

Geneva, January-February 2003

## INTELLECTUAL PROPERTY: A POWER TOOL FOR ECONOMIC DEVELOPMENT

### WIPO SUMMIT IN CHINA



### IP ASSETS: RAISING AWARENESS THROUGH EDUCATION



## Message from Director General Kamil Idris



At the start of this New year, I would like to send best wishes from both the WIPO staff and myself, to all our Member States and our many collaborators and friends throughout the intellectual property community. I look forward to continuing to work with you in 2003 in pursuit of our common goals.

For WIPO, the focus over the next few months will be on the power of knowledge – when strengthened by the international intellectual property system – to improve lives economically, socially, and culturally. The Russian author Anton Chekhov said “Knowledge is of no value unless you put it into practice.” Following that line of reasoning, we will concentrate on ensuring that all our Member States fully recognize the potential value of the knowledge – and creativity – they possess and are able to develop and exploit them as intellectual property assets.

This message will be emphasized at the WIPO Summit on Intellectual Property and the Knowledge Economy to be held in Beijing, China from April 24 to 26 this year (see page 5). In today's economy, a country's success is measured more and more by its possession and exploitation of intellectual assets. Our increasingly linked world gives heightened importance and worth to inventive ideas, discoveries and artistic expression, particularly when they are turned into currencies of value through the use of the intellectual property system. In Beijing, Heads of State, ministers, and leaders from the private sector and industry will explore the implications of these and other vital issues during this first event of its kind in WIPO's history.

The recent WIPO publication *Intellectual Property: A Power Tool for Economic Growth* (see page 2), explores similar themes: The importance of recognizing and leveraging national intellectual assets; of anchoring intellectual property concerns firmly within national policy-making; of creating an “IP culture” at every level of society; and of using all available means to extract the maximum value from these assets. The book explores intellectual property's positive impact on economic growth and its potential for the future, citing specific examples drawn from both the developing and developed world.

The Organization is also examining other facets of intellectual property assets, for example, the part of each country's pool of knowledge and creativity that is unique to it, due to the history and values of its people as well as its specific geography, geology, weather, flora and fauna. This uniqueness is an asset that can be leveraged with success in the global market, creating for the country a distinct, positive image in the eyes of the rest of the world.

Over the next twelve months, WIPO will build on the foundation it has laid over the last few years, working to further demystify intellectual property and ensure that all Member States are able to reap the benefits of the intellectual property system. The Organization will intensify efforts to create an IP culture that balances the rights of the originators and owners of innovative and creative works with the broader public interest. Through increased public outreach, we will promote a better understanding of the potential of intellectual property, and its role as a power tool to construct a world in which the benefits of human ingenuity and inventiveness are maximized for the good of us all.

Dr. Kamil Idris

A handwritten signature in black ink, appearing to be 'Kamil Idris', written in a cursive style.

# Table of Contents

- 2 ▶ ***Intellectual Property – A Power Tool for Economic Growth***
- 5 ▶ ***WIPO Summit on Intellectual Property and the Knowledge Economy***
- 7 ▶ ***IP Assets***  
IP Education, Public Awareness and Professional IP Training
- 12 ▶ ***WIPO Surveys Impact of Digital Economy on Intellectual Property***
- 14 ▶ ***IP and Business***  
Copyright Protection: Reaping the Benefits of Literary or Artistic Creativity
- 17 ▶ ***Committee Meetings***  
Clarifying IP Aspects of Traditional Knowledge and Cultural Expressions  
Fact-finding in China on the Protection of Traditional Cultural Expressions  
Discussion of Rights for Broadcasting Organizations  
Revision of International Trademark Law Treaty a Priority  
Harmonization of Patent Laws
- 24 ▶ ***News Roundup***  
20,000<sup>th</sup> Domain Name Case  
Enterprise Olympics Challenge for High School Students  
Nicaragua Accedes to PCT  
European Research 2002
- 26 ▶ ***Calendar of Meetings***
- 27 ▶ ***New Publications***

## ***Editor's Note***

With this issue, the WIPO Magazine becomes a bimonthly. This change is part of a continuing effort on behalf of WIPO to provide readers with an improving balance of news about the Organization, feature stories on its activities, and analysis of trends and developments in the intellectual property arena. As always, we welcome your feedback at [wipomagazine@wipo.int](mailto:wipomagazine@wipo.int).



Geneva,  
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# INTELLECTUAL PROPERTY A POWER TOOL FOR ECONOMIC GROWTH

In a new book exploring the economic benefits of intellectual property, WIPO Director General Kamil Idris outlines how creativity and innovation – inexhaustible resources native to all peoples and cultures – are key tools in enriching the lives of individuals and the futures of nations throughout the world.

*Intellectual Property – A Power Tool for Economic Growth*, published in January by WIPO, is a major advance in the demystification of intellectual property. It stands as the most detailed explanation to date as to how – and why – intellectual property is rapidly becoming the key driving force of economic health and well-being.

The book explains the history and elements of intellectual property and its role in the development of societies, and provides a broad spectrum of anecdotal evidence that illustrates how the development and economic exploitation of intellectual property assets – the fruits of creativity and innovation – have helped build companies, industries and national economies, and contributed to wealth creation worldwide. These success stories, some of which are excerpted on these pages, show how intellectual property can benefit all people and all nations.

Among Dr. Idris' central points is that while intellectual property is indeed a "power tool" for economic development and wealth creation, it is not yet being used to full effect

in all countries, particularly in the developing world. The book explores numerous steps that governments can take to help bridge that gap.

## *Pro-Active IP Policies*

Throughout the book Dr. Idris stresses that knowledge and innovation are key components of development, and that governments should implement policies to fully exploit these resources. "For many years, economists have tried to provide an explanation as to why some economies grow fast while others do not; in other words, why some countries are rich and others poor," he writes. "It is generally agreed that knowledge and inventions have

played an important role in recent economic growth." He cites renowned economist Paul Romer's theory that "the accumulation of knowledge is the driving force behind economic growth. For countries to promote growth, their economic policies should encourage investment in new research and development (R&D) and subsidize programs that develop human capital."

The results of these pro-active policies – as well as the effects of the general strengthening of intellectual property protection systems – are well documented. The book cites emerging economic powers of the 1990s, such as Brazil and India, which witnessed significant increases in foreign direct investment

## *From Imitating to Innovating Dr Reddy's Success in India*

Dr. K. Anji Reddy founded a pharmaceutical company in India that has rapidly expanded to provide high-quality, low-cost pharmaceutical products to markets worldwide. Dr. Reddy's Research Foundation (DRF) was established in 1993 with the purpose of discovering new drug therapies. DRF attributes much of its success to patent protection, through which it is able to market and license its new drugs internationally. DRF has filed patent applications in several countries for all its inventions, including 31 product patent applications in the United States, of which 17 have already been granted. In India, 110 product and process patent applications have also been filed. Because patent protection is central to its activities, DRF has established an in-house Intellectual Property Management group to oversee all international patent filings and matters relating to patent strategy.

*Source: Dr. Reddy's Research Foundation*





(FDI) after initiating substantive reforms in intellectual property legislation. The pro-active patent policies of the Republic of Korea and Singapore, which promote patent licensing, joint ventures, and strategic alliances between universities, R&D institutions, and the private sector, are highlighted as key means of "providing 'fuel' to keep the national innovation cycle running. Handled properly, patents are efficient drivers of national innovation, R&D, product creation and business transactions that have beneficial macro and micro-economic effects."

The book describes how, in the private sector, intellectual property assets have become an increasingly important measure of corporate value, viability, and future performance. Dr. Idris notes that while the importance of physical assets as an overall measure of value has declined dramatically in the last two decades, intangible assets now make up on average 40 percent of a company's value – often not shown on the balance sheet. These sometimes "hidden" assets – patents, copyright and related rights, trademarks, geographical indications and trade secrets – have clearly become significant contributors to a company's worth.

### *Azithromycin – the world's best-selling antibiotic from Croatia*

Pliva, the most profitable company in Croatia and the largest pharmaceutical company in Central Europe, is widely considered to be Central Europe's first home-grown multinational. Once struggling to stay alive, this company witnessed a dramatic turnaround in its fortunes, following its discovery of azithromycin - today the world's best-selling antibiotic. Patented by Pliva in 1980, the drug was subsequently licensed to Pfizer, which markets it as Zithromax. Sales of Zithromax were US\$1.4 billion in 2000. The phenomenal revenues derived from the licensing agreement have facilitated Pliva's rapid expansion across Croatia, Poland and Russia. Remarkably enough, all this came about only because Pfizer's scientists happened to stumble upon Pliva's patent in 1981 while searching through patent documents at the USPTO.

