

Standing Committee on the Law of Patents

Thirtieth Session
Geneva, June 24 to 27, 2019

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The thirtieth session of the Standing Committee on the Law of Patents (SCP) was opened by Mr. Francis Gurry, Director General, who welcomed the participants. Mr. Marco Aleman, Director, Patent Law Division, acted as Secretary.

AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS

2. The SCP unanimously elected, for one year, Ms. Sarah Whitehead (United Kingdom) as Chair and Mr. Alfred Yip (Singapore) and Ms. Grace Issahaque (Ghana), as Vice Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

3. The SCP adopted the revised draft agenda (document SCP/30/1 Prov.2).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE TWENTY-NINTH SESSION

4. The Committee adopted the draft report of its twenty-ninth session (document SCP/29/8 Prov.2) as proposed.

AGENDA ITEM 5: REPORT ON THE INTERNATIONAL PATENT SYSTEM

5. Discussions were based on document SCP/30/2.
6. Some delegations shared information on recent developments of their national/regional patent laws with the Committee.
7. The SCP agreed that the information concerning certain aspects of national/regional patent laws [http://www.wipo.int/scp/en/annex_ii.html] would be updated based on input received from Member States.

AGENDA ITEM 6: EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

8. Discussions were based on documents SCP/14/7, SCP/19/6 and SCP/30/3.
9. The Committee held discussions on the draft reference document on compulsory licensing (SCP/30/3). The Committee continued discussion on the issues regarding exceptions and limitations to patent rights.

AGENDA ITEM 7: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEM

10. Discussions were based on documents SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4, SCP/24/3, SCP/28/7 and 8 and SCP/30/4, 5 and 9.
11. A sharing session was held with respect to approaches used by delegations to ensure the quality of the patent grant process within IP offices, including opposition systems. Special attention was given to the capacity building of patent examiners and offices.
12. In addition, a further study on inventive step (part III) (document SCP/30/4) was discussed.
13. Furthermore, the Committee discussed a background document on patents and emerging technologies (document SCP/30/5).
14. The Committee continued discussion on the issues and the proposals by the Member States relating to this agenda item, including the proposal by France and Spain (document SCP/30/9). Some other delegations suggested other activities to be carried out by the Committee with respect to quality of patents, including opposition systems.

AGENDA ITEM 8: PATENTS AND HEALTH

15. Discussions were based on documents SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/28/9 Rev. and 10 Rev., and SCP/30/6.
16. The Secretariat and invited relevant institutions shared their experiences on capacity building activities relating to negotiating licensing agreements.
17. Furthermore, in accordance with the decision of the Committee at its twenty-ninth session, the Committee discussed which initiatives on publicly accessible databases of patent status information concerning medicines and vaccines would be invited to provide updates on the advances of their information platforms.

18. The Committee continued further discussion on the aspects reflected in the proposals by the African Group (SCP/16/7 and 7 Corr. and SCP/24/4) and by the United States of America (SCP/17/11). Some other delegations suggested other activities to be carried out by the Committee with respect to patents and health.

AGENDA ITEM 9: CONFIDENTIALITY OF COMMUNICATIONS BETWEEN CLIENTS AND THEIR PATENT ADVISORS

19. Discussions were based on document SCP/30/7.

20. The Committee took note of the update made by the Secretariat on the dedicated website “Confidentiality of Communications between Clients and their Patent Advisors”, as described in document SCP/30/7. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that the issue be left to national laws.

AGENDA ITEM 10: TRANSFER OF TECHNOLOGY

21. Discussions were based on document SCP/30/8.

22. The Committee discussed patent law provisions that had contributed to effective transfer of technology, including sufficiency of disclosure. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that discussion on this topic in the SCP should avoid duplication of work with the CDIP.

AGENDA ITEM 11: FUTURE WORK

23. The Committee decided its future work as follows:

- The non-exhaustive list of issues will remain open for further elaboration and discussion at the next session of the SCP.
- Without prejudice to the mandate of the SCP, the Committee agreed that its work for the next session be confined to fact-finding and not lead to harmonization at this stage, and would be carried out as follows:

Exceptions and Limitations to Patent Rights

- In accordance with the agreement within the Committee at SCP/28, the Secretariat will continue to work on a draft reference document on exceptions and limitations to patent rights in conjunction with patent protection. The Committee will discuss document SCP/30/3 (Draft reference document on the exception regarding compulsory licensing) at SCP/31. The Secretariat will prepare a draft reference document on the exception regarding prior use for discussion at SCP/32, taking into account any additional inputs from Member States for the preparation of the said draft document.

Quality of Patents, including Opposition Systems

- The Secretariat will submit, at SCP/31, a study based on paragraph 7(b) of document SCP/28/8 on approaches to the quality of the patent grant process, taking into account the issues raised during the sharing sessions on that topic, which were held during SCP/29 and SCP/30.
- The Secretariat will organize, at SCP/31, a session to share experiences and information on the use of artificial intelligence for the examination of patent applications. The Secretariat will organize a one-day information sharing session on issues related to the patentability of inventions, such as artificial intelligence software as computer-implemented inventions, the use of artificial intelligence as an aid to the creation of inventions or inventions generated independently by artificial intelligence, at SCP/32.
- The Secretariat will submit a report on its technical assistance activities relating to opposition systems and other administrative revocation mechanisms at SCP/31.
- Document SCP/30/4 (Further study on inventive step (part III)) will be kept open for further discussions by Member States at SCP/31.

Patents and Health

- The following initiatives on publicly accessible databases of patent status information concerning medicines and vaccines will be invited to SCP/31 to present an update, in accordance with document SCP/28/10 Rev.: (i) MedsPaL; (ii) Pat-Informed; (iii) Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book); and (iv) List of Off-Patent, Off-Exclusivity Drugs without an Approved Generic.
- The Secretariat will submit, at SCP/31, a review of existing research on patents and access to medical products and health technologies, as contained in document SCP/28/9 Rev.
- The Secretariat will submit, at SCP/31, a report of the sharing session regarding the experiences on capacity building activities related to negotiating licensing agreements, which was held during SCP/30.
- The Secretariat will organize, at SCP/32, a sharing session by Member States on challenges and opportunities in relation to types of patent licensing provisions in the healthcare technologies.

Confidentiality of Communications between Clients and Their Patent Advisors

- The Secretariat will organize, at SCP/31, a sharing session by practitioners and Member States on recent developments and experiences with respect to confidentiality of communications between clients and their patent advisors, covering policy and practical issues and with a particular attention to cross-border elements.

Transfer of Technology

- The Secretariat will continue to compile information on patent law provisions and practices that contributed to effective transfer of technology, including sufficiency of disclosure, for SCP/31, based on the inputs to be received from Member States and discussion within the SCP.
- The Secretariat will organize, at SCP/32, a sharing session by Member States on patent law provisions and practices that contributed to effective transfer of technology, including sufficiency of disclosure.

24. The Secretariat informed the SCP that the dates of its thirty-first session, to be held in Geneva, were tentatively scheduled from December 2 to 5, 2019.

25. The SCP noted that the present document was a summary established under the responsibility of the Chair and that the official record would be contained in the report of the session. The report would reflect all the interventions made during the meeting, and would be adopted in accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), which provided for the members of the SCP to comment on the draft report made available on the SCP Electronic Forum. The Committee would then be invited to adopt the draft report, including the comments received, at its following session.

26. The SCP noted the contents of this summary by the Chair.

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