*

Financial reporting is essentially a look into the past. Whereas the valuation of a business is an estimation of its future performance, accounting documents its historic achievements. An accounting statement should not contain any speculation and should provide objective information. While accounting has consistently met this requirement, the statements it provides to management and the market are heavily biased by a tangible goods perspective. Current accounting standards leave limited space to communicate the value of IP. There are few possibilities to demonstrate how the IP owned by a company, particularly that which has been generated internally, relates to its income streams. As a result, the reported facts are precise but may lack practical significance. The consequences are far reaching: IP is essentially left hidden



in the dark and tends not to be taken fully into account while taking managerial decisions, competing for capital or acquiring market share.

### **Accounting Goals**

A business has to take stock of its performance periodically to see whether it is meeting its objectives in terms of return on investment, profits and market share. The accounts statement of a company provides a numbers-based understanding of its performance and hence affects its valuation as a business. As such, accounting is a powerful tool since it continuously documents the financial situation of a company. Analysis of a company's periodic accounting reports influences the view of employees, managers, owners, investors and competitors. A company that beats investors' expectations is rewarded by a rise in its market value.

Accounting is, however, more than a marketing and public relations tool. It seeks to provide business with factual, precise, objective and comparable information. In the light of these performance goals, accounting needs to adapt to continue fulfilling its purpose.

### **Reconciling Accounting Goals with IP**

Under current accounting standards a firm's image is essentially characterized by its tangible goods. Intellectual property, especially when internally generated, is inadequately addressed in the financial statements. This has far-reaching consequences on how IP is considered at the firm level and how it is being approached by investors. Overall, the situation is becoming even more challenging in an increasingly knowledge-driven

\* Comments on this article may be sent to the Intellectual Property and Economic Development Department at [ipedd@wipo.int](mailto:ipedd@wipo.int).



economy, as the key economic resources underlying wealth production are no longer based on competitive advantages in access to and use of land, labor and/or capital, but rather on the use of new or original intangible resources, including IP.<sup>1</sup>

The paradigms of accounting are so strongly influenced toward tangible goods that it may be very difficult to give credit to the characteristics of IP on the balance sheet. Most importantly, accounting has difficulties in determining the value of IP. The absence of organized, transparent markets has so far been considered as an additional impediment to measure the value of IP. Since accounting follows the paradigm of recording business items at their price in a commercial transaction, only IP that is licensed or sold can be reflected on the balance sheet. Given the inherent multiple challenges in accurately determining the value of IP, coupled with the volatility of the value of some IP, it is no wonder that the accounting profession (and the market) fears that the reporting of a firm's IP may be too subjective and risky. Furthermore, accounting has always been, and still is, very reluctant to anticipate future gains, overstate the value of assets or include assets on the balance sheet whose value is more volatile.

**Goodwill** is traditionally the only term used by the accounting profession to mention IP. Historically, goodwill has been primarily defined in residual

terms, that is, as the price a market participant is ready to pay in excess of the value of a firm's tangible goods. The concept of goodwill is vague as anything that justifies a higher price for a company may be lumped under goodwill. This makes it rather difficult to compare the goodwill of different companies, let alone explicitly state the added value of IP.

The accounting profession itself is increasingly aware of the necessity to confront the knowledge-driven economy and recognizes that reporting systems have to be developed that reflect the increasing importance of IP. Both nationally and internationally there are ongoing scholarly and practical attempts to grapple with relevant issues such as how to identify an intangible, how to account for internally produced intangibles and the conditions under which intangibles may be revalued.

### ***Trends towards the recognition of IP gain momentum***

Internationally recognized bodies like the Financial Accounting Standards Board (FASB) and the U.S. Securities and Exchange Commission (SEC), which are striving for the harmonization of accounting standards at the global level, have recognized the gap between the kind of information provided by accounting and the information needed by investors and managers.<sup>2</sup> The concerns raised by the FASB have led to a revision of the way in which IP is treated in Mergers and

Acquisitions (M&A). Financial Accounting Standard (FAS) 141 and 142 of the US General Accepted Accounting Principles (US GAAP) is considered a very progressive step as it allows, for the first time, a separate listing of the respective IP of the firms involved in the M&A and the placing of a value on such IP.

Before FAS 141 and 142 revised the way goodwill was treated in M&As, the balance sheets of two merging companies were simply added together. This was called the "pooling of interest for business combinations" method. The newly-introduced purchase method requires the identification of each single acquired asset and the determination of its '**fair value**'. The overall purchase price must be distributed across all business items – intangibles and tangibles – that qualify as assets. Thus, companies now have the possibility to discern the assets lumped together under goodwill and to value them separately.

FAS 142 abolished the amortization of goodwill. Companies now need to review, on an annual basis, their acquired IP and conduct an '**impairment test**'. Discussion is ongoing as to the extent to which International Accounting Standard Number 38 (IAS 38), concerning "Intangible Assets" which still require the amortization of goodwill over a period of 20 years, can be aligned to US GAAP. These recent regulatory changes have already had a significant impact on current mar-

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<sup>1</sup> PWC estimates that in 1998 intangible assets accounted for 78 percent of the total value of S&P 500 listed companies. [www.yesmfs.com/EnglishVersion/GeneralDemo/GDCi.htm](http://www.yesmfs.com/EnglishVersion/GeneralDemo/GDCi.htm).

<sup>2</sup> In 2001 the FASB stated that: "Companies are encouraged to continue improving their business reporting and to experiment with types of information disclosed and the manner by which it is disclosed." FASB (Financial Accounting Standards Board: Improving Business Reporting: Insight into Enhancing Voluntary Disclosures, Steering Committee Report, Business Reporting Research Project.)

ket practices. For example, in Germany, they have created strong demand for the valuation of brands. Since German companies registered in the US, notably most DAX-listed firms, can make their income statement under US GAAP, incentive is strong to report adequately valued trademarks on the balance sheet.

These modifications may be considered as important first steps towards a true and fair appreciation of IP, but further adaptations will be necessary to adequately reflect IP on the balance sheet. Apart from the fact that FAS 141 and 142 address only M&A, and no other business transactions, the implicit definitions in these paragraphs are not entirely compatible with the characteristics of IP. Under FASB 141 and FASB 142, IP can be accounted for if it qualifies as intangible assets. Much of the IP held in a company will, however, hardly pass that test. According to IAS 38, "an intangible asset must be *identifiable, controlled* by an enterprise as a result of past events and should *generate future economic benefits* for the enterprise."<sup>3</sup>

### **Can fair value account for IP?**

Defining only such IP that has direct revenue streams as intangible assets means mentioning not only IP that is being licensed, but keeping silent about the value added by much of a company's other IP that is used internally or in branding as it only has an indirect impact on cash flow. For ex-

ample, IP protection often provides a firm with *exclusivity in the relevant market* and/or the '*freedom to operate*'. Further, IP has an impact on a firm's services or products, its business processes, know-how or tacit knowledge. IP protects the various business segments of a firm, ranging from the looks of its products and packaging (industrial design), to its recognition in the market (trademarks, geographical indications), to the protection of the new or improved functional features of products and services (trade secrets, patents). It is primarily the winning interplay of these different factors that create cash flows. To what extent one or more IP items, jointly or severally, successfully contribute to maintain or enhance profits depends on the context in which the IP is used, the supplementary business assets (including human resources) to which the IP relates, and its fit to the firm's vision and strategic goals.

