

**WIPO Assemblies  
56th Series of Meetings, 3th to 11th October 2016**

- Opening Statement of the German Delegation to be included in the Report -

Thank you Mr Chair,

1. On behalf of the German Government I would like to congratulate you on your appointment as chair of this year's Assembly. We would like to affirm that we will continue to support you in promoting the important projects of WIPO and we share your commitment to the manifold activities of this organization.

2. Furthermore, we would like to thank the International Bureau of WIPO for its well-structured and comprehensive preparation of the documentation for the present series of Assemblies; the senior management team have shown their ongoing and outstanding commitment to achieving the best possible results on the many items on this year's agenda.

3. Germany is looking forward to contributing to a constructive and fruitful dialogue. We fully support the statements made by Group B and the European Union. Intellectual property rights are not only essential for enterprises and developers. Consumers and the whole of society also benefit substantially from knowledge-driven innovation. WIPO, as the premier global organization for IP, continues to be the most important focal point for global discussion and the exchange of views.

4. As a leading international organisation, WIPO has to meet the highest possible standards of transparency and good governance. Therefore we very much welcome the assessments and recommendations of the Seventy-Second Session of the WIPO Coordination Committee concerning the "Report of the Office of Internal Oversight Services of the United Nations (OIOS) on Irregularities within WIPO" for further improvements of governance.

We are convinced that a constructive and forward-looking discussion of further improvements to the existing high standards will make WIPO stronger rather than weaker. In this spirit let us take up the decisions and recommendations of the Coordination Committee constructively and let us all contribute to the revision of WIPO's Internal Oversight Charter, General Procurement Principles and Whistle-blower Protection Policy. In this context, I would also like to express my thanks to the Director General, who strongly welcomed any review of procedures that would lead to better governance structures, improved governance procedures and greater transparency. We are convinced that the Director General will implement any necessary changes in a transparent and effective way and, as such, pave the way for meeting any further developments and challenges.

5. Moreover, the principles of transparency and good governance should not be limited to the subject matters of the OIOS-Report and should also be consistently applied to all WIPO-decisions. In this context Germany would like to mention the difficult and controversial issue of external offices. During last years' General Assembly, WIPO Member States agreed upon a process based on the "Guiding principles regarding WIPO external offices". We continue to support the idea of a small, limited, strategically positioned and geographically representative

network of WIPO external offices on the basis of a clear set of criteria and procedural mechanisms. By deciding on the “Guiding principles”, we have set ourselves clear goals and we must measure our performance on how efficiently we achieve these goals. We are confident that all new external offices will ultimately meet the set objectives.

6. The German Government considers intellectual property rights to be an integral aspect of the legal, economic and cultural framework within which enterprises and society as a whole functions. Intellectual property rights remain a complex, passionately and globally discussed issue. WIPO faces the challenge of providing guidance in the search for an adequate response to this and, furthermore, of fulfilling its mission to promote intellectual property and to protect it effectively in order to create sustainable development and wealth. One of the major as well as delicate tasks is and will be to allay the recurring fear that WIPO favours certain groups, and to demonstrate over and over that WIPO’s continual aim is to strike the best balance between rights holders and many different segments of society, including in the context of health and the environment. We encourage WIPO to actively and within its mandate contribute to the implementation of the Agenda 2030 for sustainable development and to identify areas for its respective possible input insofar in close interaction with other Geneva based institutions.

7. The German Government supports a robust and coherent international IP framework that is fit for purpose, balances different interests and concerns, encourages innovation, and fosters the development and transfer of technology on mutually agreed terms and conditions. Stakeholders, including IP offices, will benefit from a simpler and more harmonized international framework, including substantive provisions, inter alia, on copyright law, patent law and trademark law. WIPO, as the guardian of global legislation and harmonized practices is the forum uniquely suited to these tasks and should keep such harmonization of legal concepts on its agenda.

8. As the deliberations within the Standing Committee on Copyright and Related Rights (SCCR) demonstrate, the international harmonization of legal concepts in this field is a complex task which requires time and dedication on all sides. But if Member States work together in a spirit of consensus and with the firm intention to strike a fair balance between all interests involved, WIPO will continue to provide the framework within which we can reach positive results.

9. Germany is committed to improving the protection of broadcasting organizations by reaching a consensus on an international treaty with a scope of application that considers modern technologies. We need to update the protection offered and also address those technological issues in this area that have been evolving over the long period of time during which discussions on that treaty have been underway. We will therefore actively support the work of the SCCR in order to advance text-based work on an international treaty for the protection of broadcasting organizations. We think it would be useful to have a roadmap guiding the discussions in the coming sessions.