*Source: Wall Street Journal (Brussels), March 3, 1999, 14.*

### *Creating an IP Culture*

The book serves as well as a practical guide to the creation of "an IP culture", exploring, for example:

- The importance of licensing of technology from universities and research centers to the private sector
- The value to small and medium-sized enterprises (SMEs) of accumulating and licensing IP assets;
- The value of trademarks – and their strategic use in franchising – in building strong retail operations;
- The use of geographical indications in strategically promoting national or regional enterprises.

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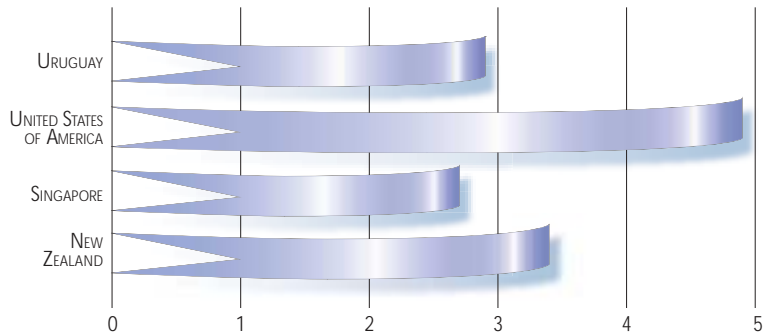


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An important component of creating such an IP culture involves ensuring sufficient enforcement of IP rights. Dr. Idris notes that the market in illegal, counterfeit products amounts to between 5 and 7 percent of total world trade. Much of this activity – for example, the traffic in counterfeit airplane and auto parts, and medicines – can be harmful to the health and safety of the public. The book cites figures from the World Health Organization (WHO) which estimates that some 6 percent of pharmaceutical products sold worldwide are counterfeit. Most of these counterfeit drugs are sold in developing countries.

Increased vigilance in the protection of copyright works is needed as well, the book notes, particularly in an era when copyright industries are contributing more to national economies (see chart), and when technological advances provide easier means for large-scale piracy. It is for this reason that the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phono-grams Treaty (WPPT), the most recent international treaties in the copyright and related rights fields, contain special provisions which prohibit circumvention of such measures of technological protection for copyright works.

### Contribution of Copyright Industries to GDP (percent)



### WIPO's Role

Development of such international standards to help encourage an IP culture and to ensure IP empowerment is but just one of WIPO's activities highlighted by Dr. Idris in the closing pages of the book. "WIPO will allocate and focus its resources, services, and personnel towards enhancing the proven and measurable benefits which the IP system provides," he writes. "IP can only thrive in a culture in which its importance is fully understood and accepted, and in which it is protected by laws that are vigorously enforced. WIPO's mission will continue to be to work for robust IP protection and enforcement to assure its continuing vitality."



*Intellectual Property – A Power Tool for Economic Growth* is available in printed form and on CD-ROM from WIPO's Marketing and Distribution Section at [www.wipo.int/ebookshop](http://www.wipo.int/ebookshop), or at the address on the back cover of the magazine.



# WIPO SUMMIT ON INTELLECTUAL PROPERTY AND THE KNOWLEDGE ECONOMY

Beijing, China, April 24 to 26, 2003

*Today, a state does not have to be "lucky" in terms of its possession of land, labor and capital to succeed. Creativity and innovation are the new drivers of the world economy, and national well-being increasingly depends on the strategy a country develops to harness its intellectual capital. An effective intellectual property system is the foundation of such a strategy. Within knowledge-based, innovation-driven economies, the intellectual property system is a dynamic tool for wealth creation – providing an incentive for enterprises and individuals to create and innovate; a fertile setting for the development of, and trade in, intellectual property assets; and a stable environment for domestic and foreign investment.*

This new era of the knowledge economy – and what it means for governments, industry, and individuals – will be discussed in depth at the **WIPO Summit on Intellectual Property and the Knowledge Economy** to be held in Beijing, China, from April 24 - 26, 2003. The WIPO Summit will be held in both parallel and joint sessions with the **Industry and Private Sector Forum on Intellectual Property and the Knowledge Economy**.

The Government of the People's Republic of China will host Heads of State, senior government officials, senior judges, and leading CEOs and academics in the Great Hall of the People on April 24 for the opening ceremony of this historic event. Participants will be welcomed by the Chinese leadership and the Director

General of WIPO at the start of three days of discussion, reflection and comment on the key role the intellectual property system plays in stimulating creativity and innovation, in fostering economic growth, and in promoting social well-being through wealth creation and business development.

The Summit's closing ceremony on April 26 will include a celebration of World Intellectual Property Day, featuring a gala concert with performances by artists from around the globe.

The Summit's site, [www.wipo.int/summit-china](http://www.wipo.int/summit-china), will be regularly updated with information on the Summit, the Forum for Industry and the Private Sector, and their respective programs.



Photo: Mercedes Martinez Diaz

The World Intellectual Property Organization and the Government of the People's Republic of China look forward to welcoming you in Beijing in April 2003 to explore these issues of great importance to us all.

*Mr. DENG Jun, Deputy Director General, General Affairs Office, State Intellectual Property Office (SIPO), Mr. PAN Zhiqiang, Deputy Director General, Supplies Administration Department, SIPO, Mr. LU Guangjin, Division Director, Information Office of the State Council*

## **Themes for discussion at the Summit include:**

- ▶ Intellectual Property Challenges and Opportunities in the New Millennium
- ▶ The Contribution of Creativity to Human Progress
- ▶ Leveraging the Benefits of Invention in the Real and Virtual Worlds
- ▶ Intellectual Property as a Tool for Economic, Social and Cultural Development – Forging Partnerships to Boost Innovation and Wealth Creation
- ▶ Promoting Respect for Intellectual Property Rights.

## **Among the topics for the Forum are:**

- ▶ The Role of Intellectual Property in the Knowledge Economy: Shaping the Future
- ▶ Publishing, Art and Entertainment: Sharing the Benefits of Creativity in the Real and Virtual Worlds
- ▶ Empowering Entrepreneurs: Intellectual Property as a Tool for Economic, Social and Cultural Development
- ▶ Respecting Creators and Inventors: Enforcement of Intellectual Property Rights.



## PRACTICAL INFORMATION

### **Registration in Beijing**

Registration for the Summit and Forum will take place throughout the day on Wednesday, April 23, 2003 at the recommended hotels in Beijing. Badges will be issued upon registration and must be displayed at all times. Further details on registration are available on the Summit website and on the registration form inserted in this issue of the Magazine.

### **Venues and Transportation**

The joint opening ceremony of the Summit and Forum will be held in the Great Hall of the People on April 24. Buses will be available to transport participants to and from the recommended hotels and meeting venues.

### **The Summit plenary sessions will be held at:**

The Beijing Hotel  
33 East Chang An Avenue  
Beijing 100004  
Tel: (86-10) 6513 7766

### **The Forum plenary sessions will be held at:**

The Beijing International Convention Center  
8 Beichendong Road Chaoyang District  
Beijing 100101  
Tel: (86-10) 8497 3060

### **Interpretation**

Interpretation will be available in Arabic, Chinese, English, French, Russian and Spanish for the Summit and in Chinese and English for the Industry and Private Sector Forum.

### **Visas**

For visa information for the Summit and the Industry and Private Sector Forum on Intellectual Property and the Knowledge Economy, please contact:

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### **Contact WIPO**

For further information see:  
[www.wipo.int/summit-china](http://www.wipo.int/summit-china)

or contact:

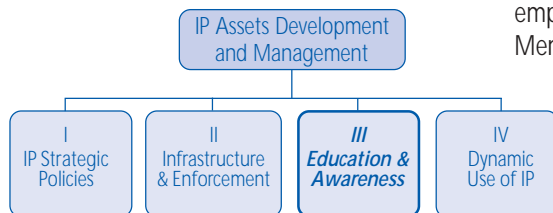
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A REGISTRATION FORM  
IS INCLUDED IN THIS ISSUE



# IP EDUCATION, PUBLIC AWARENESS AND PROFESSIONAL IP TRAINING

This article is the fourth in a series on IP Asset Development and Management. The first three articles included an overview of IP Asset Development and Management (July-September, 2002), IP Strategic Policies (October 2002), and Infrastructure and Enforcement (November-December 2002). In this issue, we continue our exploration of the "Key Components" in developing IP as an economic asset, this time focusing on education and awareness about intellectual property.



WIPO Director General Kamil Idris frequently emphasizes the importance of demystifying intellectual property (IP) in creating a culture that appreciates its value. This has been the subject of a campaign at WIPO in recent years, aimed at changing perceptions of IP from a purely legal discipline to a broad field with extensive connections to economics, education, technology and culture.

Intellectual Property Asset Management is a practical approach to using intellectual property as a tool for economic growth. Increasingly, pri-

vate enterprises see patents, trademarks, copyrighted works and other intellectual property as economic assets, the value of which can be optimized by proactive policies and strategies.