This is also one of the reasons why the notion of *fair value* does not adequately reflect the value of IP. Under US GAAP fair value is defined as "the amount at which that asset could be bought or sold in a current transaction between willing parties, other than in a liquidation."<sup>4</sup> Accounting standards generally recommend a benchmark approach in order to determine the fair value of an asset. A benchmark, however, provides little information about the relevance of IP to a particular company. Whereas some assets are general in use, others are special in application. There is



no "one size fits all" approach to determining the value of IP. *Context* is an essential criterion to grasp the true value of IP.

Take the example of a patented drug. Whereas it may be of immense value to a pharmaceutical company, which has the necessary knowledge and experience to make use of it, it may be of very little value to, say, a car manufacturer who has no use for it. This fundamentally distinguishes IP from many tangible goods, which are much easier to interchange and are usable in various contexts. For example, buildings, phones, cars, cameras or machine tools may be used as such or with some modifications by many different categories of users.

A benchmark is also difficult to establish in the absence of active markets. It is relatively easy to determine

<sup>3</sup> International Accounting Standards Committee: International Accounting Standards 38, London 1998, can be found for example at: [www.iasplus.com/standard/ias38.htm](http://www.iasplus.com/standard/ias38.htm). Under US GAAP intangible assets are understood in much the same way.

<sup>4</sup> Definition taken from FAS 141 & 142. IAS 39 considers the notion of fair value in much the same way.

the value of real estate through a benchmark since the markets are well established and the valuation criteria generally accepted. The markets for IP are, however, much less established and often opaque. Within the context of financial assets this has been recognized by international bodies such as the Basel Committee.<sup>5</sup>

### **Acquired and internally-generated IP is treated differently**

In the absence of satisfactory answers to these issues, accounting has so far developed a very scarce vocabulary and syntax to communicate the value of IP to investors and managers. In accounting, the financial position of a company is phrased in terms of profits or losses, assets or liabilities. Among these variations, the combinations that accounting currently allows to phrase IP are rather unsatisfactory and even the most widely-accepted standards internationally – the US GAAP and the International Financial Reporting Standards (IFRS) (formerly called the IAS) – are poorly equipped to deal with IP.

Internally-generated IP is treated as an immediate expense. The same applies to research and development (R&D) related to the creation of IP. This means that the balance sheet offers distorted information on how IP is made. The costs incurred for the creation of IP are reported at **one single point in time**, while the IP is accounted for only in the context of a commercial transaction. However, this ap-

proach is not exclusively reserved for IP, but reflects the general way in which the accounting profession approaches a business.

Unlike internally-generated IP, acquired IP is reflected on the balance sheet. For example, according to US GAAP, IP is valued at its acquisition cost and amortized over a maximum period of 40 years. However, this may lead to serious confusion: whereas internally-generated IP is considered to be worth nothing, the IP that changes hands may be worth hundreds of millions of dollars. Thus, a company which decides to sell or license internally-generated IP appears to create profits virtually out of nothing, as the IP that generated these profits does not appear on its balance sheet.

In the absence of satisfactory answers to these issues, business is best advised to develop a voluntary IP report which enhances the position in the market, facilitates access to finance and improves overall management. How to approach an IP report will be the subject of the 2<sup>nd</sup> part of this article.

### **Suggestions for Further Reading**

Caninbano L./Garca-Ayuso M./Sanchez P.: Accounting for Intangibles: A Literature Review.

FASB (Financial Accounting Standards Board): Improving Business Reporting: Insight into Enhancing Voluntary Disclosures, Steering Committee Report, Business Reporting Research Project. 2001 a, at <http://www.fasb.org/brp/brp2.shtml>

FASB (Financial Accounting Standards Board): Business and Financial Reporting, Challenges from the New Economy. Special Report. Financial Accounting Series. 2001 b, at [http://www.fasb.org/articles&reports/new\\_economy.shtml](http://www.fasb.org/articles&reports/new_economy.shtml)

Lev B./Sarith B./Sougiannis T.: R&D Reporting Biases and Their Consequences. New York University 1999, at <http://pages.stern.nyu.edu/~blev/research.html>

SEC (Securities and Exchange Commission): Strengthening Financial Markets: Do Investors Have The Information They Need? A Report by the SEC Special Task Force. 2001, at [http://www.mba.yale.edu/news\\_events/sec\\_exec\\_sum.htm](http://www.mba.yale.edu/news_events/sec_exec_sum.htm)

<sup>5</sup> The Basel Committee for the Review of Banking Regulations concluded that: "In the absence of active markets it will be difficult to obtain or calculate a reliable fair value for certain non-marketable financial instruments held at cost... it concluded that it does not believe the time is right to proscribe full fair value accounting... for all financial assets and liabilities." Basel Committee on Banking Supervision: Report to G7 Finance Ministers and Central Bank Governors on International Accounting Standards. Basel 2000, p.3, <http://www.iasplus.com/resource/basel1.pdf>.

26  
AprilWORLD INTELLECTUAL  
PROPERTY DAY

The theme of the Fourth World Intellectual Property Day *"Encouraging Creativity"* underlines how human creativity drives advances in science, business, technology, and the arts. WIPO Member States around the world organized activities in observance of World Intellectual Property Day, which highlighted that theme and stressed the importance of intellectual property to both young and old in all levels of society.



To mark the occasion, WIPO Director General Kamil Idris pledged WIPO's commitment to continue to work with all countries to assist them in developing their intellectual property systems to promote economic growth and social well being, and released the following message:

*World Intellectual Property Day provides an opportunity for people of all nations to reflect on the importance of creativity and innovation in building a better world.*

*"Encouraging Creativity", the theme of this year's observance, is at the heart of the World Intellectual Property Organization's vision: that all nations, by harnessing the power of creativity and innovation through the use of the intellectual property system, can achieve economic growth and cultural development.*

*Human creativity drives advances in science, business, technology, and the arts – in all human endeavor. Recognizing and developing this limitless*

*resource, and exploiting it as an economic asset, is key to achieving prosperity in today's world.*

*Many governments have grasped this fact and are actively incorporating intellectual property policies into their overall development strategies. WIPO's goal is to work with all countries to assist them in this effort.*

*By building awareness of the value of intellectual property and developing the necessary infrastructure to help their citizens take full advantage of the IP system, all nations can create an economic environment and a culture that truly encourages creativity.*

*To promote, inform and teach*

World Intellectual Property Day offers an ideal opportunity to promote, inform and teach the importance of intellectual property as a tool for economic, social and cultural development. With those objectives in mind, WIPO issued World Intellectual Property Day kits to all its Member States and released three 30-second television spots centered on the theme "Encouraging Creativity." The three spots, which are airing on CNN throughout the year, were also made available for broadcast to WIPO Member States. The kits, containing the above message from WIPO Director General Kamil Idris, a poster, bookmarks, two new guides for small and medium-sized enterprises (SMEs), "Making a Mark" and "Looking Good", and



WIPO distributed 78 copies of the Creative Planet video series for broadcast in 44 countries

a leaflet and order form for the video series "Creative Planet", proved effective promotional tools for WIPO's Member States.

