WIPO magazine

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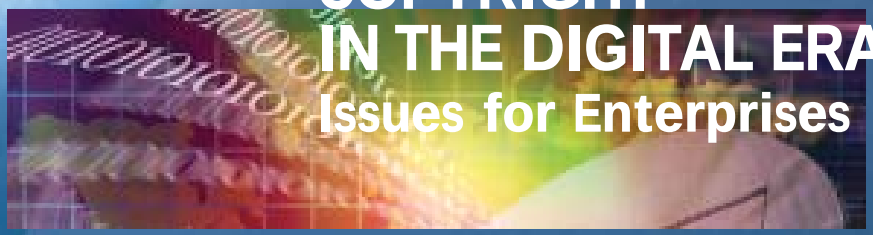
Geneva, March-April 2003

USING IP ASSETS IN BUSINESS

COPYRIGHT IN THE DIGITAL ERA:
Issues for Enterprises



THE MADRID SYSTEM:
Simple Advantages

WORLD INTELLECTUAL PROPERTY ORGANIZATION

ULRICH UCHTENHAGEN, A MAN OUT OF THE ORDINARY

Ulrich Uchtenhagen died in a road accident in Zimbabwe on January 31, 2003, while on mission for WIPO.

He was appreciated both for his immense, solidly grounded professional talents and for his great and admirable human qualities. He was a man of conviction and loyalty who set great store by the observance of principle in matters of collective copyright management.

His warm personality, his total commitment and his great goodness to all were universally known and acknowledged. His capacity for work, intelligence, intellectual curiosity, culture and tireless energy were valued by all.

His kindness, discretion and availability, simplicity, honesty and integrity, and also the human side which came so naturally to him, profoundly touched those around him and endeared him to them.

His abrupt disappearance is a tremendous blow to the Organization and the wider family of copyright, but also and indeed especially to those developing countries that were able to benefit from his work in the field of collective management.

Ulrich was a friend to all of us. In my own name and on behalf of WIPO I pay him the tribute that he so richly deserves, and convey to his family and countless friends throughout the world my most heartfelt condolences, my shared grief and my sympathy.

Kamil Idris,
Director General

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WIPO SUMMIT ON INTELLECTUAL PROPERTY AND THE KNOWLEDGE ECONOMY POSTPONED

WIPO Director General Kamil Idris informed Member States on April 9 that the ***WIPO Summit on Intellectual Property and the Knowledge Economy***, and the accompanying ***Industry and Private Sector Forum*** in Beijing, will not take place as scheduled from April 24 to 26, 2003.

"WIPO greatly regrets that this important meeting cannot be held as scheduled owing to prevailing circumstances," Dr. Idris told representatives of Member States. He said that new dates and other relevant information regarding this event will be communicated in due course.

The Summit will address the key role of the intellectual property system in stimulating creativity and innovation to drive economic growth through wealth creation and business development. It will bring together heads of government and other top officials, industry leaders, academics, civil society, and other interested parties to talk about the increasing importance of intellectual property in today's knowledge-driven economies.

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 assets; and a stable environment for domestic and foreign investment.

The new dates of the Summit and further information will be posted on ***www.wipo.int/summit-china/en/***.

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26 April

"Make Intellectual Property Your Business"

WORLD INTELLECTUAL PROPERTY DAY

"Make Intellectual Property Your Business" is the theme of World Intellectual Property Day, April 26, 2003.

WIPO has prepared an information kit for intellectual property offices in Member States which includes a message from WIPO Director General Kamil Idris, the overview and CD-ROM versions of his book ***Intellectual Property – A Power Tool for Economic Growth***, the new ***Intellectual Property and Business*** CD-ROM, a comic for young people explaining patents, and posters and bookmarks on this year's theme. A CD-ROM with print-ready versions of the ***Patent, Copyright*** and ***Trademarks*** comics as well as this year's poster will also be enclosed in the kit. Intellectual property offices are welcome to use the CD-ROM to print as many copies of the publications as they may need.

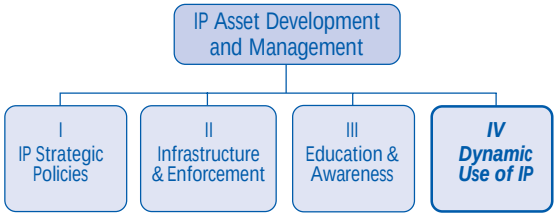
WIPO Member States are invited to participate in the event and to inform the Organization of the activities planned. Such information will be published on a special page on the WIPO website.

The broad participation and support received during the previous observations of World Intellectual Property Day has helped make the event a success worldwide.

Further information is available on the World Intellectual Property Day page of the WIPO website at ***www.wipo.int***.

DYNAMIC USE OF IP ASSETS FOR WEALTH CREATION

This article is the fifth and final in a series on IP Asset Development and Management. The first four articles included an overview of IP Asset Management (July-September, 2002), IP Strategic Policies(October 2002), Infrastructure and Enforcement (November-December 2002), and Raising Awareness Through Education (January-February 2003). In this issue, we will complete our treatment of the key components in developing IP as an economic asset, this time focusing on dynamic use of intellectual property assets.



Putting IP Assets to Use

The previous articles in this series have focused on how government, private sector and academic policies can stimulate the development of IP assets, (patents, copyright, and trademarks and other types of IP). The IP that is produced is an asset with a theoretical economic value. This value cannot be realized in practice however, unless the IP is used in specific, concrete and practical ways to earn revenue or for other economic benefits.

Strategic preparation and development of IP assets are necessary preconditions to the dynamic use of IP for micro and macro-economic development. This can be illustrated by looking at a hypothetical business:

Fisha is a private enterprise that specializes in drying, curing and refrigerating of fish and ocean products. Fisha started out as a cooperative, making money from distribution of fresh fish. One of the challenges of its business was that some of the value of the catch was often lost because of the high perishability of fish. In recent years, Fisha expanded into fish products by doing market research on the value of fish oil, seaweed, and fish curing/drying, as well as dried fish packaging. Working with a local aquacultural research center, it developed a solid portfolio of IP assets related to these new technologies, including several patents related to drying machines. It is also a member of a regional fish products network that promotes and uses a fish product hygiene certification trademark, and provides marketing and legal services to its members. It has applied for and received funding from the local IP development and outreach center for prototyping and for patent preparation and legal fees. It has formed a strategic alliance with another fish products company to export fish oil, working with that company on a joint marketing and branding strategy. Fisha also signed a distribution license agreement with another company whereby that company pays Fisha royalties in exchange for the right to manufacture and distribute Fisha drying machines. Fisha now receives revenues from fresh fish sales and royalties from its drying machine license, as well as export income from its sale of fish oil.

"A thought which does not result in an action is nothing much, and an action which does not proceed from a thought is nothing at all"

Georges Bernanos (1888–1948), French novelist

Fisha is an imaginary company that enjoys all possible institutional advantages, including marketing, legal and financial support, and so exists in the best of all possible worlds. Still, the Fisha example illustrates the possibilities of uses of IP in a dynamic way for wealth creation through research and development of innovative products, marketing, branding, networking, strategic alliances and licensing.

An example from the real business world is the large multinational information technology company, IBM, which earns revenues by developing and selling computers and other information technology products and services worldwide. Year after year IBM files more patents than any other company in the United States (2,886 for 2000 and 3,411 for 2001). It is a model of dynamic use of IP because, in addition to the impact of its technology development on the competitiveness of its product performance and features, IBM

Photo: FAO/20323/I. Spaull

makes very successful use of licensing of its IP portfolio, realizing $1.53 billion in royalties in 2001.