Governments and academic institutions are also treating intellectual property as a practical tool for enhancing national competitiveness, increasing opportunities for technology exchange, augmenting revenues, exports, and corporate valuation, avoiding brain drain, and motivating employees. The experience of many Member States shows that intellectual property, like other forms of property, has an economic value that can be promoted and enhanced by means of proactive national policies.

## *Proactive Policies in Education*

What are these policies of enterprise, government and academia? This article deals with the third set or category of such policies: policies relating to education and awareness. We have already seen in the first area, Strategic IP Policies, that education systems and human capital development must be closely linked to economic plans and are an integral part of any plan to develop and manage intellectual property assets. For example, developing a national or regional initiative on competitiveness in medicine and pharmaceuti-

cals cannot succeed if educational policy is not congruent with such plans, geared towards training young chemists, researchers and medical specialists who will be equipped to make innovative and creative contributions in these fields.

Similarly, a strategic IP plan that targets intellectual property in the field of information technology will not be likely to bear fruit if the nation's schools are not focusing on electrical engineering, software development and related fields. In the field of copyright and cultural industries such as music, entertainment, design, and art, training programs for young artists demonstrate a national commitment to art and make it possible for artistic communities to grow and create works of authorship.

## *Training IP Professionals*

This article addresses a related but distinct educational focus: the need to train IP professionals and related IP specialists who provide services related to IP assets.

Who can assist a small or medium-sized enterprise (SME) in designing an IP strategy that will help that company realize its full potential in terms of intellectual property and revenue generation? Who will draft claims and file patents that are developed by young technology specialists? Who will represent musicians and artists in negotiating license agreements? Who will provide legal ad-

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vice to start up companies in the area of solar energy, food processing, or materials science? Without IP professionals, all the other elements of an IP asset development and management strategy may be in place, but the strategy without human assets to make it work will certainly fail. In many countries today, there is a sharp lack of human capital capable of designing and executing intellectual property based strategies.

Many countries do not have training institutions to meet the demand for patent agents and patent lawyers. In countries that do have excellent law schools and business schools, very few of these institutions are geared towards graduating individuals who can assist inventors and creators in realizing the value of their intangible assets. In light of this shortage, it is

unrealistic to assume that there will be increases in the filing of patents, or in the protection and distribution of works of authorship, or in the use of trademarks to support marketing strategy without a change in training expectations and results. There is also a need for informed IP and business specialists to provide support at incubation centers for new enterprises, IP outreach programs geared to SMEs, and university research and development offices.

This perceived need for IP professionals is the reason why Singapore has recently created the Singapore IP Academy. As the Intellectual Property Office of Singapore has explained:

***Intellectual property (IP) is a complex legal field. The skill-sets required in IP protection, exploitation and management go beyond legal know-how. IP professionals need knowledge and expertise in basic legal foundations on IP, contract, competition, and tax laws, patent drafting and negotiation, marketing and branding know-how, business strategy and asset valuation. ....***

***With the anticipated growth of IP activities, our base of expertise has to be rapidly nurtured. This is not only to cater to the basic needs of filing and prosecution but the value-added services such as asset management, valuation, technology analysis etc. (see [www.ipos.gov.sg/resource/message20.html](http://www.ipos.gov.sg/resource/message20.html)).***

### **WIPO Worldwide Academy Training Programs**

The WIPO Worldwide Academy Professional Training program is targeted towards skill development of managers and technical staff of national and regional IP offices, government agencies, and other sectors. It focuses on providing specialized training for professionals from developing countries and from certain countries in transition to a market economy. In addition, the WIPO Academy has joint programs with the Raoul Wallenberg Institute, Lund University, the University of South Africa, and the University of Turin to offer specialized training in IP.

In addition to the need for patent professionals, there is a demand for professionals with knowledge of IP as well as several other related disciplines. Certain of the ASEAN countries have education programs that feature "interdisciplinary education" to create managers who are familiar with several disciplines including technological fields, public health, agriculture, management, law and intellectual property, trade, and education. This approach can be seen in the mission statement of the Bangkok-based Asian Institute of Technology:

***AIT will take a leadership role in the promotion of technological change and its management for sustainable development in the Asia and Pacific Region, through high-level education,***

*research and outreach activities which integrate technology, planning and management. The focus of the Institute's activities is in technology, with special emphasis on the interdisciplinary interface among the above three fields (see [www.ait.ac.th/](http://www.ait.ac.th/)).*

### **Emphasis on Interdisciplinary Training**

The AIT's School of Advanced Technologies emphasizes the importance of addressing the "technology gap between developing and industrialized countries [that] continues to widen at an alarming rate". The mandate of the school is "to help alleviate this situation by educating engineers with the ability to plan, administer and manage the latest technologies". The school's "multidisciplinary faculty" emphasizes its "interdisciplinary rationale."

At the National University of Singapore (see [www.nus.edu.sg](http://www.nus.edu.sg)), there is a Center for Management of Innovation and Technoentrepreneurship that offers an interdisciplinary degree in Management of Technology. This permits engineering students to receive education in business disciplines such as marketing, new venture creation, and product development. A **practicum** course is offered in "start up consulting", where students develop a set of varied skills (including IP strategy) that enable them to serve as consult-

ants; an increasingly important and lucrative field that is inherently interdisciplinary. Students in this course have served as consultants for a Danish start-up, and helped develop a business plan for the company to market a corporate search engine in the Asia-Pacific region.

At Stanford's Center for e-Commerce, created in 2002 as part of the Stanford Program in Law, Science and Technology, the faculty collaborates with scholars in residence and with faculty and students from other

*Applying MIT's intellectual competencies to real world dilemma produces a rich learning experience for students involved in CTPID research programs and for those enrolled in the associated master's and doctoral programs. The combination of interdisciplinary academic resources and partnerships with both regulatory bodies and entrepreneurial enterprises defines CTPID's role as a home for advanced research with practical applications (see [web.mit.edu/org/c/ctpid/www/about.html](http://web.mit.edu/org/c/ctpid/www/about.html)).*



Photo: IL/DJ, Mailand

Stanford University Departments on cutting-edge, interdisciplinary research and policymaking. MIT's Center for Technology, Policy and Industrial Development emphasizes the practical focus of its work as well as the interdisciplinary nature of its training:

In Korea, Northwestern University offers an "Executive LLM program" for international and Korean students, with an intellectual property unit. The course covers a number of related skills, including international investment and securities.

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Other law schools worldwide are exploring and initiating training programs in the IP field, focusing on practical training of workers who can represent and advise SMEs in technological and cultural industries. For example, last year the University of the West Indies added to its undergraduate program courses in copyright law and launched a new Masters of Law program in commercial law where students can pursue a thesis and specialty in IP.

### ***Regional Approaches to IP Education***

One of the important aspects of IP professional education is that it can entail a significant investment in human capital development. Regional collaboration in IP training has many advantages, including leveraging of resources and costs. The European Union has established a continent wide training program for IP professionals to supplement the already considerable number of educational institutions located in Europe.

Established in 1997, the EPO International Academy is a European center for human resource development and professional training and a forum for the sharing of expertise and experience in the field of industrial property (see [www.european-patent-office.org/intcop/intl\\_academy/html/academy.htm](http://www.european-patent-office.org/intcop/intl_academy/html/academy.htm)).



Private and non-profit organizations can play an important role in training IP professionals. In the United States, one of many examples of such training institutes is the Intellectual Property Management Institute which grants an award called the "Certified Intellectual Property Manager (CIPM)" designation (see [www.ipinstitute.com](http://www.ipinstitute.com)). There are hundreds of such programs in developed countries worldwide.

An interesting and important question for IP assets development and management will be to what extent practical training in IP skills can be provided for a significant number of individuals who will be competent to provide services to researchers, scientists, artists, composers, inventors, and the SMEs and research institutions who sustain and employ these individuals. Meeting the needs for IP professional education is clearly an important challenge.

### ***Public Awareness Building and IP***

In addition to professional education in IP and related fields, awareness building in the public at large is essential in promoting IP asset development. In contrast to the very pointed task of educating IP professionals with practical skills, the task of raising the general level of understanding of IP involves a broad-based, grassroots effort.

In this respect, some IP offices have developed programs for public secondary level education programs and even websites for children, to raise awareness of invention and creativity at an early age. Other IP offices have developed programs for public recognition of IP. The



Philippines has one such program, emphasizing the value of national creativity and invention. WIPO has targeted younger audiences with a number of information products, for example a series of comics explaining the basic concepts of intellectual property.

One of the most effective ways of communicating the value of intellectual property is the granting of publicized awards to inventors, creators and IP professionals who bring their skills to bear to support IP asset development and management. The granting of awards is a recognition of the value of IP, whether it is the result of technological invention or artistic creativity. For example, in India the Counsel for Scientific and Industrial Research offers a series of awards to inventors (see [www.csir.res.in](http://www.csir.res.in)). WIPO offers the WIPO Award for Inventors, the WIPO Creativity Award in the field of copyright and related rights, and the WIPO Trophy for Innovative Enterprises to encourage SMEs.