Activities were planned in many different countries and by various organizations in observance of World Intellectual Property Day. Some 60 WIPO Member States reported back to the Organization on the activities they planned. All of these were listed on WIPO's website (see [www.wipo.int/about-ip/en/world\\_ip/2004/activities.html](http://www.wipo.int/about-ip/en/world_ip/2004/activities.html)).

## Highlights from around the world

**Algeria** – A celebration was held on April 26 at the El Moudjahid Press Center in Algiers where the Director General of the *Institut National Algérien de la Propriété Industrielle (INAPI)*, Mr. Omar Bouhnik, gave a press conference on the theme “The Place and the Issue of Intellectual Property in the Global Environment – Strategic Vision and Macro-Economic Context.” Mr. Bouhnik spoke of new developments in the area of intellectual property, particularly in the fields of genetic resources, traditional knowledge and folklore, and electronic commerce, and the need to adapt legal norms to these challenges. He also emphasized the economic importance of innovation and creativity, and the need for more awareness and knowledge among stakeholders of how best to use intellectual property systems to harness and spread the benefits of such resources. He concluded by observing that this occasion and others served to popularize the subject of intellectual property, and to promote awareness among users of how to integrate it in their quest for external markets.

**Belize** – The Intellectual Property Office of the small island-state of Belize (BELIPO) observed the event by broadcasting the WIPO video “Creating the Future Today” on national television, publishing the Director General’s message in the country’s most popular newspaper and on their website ([www.belipo.bz](http://www.belipo.bz)), and by a poster campaign in the most important buildings in the capital, Belmopan.

**Côte d’Ivoire** – To mark the event the Government of Côte d’Ivoire broadcast two debates on the theme “Piracy, an Obstacle to Literary and Artistic Creation,” one on television and the other on the radio, and held a public conference. WIPO information products were exhibited and distributed in schools, in the Ivorian Copyright Office and in the Ministry of French Language and Culture. The Government also held an official ceremony and issued a declaration to mark the event.

**Fiji** – Fiji postponed its celebration in deference to a period of mourning declared following the death of Sir Kamisese Mara, founding father of Fiji’s independence. Thus seminars and panel discussions to mark World Intellectual Property Day started on May 5 and ran through the month. Government officials from the Ministries of Justice, Foreign Affairs, Commerce, Education, Fijian Affairs and Agriculture as well as representatives of the Fiji Performers’ Rights Association participated in the events.

### Ghana



Ghana’s Deputy Attorney General and Deputy Minister of Justice, Mr. Ambrose Derry, performed the opening of the seminar and exhibition to mark Intellectual Property Day in Accra

**India** – The Indian Institute of Technology (IIT), New Delhi, and the Indira Gandhi National Open University (IGNOU), New Delhi, organized joint Intellectual Property Day celebrations in their respective institutions. The program at IGNOU was presented via a special video conferencing session to a nation-wide audience. A speaker from the WIPO Worldwide Academy (WWA) presented the main topic “Demystifying Intellectual Property - A Tool for Economic Development.” The 45-minute presentation was beamed live to 26 regional centers all over India. The talk was followed by an interactive session with questions coming in from participants in various cities around the country.

Additionally, the Council of Scientific and Industrial Research (CSIR), India, organized a joint workshop with the Federation of Indian Chambers of Commerce and Industry (FICCI) and WIPO to mark the event. The workshop took place on April 26 and 27 and highlighted the theme “Dispute Resolution in Intellectual Property and Technology Agreements.”



**Lebanon** – Lebanon's Minister of Economy and Trade, Mr. Marwan Hamadeh, the President of the Economic and Social Council, Mr. Roger Nasnas, and the U.S. Ambassador to Lebanon, Mr. Vincent Battle, launched Intellectual Property Week activities in Lebanon on May 3. Four roundtable discussions were organized in the week, each on a different type of intellectual property right. Anti-piracy raids were also carried out at the request of rights holders. As a result over 4,000 pirated CDs and four CD copiers were seized, several shops were closed and heavy fines were imposed on the owners. The Ministry of Economy and Trade, in collaboration with the Business Software Alliance, also developed an intellectual property awareness video clip that was broadcast on local television stations.

**Libya** – The Libyan National Bureau for Research and Development organized an Intellectual Property Awareness-Building Seminar on May 3 in observance of Intellectual Property Day in Benghazi, Libya's second largest city. WIPO designated a speaker, under the Libyan Arab Jamahiriya Funds-in-Trust (FIT) cooperation agreement, for the event.

**Mongolia** – This year's World Intellectual Property Day was the first observation of the event according to the Law of Mongolia on "Public Holidays and Celebration Days", which set April 26 as Intellectual Property Day of Mongolia. The Intellectual Property Office of Mongolia (IPOM) organized the following activities to mark the event:

- ▶ an exhibition entitled "Creativity and Public Promotion" was held in cooperation with the Chamber of Commerce and the Mongolian Artists Committee from April 14 to 16. Prizes were awarded for the three best products and innovations;
- ▶ an award ceremony where the Minister of Justice and Home Affairs, Mr. Tsend Nyamdorj, pre-

sented Mr. Engel Buyantur with a "WIPO Award for Outstanding Inventor" in recognition of his numerous inventions and utility models in the electrical industry. During the ceremony the Minister also designated four best innovator and five best inventor awards;

- ▶ a press conference in the Media Center on April 25;
- ▶ the publication of material on intellectual property in the national newspaper *Zuunii Medee* in five consecutive issues;
- ▶ the broadcast on national television of a 20-minute program on intellectual property rights along with the three WIPO spots on April 26;
- ▶ the airing on national radio of a series of programs on intellectual property;
- ▶ the granting of a prize in recognition of the best patent attorney, which was awarded to Balco Agency.