Between the hypothetical Fisha and the real life IBM, there is a wide range of business needs and objectives. A successful user of IP assets may be a small start-up business or a large international enterprise, and it may be in aquaculture, construction, information technology, cultural industries, medicines, alternative energy, waste management, or any number of technologies. Whatever the size of the business, IP assets may be used to generate revenue in many ways.

Product Enhancement

IP assets represent the protected result of investment in innovation and lead to new products or enhancement in features or performance of existing products. The ability to produce a better or a customized product, especially when competitors do not have such an advantage, is one of the key commercial advantages of IP. This enables the owner of the IP asset to sell a higher volume of products, achieve greater profits, and maintain customer interest over time. In order to be used in this way, IP and IP management must be part of an enterprise's business plan, and IP assets must be integrated into the product strategy. A good example of using IP for revenue growth through product enhancement is the development at Texas Instruments, Inc. of 60 inventions on the basis of the key patent of the microchip (see description of Kilby's Microchip Patent in ***Intellectual Property, A Power Tool for Economic Growth***, by Dr. Kamil Idris, p.108, WIPO Publication No. 888).

Licensing

One of the most dynamic ways that IP is used is through licensing. Licensing is the sharing (or the "renting") of IP through a legally binding contract that specifies certain conditions with another company (the Licensee) in exchange for the payment of royalties. These royalties are usually paid on a percentage of revenues, on each unit sold, or in a lump sum. This arrangement can be attractive for the licensee because he is able to sell a product that he would otherwise be barred from selling, or he will be able to enhance a product that he is already selling with new features and technologies. Licensing can be attractive for the licensor as well because he can reach markets that he may not otherwise be able to reach (because he may not have distribution channels or manufacturing capacity, for example). Licensing may involve a sharing of IP in exchange for payments, or "cross licensing" in which both parties have IP and exchange it. Cross licensing enables parties to collaborate without risk of litigation, and can mean that there is no financial exchange between the parties.

Licenses involving IP are extremely varied and often are part of a larger business relationship (e.g., a research and development joint venture or an agreement to manufacture and sell finished products). Sometimes licenses result from the settlement of a threatened or real litigation where

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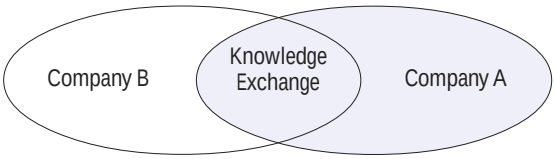
the parties instead of litigation reach a business arrangement that offers a possible "win-win" situation for both sides.



Win-Win Relationship

For some businesses licensing is the primary source of revenue generation. These businesses are effectively in the business of research and product development and, once a technology is sufficiently developed, they hand it over to another company with greater expertise in marketing and distribution. Many semiconductor companies fit this description, designing a semiconductor and then licensing the design to another company for manufacture and distribution. Dolby Laboratories is a well-known example of a sound technology company that has achieved much of its financial success through the licensing of its patented audio technology, which is then incorporated into the products of other companies (see description of Dolby in ***Intellectual Property, A Power Tool for Economic Growth,*** p. 171).

DOLBY DIGITAL®

Dolby and the double-D symbol are registered trademarks of Dolby Laboratories

Increasingly, university and research centers engage in IP licensing. Indeed, according to a study of the Association of University Technology Managers, in 2000, universities and research centers in North America made more than US $1 billion in IP licensing revenues. Columbia University in New York created the Columbia Innovation Enterprise (CIE) Unit in 1983, and since that time has developed more than 400 patents and entered into more than 1,000 licensing agreements. By 2000, CIE's annual revenues from licensing were over US $140 million. (See "From Tech Transfer to Joint Ventures" by Jack Granowitz, interviewed in ***From Ideas to Assets*** by Bruce Berman, Wiley Publishers, 2002.)

Licensing also includes consortium licensing where several companies may join together and place their IP assets into a "pool", agreeing that all consortium members may use the IP that is in the pool. The members may then conduct joint research projects on related technologies without fear of infringement. Sometimes a pool of IP assets is created by a group of companies in order to promote a "standard" or "platform" in order to assure interoperability of related systems. Platform strategies are highly dependent on patents and trademarks. A good example of a platform strategy in use is Microsoft Windows, in which many different companies develop and sell products that operate with Microsoft's operating system. Microsoft's trademark logo and the IP in its operating system are key to maintaining its position as lynchpin of the Windows platform.

MAX HAVELAAR
FAIRTRADE GARANTIE

Joint Ventures and Strategic Alliances

Businesses often form alliances to achieve jointly what is difficult to achieve separately. The legal forms vary, but IP licenses are a common aspect of such ventures. The parties agree to cross license their intellectual property in order to create or manufacture a better product. The IP license is often combined with a development agreement contract whereby the parties divide up responsibilities and IP ownership with respect to research and development of an agreed technology or product. They may also license manufacturing techniques subject to patents; specifications and manuals subject to copyright, as well as industrial designs, and trade secrets. A strategic alliance may also include joint marketing agreements and trademark li-

censes under which the parties share advertising expenses and market products under a common logo.

A strategic alliance may consist of a network of companies and/or research centers that agree to share and leverage resources. See ***www.maxhavelaar.com/*** for an example of the use of a logo to show that all members of an organization comply with certain labor and trade practices. Another example of the use of a trademark as a unifying market force is the Intel Inside slogan and logo. (See ***Intellectual Property, a Power Tool for Economic Growth***, p. 165)

A logo may also be used to show membership in an organization that monitors and may certify quality, for example an association of organic food producers that uses a common logo to show consumers that the products bearing the logo meet certain requirements.

IP Valuation

IP Valuation is essential for business planning and joint ventures, and is important for licensing, acquisitions, mergers, investments, loans, etc. as a key element to determine the monetary worth of an IP portfolio. Although securitization of loan transactions with IP assets is not currently widely practiced, there is already a great deal of interest in the subject in the accounting and financial communities. Some commentators believe that it is only a matter of time before IP based collateral is common. (See Douglas Elliott, "Asset Backed IP Financing", in Berman, ***From Ideas to Assets***) The Small and Medium Sized Enterprise Division of WIPO has published a useful tool on its web pages that provides useful information on IP valuation (see ***www.wipo.int/sme/en/ip_business/).***

Even if securitization of loans with IP is not yet standard in the financial community, it is clear that the quality and quantity of IP assets are taken into account when investment decisions are made. A strong IP asset portfolio, well integrated into a company business plan, will be attractive to an investor because of the potential revenues generated by the IP, and the fact that development of IP assets shows a commitment to innovation and product enhancement. In "due diligence" investigations, where the assets of a company that is subject to possible acquisition are surveyed and audited, the IP assets are generally listed and often evaluated in order to assure that they are legally protected and that contracts have not inadvertently or intentionally transferred them. They are also assessed as to their value in relation to the core business.

Branding and Geographical Indications in Use

IP is a key tool in marketing. A strong trademark or brand can be the cornerstone of a company's marketing strategy. It may also be used by a country as a "location brand" – a way to project the image and promote the products of that country (see Louis T. Wells and Alvin Wint, "Marketing a Country: Promotion as a Tool for Attracting Foreign Investment", Foreign Investment Advisory Service, Washington, D.C., 1990).