Germany will also deeply engage in sharing national experiences regarding exceptions and limitations for certain organizations and purposes as well as for people with disabilities different from print disabilities. Although Germany is convinced that there is no need for a legally binding international instrument regarding these topics, we are very interested in other Member States’ legal concepts. Nevertheless, we think that it would be useful if the General

Assembly could provide more clarity on the expected outcome of discussions on exceptions and limitations.

We are also interested in sharing views on further issues such as the resale right and challenges for copyright in the digital environment.

10. Ever since the beginning of international IP cooperation and the founding of WIPO as an international agency for IP, patent law has been of core importance not only theoretically but also in practical terms. Users of the patent system around the world are calling for the further development and improvement of the patent system – a call that must be heeded by WIPO and its responsible standing body, the Standing Committee on the Law of Patents (SCP). Germany recognizes and is satisfied with the SCP's ongoing work on important issues. We warmly welcome the agreement on future work reached at the last session of the Committee.

We are particularly eager to continue work on issues of patent quality, including opposition systems and the confidentiality of communications. Further work in this area is beneficial for all countries irrespective of their level of development, since it would enhance the credibility, reliability and stability of the international IP system. The German delegation to the SCP has also been engaged with the topic of patents and health, and will continue to do so. We take into account the efforts and activities that have been undertaken in this context by other WIPO committees and other international organizations. As to the topic "patents and health" we welcome the plan to prepare a study to examine the constraints faced by developing countries and LDCs in making use of patent flexibilities and their impact on the access to affordable, especially essential medicines for public health purposes in developing countries and LDCs, since WIPO is the right forum to address patent law questions.

11. The latest figures on the development of application numbers under the Patent Cooperation Treaty (PCT) show the core importance of the PCT system for the flourishing of innovation and wealth. The PCT still is the most important tool for multiplying a functioning patent system in an ever more globalised world. As a highly patent-active state, both on the national and the international level, Germany is grateful for the functioning of the PCT system. In 2015 the German Patent and Trademark Office processed 6,443 international applications – again an increase compared to the previous year – out of which over 85% were filed by applicants from outside Germany. For this reason, Germany, as always, stands committed to all necessary further developments in the PCT system and encourages all WIPO Member States to take advantage of the PCT system. We do appreciate the numerous improvements to the PCT system achieved by changes to the legal framework in the past 15 years. Again, the recent PCT working group has, in the view of this delegation, made good progress in dealing with the necessary adjustments to the PCT rules. Germany is very pleased to see the constructive atmosphere that prevails in this working group, which gives rise to fruitful, technical discussions.

12. Referring to the 34th and 35th sessions of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), the German Delegation notes that an agreement could not be reached in the two specific areas of *technical assistance* and the *disclosure requirement*, as stipulated in the mandate. In consequence there is no common ground for the convening of a diplomatic conference. Moreover we must conclude that after these fruitless sessions the negotiations on the Design Law Treaty have finally reached a dead end. The Design Law Treaty was mature and ready for adoption some

time ago, but this opportunity has been lost. Of course Germany remains open to any reasonable proposals that may be raised in this year's General Assembly.

13. After successful establishment of the Geneva Act there is now a great chance for the Lisbon Union to stabilize and strengthen the Lisbon System. We strongly support the efforts of Lisbon Union members to build an efficient and sustainable system for the future. We would like to point out that the protection of geographical indications serves as a means of protecting traditional regional knowledge for both agricultural and non-agricultural products.

14. Germany notes the broad consensus amongst Member States to continue work in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). Germany recognises the importance of the work carried out by this Committee. There is still a long way to go in order to achieve the aim of reaching consensus on a *sui generis* legally non-binding instrument that takes account of the vested interests of holders of traditional knowledge, genetic resources and folklore and, at the same time, does not harm the functioning of the international IP system. We are willing to continue our participation in this process.

15. Germany remains fully committed to further progress in the field of development, particularly in light of the United Nations 2030 Agenda for Sustainable Development. We support the continued implementation of the 45 recommendations of the Development Agenda in a balanced and consensus-driven manner. We welcome the results achieved by the Committee on Development and Intellectual Property (CDIP) in the past year as regards the Independent Review of the Implementation of the Development Agenda Recommendations and the International Conference on Development and Intellectual Property. Furthermore, we have seen considerable progress and a positive evaluation of several projects. We hope that the areas within which the discussions have been somewhat strenuous and time-consuming will diminish thanks to the constructive spirit shown by many delegations at the past CDIP sessions. We are confident that such spirit will allow us to overcome these challenges in the near future.