*Mongolian Minister of Justice and Home Affairs, Mr. Tsend Nyamdorj, presents a WIPO award to Mr. Engel Buyantur*

*Mongolian exhibition on Creativity and Public Promotion*



**Nicaragua** – To celebrate the Day, training seminars and workshops on intellectual property were organized in Managua on April 26 by the Inter-American Bank for Development's Project to Strengthen the Management of External Trade in cooperation with the *Secretaría de Integración Económica Centroamericana (SIECA)*, the SIECA/USAID project on Intellectual Property, six Nicaraguan universities, the *Camerata Bach*, the Ministry for Development, Industry and Trade, and the General Directorate for Industry, and through the Industrial Property Registry. Lectures and discussions centered on:

- ▶ policies and competence in the acquisition and marketing of pharmaceutical products in Nicaragua;
- ▶ the importance of intellectual property for economic, social and cultural development in developing countries;
- ▶ traditional knowledge and the protection of folklore in Panama;
- ▶ plant breeders' rights in Nicaragua;
- ▶ trademarks and other distinctive signs;
- ▶ copyright and related rights;
- ▶ the benefits of innovation and technology transfer.

Fairs were also inaugurated on national technology and adherence to treaties.



### Hong-Kong –



*Intellectual property stamps issued by Hong Kong to commemorate the 2004 WIPO Regional Symposium and postmarked on World Intellectual Property Day*

**Philippines** – The Philippines celebrated World Intellectual Property Day by launching a national essay writing contest and an on-the-spot painting contest for students. The Intellectual Property Office mounted an exhibition on the theme "Know Your Partners in Intellectual Property Enforcement," which featured government agencies responsible for enforcing intellectual property rights.

**Romania** – On April 26, the State Office for Inventions and Trademarks, in cooperation with the Romanian Copyright Office, organized a symposium and press conference with the participation of senior officials from the Presidential Administration, Ministry of Foreign Affairs, Ministry of Communication and Information Technology, Ministry of European Integration, National Authority for Control, and other stakeholders in the field of intellectual property. The Romanian translation of the Director General's message and other WIPO material was published in local and national newspapers as well as on the websites of two Offices.

In addition, the Regional Centers for the Promotion and Protection of Intellectual Property organized seminars and roundtables on "Intellectual Property as an Important Factor in Fostering Creativity and Invention for Economic Growth," and the national Agency for SMEs and Cooperatives held a conference on "The Importance of Intellectual Property Strategy for SMEs in Enhancing their Market Competitiveness".

The WIPO "Creative Planet" series and "Encouraging Creativity" 30-second spots were broadcast on national and local television networks in the week April 26-30.

**Sudan** – The office of the Registrar General of Intellectual Property prepared a program of celebration spread over the entire week starting April 26, which included public lectures, workshops, an exhibition, radio and television programs, as well as press coverage, backed by stickers to advertise the occasion.

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**Switzerland** – The Swiss Federal Institute of Intellectual Property launched a barrier-free version of their website ([www.ip4all.ch](http://www.ip4all.ch)) on World Intellectual Property Day. All information on the Institute's traditional site will soon be accessible to visually impaired on the new **ip4all** site, making the advantages of the intellectual property system available to everyone.

**Trinidad and Tobago** – The Intellectual Property Office of Trinidad and Tobago organized activities throughout the month of April. They held several seminars and workshops, distributed over 200 copies of "At Home with Invention" on diskette, held an exhibition on handicrafts in their offices and another featuring intellectual property literature and posters at the University of the West Indies. The Office also organized a day of activities focused on intellectual property for their staff members, which included in-house competitions.



World Intellectual Property Day poster issued by Trinidad and Tobago

**United States of America** – The Acting Under Secretary of Commerce for Intellectual Property, Mr. Jon Dudas, in coordination with the International Intellectual Property Institute, hosted a Capitol Hill luncheon commemorating World Intellectual Property Day. Mr. Peter C. Schultz, Ph.D., the co-inventor of fiber optics, recipient of the National Medal of Technology and member of the National Inventors Hall of Fame, and Mr. Nick Taylor, best-selling author and president of the Authors Guild, were the featured speakers.

Patent and Trademark Depository Libraries (PTDLs) across the U.S. observed World Intellectual Property Day with displays, activities and outreach programs promoting the importance and benefits of intellectual property. A few examples of PTDL activities follow:

- ▶ The Science, Technology and Health Department at the Central Library of Rochester and Monroe County, New York, created a display using posters and materials provided by WIPO and other library materials.
- ▶ The Sunnyvale Center for Innovation, Invention and Ideas, a service of the Sunnyvale (California) Public Library, displayed the WIPO posters in the library's patent and trademark area and distributed WIPO bookmarks to its clientele. The Center also held an exhibition on women inventors throughout March and April.

- ▶ The University of North Carolina at Charlotte (UNCC) filled six display cases with interesting examples of U.S. trademarks and patented inventions. Their exhibition included well-known examples such as the board game Monopoly® and a Coca-Cola® bottle, plus patents awarded to UNCC faculty. In addition, UNCC also organized a one-day patent and trademark information seminar on April 20 attended by approximately 45 people.
- ▶ Montana Tech in Butte incorporated WIPO materials into a presentation on patents at the annual conference of the Montana Library Association, held April 24-27. The WIPO posters proved a big success among public and school librarians. The **Making a Mark** leaflet was appreciated by Montana residents and librarians who sought more information on protecting trademarks, brands and logos.





# VENICE HOSTS INTERNATIONAL CONFERENCE ON DESIGN

WIPO Director General Kamil Idris opened an international conference in Venice on May 13 at which keynote speakers stressed the importance of design protection for businesses in securing a competitive edge in the global marketplace. Speakers at the joint WIPO-Italy International Conference on Design agreed that creators and entrepreneurs are increasingly using ingenious and innovative designs to add value to their creations and maintain a competitive edge. They also warned against the dangers of piracy and counterfeiting of designs.

This is the first high level international event on designs since the entry into force of the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, which facilitates the process of seeking protection for industrial designs in multiple countries. Keynote speakers at the conference, organized by WIPO, the Ministry of Productive Activities of Italy and the City of Venice, under the patronage of the Ministry of Foreign Affairs of Italy, included Dr. Idris, Italy's Minister of Productive Activities, Mr. Antonio Marzano, the Mayor of Venice, Mr. Paolo Costa, Italy's Permanent Representative to the UN in Geneva, Mr. Paolo Bruni, and the President of the Venice International Committee, Mr. Paolo Baratta.

Minister Marzano emphasized that entrepreneurs must focus on the quality and aesthetic appeal of a product as well as its price to remain com-

petitive. He said the demands of the market and increasingly sophisticated consumer needs and tastes mean that more attention should be paid to design. The Minister said his government is fully committed to raising awareness of intellectual property and its critical importance in promoting economic and social development and wealth creation. Particular attention, he said, is being given to the small and medium-size enterprises sector, which makes up the bulk of Italian industry.

Mr. Marzano warned against the dangers of piracy and counterfeiting to national economies. He said this problem requires international attention and coordination. "Innovation is the future," he said. "Counterfeiting is to the detriment of this future." Dr. Idris supported Mr. Marzano's statement and added that in addition to the detrimental effects on economies, piracy and counterfeiting threatened the cultural heritage of a nation.