Geographical indications are a form of IP that can be effectively used in marketing campaigns. Like trademarks, geographical indications can stimulate demand by projecting positive images and communicating product attributes to the potential buyer. An example of effective use of a geographical indication is Tequila, a Mexican drink that has been protected as a geographical indication since 1977. Its protection as a geographical indication has been a tremendous advantage to the Tequila industry in Mexico, creating jobs and generating export revenues.

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IP assets are used in a dynamic way through product innovation, marketing, branding, networks and consortia, strategic alliances and licensing.

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Commercialization and Marketing

Commercialization and marketing are some of the most important aspects if developing IP assets. The greatest invention in the world, if not marketed effectively, will not create revenues. Despite that, only a small percentage (5 to 7 percent) of all inventions for which patents have been granted reach the commercialization stage. Many countries have created commercialization units that provide marketing, prototyping and incubation services to innovative companies. The Philippines Technology Application and Promotion Institute (TAPI) focuses on helping businesses commercialize their inventions (see ***www.tapi.dost.gov.ph/***). In Singapore, The National University of Singapore Business Incubator (NBI) aims to nurture new business ventures, encourage innovations and develop entrepreneurial skills among staff and students. It provides on-site consultants who help new ventures to develop business plans and set out strategies, network with the financial community, and obtain legal assistance. (For another example of a university based commercialization program, see Virginia Polytechnic Institute's (U.S.A.) KnowledgeWorks website at ***www.vtknowledgeworks.com/commercialization.***)

Incubation centers, technology parks and prototyping centers are places where innovators are assisting in refining and further developing their inventions. The market may dictate that an invention should be modified or further developed. Often inventors are more attuned to technological development than to market needs, and these centers can assist inventors in fine-tuning and testing their ideas.

Building on Culture

IP can be the basis for development of cultural industries such as music, filmmaking and textiles. Using IP assets in a dynamic way means providing protection and support for cultural industries. The Jamaican and the Irish music industries are examples of industries that have grown from local cultural traditions. Industry analysts suggest that the overall earnings for the Jamaican recording industry could be as high as US$300 million (see ***The Caribbean Music Industry: The Case for Industrial Policy and Export Promotion***, Organization of American States, June 2000). Music is Ireland's second biggest export and a recent report on the Irish music industry estimated that such products are worth US$344 million annually to Ireland.

Cultural industries may be based on original designs, textiles, and art, as protected by geographical indications, copyright, and trademarks. Traditional knowledge and the works of indigenous peoples may be the source of derivative inventions that can be protected under patent law. For example, a traditional herbal remedy may be the basis for research and development that leads to innovations relating to its application, use, dose, etc.

Similarly, research and development in technical projects, such as dams, energy sources, agriculture, construction, etc, may all yield IP that can be used to generate revenues. Closely associated with this process is the formation and cultivation of human capital in the form of consultants, experts and researchers who can earn revenues because of their IP related expertise. Human capital is often one of the most practical and effective ways to use IP assets because skills, expertise and confidence are honed in the course of developing inventions and works. Using IP dynamically means finding innovation in every activity and putting such new ideas and human capital to work in practical ways.

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BUSINESS SUCCESS, COPYRIGHT AND THE DIGITAL ENVIRONMENT

The Internet offers the fastest means ever of reproduction and distribution of information. This new environment has created new business models that have presented fundamental challenges to the copyright industries and, in fact, to the copyright system itself. The digital era, the convergence of telecommunication and computer technology, and the emergence of the Internet have brought into question the very definition of terms used in the copyright arena, such as reproduction/copying, publishing, public performance, distribution, broadcasting and communication to the public. The online world – service providers, gateways and networks, content providers and database developers – is facing multiple and complex challenges in applying national copyright legal systems to a borderless and seamless cyberspace.

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) – known together as the WIPO Internet treaties – are seminal initial steps in modernizing international copyright law to take into account the new digital environment. These two treaties set out the legal framework for safeguarding the interests of creators in cyberspace and open new horizons for composers, artists, writers and others to use the Internet with confidence to create, distribute and control the use of their works within the digital environment. The two treaties entered into force in the first half of 2002 after 30 countries joined each of the treaties. A significant number of additional countries are likely to accede to the treaties in the foreseeable future.

Implications for Businesses Using the Web

Copyright also has significant implications for any business that uses standard or customized software products or depends on e-commerce, uses e-mail, or has a website for advertising purposes only. For example, placing a photograph or digital image on a website without the permission of the copyright owner amounts to copyright infringement. Similarly, website owners and website hosting businesses may run into copyright (and trademark problems) with unauthorized framing, hyperlinks and deep links. The source of all text and images to be put up on a website should be reviewed to determine whether the company has the right to put them on its site.

Copyright Implications for Other Businesses

Some countries have responded to the challenge of protecting copyright by introducing a levy or fee on photocopiers, scanners, tape recorders, video cassette recorders, blank audio and video tapes, recordable CDs and other recording media, and on equipment such as tape recorders and CD-writers, which may be used for copying or storage of copyrighted content. The income from such fee systems is distributed to rightsowners, to the extent possible, in accordance with the use of their works, performances and sound recordings on such recording media. In some of these countries, businesses that use recording media for purposes other than reproducing protected works, for example for network back up purposes, are refunded these fees.

Companies should also ensure that the business-related activities of their staff comply with copyright law. For example, it is necessary to establish and strictly monitor a policy against the installation and use of any unlicensed computer programs on the computers of the business. Apart from other potential risks associated with such installation, such as viruses, or the potential for unknowingly installing “spyware” that would

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jeopardize a company's trade secrets, following such a policy also makes sense from the copyright angle. Businesses may be legally liable for contributing to copyright violations or abetting piracy if they allow, or do not prevent, sharing of copyrighted materials such as MP3 music files on their computer systems or servers.

What does the future hold?

Scanning and photocopying have made replication easy, fast, cheap and difficult to detect. The digital environment and the Internet have made the control of copyrighted content by its creators, publishers, distributors and retailers much more difficult than in the past. There is little or no degradation in quality and copies can be transferred from one medium to another with ease. Opportunities for unparalleled distribution have become available to both the copyright owners and the illegal copiers. On the whole, the Internet has not altered the basic concepts of copyright. It has changed the balance between copyright holders and users of copyrighted material, and thereby raised concerns in some circles about the future of copyright law itself.

In response to these challenges, new legal rules, such as those enshrined in the WCT and WPPT, are being translated into national copyright laws, and new technological measures of protection, such as access control mechanisms and copy protection systems, are being created. These systems seek to help businesses regain control by preventing or effectively dealing with theft of valuable content, while at the same time spurring growth of creative expression.

In addition, many businesses have stepped up their vigilance so that they can track copyrighted and protected digital assets anywhere on the Internet to detect misuse, unlicensed usage and unauthorized modification of protected content. Many businesses are proactively building intellectual property strategy into their long-term business plans. They are taking action to enforce their rights, based on stiffer civil and criminal penalties for infringement of copyright, as provided for in national copyright laws. Businesses are also taking measures, such as those prohibiting the circumvention of technological protection used by copyright owners, to control access to their works. They do this by taking legal action to prevent or stop the deletion or tampering with rights management information embedded in or linked to digital works.

Though digital watermarking and technological measures that prevent copying have gained in importance, some problems remain. The privacy of law-abiding copyright users needs to be assured and the possible technological exclusion of acts which have long been considered 'fair use or dealing' or otherwise exempt from the necessity to obtain authorization of the copyrighted owner may distort the balance between the interests of the copyright owners and the users of copyrighted content.

