

WIPO Assemblies
59th Series of Meetings, 30 September to 9 October 2019

- 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 thank you for your hard work and dedication throughout the year in order to prepare this Assembly meeting. I wish you every success with the difficult tasks that are on our agenda this year. Your Excellency, you can count on Germany's constructive participation and full support. 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.

4. WIPO, as the premier global organization for IP, continues to be the focal point for global discussion, the exchange of views and legislative advancement. Advancing the normative agenda could add significant value not only to the Organisation itself, but also to every Member State. In order to overcome our remaining differences, Germany encourages all delegations as well as all regional groups to collaborate in a constructive manner which is guided by a genuine spirit of compromise. Germany is looking forward to contributing to this as part of a constructive and fruitful dialogue.

5. Germany acknowledges the significant initiatives undertaken by WIPO. WIPO's partnership platforms enable efficient and effective international cooperation. Regarding WIPO Re:Search, we would like to congratulate the WIPO Secretariat and the other participants: In recent times, we have seen over 150 research collaborations in the fight against Neglected Tropical Diseases as well as malaria and tuberculosis. This marks a significant milestone for the partnership, which aims to improve global health through the sharing of IP-protected materials and other know-how.

Artificial Intelligence will change the ways in which we think, work and interact. It holds all the promises of a disruptive technology as well as all the challenges. In this context, the IP system is a decisive driver for innovation and creativity both at the national and the international level. Germany is grateful for WIPO's engagement in this area. In our view, WIPO can play a key role both as an international observatory identifying and monitoring trends and developments, as well as a global forum for the exchange of ideas and the coordination of efforts. Last week's "WIPO Conversation on Intellectual Property and Artificial Intelligence" is a promising first step in this regard.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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 agreements on future work reached at the Committee's last sessions.

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 expressed this particular interest by an intervention in the sharing session on approaches used by delegations to ensure the quality of the patent grant process within IP offices at SCP/30. We are looking forward to the study compiling the information shared during sharing sessions on that topic that the Secretariat will submit at SCP/31. We also particularly welcome the fact that the future work program for SCP/31 and SCP/32 entails sharing sessions on the topic of Artificial Intelligence and Patents. Artificial Intelligence Technology raises numerous legal questions regarding Patent Protection of AI-Related Inventions, which are of fundamental importance for all Member States. Besides, AI-Technology provides numerous opportunities and challenges to the Administration of the Patent System. We therefore believe that the sharing of experiences and information on these topics in the SCP is highly beneficial for all Member States.

The delegation 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 that the Secretariat will submit, at SCP/31, a review of existing research on patents and access to medical products and health technologies as proposed by the delegation of Canada and co-sponsored by the delegations of Argentina, Brazil and Switzerland (SCP/28/9 Rev). We welcome the proposal that this review should be undertaken by the WIPO Secretariat, in consultation with the WHO and WTO Secretariats as appropriate, in order to take advantage of the complementary subject matter expertise and pre-existing collaborative relationship of these organizations. However, since WIPO is the correct forum for addressing patent law questions, we are pleased that the review will be discussed in the SCP.

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 the steady increase of application filing numbers every year. We are pleased to report a significant increase of 16%, compared to the previous year, in the number of PCT applications from abroad which entered the national phase at the German Patent and Trade Mark Office (DPMA) in 2018.

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 for all kinds of users. 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.

As a patent-intensive country, both at the national and international levels, Germany is grateful that the PCT system works well. In 2018 the German Patent and Trade Mark Office processed 7,027 international applications, 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 highly appreciate the numerous improvements in the PCT system achieved by changes to the legal framework over the past years. Again, the recent PCT working group has, in the view of this delegation, made remarkable 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 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 and the highly constructive role of the WIPO Secretariat in this difficult negotiation process. We welcome the constructive discussions in the IGC that have led to agreement on a mandate for the IGC. Germany believes that the inclusion of indigenous and local communities is of great importance for the work of this committee. The WIPO Voluntary Fund for Accredited Indigenous and Local Communities plays a key role in enabling such participation. Therefore, we are delighted to announce that Germany will contribute an amount of 15,000 euros to this fund.