### ***Education for IP***

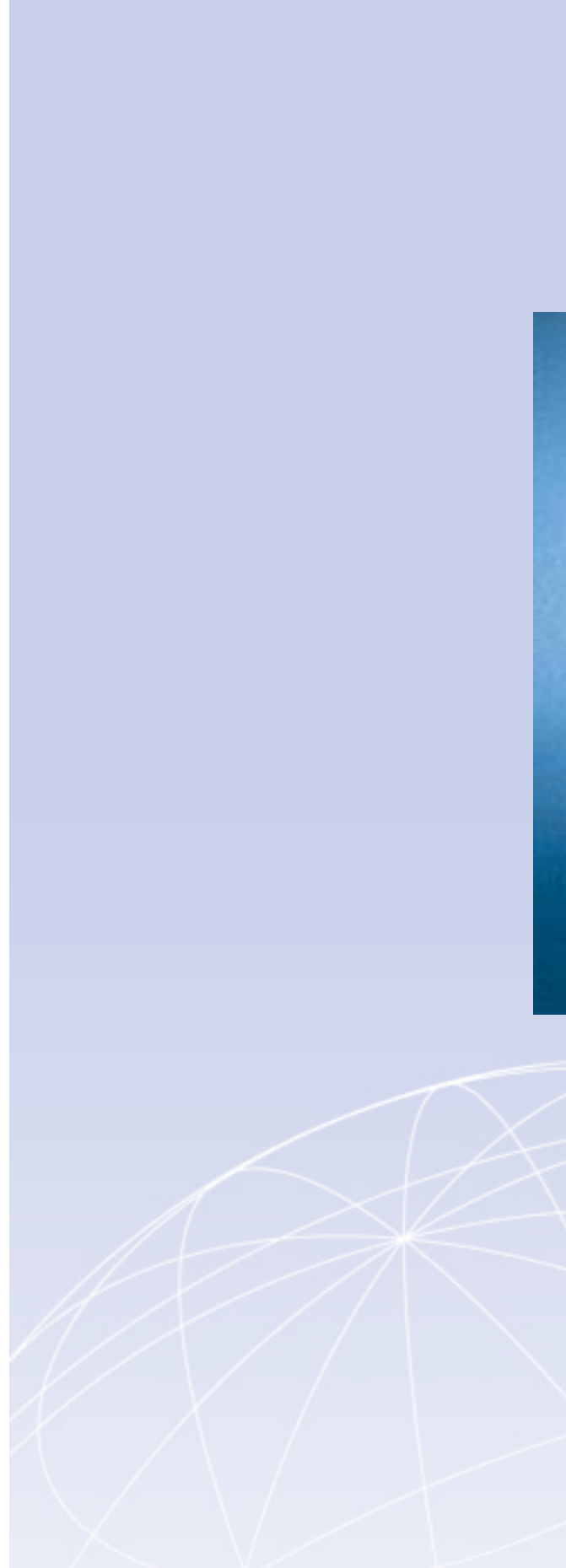
In conclusion, it is clear that education and IP asset development and management must go together. If the goal of national or enterprise strategy is to use IP as a tool for economic growth, there must be cadres of individuals with core competence in IP, as practically applied.

The work of these IP professionals will be to:

- draft claims for inventors,
- advise inventors and creators,
- help develop strategies for research centers,
- work with SMEs on IP protection strategies,
- negotiate IP licensing agreements,
- provide expert advice on the relationship of trade and IP,
- provide counsel on IP valuation,
- develop branding and trademark programs, and so on.

These are the IP professionals of the future, whose training and skill development are essential to the vision of the knowledge society. In addition, public awareness and understanding of the IP system and how it works are essential to making the vision of IP empowerment a reality.

The next article in this series will address the fourth and last key component of IP Asset Development and Management: Dynamic Use of IP. This is a broad subject encompassing licensing, valuation, joint ventures, and other transactions where IP owners realize the economic value of their investment.



# WIPO SURVEYS IMPACT OF DIGITAL ECONOMY ON INTELLECTUAL PROPERTY

A new publication by WIPO surveys the far-reaching impact that digital technologies – particularly the Internet – have had on intellectual property and illustrates how the international intellectual property system plays a key role in supporting and promoting e-commerce globally.

ure is increasing more quickly than earlier foreseen: 1999 forecasts envisaged only 250 million Internet users in 2002. Thus the survey covers issues that are still evolving and the subject of ongoing debate in industry, among users and consumers, as well as in governments and policy-making bodies. The survey's focus, in line with WIPO's mandate and the global nature of the Internet itself, is on the international dimension of these issues.

## *Digitization of Intellectual Property*

The value of commercial transactions on the Internet has increased substantially in the last five years. Statistics compiled by Gartner Inc. (see graph) indicate that while the value of transactions during 2000 reached an estimated US\$433 billion, transactions in 2002 are expected to grow to US\$1.9 trillion. An estimated \$6 trillion in transactions are projected for 2004. A significant portion of these transactions involves intellectual property. While many of these transactions involve the trade in physical objects of intellectual property (for example, the online selling of books, music discs and DVDs at Amazon.com), the trade in digitized works of intellectual property (for example, online newspapers and magazines and legitimate distribution of music and video works) is seen as a larger growth area in the future.

The survey explores this migration of creative works to the Internet in each area of intellectual property. In the field of copyright, vast numbers of works of literature, film and art, and notably computer programs, have already transferred to the digital environment. Software, protected as a form of intellectual property by patent and copyright law, underlies the operation of all digital technologies. Textual works such as books and newspapers are ideally suited to digitization and online publishing. The importance of commercial branding, traditionally achieved through the use of trademarks combined with advertising and marketing strategies, is heightened in an online environment where consumers are naturally cautious, traders may be remotely located, and there is little or no physical contact to reassure purchasers of a company's financial security and *bona fides*. The patent system has also migrated to the Internet, as businesses have sought to recoup research and development costs in digital technologies by patenting their online business methods.

The survey draws on statistical indicators, international studies, and concrete examples to outline the recent evolution of the Internet and to describe how digital networks have become a virtual marketplace for intellectual property. It also explores the impact of the Internet on copyright and related rights, trademarks, and patents, and examines interna-



*The Business Software Alliance estimates that 40 percent of business software programs worldwide were pirated in 2001, at a cost to the industry of some US\$11 billion.*

***Intellectual Property on the Internet: A Survey of Issues*** serves as a comprehensive overview for anyone interested in gaining a perspective on the rapid growth of intellectual property transactions online, how that growth is affecting the intellectual property system, and how future challenges in the digital environment will be addressed.

Figures published by the Organization for Economic Cooperation and Development (OECD) show that 10 percent of the world's population is now online, representing more than 605 million Internet users. The fig-

tional responses to these challenges and opportunities. It addresses the topic of domain names and their relationship to trademarks - a topic that is integral to any discussion of intellectual property on the Internet. The survey also explores the question of private international law and the benefits offered by alternative dispute resolution (ADR).

As the survey points out, the vast availability of intellectual property on the Internet, the ease of copying and distribution of copies, and the relative anonymity afforded to digital transactions raise many difficult issues. Key among those is the expectation shared by many users that information and intellectual property sourced or downloaded from the Internet should be free of charge. Faced with this viewpoint, the intellectual property community, including film and music creators, software developers, authors and publishers, are exploring ways in which to make their products available online while protecting their rights and recouping their investment.

### ***Developing Countries in the Digital Age***

The highest level of Internet penetration - over 50 percent - is in North America, Asia, and Europe. By contrast, in Africa the lack of telecommunications infrastructure means that this region represents less than two percent of the world's online population. In developing countries,

for example in Nepal, the monthly Internet access charge represents 278 percent of average monthly incomes, compared to 1.2 percent in the USA.

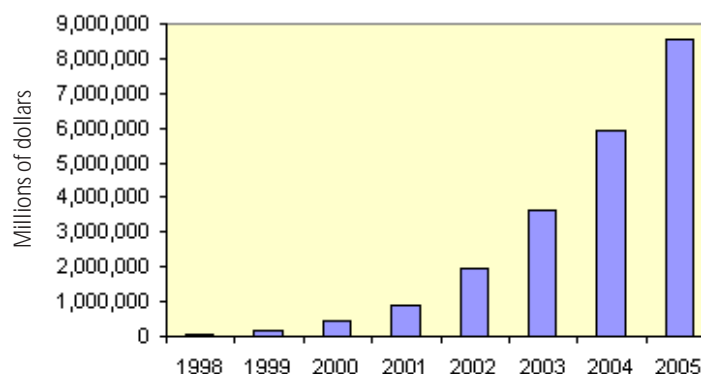
The survey examines intellectual property issues as they relate to developing countries in the digital age, including the challenges raised by disparities in infrastructure development and the resulting effects on participation in e-commerce, as well as the opportunities that the Internet offers for creativity and intellectual property content development. It also highlights the role of intellectual property in digital development and WIPO's initiatives in this regard.