No doubt, technological measures and copyright law will continue to evolve together to maintain an appropriate balance between the needs of businesses relying on copyrighted works and those of the public as consumers or users of such works. At the same time, the acquisition and licensing of protected contents will be facilitated through automated rights management technologies that can give access to, license, monitor and track the exchange of protected works in the digital environment. In this rapidly evolving scenario, having a working knowledge of the basic principles of copyright law before taking expert advice on copyright matters is essential for a growing number of business owners and managers, both as owners and users of copyright material.

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The next article in the IP and Business series will discuss "Licensing Intellectual Property - Advantages and Disadvantages". 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***.

2002 MARKS TURNING POINT IN INTERNATIONAL COPYRIGHT LAW

The entry into force of the WIPO Copyright Treaty (WCT) and the WIPO Phonograms and Performances Treaty (WPPT) in 2002 marked a milestone in the history of

copyright law. The two treaties will ensure greater security for copyright works in cyberspace by providing the legal basis to prevent unauthorized use of these works on digital networks such as the Internet. These two ground-breaking treaties bring copyright law in line with the digital age and promise to open new horizons for composers, artists, writers, performing artists such as singers and musicians, producers, and other businesses, to use the Internet with confidence to create, distribute and control the use of their works within the digital environment.

The WCT and WPPT were concluded in 1996 and became law on March 6 and May 20, 2002, respectively. To date 39 countries have signed on to both the WCT and WPPT. These treaties are of key importance as they will help to boost the future development of the Internet, electronic commerce and the culture and information industries by ensuring the quality and authenticity of digital content. This will enable creators, performers, producers and associated industries to reap the financial rewards of their talent, creativity and investment.

WIPO's focus in 2003 will be to ensure much wider adherence to the treaties and help countries effectively implement the two treaties. Efforts will also center on creating wider public awareness of the treaties and of proper use of protected works on the Internet.

Protection of Performers' Rights

With regard to the issue of protection of performers'rights in their audiovisual performances, WIPO Member States will shortly decide on a possible ***ad hoc*** informal meeting aimed at relaunching international discussions on outstanding issues. The meeting will be open to all WIPO Member States and interested intergovernmental and non-governmental organizations. The Diplomatic Conference on the Protection of Audiovisual Performances in December 2000 made significant progress in shoring up the rights of performers in their audiovisual performances (see WIPO Magazine February 2001).

Performers currently enjoy international protection for their performances under the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention) and under the WPPT, which modernizes and updates these standards to cover use of their performances on the Internet. These conventions, however, grant protection mainly in relation to sound recordings of performances, and they address the audiovisual aspects of performances only to a limited extent.

The successful conclusion of an international instrument for the protection of audiovisual performances would strengthen the position of performers in the audiovisual industry by providing a clearer legal basis for the international use of audiovisual works, both in traditional media and in digital networks. Although the primary beneficiaries of such an agreement are performers – mainly actors and musicians – producers and distributors also stand to benefit through harmonization of protection in different nations, which would facilitate international commerce and the exchange of films and television programs between countries. The making of a film or other audiovisual work today involves contributions

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from many different individuals, often from a variety of countries. Increasingly, film productions that are delivered to cinema and television screens are produced and financed across national borders. Such arrangements underline the importance of creating an international operating environment which balances different interests and defines the intellectual property rights of the parties involved.

Broadcasting Rights

In the field of broadcasting rights, WIPO Member States made progress in international discussions on the rights to be granted to broadcasting organizations in a possible new multilateral treaty which, if adopted, would bring international regulations in this area in line with today's technological developments and market behavior.

Talks to update the intellectual property rights of broadcasters, which are currently dealt with in the 1961 Rome Convention, began in the 1990s. The advent of new types of communication, content, creation, and distribution, especially over the Internet, has necessitated a review and upgrade of existing international standards to ensure an appropriate balance between the different interests of all stakeholders.

While there is agreement on the need to upgrade these rights, differences still exist between Member States on key issues. These differences relate, first, to who should be the beneficiaries, i.e., whether only organizations which broadcast over the air should be given better protection, or whether such protection should be extended to cablecasters and certain categories of webcasters. Second, 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 re-broadcasting, the right to decrypt encrypted broadcasts, and the right to rent fixations of broadcasts to the public.

In addition to fostering progress in the negotiations relating to performers'rights and protection for broadcasting organizations, as well as broadening the membership of the WCT and WPPT, WIPO's activities in copyright in the coming months will also cover issues such as the protection of databases, the responsibility of Internet service providers (ISPs), applicable law in respect of international infringements, voluntary copyright recordation 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 WCT and WPPT.

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IRAN MOVES COPYRIGHT ISSUES TO THE FORE

Copyright has taken on a new importance in the Islamic Republic of Iran, as was demonstrated by the presence of some 200 local participants at a WIPO National Seminar on Copyright and Related Rights held in February. The objectives of the seminar, held in cooperation with the Iranian Ministry of Culture and Islamic Guidance and the University of Tehran, were to describe international copyright protection and its advantages for national cultural, entertainment and information industries.

Iran, whose current copyright law only offers protection to its citizens, has taken major strides toward broader, international, protection of copyright and related rights in recent years. The Minister of Culture, Mr. Ahmad Masjed-Jamei, highlighted these in his inaugural speech:

WIPO National Seminar on Copyrights, Tehran, February 24-26, 2003

- The review, revision, and amendment of national laws related to protecting copyright, with the assistance of WIPO. The draft Copyright law is now ready to be submitted to the Government and Parliament of Iran.
- The establishment of artistic and cultural associations to safeguard the rights of creators of literary and artistic works and to improve mechanisms necessary for effective protection of these intellectual property rights;
- The organization of educational courses and workshops, especially in universities, to help train lawyers for judiciary centers as well as managers and supervisors for cultural and arts centers;
- The ongoing creation of an Office for Literary and Artistic Property at the Ministry of Culture and Islamic Guidance;
- Participation in multilateral negotiations aimed at joining the World Trade Organization (WTO);
- Participation at regional and international forums on intellectual and literary and artistic property to follow the latest developments in the area;
- The founding of a National Committee on Intellectual Property Coordination three years ago to deal at the highest level with harmonizing different aspects of intellectual property, including the intellectual property rights of creators of literary and artistic works.

Minister Masjed-Jamei also reminded the audience that the respect of copyright is deeply rooted in Iranian beliefs and in its ancient culture. He said that the need to prepare the necessary legal and administrative framework to apply intellectual property rights at national and international levels is indisputable. The preparation of such a framework in Iran, he said, is also inevitable.

The seminar covered 15 topics in 22 presentations by Iranian and foreign speakers. The participants, composed of government officials, members of the judiciary, lawyers, students, and representatives of the cultural fields, fully understood the important role they play in protecting intellectual property rights. Book publishers, translators of literary works and others involved in the copyright area acknowledged that the recognition of foreign copyright would change their business, but also recognized the benefits of modifying the copyright system to protect foreign works.

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CONTINUOUS GROWTH IN INTERNATIONAL PATENT APPLICATION FILINGS

For the second consecutive year, the number of international applications received by WIPO under the Patent Cooperation Treaty (PCT) has exceeded the 100,000 mark in a single year. The Organization received nearly 115,000 applications in 2002, representing a 10 percent increase over the number received in 2001.