16. As the past meetings of the Advisory Committee on Enforcement (ACE) were widely perceived as a success, Germany is looking forward to its 12<sup>th</sup> session. We believe that the effective protection of IP requires a solid framework for enforcement at its core. We are aware that it is imperative to find solutions which take account of all interests concerned in a balanced manner. With the Committee's issue-oriented approach, the past sessions of the ACE have provided very useful insights into the various approaches to tackling infringements of intellectual property rights. The topics agreed upon in the 10<sup>th</sup> session of ACE and expanded on in the 11<sup>th</sup> session of ACE provide ample space to accommodate discussion and the exchange of ideas at the upcoming meetings as well. We appreciate the Secretariat's commitment in selecting appropriate speakers while ensuring the aforementioned balance of interests. We very much hope that the ACE can continue to contribute to a comprehensive discussion on the technical aspects of IP enforcement.

17. Germany attaches great importance to the needs of people with disabilities. Therefore, the German Government welcomes the fact that the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled entered into force on 30<sup>th</sup> September. Germany also welcomes the fact that, in mid-September, the EU proposed a Regulation and a Directive for the implementation of the

Marrakesh Treaty. This will hopefully lead to swift implementation in the European Union, and ensure that visually impaired and print-disabled people can benefit from the new opportunities as soon as possible.

18. Over the past year the German Patent and Trade Mark Office (DPMA) continued its successful cooperation with WIPO, European-level and national offices and IP organisations.

In October 2015, together with WIPO and MyIPO (Intellectual Property Corporation of Malaysia), the DPMA organised an international workshop on the topic of “Patent examination in the field of biotechnological inventions” in Kuala Lumpur. In January 2016, representatives from WIPO and the DPMA met in Munich to discuss the WIPO project “TAG of Excellence”, including the TAG Compendium of Good Practices Concerning the Collective Management of Copyright and Related Rights and its compliance with German law on collective management organisations. The series of joint Roving Seminars with WIPO will also be continued; the next seminar is planned for spring 2017.

In the past year, the DPMA once again implemented a range of successful cooperation projects with European-level and national offices. In October 2015, in collaboration with EUIPO (then OHIM), the DPMA ran a regional seminar including presentations, working sessions and discussions on selected topics of trade mark law. Last year also saw continuation of the well-established cooperation between DPMA and EUIPO within the framework of the joint Convergence Programmes and the Cooperation Fund. In July 2016, representatives from the Shanghai Administration for Industry and Commerce (AIC) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) visited the DPMA to gain an overview of trade mark procedures at the DPMA. Together with the EPO, DPMA organised an “Expert seminar on computer-implemented inventions, disclaimers and added subject-matter” in November 2015.

The DPMA and the State Intellectual Property Office of the People’s Republic of China (SIPO) have extended the joint PPH pilot by another two years until January 2018. The benchmarking project with the Intellectual Property Office of Singapore (IPOS) on patent examination and opposition proceedings was also continued: patent examiners from IPOS visited the DPMA for a week of training in October 2015.

In the past year, once again, the DPMA’s exchange programmes for patent examiners were a great success. Four patent examiners from the Korean Intellectual Property Office (KIPO) visited DPMA in October 2015. Also in October 2015, a delegation from DPMA visited SIPO in Beijing to discuss expert issues. The delegation included two patent examiners who shared their experiences in patent examination. The return visit by four DPMA patent examiners to KIPO took place in April 2016. The patent examiner exchange will be continued with visits by patent examiners from UK IPO and JPO to DPMA this month (October 2016). Currently, patent examiner exchanges are also being planned with SIPO and KIPO for the period of November/December 2016.

In the past year, the DPMA once again hosted a number of international events. In October 2015, an international symposium held by the DPMA entitled “The future of supervision of collecting societies – a German and European outlook” attracted more than 150 guests from 19 countries. In January 2016, the Third INTA/DPMA Roundtable for Paralegals und Trademark Administrators was held; the next round table for paralegals will be organised by

DPMA and INTA in January 2017. In February 2016, the DPMA ran a round table on patent priority; the next UNION-IP Round Table at DPMA will take place in February 2017. At the third Munich International Patent Law Conference in June 2016, 130 participants from 22 countries met at the DPMA for discussions and lectures delivered by judges from five countries; the next Munich International Patent Law Conference will be on 23 June 2017.

19. Distinguished Chair!

These are our preliminary remarks. We look forward to engaging in a constructive discussion and trust that, under your guidance, we will achieve consensus on the items on the agenda.