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. 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 the last sessions will continue in order to rise to the challenges we face together in this important committee. Germany appreciates the discussions in CDIP 23 under the agenda item IP and development and welcomes the fact that CDIP 24 will further explore important themes under this recently established agenda item.

18. As the past meetings of the Advisory Committee on Enforcement (ACE) was again widely perceived as a success, Germany is looking forward to the Committee's 15th 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 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 remain confident 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.

Since 1 March 2019, all international activities of the German Patent and Trade Mark Office (DPMA) have been centrally managed by the newly established Central Unit International Affairs. The Central Unit International Affairs reports directly to the DPMA senior management.

For the end of November 2019, the DPMA and WIPO plan to offer another seminar to inform the public about the services offered by WIPO. The main focus of the seminar will be the PCT procedure. The seminar will take place at the DPMA in Munich. It is addressed primarily to patent applicants, patent law firms and company representatives.

The DPMA has intensified the profitable dialogue with its partner offices. During several bi-lateral top level meetings, the senior management of the DPMA have had the opportunity to discuss current IP topics with their counterparts of the IP offices of China (CNIPA), Japan (JPO), Estonia (EPA) and the European Patent Office (EPO). Other working-level meetings were also held with France (INPI), Korea (KIPO), China (CNIPA) and the EPO. A first meeting between the new head of the EPO and the president of the DPMA took place in October 2018. The exchange mainly focused on questions of future cooperation, in particular on the further development of IT systems. The EPO showed particular interest in the DPMA's electronic case file and the business processes implemented there.

In 2018 and 2019, the DPMA organised two major international symposiums. In October 2018, a German-Japanese symposium was held on the topic of "Patent infringement proceedings in Japan and Germany". The main focus was on the topics of "inventive step",

"claim formulation" and "equivalence doctrine". 400 international guests attended the top-class symposium at the DPMAforum, which was organised by the DPMA, the JPO and various lawyers' association. It can be regarded as a success. In March 2019, CNIPA and the DPMA celebrated their 40 years of cooperation with a joint symposium on utility model protection. The lectures dealt with the current situation of utility models in China and Germany. This event can also be regarded as a great success. The symposium was followed by a meeting between the Deputy Commissioner of CNIPA and the President of the DPMA.

Also in March 2019, the Vice-President of the DPMA and his delegation attended the 100th anniversary celebrations of the Estonian Patent Office and the conference on "Artificial Intelligence and Smart Economy", in Tallinn.

On June 2019, the Vice-President of the DPMA welcomed the Director General of the Patent and Design Examination Department of the JPO and his delegation to the DPMA. Among the topics were the recruitment initiative in the patent examination area of the DPMA, which has been ongoing since last year, the innovations of the Design Act recently passed in Japan and the exchange of information as a cornerstone of successful cooperation between the two offices.

Besides, the DPMA also upholds strong relationships with its partner offices at a working level. The patent examiner exchanges are only one example of this. At present, there are four ongoing ex-change programmes of the DPMA with the IP offices of China (CNIPA), Japan (JPO), Korea (KIPO) and the United Kingdom (UK IPO). Some of these exchange programmes focus on the topics "4th Industrial Revolution" and "Artificial Intelligence". Another example is the close cooperation with EUIPO and with national IP offices within the frame-work of the European Trade Mark and Design Network. In cooperation with the German Foundation for International Legal Cooperation e.V. (IRZ), the DPMA also organised a study visit of a delegation from the Russian Federation on November 2018.

Furthermore, the DPMA has organised several conferences and seminars. In June 2019, the Munich International Patent Law Conference was jointly organised by the DPMA and the Technical University of Munich. The conference focused on "Finding Facts in Patent Infringement Cases: Discovery, Description, Seizure, Inspection".

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.