"Sustained growth in the use of the PCT system is a strong indication of the strategic importance of patents to business," said WIPO Director General Kamil Idris. "Businesses, from multi-nationals to small and medium-sized enterprises (SMEs), can benefit from accumulating IP assets, such as patents, to promote competition and create profitable business opportunities that provide jobs, job training, and human resource development, supply needed goods and services, and increase business and individual income.

"The PCT offers businesses operating in overseas markets a simplified and cost-effective means of obtaining patent protection in multiple countries," said Dr. Idris. " Patents also facilitate technology transfer and investment through creation of a safe environment in which business and further research and development may be conducted."

For the twelfth consecutive year, inventors and industry from the United States of America (39.1 percent of all applications in 2002), Germany (13.4 percent), Japan (11.9 percent), the United Kingdom (5.5 percent) and France (4.3 percent), topped the list of biggest users of the system.

Top countries of origin

Top ten countries of origin (2002 filings)	Number of PCT applications	Percentage share of total
United States of America	44,609	39.1
Germany	15,269	13.4
Japan	13,531	11.9
United Kingdom	6,274	5.5
France	4,877	4.3
Netherlands	4,019	3.5
Sweden	2,988	2.6
Republic of Korea	2,552	2.2
Switzerland and Liechtenstein	2,469	2.2
Canada	2,210	1.9

Of the above-mentioned countries, those that have shown the greatest increase in filings since 2001 were:

Netherlands	(26.1%)
Switzerland and Liechtenstein	(22.8%)
Japan	(14.2%)
Germany	(12.1%)
United States of America	(11.5%)

The top ten firms filing the largest number of international patent applications in 2002 were (in descending order):

Koninklijke Philips Electronics N.V.,
Siemens Aktiengesellschaft,
Robert Bosch GmbH,
Telefonaktiebolaget LM Ericsson,
Matsushita Electric Industrial Co.,Ltd.
Sony Corporation,
Nokia Corporation,
3M Innovative Properties Company,
Bayer Aktiengesellschaft,
The Procter & Gamble Company.

The table below shows the breakdown of PCT applications published in 2002 according to the eight main technical fields of the International Patent Classification (IPC).

Technical fields under the IPC	Percentage share of PCT applications published in 2002
Physics	21.7
Chemistry; metallurgy	19.6
Electricity	18.8
Human necessities	17.0
Performing operations; transporting	13.3
Mechanical engineering; lighting, heating, weapons, blasting	5.9
Fixed constructions	2.4
Textiles; paper	1.3

In 2002, PCT applications were filed in one of the following 21 languages (in descending order by volume of international applications): English, German, Japanese, French, Korean, Chinese, Swedish, Spanish, Russian, Finnish, Italian, Dutch, Norwegian, Danish, Hungarian, Croatian, Czech, Slovenian, Slovak, Turkish and Portuguese.

The PCT and Developing Countries

PCT membership grew in 2002 with the accession of three new states – Nicaragua, Saint Vincent and the Grenadines and Seychelles – all developing countries. Of the 118 Contracting States of the PCT, 64 are developing countries.

WIPO received 5,359 PCT applications from 31 developing countries in 2002 compared with 5,379 international applications from 25 developing countries during the year 2001. Although filings were relatively stable last year, the number of international applications received from developing countries increased by almost 700 percent, from 680 to 5,359, over the last five years.

Among developing countries India recorded the highest increase in PCT filings – 51.9 percent – in 2002. The Council of Scientific and Industrial Research (see box page 16) made an important contribution to that figure, having filed 184 of the 480 PCT applications in India. Mexico also showed an important increase in registrations at 19.6 percent, followed by Singapore (18.8 percent) and the Republic of Korea (10.1 percent).

WIPO continues to work closely with PCT Member States in developing countries to promote use of the PCT system. At the beginning of the year, three WIPO national roving seminars on the PCT were held in South Africa. In 1999 when South Africa acceded to the PCT, it registered 281 international applications; last year that figure was up 407. Participants were particularly keen on learning how to access the valuable information contained in patent documents and on getting information on the PCT SAFE system.

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The Developing Countries (PCT) Division, part of WIPO's Sector for Cooperation for Development, continues to service the need for PCT-related information and training in a large number of countries across the developing world. Use of the PCT for seeking patent protection abroad is expected to further develop in the years ahead as awareness about the PCT grows, and as corporations, R&D institutions and inventors increasingly integrate the PCT as part of their international patent filing strategy.

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Council of Scientific and Industrial Research

The Council of Scientific and Industrial Research (CSIR) is a publicly-funded research and development (R&D) organization in India. It has 38 R&D establishments spread across the country, manned by 10,000 highly-qualified scientists and engineers and 13,000 auxiliary and other staff. CSIR has an annual turnover in excess of US$ 83 million.

Its range of activities covers practically the entire spectrum of industrial R&D. The CSIR laboratories have expertise and infrastructure facilities to conduct R&D in the following areas: aerospace, biology and biotechnology, chemicals, drugs and pharmaceuticals, earth resources, electronics and instrumentation, energy, ecology and environment, food and food processing, housing and construction, information products, leather, machinery and equipment, and minerals, metals and materials.

CSIR is the largest filer of patents originating from India. In the last few years, CSIR has doubled its international patenting activity each year, making it the largest filer of foreign patents in India as well. In 2002, CSIR obtained 100 U.S. patents.

Joint patenting within the system, with industry, other R&D institutions, and universities is picking up in CSIR. Efforts are also being made to encourage web-based marketing of technology and core competence, licensing of patents and other forms of intellectual property. Some of the labs have become pro-active in the international and domestic licensing of their patents. CSIR biotechnology laboratories are now collaborating with the pharmaceutical industry, information technology firms and other agencies to market their knowledge base. In several cases, CSIR laboratories have successfully licensed patents to multinational, local industry and others.

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THE MADRID SYSTEM: MORE BENEFITS FOR MORE USERS

The Madrid System for the International Registration of Marks continued to grow in 2002, with more than 22,000 new international trademark registrations, bringing the overall number of international registrations to more than 400,000. The former Yugoslav Republic of Macedonia acceded to the Madrid Protocol during the year, and the Congress of the United States of America adopted legislation in November, 2002 that paves the way for that country's accession to the Protocol in 2003. The Republic of Korea acceded to the Madrid Protocol early this year, which brings the number of participating countries in the Madrid system to 71.

How it works ?

What can trademark owners, agents and national registration authorities expect from their country's adherence to the Madrid System?

The Madrid System provides a simple, cost-effective and efficient way for trademark owners to ensure protection for their marks in other countries through the filing of a single application with WIPO. While the traditional method of obtaining trademark registration abroad consists of filing a multitude of national applications in different languages following different national procedures, the Madrid System consists of one centralized filing procedure, in one language, with one set of applicable rules and fees paid in one currency.

The international trademark registration procedure is administered by WIPO but retains a strong national component. Important features of the procedure, such as the initial examination of an international application and the examination of the effects of an international registration in the designated countries remain within the competence of the participating national trademark offices.

An international trademark registration does not substitute national trademark rights. The international registration has the effect of a national application or registration in those countries for which an extension of protection was requested. This is obtained in an easy and straightforward manner by ticking one or several boxes on the application form. However, whether the international registration will have effect in the designated countries will depend on the outcome of an examination of the registration by those countries, which retain, of course, their sovereign rights to refuse such an effect on the basis of absolute or relative grounds of refusal. This means that national opposition procedures are also applicable to international registrations.