The Mayor of Venice, Mr. Costa, expressed the city's willingness to play a bigger role in promoting a culture of intellectual property noting, "WIPO will always find in our city and institutions solid partners." The Mayor also stressed the importance of design in embellishing daily lives and noted the importance of creativity in the economic cycle. "In a global economy

## Venice - Birthplace of Patent Law

Venice is a particularly appropriate venue for the conference, not only because Italy is a leader in design, but because this year marks the 530th anniversary of the enactment of the first patent law by the Republic of Venice. Venice was the first country in Europe to adopt a patent law on March 19, 1474.



*Italy's Minister of Productive Activities, Mr. Antonio Marzano, WIPO Director General, Dr. Kamil Idris, and the Mayor of Venice, Mr. Paolo Costa*

creativity will become the true and real value added to design, the spur to growth itself. The more our economy relies on creativity, the more innovative and competitive it will become." He added, "promoting a culture of intellectual property also means to consistently lead businesses in the furrow of technological development, supporting the growth of the economic system and its innovation. The intertwined relationship of research, university and business is the keystone of all future entrepreneurial development of our economy."

The two-day conference in Venice provided a forum for exchanging views on the strategic importance of the international protection of designs to design-related businesses. It also identified ways to more effectively use the WIPO-administered Hague system for the International Protection of Industrial Designs.

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## *The Director General Honored by City of Venice*

WIPO Director General Kamil Idris received on May 12 the first "Venice Award for Intellectual Property" for his leadership role in promoting respect and awareness of intellectual property. The Mayor of Venice, Mr. Paolo Costa, presented the award to Dr. Idris at a ceremony hosted in the Palazzo Ducale. Italy's Minister of Productive Activities, Mr. Antonio Marzano, the President of the Venice International Committee, Mr. Paolo Baratta, and the Undersecretary of the Ministry of Foreign Affairs, Mr. Roberto Antoinione, also spoke at the ceremony, which was attended by leading personalities from the world of culture and senior representatives from government and the private sector.



In presenting the award, Mr. Costa applauded Dr. Idris for his "exceptional work" in raising awareness of the importance of intellectual property in enhancing people's daily lives, and praised him for his "strong commitment" to promoting intellectual property. "For your outstanding contribution to global understanding of the central role played by intellectual property as a tool for economic growth and development in all countries throughout the world, I am deeply honored to present you with this prize," the Mayor added.

Italy's Minister of Productive Affairs, Mr. Antonio Marzano, underlined the importance of intellectual property and expressed satisfaction that the first Venice Award for Intellectual Property, which had been established to coincide with the 530<sup>th</sup> anniversary of the enactment of the first patent law of the Republic of Venice, was presented to Dr. Idris in recognition of his efforts to promote intellectual property.



The Undersecretary of the Ministry of Foreign Affairs, Mr. Roberto Antoinione, congratulated the Director General on his efforts to promote an intellectual property culture as well as emphasizing the link between intellectual property and economic, social and cultural development.

Dr. Idris said he was "deeply honored and privileged" to receive the first Venice prize. He stressed that the correlation between human progress and the ability to invent, innovate and imagine a better world is indisputable. The Director General said that today's economic realities and unprecedented technological developments are transforming communities, societies and business practices around the world. "Our goal, therefore, is to enable countries to mine, market, produce, compete and trade in the one natural resource that is common to all communities and nations: the inventiveness and creativity of their people."



# HIGH-LEVEL EVENTS IN TOKYO COMMEMORATE 100<sup>TH</sup> ANNIVERSARY OF JIII

WIPO Director General Kamil Idris participated in a number of high-level events in Tokyo on May 25 and 26 to mark the 100<sup>th</sup> anniversary of the Japan Institute of Invention and Innovation (JIII). Dr. Idris also held a number of bilateral meetings with top officials, including Prime Minister Junichiro Koizumi. The Director General commended the Japanese Government, and in particular the Prime Minister, for strong leadership in establishing a visionary intellectual property strategy which takes into account the realities of the knowledge-based society.

Dr. Idris lauded the Japanese Government for its efforts to promote intellectual property and referred to Japan's "proactive and comprehensive review" of its intellectual property system and Prime Minister Koizumi's strong leadership, including his own chairmanship of a special cabinet-level council for Japan's intellectual property strategy. Dr. Idris said Prime Minister Koizumi's "aim of creating a nation built on intellectual property" speaks for itself and is indicative of the emphasis the Prime Minister and his Government place on tapping the intellectual resources of their country, encouraging and empowering potential inventors and creators, and instilling respect and admiration for innovative activity. Prime Minister Koizumi confirmed his

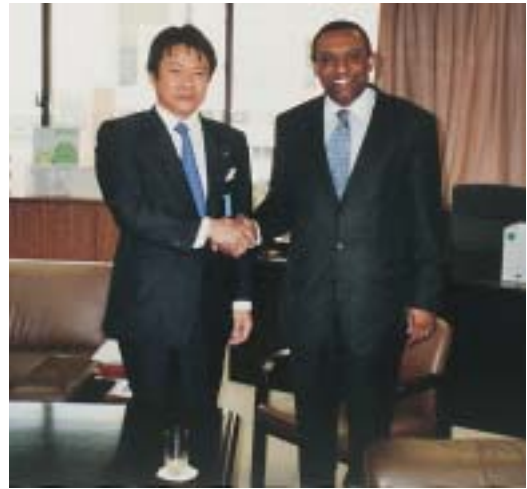
belief that Japan, with scarce natural resources, needs to empower and leverage its human resources, thus revitalizing his nation's innovation.

The Director General also held talks with Mr. Shoichi Nakagawa, Minister for Economy, Trade and Industry, and Mr. Tateo Kawamura, Minister for Education, Science and Technology.

## *100<sup>th</sup> Anniversary of JIII*

At the Commemorative Ceremony for the 100<sup>th</sup> Anniversary of the Establishment of the JIII, Dr. Idris addressed several hundred participants from over 30 countries and paid tribute "to the 100 years of service and dedication the JIII has given to its task of nurturing national creativity and innovation and promoting the use of the intellectual property system." The ceremony was organized in the presence of Their Majesties the Emperor and the Empress as well as His Imperial Highness Prince Hitachi, and was attended also by Prime Minister Junichiro Koizumi, Speaker of the House of Representatives Mr. Yohei Kono, Chief Justice of the Supreme Court Mr. Akira Machida, and other cabinet members.

Prior to the ceremony, the Director General spoke at the International Symposium in Commemoration of the 100<sup>th</sup> Anniversary of the JIII. Under the theme of "Striving for a Common Understanding of and the Deepening of Respect for the Comprehensive Ideas of Intellectual Property Culture and its Global Grass-Roots



Dissemination", Dr. Idris highlighted the critical role of intellectual property in spurring economic and social development, as well as WIPO's vision of creating a global intellectual property culture.

*Japan's Minister for Economy, Trade and Industry, Mr. Shoichi Nakagawa, and WIPO Director General, Dr. Kamil Idris*

The symposium concluded with the adoption of the Chair's summary, which highlighted the importance of the IP culture and its further dissemination to the world.



