

WIPO Assemblies
57th Series of Meetings, 2nd to 11th October 2017

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

Thank you Mr Chair,

1. With your guidance and leadership we obtained outstanding results during last year's General Assembly. On behalf of the German government I would like to thank you and wish you every success with the difficult tasks that are on our agenda this year. Mr. Chair, you can count on our constructive participation and support. I would also like to congratulate the newly elected chair, the Ambassador of the Republic of Vietnam, Mr. Duang Chi Dung, on his appointment as chair of next year's Assembly. The German delegation strongly believes in a smooth continuation of our important work.

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. We would also like to acknowledge the progress made in implementing the important decisions taken on governance issues last year. These decisions are an excellent basis for further progress, especially concerning the amendment of WIPO's Whistleblower Protection Policy. We welcome the substantial comments submitted by the Independent Advisory Oversight Committee on 27 September. We fully align ourselves with these comments and will thoroughly examine whether they have been comprehensively addressed in the new Policy which the Director General has promulgated on September 29.

5. Germany has been and remains fully committed to engaging constructively with all parties concerned in an area where substance must take precedence over swiftness. This includes careful consideration of the review and comments disseminated by the Independent Advisory Oversight Committee (IAOC).

6. We remain confident that by working to improve the high standards WIPO has already achieved in a constructive and forward-looking manner, the organisation can only grow stronger. In this spirit, let us build constructively on the decisions and recommendations of the Coordination Committee and last year's General Assembly for the benefit of WIPO, all other parties concerned and perhaps even humanity as a whole!

7. We believe that principles of transparency and good governance should underpin all of WIPO's decisions, including with regard to external offices. We are confident that we will

arrive at a coherent decision that meets the objectives set for the choice of new external offices in applying the agreed “Guiding principles regarding WIPO external offices”.

8. The German Government considers intellectual property rights to be an integral part of the legal, economic and cultural framework within which enterprises and society as a whole function. Intellectual property rights remain a complex, passionately and globally debated issue. WIPO faces the challenge of providing guidance in the search for an adequate response to this, and – furthermore – must fulfil its mission to promote intellectual property and to protect it effectively in order to create sustainable development and wealth. One of the major yet delicate tasks that WIPO has faced and will continue to face is to allay recurring fears that the organisation favours certain groups, and to demonstrate over and over again that WIPO’s ongoing 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 contribute actively, within its mandate, to the implementation of the Agenda 2030 for sustainable development, to identify areas for its own possible input in this process, and to do this in close cooperation with other Geneva-based institutions.

9. The German Government supports a robust and coherent international IP framework that is fit for purpose, strikes a balance between 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 mastering these challenges, and should keep such harmonization of legal concepts on its agenda.

10. As 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. However, if Member States work together in a spirit of consensus and with the firm aim of striking a fair balance between all interests involved, WIPO will continue to provide the framework within which we can achieve positive results.

11. Germany is committed to improving the protection of broadcasting organizations by reaching a consensus on an international treaty. In order for the treaty to be sustainable and successful in the long term, its scope of application should reflect the technical developments that have taken place in the meantime. We therefore welcome the discussion on further technologies, especially online deferred transmissions. Germany will continue to actively support the efforts of the SCCR in order to advance text-based work on an international treaty for the protection of broadcasting organizations.

Germany is interested in sharing national experiences regarding exceptions and limitations for certain organizations and purposes, as well as for people with disabilities other than print disabilities. Although Germany firmly believes that there is no need for a legally binding international instrument in this area, we would like to learn more about other Member States’ legal concepts.

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

12. 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 in theory but also in practice. 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 in this area. We warmly welcome the agreement on future work reached at the Committee's last session.

We are particularly eager to continue work on issues of patent quality, including opposition systems, and the confidentiality of communications between clients and their patent advisors. Further work in this area is beneficial to 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 closely involved in the area of patents and health, and will continue to engage with these issues moving forward. We take into account the efforts and activities undertaken in this context by other WIPO committees and international organizations. As far as substantive issues of "patents and health" are concerned, we welcome the plan for members and observers of the SCP to supplement the study on the constraints faced by developing countries and LDCs in making use of patent flexibilities for public health purposes in developing countries and LDCs. These flexibilities may, among other factors, have an impact on access to affordable medicines, especially essential medicines, in these countries. Since WIPO is the correct forum for addressing patent law questions, we are pleased about this development.

13. The latest figures on the development of application numbers under the Patent Cooperation Treaty (PCT) show the core importance of the PCT system for promoting innovation and generating wealth. Germany is delighted to note that the 3 millionth international patent application was filed under the PCT and published on 2 February 2017. Even more pleasing is that this 3 millionth published application was filed by the Germany-based *Fraunhofer Gesellschaft*, one of Europe's largest organizations for applied research. Germany wants to take this opportunity to thank all Contracting States and WIPO for their continued efforts in making the PCT system a success story. The PCT is the most important tool for multiplying a functioning patent system in an increasingly globalised world.