If the international registration receives full effect in one or several designated countries, the post-registration administration like the recording of changes and assignments or renewals can be made centrally in the international register rather than through individual requests with national trademark administrations. Nevertheless, for questions of enforcement and validity, the competent national authorities remain fully responsible.

Advantages of the Madrid System

Trademark owners have a simple and cost-effective vehicle for filing applications for trademark registrations abroad via a single and centralized filing procedure. The central management of international registrations presents an even greater advantage, as all changes concerning an international mark can be recorded centrally.

Contrary to a common perception, the Madrid System does not favor large multinational corporations. Today, under the Madrid system, there are some 400,000 international trademark registrations in force and 131,000 different holders of such registrations. Over 100,000 such holders are enterprises holding one or two international registrations. This shows that the Madrid system offers an attractive route for small and medium sized enterprises (SMEs) when it comes to protecting their trademarks abroad.

In fact, SMEs can perhaps benefit the most from the advantages afforded by Madrid System. While the Madrid system reduces the costs incurred by multinationals for filing trademarks in multiple countries, they generally

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have resources to pursue alternative channels. However, SMEs often do not have such resources. In these cases reduced costs can enhance profits.

National trademark offices continue to play an important role in the international registration procedure. As applications for international registrations must be based on national trademark applications or registrations, the trademark offices of the countries participating in the Madrid System remain the main partners of trademark owners who file international applications. On the receiving end of the international procedure, trademark offices examine international registrations as to their validity in their respective countries and may issue provisional and final refusals of effect or, as the case may be, declarations of grant of protection. However, international registrations that are sent to designated national offices have already undergone a formal examination, including examination of the classification of goods and services for which the trademark is registered. This greatly facilitates the task of the national receiving offices.

Advice and assistance from national counsel when applying within the Madrid System countries is crucial.

Courtesy: Victorinox Ltd.

If an international registration meets obstacles on the national level, the normal national procedure, including opposition procedures, and the appointment of a national representative, will commence.

Filing statistics from countries that adhered recently to the Madrid System suggest an overall increase of trademark activities in those countries, indicating that membership in the Madrid System generally adds to the national filings, but does not substitute them. It should also be stressed that the Madrid System is not mandatory and that it is up to trademark owners to decide which route to take in order to obtain protection for their marks.

WIPO organizes regular seminars for users of the Madrid System at its Geneva Headquarters, or in cooperation with the national trademark offices of its Member countries. For more information see: ***www.wipo.int/madrid/.***

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Madrid – The Advantage of Simplicity

This article was prepared by Barbara E. Cookson and Nabarro Nathanson of the United Kingdom and originally appeared in a slightly longer version in the INTA Bulletin, the monthly publication of the International Trademark Association, Volume 58, No. 3, February, 2003. The views expressed in this interview are those of the speakers, and do not necessarily represent the views of the World Intellectual Property Organization. Reprinted with permission.

The Madrid Protocol and Madrid Agreement are treaties that give trademark owners in Member States the option to have their marks protected in several countries by simply filing one application with a single office, in one language, with one set of fees, and in one currency. Although the Madrid Agreement has existed since 1891, the signing of the Madrid Protocol on June 27, 1989 and its entry into force on December 1, 1995, contributed greatly to an upsurge in trademark applications in new Protocol countries.

Recently, the ***INTA Bulletin*** interviewed a diverse group of practitioners to gauge how the Protocol has affected the day-to-day practice of a diverse group of corporate counsel. Frank Meixner is from Bayer AG in Germany, which has been using the System since the 1920s. Francois Griesmar is from Groupe Danone in France, which has used the System for the last 30 years. Alan Tilley is with Southcorp Wines Pty Ltd, in Australia and has used the System since Australia's adoption in 2001. Silvia Carné is with Freixenet of Spain, which has used the System since 1965. Vanessa Parker is with Procter & Gamble in France and just recently began using the System.

>> Which office of origin do you use? If you have access to several, are there differences?

> ***Meixner:*** We use the German office. If the Office for Harmonization of the Internal Market (OHIM) joins the Madrid Protocol we may in some cases also use the Community Trade Mark (CTM) as a basis. This would apply especially in cases where OHIM seems to be more liberal than Germany, particularly in respect of trademark applications for isolated colors and slogans.

> ***Griesmar:*** Mainly France but also Benelux for a Belgian subsidiary. We sometimes also use Germany for German text marks – still filing in the name of our French company. There is no difference now.

> ***Tilley:*** Australia. We can access others via local subsidiaries but we choose to retain ownership of all our marks in the name of Australian-registered companies.

> ***Parker:*** France, Germany, Norway and Switzerland, depending on where the subsidiary business is incorporated. I like to use an office outside of the CTM system if we are also filing a CTM to avoid the pointless costs of duplication.

>> What is the biggest advantage of using the Madrid System?

> ***Meixner:*** It is a fast, very easy procedure and cheap, especially in the agreement countries that only charge the 73 Swiss franc complementary fee.

> ***Griesmar:*** It is good value for the price and quick. It is particularly quick and simple to claim priority, as no extra papers are needed. Another advantage is the simplicity of recording transfers and licenses. I think it is really wonderful, very convenient, really fantastic. You have to avoid the delusion that the process is finished when the registration certificate is received.

> ***Tilley:*** Madrid goes in the direction we felt things should go. It is a simplified system in English in your own office and you do not have to deal with a whole raft of other lawyers.

> ***Carné:*** Low costs and ease of administration. Freixenet is present in 150 countries, so using Madrid can cover many of the additional countries. Our trademarks

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include our frosted black and white matte bottles and we have used Madrid to protect these since we have been able to register these 3D marks in Spain. We want to have the same protection in as much of the world as possible.

> ***Parker:*** It is an excellent system; that is why it has survived. It is not a panacea that will solve all those difficult registration problems, but it simplifies the processing. The biggest advantage is the ultimate streamlining of the portfolio. The cost savings really start to kick in on renewal and for corporate restructuring and other portfolio maintenance tasks. I am not convinced that by the time you have gone backwards and forwards with all the refusals that it is less costly overall than national filings. That is simply because you have to get law firms in to deal with provisional refusals.

>> ***Do you see an International Registration as an alternative to a Community Trade Mark (CTM) or do you have both in your portfolio?***

> ***Meixner:*** Plenty of people tell us that the CTM is a wonderful tool that should replace national and International Registrations. However, I doubt that this will eventually happen. This especially applies to trademarks that may seem somewhat descriptive in one Community language. With a CTM we would then risk refusal or loss within the whole EU whereas with an International Registration the risk is limited to the relevant country. We usually apply for a German national trademark and use this as basic registration for the International Registration; additionally we often apply for a CTM on a parallel basis.

> ***Griesmar:*** If the trademark is secure we will not cover the EU countries in the International Registration but instead use a CTM. If I might meet problems in one EU country then I will include the designations. I see a CTM as crowning my existing rights in the EU countries. The CTM tends to leave holes within Europe—Switzerland, Norway, Monaco and the Channel Islands. An International Registration easily fills the first three of those holes so you can really cover Europe. I think the International Registration and the CTM are complementary. Both are useful tools.

> ***Tilley:*** We have both but are tending to make Madrid the first choice more now where feasible. Central attack on a Madrid registration is less of a threat than a central attack on the CTM.

> ***Carné:*** For the moment we have both in our portfolio. I prefer International Registrations over the CTM because the CTM is only for 15 countries and we need to cover more.

