

WIPO Assemblies
55th Series of Meetings, 5th to 14th October 2015

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

Thank you distinguished Chair,

1. Let me congratulate you on behalf of the German government on your appointment as chair of this year's Assembly. We would like to affirm that we will support you in promoting the important projects of WIPO and we share your dedication to the multifaceted activities of this organization.

2. Furthermore, we would like to thank the International Bureau of WIPO for its structured and comprehensive preparation of the documentation for the present series of Assemblies; the senior management team has shown full commitment towards achieving the high set goals of the organization.

3. The continuous dedication and guidance of the Director General and his team are essential to pave the way for the coming years and to achieve the best possible results on the many items on this year's agenda, especially with regard to the program and budget.

4. The German Government considers intellectual property rights to be essential legal, economic and cultural assets for enterprises and society as a whole. Intellectual property rights are a complex, passionately and globally discussed issue. Every single day, news stories contain a multitude of statements and discussions on these issues, and report on their development. WIPO faces the challenge of providing 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 refute the continuously uttered fear that WIPO favours certain groups, and to demonstrate repeatedly that WIPO's aim is to always find the optimal balance between rights holders and various segments of society, including in the context of health and the environment.

5. The German Government supports a robust and appropriate international IP framework which balances different interests and concerns, encourages innovation, and fosters the development and transfer of technology. 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, should keep such harmonization of legal concepts on its agenda.

6. Germany attaches great importance to the seamless functioning of WIPO registration services which constitute a core activity of WIPO and its main source of income. German users file a high number of applications and very much benefit from this service.

7. 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.

8. 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 address present and emerging technological issues in this area. 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. After several years of discussions on this topic, the German Delegation supports the convening of a diplomatic conference in the 2016-17 biennium.

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.

9. Ever since the beginning of international IP cooperation and the founding of WIPO as international agency for IP, patent law has been of core importance not only theoretically but also practically. Users of the patent system around the world are calling for the further development and improvement of the patent system – a call to be heeded by WIPO and its responsible standing body, the Standing Committee on the Law of Patents (SCP). Germany recognizes with satisfaction the SCP's continuing work on important issues. However, the committee should remain true to the principle of a balanced agenda in order to properly reflect the various demands for discussions to be held.

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 should however fully respect the efforts and activities that have been undertaken in this context by other WIPO committees and Geneva-based international organizations. At the same time we also recognize the importance attached to the issues of exceptions and limitations to patent rights. However, we believe that further work in this area should maintain an appropriate balance between the interests of rights holders and the general public. Finally, the future work of the SCP should avoid lengthy debates on agendas and procedural matters in order to concentrate on matters of substance.

10. 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 to multiply 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

2014 the German Patent and Trademark Office processed 6,042 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. 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 spirit in this working group, which gives rise to fruitful, technical discussions.

11. Referring to the 32nd and 33rd session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), the German Delegation notes that the negotiations on the Design Law Treaty have reached a dead end. The Design Law Treaty was mature and ready for adoption some time ago. We therefore note with regret that this opportunity has been lost. A multilateral agreement would consolidate the protection of designs, which would in turn strengthen innovation and creativity and contribute to market order worldwide. However, under the given circumstances there is no point in convening a diplomatic conference. Of course Germany remains open to reasonable proposals on how to proceed in this matter.

12. We congratulate the members of the Lisbon Union and the WIPO Secretariat for successfully revising the Lisbon System that will consequently be more attractive, efficient and sustainable in the future. The protection of geographical indications is a way of protecting regional traditional knowledge for both agricultural and non-agricultural products.

13. Germany recognises the importance of the work carried out by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

The IGC started its work in 2000. Over the last 15 years Germany has been actively involved in the IGC's deliberations and negotiations. Despite many years of discussion running up to the text-based negotiations which were held during the last 5 years, we take note that no agreement could be found on objectives and principles, the goal to be reached, beneficiaries, scope, definitions of key elements and many other elements in the texts under discussion. It has therefore become clear that the IGC will not succeed on the basis of text-based negotiations.

We should draw the appropriate conclusions from the inability of the IGC to reach an agreement within the current framework and parameters. We should consider alternatives for our work on this topic. Consequently, we believe that a continuation of the discussions as within the parameters of the working methods of the previous years would not contribute to efficient use of WIPO's time and resources, or of those of the delegations to the IGC. Therefore Germany believes that the mandate of the IGC should not be renewed.