In line with efforts to extend the benefits of information technologies, the survey looks at progress in the electronic delivery of intellectual property services by intellectual property public authorities, both at national

levels and by WIPO. Finally, it provides a status report on the WIPO Digital Agenda, a set of guidelines and goals first outlined by the Director General of WIPO at the September 1999 International Conference on Electronic Commerce and Intellectual Property.

*Intellectual Property on the Internet: A Survey of Issues* is available at: <http://ecommerce.wipo.int/survey>.

***Predicted Growth of Internet Commerce Value***



Source: Data published by Gartner, Inc.

# COPYRIGHT PROTECTION: REAPING THE BENEFITS OF LITERARY OR ARTISTIC CREATIVITY

All businesses own or use copyrighted material. Protecting such materials from abuse, misuse and/or piracy may be critical to prevent erosion of a competitive advantage. Yet many companies do not focus on management of copyright assets while planning their competitive strategies. Active management of copyright, along with other intellectual property rights, is essential for all businesses, big or small, as it impacts directly or indirectly on their performance, profitability and competitiveness. This first of two articles exploring copyright issues for business provides a basic background on copyright and copyright industries, as well as a look at what businesses need to do to ensure that their use of protected works is in line with copyright law.

## *The Copyright Industries*

The kinds of works covered by copyright include novels, poems, plays, reference works, newspaper articles, computer programs, databases, films, musical compositions with or without texts, choreography, paintings, drawings, photographs, sculptures, architecture, advertisements, maps, technical drawings and multimedia productions. Copyright industries can therefore be divided into the following three categories:



- ▶ **Core copyright industries:** These are industries that create copyright materials as their main product. They include book publishers and related industries, the music publishing industry, theater, film and television production companies, the visual arts industry, computer software, etc.
- ▶ **Partially copyright-based industries:** These are industries in which part of their product is directly related to the creation or exploitation of copyrighted works. Such industries include advertising agencies, computer consultants, architectural services, stationary manufacturing, commercial or job printing services, web page design services, etc.
- ▶ **Copyright-based distribution industries:** This category includes businesses involved in paper product wholesaling, computer and software retailing, film and video distribution, and motion picture projection as well as libraries, museums, performing arts' venues, video hire outlets, photographic film processing, etc.

In order to sustain their competitiveness and success in business, copyright industries need to safeguard the fruits of their creativity and innovations from free-riders, imitators, and copiers. In fact, the viability of these industries rests on the existence and proper functioning of the copyright system in domestic and international markets.

Most businesses, although not directly involved in the copyright area, print brochures or publish advertisements that create and/or use copyright-protected materials. Even shopping malls, bars, nightclubs, hotels, airlines, restaurants and other retail outlets play music – protected by copyright – to attract customers and influence their behavior, entertain employees, and increase turnover and profits. Thus proprietors of these businesses must understand the basics of copyright law as safeguarding copyright and securing the permission of others before using copyrighted material is not only a legal necessity but also good business sense. Many businesses, especially small ones, do not have a sufficient understanding of the importance and relevance of copyright to their business success or bottom-line.





## ***Rights Granted Create a Market for Copyrighted Works***

Copyright law provides the basis for enabling authors or creators to legitimately seek and receive remuneration for the use of their original literary or artistic work, enabling them to support themselves from their works. It gives entrepreneurs the opportunity to generate profits to reinvest in tomorrow's creations and their



distribution. The potential financial reward provides an impetus for creators to produce more works, thus introducing a wider variety of products into the marketplace and enhancing the choices available to consumers. At the same time, products become more affordable, permitting more people than ever before to benefit from, enjoy and be entertained by copyrighted works.

Copyright allows the creator or owner of rights to control the use of their copyrighted work in the marketplace by granting them *economic*

*and moral rights* over the work. Economic rights accord control over copying or reproduction and other uses, such as rental of computer programs and films; distribution of copies to the public; public performance; recording; broadcasting or transmission by cable; availability on the Internet; and translation, adaptation or modification. Moral rights preserve the link between the author and the work, which includes the right to be named as the author, and the right to object to any distortion, mutilation or other modification that may affect the honor or reputation of the author.

Copyright protects only the form of expression of ideas, not the ideas themselves. The creativity protected by copyright law is in the choice and arrangement of words, musical notes, color and shapes. The literary or artistic merit of a work is not assessed when afforded protection under copyright law.

Copyright begins from the moment a work is created, or under some national laws, when it is expressed in a tangible or fixed form. No formalities are required to obtain copyright protection, but for a work to be eligible for copyright, it must be original and, under some national laws, be in a material, tangible, form. A work is considered original if it owes its origin to the author and was not copied from an existing work. A work can be original without being novel or unique as long as the author or creator has applied skill or labor in



producing it. The exact level of originality required varies to some extent between national legislations.

Copyright protection is limited in time – the author or creator's lifetime plus at least 50 years – and to the geographical boundaries of the relevant country. For nationals of the 149 countries that are members of the WIPO-administered Berne Convention for the Protection of Literary and Artistic Works, protection is automatically granted in the other 148 member countries.

### ***Limitation of copyright***

In most national copyright laws there are categories of information (such as names, titles of publications, slogans, ideas and information such as research data) and works (government publications in certain countries) which are either excluded from copyright protection or use of which is exempted from copyright infringement action. In addition, some national laws limit the exclusive rights

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of owners, whereby certain usage of a copyrighted work is considered to be "fair" use or dealing. In such cases, for example when use is personal and private, for educational purposes, for criticism, comment or review, journalistic reporting, in judicial proceedings, in parody or research, the user is exempt from seeking permission of the copyright owner or creator.



Whether a given case is fair use or not depends on national law and the facts of each situation. The purpose of the use, the nature of the work, the amount used, and the effects of the use on the market for the original article have to be considered, so the following questions must be answered:

- ▶ Is it a competitive use?
- ▶ How much material has been used?
- ▶ How is the material used?

When in doubt, businesses should either seek permission or avoid using the work. Mere attribution does not amount to having permission. In most business situations, fair use is not a practical possibility. The only works that can be used without permission are those that are in the public domain.

### **Getting Authorization**

The first step in seeking permission to use copyrighted material is to identify the rightful owner of copyright. This in itself may not be easy, especially in the multimedia area where a number of different rights' owners may be involved. Often the best way to start is to contact the original publisher or, in the case of literary or musical works, the relevant collective management society. When the rights owner is identified, the terms and conditions for the use must be negotiated, and a licensing agreement established.

The copyright owner may give permission to or prohibit someone from using his work. Selling a physical embodiment of a copyrighted work – whether a CD, a sheet of music, or other physical form – does not amount to selling the copyright in it. Copyright may be assigned or sold in part or full, but generally permission to use a work is granted in the form of a non-exclusive or exclusive license in exchange for royalty payments. Such fees may be collected directly by the copyright owner, or

through an intermediary such as a copyright clearance center or a collective management society, which is often also empowered to permit the use of works on behalf of the copyright owner.

### **Copyright ownership**

The author or creator generally has the ownership of copyright in a work, but he or she may transfer it through assignment or licensing. In all relationships, including those with employees and third party contractors, it is important to ensure through a written agreement – before the work is created – who will own the copyright of the work. It often comes as a shock to contractors, who pay for the creation of a work, to find out that they do not own the copyright. The ownership of the copyright in the work depends on national law. A contractual agreement will clarify matters so that subsequent dealings can be carried out without dispute.

Copyright owners can leverage copyright, for example by securing revenue streams arising from a bundle of copyrighted works such as music or software. This could open new doors in raising finance based on intangible assets. Part II of this article will focus on how business owners can further obtain the benefits of copyright.



For more information on various practical aspects of the IP system of interest to business and industry, please visit the website of the SMEs Division at [www.wipo.int/sme](http://www.wipo.int/sme).

# CLARIFYING IP ASPECTS OF TRADITIONAL KNOWLEDGE AND CULTURAL EXPRESSIONS

The fourth session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), held in Geneva from December 9 to 17, 2002, moved forward in clarifying policy issues and practical tools for protecting traditional knowledge and cultural expressions. The IGC discusses intellectual property (IP) issues relating to access to genetic resources and benefit-sharing, traditional knowledge (TK) and innovations; and traditional creativity and cultural expressions (folklore). It combines policy debate on a range of pressing current issues in the field of IP, with the development of practical tools and mechanisms for TK holders, custodians of traditional culture, and indigenous and local communities, to identify and promote their interests in relation to the IP system.