> ***Parker:*** I would file both. With enlargement the costs argument favors the CTM. There are other advantages to the CTM too. It is a strong right and I perceive that it is more likely to be respected when it comes up in someone else's clearance search.

>> ***Are there circumstances where you prefer national registrations and why?***

> ***Meixner:*** No, unless we are talking about a brand that is exclusively used in one country.

> ***Griesmar:*** Perhaps for a purely national brand. Even for a Chinese character mark there are other countries such as Japan and Korea besides China that I would want to designate. It is so quick and cheap to file a French mark that an International Registration based on that with even a single designation is attractive. If the brand has a future outside that country then it is cheaper to use subsequent designations.

> ***Tilley:*** Not that I am aware of so far.

> ***Carné:*** Only in cases where we know that it is a brand manufactured exclusively for one country.

> ***Parker:*** Occasionally, for strategic reasons.

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NEW CONTRACTING PARTIES TO WIPO-ADMINISTERED TREATIES IN 2002

An increasing number of countries are recognizing the importance of intellectual property rights in an era in which knowledge and information increasingly drive economic growth. This was reflected in the number of countries that signed on to treaties administered by the World Intellectual Property Organization (WIPO) in 2002. Some 54 instruments of accession to or ratification of treaties administered by WIPO were deposited with Director General Kamil Idris during the year.

Some 54 percent of the accessions or ratifications during the year came from developing countries, with 42 percent coming from countries in transition to a market economy. Developed countries accounted for the rest of the accessions or ratifications.

A significant development during the year was the entry into force of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), on March 6 and May 20, 2002, respectively, which marked a milestone in the history of international intellectual property law.

A summary of the conventions and new adherences follows.

WIPO Convention

The Convention Establishing the World Intellectual Property Organization was signed at Stockholm on July 14, 1967, and entered into force in 1970. WIPO is responsible for the promotion of the protection of intellectual property throughout the world through cooperation among states, and for the administration of various multilateral treaties dealing with the legal and administrative aspects of intellectual property.

In 2002, Djibouti (1) adhered to the WIPO Convention, bringing the total number of Member States to 179.

In the Field of Industrial Property

Paris Convention

The Paris Convention for the Protection of Industrial Property was concluded in 1883 and is one of the pillars of the international intellectual property system. It applies to industrial property in the widest sense, including inventions, marks, industrial designs, utility models (a kind of "small patent" provided for by the laws of some countries), trade names (designations under which an industrial or commercial activity is carried on), geographical indications (indications of source and appellations of origin) and the repression of unfair competition.

In 2002, Djibouti, the Seychelles and the Syrian Arab Republic (3) adhered to the Paris Convention, brining the total number of contracting states to 164.

Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (PCT) was concluded in 1970. The PCT makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application. Such an application may be filed by anyone who is a national or resident of a contracting state. The Treaty regulates the formal requirements with which any international application must comply.

In 2002, Nicaragua, Saint Vincent and the Grenadines and the Seychelles (3) adhered to the PCT, bringing the total number of contracting states to 118.

Madrid Agreement and Madrid Protocol

The Madrid system for the International Registration of Marks (the Madrid system) is governed by two treaties: the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement) and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol).

The Madrid Agreement was concluded in 1891, and the Madrid Protocol was concluded in 1989 in order to introduce certain new features

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into the Madrid system. These features address the difficulties that prevent certain countries from adhering to the Madrid Agreement by rendering the system more flexible and more compatible with the domestic legislation of these countries.

In 2002, the former Yugoslav Republic of Macedonia (1) adhered to the Madrid Protocol, bringing the total number of contracting states to 56.

Trademark Law Treaty (TLT)

The Trademark Law Treaty was concluded in 1994. The TLT aims to make national and regional trademark registration systems more user-friendly through the simplification and harmonization of procedures.

In 2002, Estonia, Kazakhstan, Kyrgyzstan, the Republic of Korea and Slovenia (5) adhered to the TLT, bringing the total number of contracting states to 31.

Nice Agreement

The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks was concluded in 1957. The Nice Agreement establishes a classification of goods and services for the purposes of registering trademarks and service marks. The Classification consists of a list of classes (based on types of products and services) of which there are 34 for goods and 11 for services and an alphabetical list of the goods and services.

In 2002, Georgia and Kazakhstan (2) adhered to the Nice Agreement, bringing the total number of contracting states to 70.

Locarno Agreement

The Locarno Agreement Establishing an International Classification for Industrial Designs was concluded in 1968. The Locarno Agreement establishes a classification for industrial designs which consists of 32 classes and 223 subclasses based on different types of products. It also comprises an alphabetical list of goods with an indication of the classes and subclasses into which these goods fall. The list contains some 6,600 indications of different kinds of goods.

In 2002, Kazakhstan (1) adhered to the Locarno Agreement, bringing the total number of contracting states to 41.

Strasbourg Agreement (IPC)

The Strasbourg Agreement Concerning the International Patent Classification was concluded in 1971. The Strasbourg Agreement establishes the International Patent Classification (IPC), which divides technology into eight sections with approximately 69,000 subdivisions. Each of these subdivisions has a symbol which is allotted by the national or regional industrial property office that publishes the patent document.

In 2002, the former Yugoslav Republic of Macedonia and Kazakhstan (2) adhered to the Strasbourg Agreement, bringing the total number of contracting states to 53.

Nairobi Treaty

The Nairobi Treaty on the Protection of the Olympic Symbol was concluded in 1981. All contracting states are obliged to protect the Olympic symbol (the five interlaced rings) against use for commercial purposes (in advertisements, on goods, as a mark, etc.) without the authorization of the International Olympic Committee.

In 2002, Mongolia (1) adhered to the Nairobi Treaty, bringing the total number of contracting states to 41.

Budapest Treaty

The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was concluded in 1977. The main feature of the Budapest Treaty is that a contracting state which allows or requires the deposit of microorganisms for the purposes of patent procedure must recognize, for such purposes, the deposit of a microorganism with any "international depositary authority," irrespective of whether such authority is on or outside the territory of the said state. This eliminates the need to deposit in each country in which protection is sought.

In 2002, the former Yugoslav Republic of Macedonia and Kazakhstan (2) adhered to the Budapest Treaty, bringing the total number of contracting states to 55.

Geneva Act of the Hague Agreement

The Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs was concluded in 1999. The Act is aimed at making the system more responsive to the needs of users and facilitating adherence by countries whose industrial designs systems do not permit them to accede to the 1960 Hague Act.

In 2002, Estonia, Slovenia, Switzerland and Ukraine (4) adhered to the Geneva Act of the Hague Agreement, bringing the total number of contracting states to 7.