# GLOBAL CONGRESS ON COMBATING COUNTERFEITING

Some 400 participants from the private and public sectors as well as intergovernmental and non-governmental organizations attended the first Global Congress on Combating Counterfeiting, held in Brussels on May 25 and 26.



Photo: David Plas

Participants at the Global Congress on Combating Counterfeiting

Jointly organized by the World Customs Organization (WCO) and Interpol, with the support of WIPO, the Congress aimed to develop a common understanding of the extent of the problems posed by counterfeiting and to identify effective solutions and cooperative actions to achieve them. The event attracted many high-ranking representatives from industry, governments and intergovernmental organizations, as well as significant coverage in the international press.

WIPO Deputy Director General Rita Hayes, in her keynote speech, stressed that counterfeiting is a problem with which all nations should be concerned. "Like so many problems today, counterfeiting is a problem without borders," she said. "It is a problem calling for global cooperation, global coordination, and global solutions."

In outlining WIPO's approach to the issue, she noted that governments must be convinced that protecting intellectual property is key to economic prosperity and social well-being. "Today, governments are increasingly recognizing this fact," she said. "It is becoming increasingly clear that it is in their national interest to pass laws that protect intellectual property rights, and to develop efficient mechanisms to enforce those laws."

Mrs. Hayes noted that WIPO works closely with governments to help build capacity in enforcement. However, she said, a global approach is required, through close coordination and cooperation between governments, the private sector, and intergovernmental organizations.

"Given the immense, global challenges involved in fighting counterfeiting today, none of us can go it alone," she said. "It is incumbent on all of us – national governments, international organizations, the public

and private sectors – to work together to ensure that effective enforcement of intellectual property rights becomes a reality."

Wolfgang Starein, Director of WIPO's Enforcement and Special Projects Division, outlined WIPO's activities in the area and stressed the need to include all countries in the fight against counterfeiting.

Participants agreed to meet again next year and adopted a number of provisional recommendations on future work, which are available at [www.anti-counterfeitcongress.org/wco2004/website.asp](http://www.anti-counterfeitcongress.org/wco2004/website.asp).



# 12<sup>TH</sup> SESSION OF THE SCT RECOMMENDS UPDATING TRADEMARK LAW TREATY

The WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), meeting from April 26 to 30, recommended the convening in the first half of 2006 of a Diplomatic Conference that would update the existing Trademark Law Treaty (TLT) to bring it in line with the technological advances of the past decade.

## ***Revision of the Trademark Law Treaty***

The TLT, which now has 31 Member States, was concluded in 1994 to streamline and simplify, on a worldwide basis, administrative procedures relating to national and regional trademark applications and the maintenance of trademark registrations. To keep pace with developments in telecommunication since 1994 and to create an institutional framework allowing the adaptation of certain administrative details regulated under the Treaty, the revision of the TLT envisages the inclusion into the Treaty of provisions on electronic filing of trademark applications and associated communications, provisions concerning the recording of trademark licenses, relief measures when certain time limits have been missed, and the establishment of an assembly of the contracting parties.

The SCT endorsed the introduction to the TLT of a specific provision concerning communications with industrial property offices under which contracting parties are free to choose their preferred means of communication,

including electronic communication. This will transform the paper-based approach of the TLT without imposing on contracting parties a specific mode of communication.

The draft revised Treaty will maintain a provision preventing mandatory attestation, notarization, authentication, legalization or other certification of any signature in a communication, with very few exceptions, such as the surrender of registrations. The provisions on signature accommodate recent developments such as the increasing acceptance by offices of electronic signatures or other types of identification.

The SCT also made progress on a provision relating to the measures available in case of failure to comply with time limits. There was a general understanding among delegations that future contracting parties to the revised TLT should provide at least one form of reinstatement of rights. These would be made available in situations in which rights were lost due to non-compliance with a time limit, in spite of due care on the part of the person who missed the time limit.

Moreover, the Committee discussed, for the first time, provisions aimed at the harmonization and simplification of requests for the recording of trademark licenses. In this respect, a number of delegations and representatives of observer organizations supported the inclusion of provisions on the recording of trademark licenses in the treaty, while other delegations expressed some concern on the issue.

Finally, the SCT had a first exchange of views on a new set of final and administrative clauses for the draft TLT. These clauses provide, among other things, for the creation of an assembly constituted by contracting parties. This assembly would have the power to change the regulations under the Treaty, thereby allowing the administrative framework set up by the Treaty to regularly adapt to changing circumstances and new developments in trademark registration procedures.

In conclusion, the SCT requested that the Secretariat convey a recommendation to the WIPO General Assembly, meeting from September 27 to October 5, to convene a diplomatic conference for the adoption of a revised Trademark Law Treaty in the first half of 2006, with the exact dates and venue for such a diplomatic conference to be decided by the preparatory meeting, and to hold two more sessions of the SCT prior to the holding of the diplomatic conference.

## ***Questionnaire on Trademark Law and Practice***

The SCT also discussed ongoing work on a questionnaire on trademark law and practice, and the protection of certain official signs under Article 6<sup>ter</sup> of the Paris Convention for the Protection of Industrial Property. The SCT examined a status

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## MEMBER STATES DISCUSS WAYS TO FURTHER HARMONIZE PATENT LAW

report on the ongoing work concerning a recently initiated trademark law survey. A questionnaire on national trademark law and practice was circulated to SCT members in August 2003, and by April 2004 there were some 70 responses, providing abundant material on the trademark laws and administrative office practice of Member States. The SCT was informed that the Secretariat had started to compile all responses in a provisional summary document, which is to be published after SCT members have had an opportunity to comment on it. This document could serve as a basis for future work of the SCT.

### *Protection of State Emblems*

A presentation of the recently published "Article 6terExpress" database concluded the work of the Committee (see *WIPO Magazine* March-April 2004).

All working documents for the 12<sup>th</sup> session of the SCT including the Summary by the Chair are available on the WIPO Internet site at [www.wipo.int/documents/en/document/sct/index\\_12.html](http://www.wipo.int/documents/en/document/sct/index_12.html).

The Standing Committee on the Law of Patents (SCP) met in Geneva from May 10 to 14 to discuss future directions for international harmonization of substantive patent law and to review provisions of a draft Substantive Patent Law Treaty (SPLT).

The SCP considered whether discussions should at this stage be limited to a number of provisions dealing with the definition of prior art, grace period, novelty and inventive step (non-obviousness) or whether talks should cover the current draft SPLT as a whole and consider issues such as disclosure of the origin of genetic resources and traditional knowledge, public health and exceptions to patentability criteria. The SCP did not reach agreement as to the scope of its future work but agreed to continue discussion of the existing draft SPLT text during the present session.