Highlights of the meeting include:

**Genetic resources and benefit-sharing.** The IGC approved the launch, as a pilot project, of a new online electronic database of contractual practices and clauses relating to intellectual property, access to genetic resources and benefit sharing ([www.wipo.int/globalissues/databases/contracts/](http://www.wipo.int/globalissues/databases/contracts/)). In practice, the conditions agreed to at the point of access to genetic resources often determine how IP can be used as a means of equitably sharing benefits from the use of these resources. The database is intended to provide a

means of promoting understanding about the range of approaches that have been taken concerning IP and genetic resources, and may be used as a practical tool for providers of genetic resources who are engaged in negotiations concerning use of their resources.

The IGC gave initial consideration to a draft study, prepared at the invitation of the Conference of Parties of the Convention on Biological Diversity (CBD), on disclosure requirements in patent applications related to genetic resources and traditional knowledge. The draft study reviewed patent law provisions on disclosure relevant to genetic resources and associated TK, and isolated some key issues as the basis for further study and discussion.

**Traditional knowledge and innovations.** The IGC deepened its study of legal measures for protecting TK both through existing IP protection systems, and under distinct TK or *sui generis* systems – in other words, systems specifically designed to identify, protect and promote an IP right in TK. The discussion explored national experiences with TK protection, and considered the possible characteristics of *sui generis* systems for legal protection of TK.

Communities in many countries are undertaking a range of programs involving documentation of their TK and associated biological resources – these are established for a host of reasons, including to preserve TK for future generations. But this can fuel

concerns that the very process of documentation can undercut the interests of TK holders. Unless the right steps are taken in advance, documented TK can more readily be accessed, disseminated and used without authorization for instances contrary to customary laws and practices. Reflecting these concerns, the IGC approved the further development of a toolkit for managing the IP implications of documentation of TK and biological resources. This should heighten awareness of the need to ensure that documentation does not lead to an unintentional loss of rights or of control over TK. The toolkit should clarify practical options for documentation that do not necessar-



ily place the documented material in the public domain, when communities wish to retain control over it and limit access, for cultural, spiritual, legal or commercial reasons. Governments, intergovernmental organizations and a range of NGOs have all provided input into a draft toolkit, which will be considered further by the IGC at its next session. This will

(continued on page 19) >>>



# FACT-FINDING IN CHINA ON THE PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS

With 56 distinct minority nationalities, China is rich in cultural heritage and diversity. China's Ministry of



*Xiangbaka Village,  
Jinuo minority  
nationality, Yunnan  
Province*

Culture, the National Copyright Administration of China (NCAC), the Education, Science, Culture and Public Health Committee of the National People's Congress and other government departments and committees are actively involved in exploring ways in which to preserve, promote and protect the cultural expressions (folklore) of these nationalities.

The Government of China is also participating actively in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, where progress is being made in identifying circumstances in which current intellectual property rights provide adequate protection to expressions of traditional cultures and those in which additional rights may be necessary.

Against this background, WIPO undertook, from November 28 to December 4, 2002, at the invitation of the Ministry of Culture, a fact-finding mission to China on the legal protection of traditional cultural expressions. The mission took place in the Yunnan Province, in the south eastern part of China, which is home to 43 million people and 25 minority nationalities. Over 7 full days, the WIPO delegation travelled to Kunming; Ganlanba, Jinghong City; Lunmeng Town, Mengla County; Baka, Jinghong City; Sanyuan village and Shuhe Village, Baisha town, Lijiang County; Xinhua, Zhoucheng and Xizhou, Heqing County, Dali Prefecture. At each place, the delegation visited and consulted with minority nationalities, musicians and performers, artists, academics and researchers, museums and archives, and handicraft makers. The delegation was accompanied throughout the mission by officials from the Ministry of Culture and the Education, Science, Culture and Public Health Committee of the National People's Congress, a representative of the

Yunnan Province Department of Culture, and by local officials at each of the places visited.

The mission was fascinating and informative. A striking feature was the extent to which minority nationalities still practice their cultural traditions and customs in their everyday life. The promotion of cultural heritage occupies a prominent position within the Province's economic, cultural, tourism and environmental strategies, underlining that cultural heritage and traditional cultural expressions are economic as well as cultural assets.

In line with the findings of other fact-finding missions conducted by WIPO in 1998 and 1999, the persons interviewed by the WIPO delegation were familiar with the preservation and promotion of their cultural expressions. The delegation learned of many impressive initiatives at the national, provincial and local levels.

However, there was little awareness of the intellectual property angle – for example, ways in which traditional music can be used by third parties to create a copyrightable musical work, or how a traditional sign can be used as a trademark by a commercial enterprise. The delegation found in general little knowledge of intellectual property among the people met. Many of the contacts suggested that awareness-raising seminars on intellectual property and

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the legal protection of traditional cultural expressions would be useful.

However, the delegation did find some awareness – and use – of the intellectual property system. In a village outside the town of Lijiang, the delegation met with a craftsman who had applied for and obtained industrial design protection for a silver-plated tea set incorporating tradition-based creative designs. These examples and the other lessons learned on this successful mission will inform further discussions within the WIPO Intergovernmental Committee and be featured in the forthcoming *WIPO Practical Guide on the Legal Protection of Traditional Cultural Expressions*.

The mission concluded with a meeting in Beijing with officials from the Department of Policy and Regulation of the Ministry of Culture, Mr. Gao Shuxun, Director General and Mr. Hong Yongping, Deputy Director-General.



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also facilitate the exchange of practical experience between traditional knowledge communities.

### ***Protection of expressions of traditional culture and creativity***

WIPO's work on the legal protection of expressions of traditional culture and creativity (or folklore) has moved to a detailed, practical phase, reflecting the request of the IGC at its last session. This has included (i) helping with the establishment of effective national and regional systems for folklore protection, and (ii) development of a *WIPO Practical Guide on the Legal Protection of Traditional Cultural Expressions* for publication later in 2003.

The IGC reviewed a range of legal approaches - using current IP rights as well as *sui generis* systems - for protecting folklore, and a series of information materials (presentations on national and regional experiences and background studies). The IGC discussed a detailed study on legal protection of folklore that analyses current IP rights and *sui generis* options as the basis for in-depth policy discussion. This material is also used in technical cooperation work and practical programs for legal protection of folklore. The WIPO secretariat also reported on a wide range of requests for WIPO's assistance with folklore protection over the past two years. The next IGC session will consider further the possible develop-

ment of model provisions for national laws and the international protection of traditional cultural expressions.

The debate within the IGC is deepening with further clarification of the legal concepts concerned, and is setting them into a concrete, practical context. The next IGC meeting in July 2003 is expected to consolidate accomplished tasks and delivered products of the Committee, draw up conclusions and make recommendations for consideration by the WIPO Assembly in September/October 2003.

The IGC, established by the WIPO General Assembly in October 2000, is open to all Member States of WIPO. Other United Nations member states, intergovernmental organizations and accredited non-governmental organizations (NGOs) may participate as observers. Some 175 accredited NGOs can take part in the IGC, including 72 NGOs especially accredited by the IGC to take part in its work, a number of which represent the specific interests of indigenous communities and TK holders. The IGC requested the secretariat to develop a study on ways of enhancing the participation of local and indigenous communities in its work.



# DISCUSSION OF RIGHTS FOR BROADCASTING ORGANIZATIONS

WIPO Member States inched closer to agreement on the nature of the rights to be granted to broadcasting



organizations in a multilateral treaty which would, if adopted, update international regulations in this area and bring them in line with the technological demands of the digital era. The WIPO Standing Committee on Copyright and Related Rights (SCCR), which met in Geneva from November 4 to 8, 2002, was attended by delegates from 90 member States, including the European

Community, 9 intergovernmental organizations and 45 non-governmental organizations and various other stakeholders representing broadcasting organizations and content industries, namely film and music.

Talks to update the intellectual property rights of broadcasters, which are currently dealt with by the 1961 Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, began in the 1990s. The advent of radically new types of communications and of content distribution over the Internet has made it necessary to review and upgrade existing international standards to ensure an appropriate balance between the different interests of all stakeholders and those of the general public.

While there is agreement on the need to upgrade these rights, differences still exist between Member States on key issues. First, these relate to who should be the beneficiaries, namely whether only organizations which broadcast over the air are to be given better protection, or whether such protection should also be extended to cablecasters and certain categories of webcasters. Secondly, they relate to the rights to be granted to those beneficiaries, in particular, the right of fixation, the right of reproduction of fixations, the right of rebroadcasting, the right to decrypt encrypted broadcasts, and the right to rent fixations of broadcasts to the public.

Among several proposals considered by the Committee was one by the United States to grant cablecasters (cable transmission) and webcasters (transmission over the Internet) the same level of protection which is proposed for traditional (i.e. over the air) broadcasters. An earlier proposal, submitted by the European Community and its member states, includes protection of cablecasters, but not webcasters. Member States will further examine the proposal at the SCCR's next meeting in June 2003.