WIPO's astounding track-record in this core area of its activities testifies to how – in spite of existing challenges – an alignment of spirit and resources in striving towards a worthy goal can yield impressive results. This, in turn, should encourage WIPO in its role as a leading international organization to continue to intensify its efforts in striving towards the attainment of the highest possible standards of good governance.

As a patent-intensive country, both at the national and international levels, Germany is grateful that the PCT system works. In 2016 the German Patent and Trade Mark Office processed 6,325 international applications, out of which over 80% 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 highly appreciate the numerous improvements in the PCT system achieved by changes to the legal framework over 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.

14. In reference to the discussions of last year's General Assembly to convene a diplomatic conference for the adoption of a Design Law Formalities Treaty, the German Delegation notes that unfortunately an agreement could not be reached in the two specific areas of *technical assistance* and the *disclosure requirement*, as stipulated in the mandate. Consequently there was no common ground for a diplomatic conference to convene. With respect to the proposal to include a mandatory disclosure requirement, Germany, like other EU member states, remains convinced that such requirement is not relevant to industrial designs and that its inclusion in the Treaty would contradict the aim of simplifying and harmonising design registration procedures. However, Germany still remains constructive and open to any reasonable proposals that may be raised in this year's General Assembly.

15. 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.

16. Germany acknowledges the interest 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 enormous efforts undertaken by this Committee. However, bearing in mind the limited progress made during the last biennium, the primary focus of the Committee should be to reach a common understanding on the primary objectives of the Committee and the core problems for which we are all seeking a solution – a solution which must be coherent with the current international framework of IP-protection. We stand ready to continue our constructive participation in this process.

17. 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 in a number of areas. We sincerely hope that the spirit and readiness to engage in constructive and forward-looking efforts shown at CDIP 19 will continue in order to rise to the challenges we face together in this important committee.

18. As the past meetings of the Advisory Committee on Enforcement (ACE) were widely perceived as a success, Germany is looking forward to the Committee's 13th session. We believe that effective IP protection must have a solid enforcement framework at its core. We are aware that it is imperative to find solutions which take account of all interests in a balanced manner. With the Committee's comprehensive approach, the past sessions of the ACE have provided very useful insights into the various approaches taken in tackling

infringements of intellectual property rights. The topics agreed upon in the ACE's 10th session, and expanded upon in the 11th and 12th sessions, provide ample room for discussion and an 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.

19. The German Patent and Trade Mark Office (DPMA) has continued its successful cooperation with WIPO, other IP-related organisations and national IP offices.

In 2017, the DPMA and WIPO once again organised a seminar to inform the public about the services offered by WIPO. This year's "WIPO Roving Seminar" was held in Dresden and was attended by approximately 60 participants, mainly from industry and law firms. The event can be regarded as a success. Next year's "WIPO Roving Seminar" is scheduled to take place in Hamburg. Furthermore, the DPMA and WIPO cooperated closely on the "Guide to WIPO Services", which was translated by the DPMA into German.

The DPMA has maintained a fruitful dialogue with its partner offices. In a number of high-level bilateral meetings, the President of the DPMA has had the opportunity to discuss current IP issues with her counterparts from the IP offices of Austria (APO), Singapore (IPOS), China (SIPO) and the Republic of Kazakhstan (NIIP). The meeting with NIIP was part of a cooperation project run by the German Foundation for International Legal Cooperation (IRZ). Further meetings are scheduled for the remaining months of this year. In October, meetings are scheduled with the IP office of Brazil (INPI) in Geneva and with the IP office of China (SIPO) in Beijing and Shanghai.

In addition to this, the DPMA maintains strong relationships with its partner offices at working level. Patent examiner exchanges are only one example of this. At present, there are four ongoing exchange programmes between the DPMA and the IP offices of China (SIPO), Japan (JPO), Korea (KIPO) and the United Kingdom (UK IPO). Some of these exchange programmes focus on issues such as "Industry 4.0" and the Internet of Things. Another example of collaboration at working level is the close cooperation with EUIPO and national IP offices as part of the European Trade Mark and Design Network.

Furthermore, the DPMA has organised several conferences and seminars. In November 2016 an information session took place in Berlin to raise awareness for the project "Value Intellectual property for SMEs" (VIP4SME). This project, which is coordinated by the German *Fraunhofer-Gesellschaft*, aims to enhance intellectual property support services to SMEs in order to translate their intellectual capital into commercial value and competitiveness.

In January 2017, the INTA mini-seminar for trademark administrators and paralegals was held at the DPMA's main office in Munich. In February, a UNION-IP Round Table was organised with a focus on drafting high quality patent applications. And in June 2017, the Munich International Patent Law Conference was organised together with the Technical University of Munich. The conference focused on "Preliminary Injunctive Relief against Patent Infringements". Further events are envisaged for the rest of this year.

20. 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.