In order to take our substantive discussions forward, Germany is open to the idea of holding a round of seminars and studies, aimed at gathering and exchanging evidence-based information on the various regional or national experiences, as well as broadening the common understanding of the nature and scope of the public domain and its relationship to GR, TK and TCE. Germany is also open to discussing the US proposal to establish an Ad-Hoc Experts Working Group (WO/GA/47/17).

14. 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 way. 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 progress and a positive evaluation of several projects. We regret though that discussions are stuck on a number of issues consuming a significant amount of time and resources of CDIP. Hopefully the constructive spirit shown by many delegations at the past CDIP sessions will allow us to overcome these difficulties in the near future.

15. As the past meetings of the Advisory Committee on Enforcement (ACE) were widely perceived a success, Germany is looking forward to its 10th session which is to take place in November. We are of the view that the effective protection of IP implies a good framework for enforcement. Once again the challenge is to find solutions which take account of all interests concerned in a balanced manner. With the Committee's theme-oriented approach the past sessions of the ACE provided very useful insights into various ways of how to tackle infringements of intellectual property rights. We appreciate the Secretariat's commitment in selecting appropriate speakers while ensuring the said balance of interests. We very much hope that the ACE can continue to contribute to a comprehensive discussion on technical questions of IP enforcement.

16. Germany supports the idea of a small, limited, strategically positioned and geographically representative network of WIPO external offices with true added value to the work of WIPO. At the same time, it is in the common interest of the Organization and its Member States to establish a clear set of criteria and procedural mechanisms for a possible future extension of this network. We welcome the major progress achieved on the Guidelines under the guidance of Ambassador Fitschen and stand ready to engage in further constructive discussions.

17. Germany is of the opinion that careful consideration should be given to the important topic of WIPO governance. We stress the importance of good governance within WIPO and its leadership. This includes transparent and clear management structures and readily comprehensible decision-making processes. Moreover, Member States should engage in an in-depth discussion in order to find balanced and sustainable solutions within the current framework of the Convention. Practical measures relating to the management of meetings and documentation could serve as a starting point. Serious consideration should also be given to reducing the frequency of meetings.

18. The German Patent and Trade Mark Office (DPMA) has continued its successful cooperation with WIPO, other IP offices and IP-related organizations. In 2015, the DPMA and WIPO once again organized a seminar to inform the public about the services and initiatives offered by WIPO. After the success in Munich and Berlin in 2014, this year's so-called "WIPO Roving Seminar" was held in Stuttgart in July. In October 2014, the DPMA held together with WIPO an advanced training course in Munich on patent search and examination in the field of biotechnology for patent experts from developing countries. The next course will take place in Kuala Lumpur in October 2015.

The DPMA has kept up the fruitful dialogue with its partner offices. During several bilateral meetings, the President of the DPMA had the chance to discuss current IP topics with her counterparts. In addition, the DPMA also maintains strong relationships with its partner offices at working level. The DPMA continued its successful patent examiner exchange programmes and sent several patent examiners to the Korean Intellectual Property Office (KIPO), the Japan Patent Office (JPO), the UK Intellectual Property Office (UK IPO) and the Intellectual Property Office of Singapore (IPOS). In return, patent examiners from the JPO visited the DPMA in March 2015. SIPO's and KIPO's patent examiners will be welcomed by the DPMA in October 2015. Furthermore examiners from Brazil and Saudi Arabia visited the DPMA, and two patent examiners from the DPMA participated in an international examiner workshop at the Canadian Intellectual Property Office (CIPO) in 2015.

The DPMA hosted the Third Information Communication Technology (ICT) Road Map Meeting in October 2014. Attendees from WIPO, OHIM and other partner offices met at the DPMA to discuss several IT-related aspects such as WIPO-DAS, WIPO-CASE and ePCT. Furthermore, the DPMA organized the second German-Japanese Symposium "Patent Litigation in Japan and Germany", a UNION-IP round table event on clarity and the Munich International Patent Law Conference on patent litigation costs in February and June 2015. This year, the DPMA will host a regional seminar together with OHIM from 27 to 29 October. Another international patent law conference and a UNION-IP round table event at the DPMA are already planned for 2016.

On 6 July 2015, the DPMA joined the Global Patent Prosecution Highway pilot and thereby extended its PPH network by another twelve partner offices. Within the framework of the Global PPH, the DPMA now accepts also PCT work products as a basis for a PPH request. In addition, the DPMA is continuing its bilateral PPH pilot programme with the State Intellectual Property Office of the People's Republic of China (SIPO). The permanent implementation of this PPH project is currently being discussed.

Distinguished Chair!

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