A number of draft provisions, such as the one relating to the fact that information made available to the public in any form shall form part of the prior art, which is central to the patent examination process, were accepted on the understanding that any delegation could re-open discussion of them in the future. Discussions brought about greater mutual understanding and movement towards agreement on a number of issues, such as the introduction of a grace period, the prior art effect of international applications under the Patent Cooperation Treaty (PCT) that are filed before but published after the application under consideration, and the definition of novelty. On a number of other issues, however, important differences of approach remain among delegations and further reflection is required.



# PCT REFORM: SIXTH SESSION OF THE WORKING GROUP

The sixth session of the Working Group on Reform of the Patent Cooperation Treaty (PCT), held in Geneva from May 3 to 7, agreed to propose amendments of the Regulations under the PCT to the PCT Assembly in September, which relate mainly to the simplification of the protest procedure and changes relating to the furnishing of sequence listings for the purposes of international search and examination. If adopted, it is likely that these amendments will enter into force on January 1, 2005.

The Working Group also considered a variety of ways in which the PCT system might be changed to provide a better service to applicants, national offices and third parties. These included changes which concern the restoration of the right of priority; the rectification of obvious mistakes; "missing part" provisions, which pertain to the introduction of parts of international applications which were omitted on filing; signature requirements; international publication in multiple languages; improving the quality of international searches; permitting a single, central, request for the recording of changes during the national phase; and declaration of the source of genetic resources and traditional knowledge in patent applications.

All of these issues are expected to be considered further at future sessions of the Working Group. For more information, see the documents that were prepared for discussion at the meeting, as well as the session's Summary by the Chair at [www.wipo.int/pct/en/meetings](http://www.wipo.int/pct/en/meetings).

## *Retirement of a Founding Father of the PCT*

The sixth session of the Working Group on Reform of the Patent Cooperation Treaty (PCT) marked the last WIPO meeting for Mr. Siep de Vries, Head, Chemical Division, Netherlands Industrial Property Office.

Mr. De Vries is one of the founding fathers of the PCT system, having worked extensively to make it into what it is today. The first PCT meeting he attended was the PCT Working Group on Guidelines for International Search and for International Preliminary Examination, held in Geneva in February, 1977 – over 27 years ago, before the system came into operation. In the years since then, the Organization has benefited enormously from his comprehensive knowledge of the PCT and from his ability to find creative solutions to complex matters. It is therefore fitting that in his final meeting he acted as Chair of the Working Group, presiding over a session which considered a variety of ways in which the system might be changed to provide a better service to applicants, national offices and third parties. In this role he provided valuable guidance in the continuation of the work to which he has devoted so much effort in his usual role as the delegate of the Netherlands.

Mr. De Vries plans to retire on September 1 this year. He will be missed by the International Bureau and the PCT community as a whole, both personally as well as for his immense contribution to the functioning and improvement of the system.



Photo: Mercedes Martinez Diazal

*Mr. François Curchod, Mr. Siep de Vries, Mr. Heinz Bardehle, Mr. Busso Bartels at the 2003 Working Group meeting. All four were instrumental in shaping the PCT system.*

The seventh session of the Working Group is tentatively scheduled for either the week of November 22 to 26, 2004, or that of November 29 to December 3, 2004.



## NEWS ROUNDUP

### The Director General Meets Italy's Minister of Productive Activities

WIPO Director General Kamil Idris met on May 13 in Venice with Italian Minister of Productive Activities Antonio Marzano to discuss a number of issues of mutual interest. The meeting reaffirmed the strategic importance of intellectual property to development and wealth creation.

Dr. Idris thanked the Italian Government for its continued support of WIPO's activities, in particular the important role that Italy has played in the development of a special program at WIPO that is dedicated to small and medium-sized enterprises (SMEs). He also thanked the Government for offering to host the forthcoming WIPO World Symposium on Geographical Indications in Italy in 2005. Preparations for this meeting are underway and a venue will be decided shortly.

Dr. Idris and Mr. Marzano agreed that cooperation between WIPO and Italy is excellent and they pledged to work even more closely to promote awareness of intellectual property around the world. Italy has already hosted several international conferences on various intellectual property issues, including the Milan Forum on Intellectual Property and SMEs in 2001, which launched a plan of action in support of SMEs, and an international conference on intellectual property and SMEs in the textile sector in Prato in 2003.



Mr. Marzano assured Dr. Idris of both his personal commitment and his Government's commitment to promoting intellectual property. As Minister, Mr. Marzano has succeeded in consolidating all relevant Italian in-

tellectual property legislation into one code. In July 2003, special intellectual property courts were established in 12 Italian cities. During his tenure the Italian Patent and Trademark Office has been fully automated, a public awareness campaign against piracy and counterfeiting has been launched, and more effective enforcement measures have been implemented.

The meeting took place on the sidelines of the WIPO-Italy International Conference on Design on May 13-14.

### Korean Artist Holds Exhibition at WIPO

Ambassador Choi Hyuck of the Republic of Korea and WIPO Deputy Director General Geoffrey Yu opened an art exhibition at WIPO on April 6 of the works of Miss So-Un Lee.

Miss Lee learned calligraphy from her father at an early age. In 1980 she began studying traditional Korean painting in Seoul and continues to do so on a regular basis. Over the years, her calligraphic work has become more and more abstract and symbolic. Some 30 of her paintings were displayed at the exhibition, as well as a few pieces of painted porcelain.





## Special Program Highlights Importance of Intellectual Property for SMEs

The use of intellectual property as a strategic tool for business development was the focus of a four-day workshop organized by WIPO and the Association of Small and Medium Enterprises (WASME), in Geneva from May 3 to 6. Some 25 self-financed participants comprising entrepreneurs, business consultants, bankers, representatives of intellectual property (IP) offices and SMEs support institutions from Egypt, India, Kenya, Nigeria, Republic of Belarus, Romania, South Africa and Switzerland attended the workshop. Representatives from the Common Market for Eastern and Southern Africa (COMESA) and the International Labor Organization (ILO) also participated in the meeting as part of their growing interest in IP for business issues.

WIPO Deputy Director General Rita Hayes applauded WASME for its efforts in promoting the use of IP among SMEs and underlined the pivotal role that such associations played in raising awareness of the strategic use of IP to business. Mrs. Hayes further underlined WIPO's willingness to maintain an open dialogue with SME associations to support them in meeting the needs of their constituents.

WASME Secretary General Arun Agrawal stressed the importance of facilitating access by SMEs and SME associations in developing countries to a network of IP trainers. Dr. Agrawal noted that the specialist



Participants at the WASME meeting

assistance offered by such IP trainers would enhance the effectiveness of national and provincial SME associations as well as that of technology and business information centers and institutes of higher knowledge and learning.

This is the second training program organized by WIPO and WASME. Additional joint programs will include a workshop for non-governmental organizations (NGOs) working for SME development in November 2004 and a seminar targeting NGOs working with female entrepreneurs in 2005.