## *Internet Streaming*

Many delegations recognized that the Internet has evolved into an important means of distributing content that is protected by copyright or related rights through various free or subscription-based services. Internet streaming is one of two principal methods for users to access sound and/or images over the Internet. The first method is downloads, whereby a file on a server is accessed by a remote user, transmitted over the Internet in the form of "packets" to the user's machine and saved there locally, in most cases on the hard drive. The second is "streaming," which is an Internet data transfer technique that allows users to see and hear audio and video files without lengthy download times. The host or source "streams" small packets of information over the Internet to the user, who can access the content as

it is received. The stream may be a real time (live) transmission or an archived file.

The common underlying feature of all types of Internet streaming is that files are not saved locally on the user's machine. Delegates stressed, however, the difficulty in distinguishing between certain protected streaming emanating from broadcasting organizations and individual-based streaming that could be conducted without investment, on an amateur basis. Some suggested that simultaneous real-time streaming in which broadcasting takes place simultaneously over the air and on the Internet by broadcasting organizations might benefit from protection in a new treaty.

### ***Balance Sought in Stakeholder Interests***

The Committee generally agreed on the need to fully clarify the scope of protection before granting specific rights to the various stakeholders, as well as on the need to balance stakeholder interests with those of the general public. A working document on "Terms and Concepts" associated with the question of protection of the rights of broadcasting organizations was presented to the Committee to explain and clarify the many associated technical and legal issues.

A growing signal piracy problem in many parts of the world, particularly of pre-broadcast signals, has also generated a need to discuss the nature and scope of protection for broadcasts.

### ***Protection of Databases***

With respect to discussions on the protection of databases, the SCCR received a submission from the European Community, which explained the situation in Europe and called for a reactivation of the Committee's discussions on databases. Collections of data, such as telephone directories, the compilation of which is not considered sufficiently original to qualify for copyright protection, may still require some protection because the heavy investment involved in their creation and maintenance needs to be secured to avoid abuses associated with unauthorized copying and dissemination, for example, over the Internet.

### ***Others Issues for Discussion***

The Committee also took note of a list of issues for possible future review and action including: the responsibility of Internet service providers (ISPs), applicable law in respect of international infringements, voluntary copyright recordal systems, resale right or "*droit de suite*", the economics of copyright, collective management of copyright and related rights, protection of folklore,

ownership of and authorization to use multimedia products, and practical aspects of implementation of the WIPO Internet Treaties.

A seminar on the legal and technical aspects of broadcasting was held on the sidelines of the SCCR meeting and contributed to a better understanding of the issues at stake.



# REVISION OF INTERNATIONAL TRADEMARK LAW TREATY A PRIORITY

The further simplification and streamlining of procedures for obtaining and maintaining a trademark was set as a priority by Member States attending the WIPO Standing Committee on the Law of Trademarks, Geographical Indications and Industrial Designs (SCT) which met in Geneva from November 11 to 15, 2002. The meeting, attended by delegations from 78 Member States, 6 intergovernmental organizations and 12 non-governmental organizations, addressed three main issues: the future revision of the Trademark Law Treaty (TLT), the question of protection of geographical indications, and industrial designs.

The discussions on trademarks focused on the need to revise the TLT. The TLT was concluded in 1994 with a view to streamlining and simplifying, on a worldwide basis, formal trademark procedures relating to national and regional trademark applications and the maintenance of trademarks. Thirty countries are currently members of the TLT. Companies seeking trademark protection must as a first step meet certain formality requirements in order to avoid rejection of their application and a consequent loss of rights. These formalities currently vary from one country to another. In view of technological developments, new areas for consideration in revising the TLT include:

- the possibility to introduce electronic filing of trademark applications and associated communications,

- incorporation of the Joint Recommendation on Trademark Licenses (see WIPO Magazine November/December 2000), and
- relief and re-instatement of rights in case of missing certain time limits.

Such enhancements promise to generate additional cost savings and efficiency gains for trademark owners and industrial property offices.

## *Survey of Existing Practices*

Member States also agreed to survey existing national practices with a view to promoting the convergence of international trademark law practices and to fostering a common approach to the examination of trademark applications. To this end, it was proposed to circulate a questionnaire to WIPO Member States to collect information regarding the national practices and to identify issues for the further development of international trademark law and the convergence of national trademark practices.

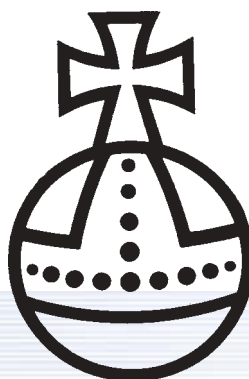
The results of the questionnaire will also serve to further simplify the work of national intellectual property offices and help establish a clear legal

framework for trademark applicants, holders, and their representatives, and for third parties and consumers through greater convergence of national laws and practices. By creating legal certainty through the adoption of common approaches, significant time and cost savings could be achieved for the users of the many different trademark systems that exist worldwide, as well as for industrial property offices.

## *Study of Geographical Indications*

In relation to the question of geographical indications (GIs), the SCT requested the WIPO secretariat to prepare a study to provide members with a general overview of issues considered by different systems of protection. These include scope of protection, elements supporting a claim for quality, reputation or other characteristics and what is considered in evaluating a claim that these elements are "essentially attributable to" the geographical origin of a given product.

The study is designed to constitute a basis for discussion to promote better understanding of the definition of a geographical indication, and to provide information, especially for those members in the process of establishing their own systems. The study would serve as a basis for an exchange of information in a general manner without analyzing specific cases and would in no way constitute a vehicle for examining compli-



Trademark, Courtesy of The Harris Intellectual Property Authority



# HARMONIZATION OF PATENT LAWS

ance with existing international standards nor a norm-setting exercise leading to negotiations in an attempt to harmonize laws on geographical indications.

## *Industrial Designs*

The SCT also touched on the issue of industrial designs, including the interface between the protection of industrial designs and three-dimensional marks, and agreed to carry discussion of this matter over to its next session, tentatively scheduled for April 28 to May 2, 2003.



WIPO Member States continued discussions on further global harmonization of substantive patent law in Geneva from November 25 to 29, 2002. The Standing Committee on the Law of Patents (SCP) considered revised provisions of the draft Substantive Patent Law Treaty (SPLT). The Committee was attended by representatives from 76 Member States, four intergovernmental organizations and 23 non-governmental organizations.

The draft SPLT covers a number of basic legal principles relating to the grant and validity of patents in different countries. It aims, in particular, at ensuring that applicants in all con-



tracting parties are subject to the same substantive conditions for the grant of patents and the invalidation of granted patents, and contributing to the reduction of duplication of search and examination work in patent offices.

## *Geographic Indications*

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Most commonly, but not always, a geographical indication consists of the name of the place of origin of the goods. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. Geographical indications may be used for a wide variety of agricultural products, such as, for example, "Tuscany" for olive oil produced in a specific area of Italy (protected, for example, in Italy by Law No. 169 of February 5, 1992).

A number of treaties administered by WIPO provide for the protection of geographical indications, most notably the Paris Convention for the Protection of Industrial Property of 1883, and the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration. In addition, Articles 22 to 24 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) deal with the international protection of geographical indications within the framework of the World Trade Organization (WTO).



The SCP made further progress towards a common understanding on several issues arising from differences that exist among patent systems. While agreement in principle was achieved on a number of draft provisions, discussions on provisions, such as those relating to the grace period and the scope of patentable subject matter, were postponed. It was also decided to include proposals relating to the protection of public health, genetic resources, traditional knowledge and a number of other public policy issues, in the draft Treaty, on the understanding that substantive discussion of these provisions would be postponed.

## NEWS ROUNDUP

### 20,000<sup>TH</sup> DOMAIN NAME CASE

On November 13, 2002, the WIPO Arbitration and Mediation Center received its 20,000<sup>th</sup> domain name case since starting its domain name

dispute resolution service in December 1999. The total number of cases received by the end of December was 20,138.

A single case may cover more than one domain name, the WIPO average being 1.8 domain names per case. The Center has received complaints involving a high number of domain names registered by a single alleged cybersquatter. The cases received in December included a complaint involving 74 domain names.

In December, the registry operator of the *.pro* domain appointed the WIPO Center as the exclusive dispute resolution service provider for challenges under the RegistryPro Sunrise Challenge Policy for *.pro*. The *.pro* domain allows registration of names of professionals at the third level, the second level indicating individual professions, for example *smith.law.pro*, *smith.cpa.pro*, or *smith.med.pro*.



### ENTERPRISE OLYMPICS CHALLENGE FOR HIGH SCHOOL STUDENTS

WIPO presented gold medals to the winners of the Enterprise Global Olympics on November 20 at the "Best Practice Forum" in Washington, D.C. High school students aged 16 to 18 had participated in an Enterprise Olympics Challenge from June 24 to 26. The event was an educational challenge in which students searched for solutions to problems in the area of science and technology. The Enterprise Olympics was the first-ever 24-hour global challenge.