## IP Forum for OECD and EU Enlargement Countries

The Office for Harmonization of the Internal Market (OHIM) hosted in Alicante, Spain, on May 27 and 28 the second WIPO Forum on Intellectual Property (IP) and Small and Medium-Sized Enterprises (SMEs) for IP offices and relevant institutions of the Organisation for Economic Co-operation and Development (OECD) and European Union (EU) enlargement countries. The Forum's aim was to provide an opportunity to discuss and share experiences in encouraging the effective use of the IP system by innovators, creators, entrepreneurs, and SMEs.

The Forum's participants stressed the crucial relevance of the event as a cornerstone for determining national and international policies on the use of the IP system by SMEs. They also emphasized the need for greater cooperation in raising awareness, especially by creating common information networks, joint publications or distance learning programs. Further discussion focused on the creation of an Internet portal for SMEs to provide them with relevant information on intellectual property.

The presentations made during the Forum, as well as additional studies and surveys distributed to the participants, are available at [www.wipo.int/meetings/2004/alicante/en/index.html](http://www.wipo.int/meetings/2004/alicante/en/index.html).

# CALENDAR of meetings

## JUNE 7 TO 9

### GENEVA

#### ***Standing Committee on Copyright and Related Rights (Eleventh session)***

The Committee will continue its discussions on the protection of broadcasting organizations and on the protection of unoriginal databases. It will also discuss topical copyright issues.

**Invitations:** As members, the States members of WIPO and/or the Berne Union, and the European Community; as observers, certain intergovernmental and non-governmental organizations.

## JUNE 14 TO 24

### GENEVA

#### ***IPC Revision Working Group (Eleventh session)***

The Working Group will continue consideration of IPC revision proposals and will discuss various projects aimed at the implementation of IPC reform results.

**Invitations:** As members, the States members of the IPC Union and certain organizations; as observers, States members of the Paris Union, which are not members of the IPC Union.

## JUNE 24 AND 25 - JUNE 28 AND 29

### GENEVA

#### ***WIPO Workshops for Mediators in Intellectual Property Disputes***

An annual event for all parties interested in WIPO mediation procedures.

**Invitations:** Open to interested parties, against payment of a fee.

## JUNE 28 TO 30

### GENEVA

#### ***Advisory Committee on Enforcement (ACE) (Second session)***

The purpose of this second meeting of the ACE in June 2004 will be to discuss the role of the judiciary and quasi-judicial authorities, as well as that of prosecution in enforcement activities (including related issues such as litigation costs). The future work of the ACE in the framework of the agreed thematic approach will also be considered.

**Invitations:** As members, the States members of WIPO and/or the Paris Union and/or the Berne Union; as observers, other States and certain organizations.

## SEPTEMBER 27 TO OCTOBER 5

### GENEVA

#### ***Assemblies of the Member States of WIPO (Fortieth series of meetings)***

Some of the assemblies will meet in extraordinary session, other bodies in ordinary session.

**Invitations:** As members or observers (depending on the assembly), the States members of WIPO; as observers, other States and certain organizations.

## OCTOBER 25 TO 29

### GENEVA

#### ***Committee of Experts of the IPC Union (Thirty-fifth session)***

The Committee of Experts will consider amendments to the IPC, as proposed by the IPC Revision Working Group, and will discuss implementation of the IPC reform.

**Invitations:** As members, the States members of the IPC Union; as observers, States members of the Paris Union, who are not members of the IPC Union, and certain organizations.

## OCTOBER 25 TO 29

### GENEVA

#### ***Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Thirteenth session)***

The Committee will continue to work on the revision of the Trademark Law Treaty (TLT) and on issues agreed at the twelfth session.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, other States and certain organizations.

## NOVEMBER 8 TO 12

### GENEVA

#### ***Standing Committee on Information Technologies (SCIT) - Standards and Documentations Working Group (SDWG) (Fifth session)***

The Working Group will continue its work in the revision of WIPO standards and will receive reports from the different SDWG task forces that have been established for that purpose.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, certain organizations.

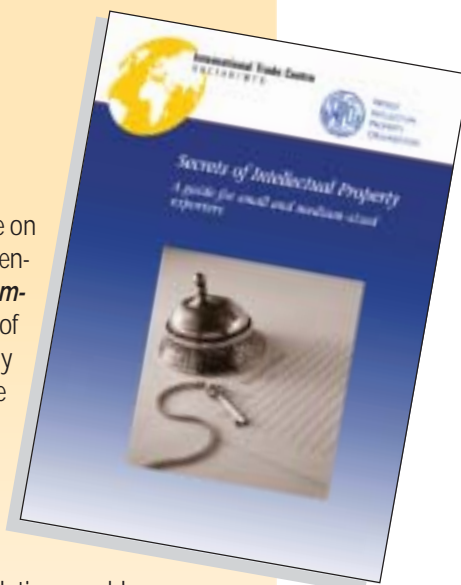


## WIPO/ITC Guide on Intellectual Property for Exporters

Exporters around the world can now benefit from a new practical guide on intellectual property (IP) published by WIPO and the International Trade Centre (ITC). "*Secrets of Intellectual Property: a Guide for Small and Medium-sized Exporters*" provides practical guidance on how to deal with some of the most common IP issues encountered by exporters. This user-friendly guide is written in the form of questions and answers, and contains a large number of references for further reading. It provides an international business perspective on a wide range of key IP issues for exporters.

The importance of IP rights to exporters often only becomes apparent when they are faced with problems or legal disputes. Such problems usually arise because of a lack of knowledge of the local rules, regulations and laws governing IP. The guide is designed to raise awareness among exporters about steps that need to be taken by them to ensure that their products comply with the IP laws of overseas markets and that these products do not infringe the IP rights of others.

Failure to consider IP rules and regulations in overseas markets when conducting market research analyses exposes exporters to unnecessary costs and risks which may not only damage the company's entire export strategy but may also threaten its long-term survival. The guide outlines steps that should be taken by exporters to adequately protect their own IP assets in target markets in a timely and cost-effective manner. Such measures will enhance their competitive advantage in those markets. By adequately protecting its IP, an export company can defend itself against theft and other IP abuses and can also secure additional revenue streams by exporting their IP without the accompanying product, for example, through licensing agreements.



"*Secrets of Intellectual Property: a Guide for Small and Medium-sized Exporters*" is currently available in English and may be ordered online from WIPO at [www.wipo.int/ebookshop/](http://www.wipo.int/ebookshop/) or from ITC at [www.intracen.org/eshop](http://www.intracen.org/eshop) or at the address indicated on the back cover. Additional language versions will be available in the near future.

### Editor's Note

The obituary for Professor André Françon, published in the January/February issue of the WIPO Magazine, was written by Mr. Patrick Masouyé, Acting Director of WIPO's Copyright Collective Management Division, as a personal tribute to Professor Françon and to his contribution to the protection of intellectual property.

The WIPO Magazine is published bimonthly by the Office of Global Communications and Public Diplomacy, World Intellectual Property Organization (WIPO). It is not an official record and the views expressed in individual articles are not necessarily those of WIPO.

The *WIPO Magazine* is distributed free of charge.

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