The Awards Ceremony for the inauguration of the Enterprise Olympics was the centerpiece of a Scottish reception, hosted by Careers Scotland at the Global Partnership Summit on Learning Employability and Citizenship. Mrs. Suzanne Stoll of the WIPO Coordination Office in



Washington, presented the medals and individual certificates to members of the winning New Zealand team. Mr. Chuck Lloyd of NASA, chief judge at the Enterprise Olympics, presented Certificates of Excellence to representatives from six of the nine participating countries.

## NICARAGUA ACCEDES TO PCT

Nicaragua became the 118<sup>th</sup> Contracting State of the Patent Cooperation Treaty (PCT) when it deposited its instrument of accession at WIPO on December 6, 2002. The Treaty will enter into force for Nicaragua on March 6.

The accession by Nicaragua means that in any international application filed on or after March 6, applicants may designate Nicaragua (country code: NI), and that nationals and residents of Nicaragua may themselves file PCT applications as of that date. As Nicaragua will be bound by Chapter II of the Treaty, it may also be elected for the purposes of international preliminary examination.



## EUROPEAN RESEARCH 2002

WIPO participated in the European Union's launch of its Sixth Framework Program for Research and Technological Development in Brussels from November 11 to 13, 2002. The WIPO stand was one of some 142 in the Palais du Heysel, which was visited by over 8,000 participants from around the world. WIPO was represented at the European Research 2002 by staff from headquarters and the new Brussels office.



Researchers, increasingly conscious of the crucial role of intellectual property assets management in the development of research activities and transfer of technology, have expressed an urgent need for comprehensive information on intellectual property at all levels. The WIPO stand was flooded with members of the European research community looking for such material. The WIPO document entitled *Research and Innovation Issues in University Industry Relations* addressed their main concerns. Many university researchers also sought training for their intellectual property focal points.



# CALENDAR of meetings

## **FEBRUARY 3 TO 5**

(GENEVA)

### **Information Technology Projects Working Group (Second session)**

The Working Group will review the status of WIPO's major IT projects and the proposed IT Program for the 2004-2005 biennium.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, certain organizations.

## **FEBRUARY 24 TO 28**

(GENEVA)

### **Committee of Experts of the IPC Union**

The Committee will consider reports of the ad hoc IPC Reform Working Group and the IPC Revision Working Group and will provide guidance for continuing reform and revision of the IPC in 2003.

**Invitations:** As members, the States members of the IPC Union; as observers, States members of the Paris Union, who are not members of the Committee, and certain organizations.

## **MARCH 31 TO APRIL 4**

(GENEVA)

### **Preparatory Working Group of the Nice Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks (Twenty-third session)**

In the framework of the revision period, the Preparatory Working Group will consider and make recommendations on proposals for changes to the eighth edition of the Nice Classification, which will subsequently be submitted to the nineteenth session of the Committee of Experts of the Nice Union for adoption.

**Invitations:** As members, the States members of the Preparatory Working

Group of the Nice Union; as observers, the States members of the Paris Union which are not members of the Working Group, and certain organizations.

## **APRIL 24 TO 26**

(BEIJING)

### **The WIPO Summit on Intellectual Property and the Knowledge Economy (please see page 5 for further information)**

## **APRIL 28 TO 30**

(GENEVA)

### **Program and Budget Committee (Sixth session)**

The Committee will consider and discuss proposals with regard to WIPO's Program and Budget for the 2004-2005 biennium.

**Invitations:** As members, the States members of the Program and Budget Committee; as observers, all Member States of WIPO that are not members of the Committee.

## **APRIL 28 TO MAY 2**

(GENEVA)

### **Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Tenth session)**

The Committee will continue its work based on the results of the ninth session.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, other States and certain organizations.

## **MAY 12 TO 16**

(GENEVA)

### **Standing Committee on the Law of Patents (Ninth session)**

The Committee will continue its work on further harmonization and

other issues relating to patent law.

**Invitations:** As members, the States members of WIPO and/or of the Paris Union; as observers, other States and certain organizations.

## **MAY 19 TO 23**

(GENEVA)

### **Working Group on Reform of the PCT (Fourth session)**

The meeting will consider proposals for the reform of the PCT system.

**Invitations:** As members, the States members of the PCT Union and the International Searching and Preliminary Examining Authorities under the PCT; as observers, all States members of the Paris Union which are not members of the PCT Union and certain organizations.

## **JUNE 23 TO 27**

(GENEVA)

### **Standing Committee on Copyright and Related Rights (Ninth session)**

The Committee will continue its discussions on the protection of broadcasting and of non-original databases. It will also follow up on discussions of its future workplan.

**Invitations:** As members, the States members of WIPO and/or the Berne Union, and the European Community; as observers, certain intergovernmental and non-governmental organizations.

## **JUNE 26 TO JULY 1**

(GENEVA)

### **WIPO Workshop for Mediators in Intellectual Property Disputes**

An annual event for all parties interested in WIPO mediation procedures.

**Invitations:** Open to interested parties, against payment of a fee.



# NEW PUBLICATIONS

## ***Intellectual Property - A Power Tool for Economic Growth***

English N° 888  
65 Swiss francs (plus shipping and handling)



## ***Overview. Intellectual Property - A Power Tool for Economic Growth***

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# Worldwide Symposium on Geographical Indications

San Francisco, California, July 9 to 11, 2003

The World Intellectual Property Organization (WIPO) in cooperation with the United States Patent and Trademark Office (USPTO) is organizing a three-day Worldwide Symposium on Geographical Indications, taking place from July 9 through July 11, 2003, in San Francisco, California.

This Symposium will provide a forum for the exchange of information and views on geographical indications at the national, regional and international levels and on future trends in that area. Participation is open to government representatives as well as to any interested party.

Presentations will be made by experts in the field of protection of geographical indications representing international organizations, non-governmental organizations, producers and administrations from WIPO Member States from around the world. Each presentation will be followed by a discussion during which the speakers will answer questions from the audience. Simultaneous interpretation from and into English, French and Spanish will be provided.

Details concerning the program and registration are available at [www.wipo.int/meetings/2003/geo-ind/en/index.html](http://www.wipo.int/meetings/2003/geo-ind/en/index.html).

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# Industry and Private Sector Forum of the World Intellectual Property Organization Summit on Intellectual Property and the Knowledge Economy

hosted by the Government of the People's Republic of China  
Beijing – April 24 to 26, 2003

## REGISTRATION FORM:

To be returned to:

### World Intellectual Property Organization

WIPO Summit on Intellectual Property and the Knowledge Economy  
34 chemin des Colombettes, PO Box 18, 1211 Geneva 20, Switzerland  
Fax: +41 22 338 8840 e-mail: [summit.china@wipo.int](mailto:summit.china@wipo.int)  
On-line registration: [www.wipo.int/summit-china](http://www.wipo.int/summit-china)  
Closing date for registration: March 30, 2003

## CONTACT INFORMATION

Mr./Mrs./Miss/Ms. First name: \_\_\_\_\_ Last name: \_\_\_\_\_

Title / Function: \_\_\_\_\_

Organization / Company: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ State / Province: \_\_\_\_\_

Country: \_\_\_\_\_ Zip / Postal code: \_\_\_\_\_

Telephone number (including country and area codes): \_\_\_\_\_

Fax (including country and area codes): \_\_\_\_\_

E-mail address: \_\_\_\_\_

Confirmation of your participation in this event will be sent on completion of registration formalities.

## PAYMENT INFORMATION

The registration fee of 500 Swiss francs has to be settled before registration formalities can be completed (please indicate mode of payment):

- by transfer to WIPO CHF Account No. (IBAN) CH35 0425 1048 7080 8100 0  
Swift Code: CRESCH ZZ12A, Swiss Credit Bank, CH-1211 Geneva 70, Switzerland
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- by deducting this sum from our current account at WIPO No. \_\_\_\_\_
- by check drawn on the: \_\_\_\_\_ Bank

Checks should be mailed to WIPO at the above address.

Please note participants registering on-line may pay their registration fee by credit card.

For visa information contact:

Ms. ZENG Yann, Project Administrator  
Secretariat of the China Organizing Committee of the WIPO Summit  
on Intellectual Property and the Knowledge Economy  
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Tel: +86 10 6209 3166  
Fax: +86 10 6209 3552  
E-mail: [summit@sipo.gov.cn](mailto:summit@sipo.gov.cn)

In order to facilitate and speed up visa and registration formalities, it would be appreciated that – if possible – participants either send two passport-sized photographs (by post or electronically) to Ms. ZENG Yann, Project Administrator, at the above address or bring two such photographs with them to Beijing.

In submitting their request for visa information, participants are also requested to provide the Project Administrator with details of their nationality and date and place of birth.