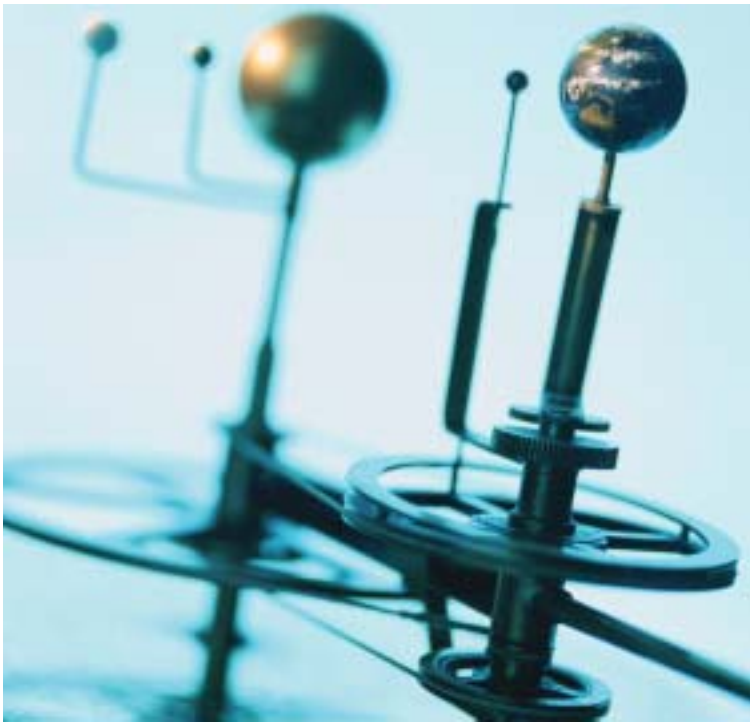
The Act will enter into force three months after six states have deposited their instruments of ratification or accession provided that, according to the most recent annual statistics collected by WIPO, at least three of those states fulfill at least one of the following conditions: (i) at least 3,000 applications for the protection of industrial designs have been filed in or for the state concerned, or (ii) at least 1,000 applications for the protection of industrial designs have been filed in or for the state concerned by residents of states other than that state.

Patent Law Treaty (PLT)

The Patent Law Treaty was concluded in 2000. The purpose of the PLT is to harmonize and streamline formal procedures in respect of national and regional patent applications and patents. With a significant exception for the filing date requirements, the PLT provides maximum sets of requirements which the office of a contracting party may apply: the office may not lay down any other formal requirements in respect of matters dealt with by this Treaty.

In 2002, Kyrgyzstan, Nigeria, Slovakia and Slovenia (4) adhered to the Patent Law Treaty, bringing the total number of contracting states to 5.

The Patent Law Treaty will enter into force three months after ten instruments of ratification or accession by states have been deposited with the Director General.



In the Field of Copyright and Related Rights

Berne Convention

The Berne Convention for the Protection of Literary and Artistic Works was concluded in 1886. The Convention sets out and defines minimum standards of protection of the economic and moral rights of authors of literary and artistic works.

In 2002, Djibouti (1) adhered to the Berne Convention, bringing the total number of contracting states to 149.

WIPO Copyright Treaty (WCT)

The WIPO Copyright Treaty was concluded in 1996. It extends copyright protection to two additional subject matters: (i) computer programs and (ii) compilations of data or other material ("databases") in any form, which by reason of the selection or arrangement of their contents constitute intellectual creations.

In 2002, Guatemala, Guinea, Honduras, Jamaica, Mali, Mongolia, Nicaragua, the Philippines and Senegal (9) adhered to the WCT, bringing the total number of contracting states to 39.

Geneva Convention (Phonograms)

The Geneva Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms was concluded in 1971. The Geneva Convention obliges each contracting state to protect a producer of phonograms who is a national of another contracting state against the making of duplicates without the consent of the producer, against the importation of such duplicates, where the making or importation is for the purposes of distribution to the public, and against the distribution of such duplicates to the public.

In 2002, Armenia and Kyrgyzstan (2) adhered to the Geneva Convention, bringing the total number of contracting states to 69.

WIPO Performances and Phonograms Treaty (WPPT)

The WIPO Performances and Phonograms Treaty was concluded in 1996. The treaty deals with intellectual property rights of two kinds of beneficiaries: (i) performers (actors, singers, musicians, etc.), and (ii) producers of phonograms (the persons or legal entities who or which take the initiative and have the responsibility for the fixation of the sounds). They are dealt with in the same instrument because most of the rights granted by the treaty to performers are rights connected with their fixed, purely aural performances (which are the subject matter of phonograms).

In 2002, Guatemala, Guinea, Honduras, Jamaica, Japan, Kyrgyzstan, Mongolia, Nicaragua, Peru, Philippines and Senegal (11) adhered to the WPPT, bringing the total number of contracting states to 39.

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NEWS ROUNDUP

U.S. Secretary of Commerce in Geneva

WIPO Director General Kamil Idris met with the U.S. Secretary of Commerce Donald L. Evans on January 23 at WIPO headquarters in Geneva. Discussions focused on the importance of intellectual property in today's knowledge-based economy, the work of WIPO and cooperation between the Organization and the U.S.

"We had an excellent meeting which covered issues of interest relating to several aspects of WIPO's work in general," said the Director General. "Secretary Evans and I agreed on the importance of intellectual property as a tool for development in today's increasingly knowledge-based economy."

Secretary Evans said the meeting was very constructive. "I was delighted to have the opportunity to sit down with Dr. Idris to review WIPO's work which is of critical importance not only to the U.S. and its technology – and knowledge-based economy – but to the whole world," he said. Secretary Evans stressed the importance of intellectual property protection to economic and technological development and welcomed the positive collaboration between the U.S. and WIPO.

WIPO Director General Meets with Head of ROSPATENT

WIPO Director General Kamil Idris met on February 27 with Mr. Alexander Korchagin, Director General of the Russian agency responsible for intellectual property, ROSPATENT, to discuss further development of the intellectual property system in Russia and the Commonwealth of Independent States. The meeting also took stock of bilateral cooperation between WIPO and ROSPATENT.

Dr. Idris welcomed the recent adoption by Russia's Parliament of a number of intellectual property laws, prepared in collaboration with WIPO, which bring Russia's national intellectual property system in line with international standards. The Director General said that this is proof of Russia's commitment to modernizing its national intellectual property system. They agreed on the importance of intellectual property as a powerful tool in promoting development in today's knowledge-based economies.

Mr. Korchagin, accompanied by the Deputy Director of Federal Institute of Industrial Property, ROSPATENT, Mr. Valery Djermakian, thanked the Director General for WIPO's continued assistance. He said the unanimous adoption of these laws by the Parliament demonstrated an increasing awareness of the importance of intellectual property in promoting economic growth in Russia. Dr. Idris applauded this development, saying it marked a positive move towards modernizing the intellectual property system in Russia.

Spain Signs MOU to Promote Copyright

Discussions between WIPO Director General Kamil Idris and the Spanish Vice-Minister for Education, Culture and Sport Mariano Zabía Lasala on February 25 focused on the growing economic and cultural importance of copyright industries. Dr. Idris and the Vice Minister also discussed the need to generate greater public awareness of and respect for copyright and related rights at a time when digital technologies have boosted cross-border exploitation of protected works. The meeting concluded with the signing of a memorandum of understanding (MOU) on further cooperation between Spain and WIPO.

Dr. Idris stressed the economic value of copyright industries and said that better copyright management, such as that fostered by the memorandum of understanding, would serve as the basis for developing the many cultural activities associated with and protected by copyright. Copyright laws, he said, provide the framework by which businesses and individuals involved in the cultural industries can make important business decisions and compete fairly.

Mr. Zabía Lasala welcomed the agreement, which he said was a positive step in furthering links between Spain and WIPO. He said that the activities included in the MOU would support the interests of rights' holders in the copyright industries while ensuring an appropriate balance between the interests of the user community and the public at large.

The memorandum, which covers training, public outreach and information exchange, adopts a broad approach to copyright by stressing the importance of the development and management of cultural industries as well as public education and outreach. It also provides a framework within which to promote copyright and related rights. The MOU also seeks to support efforts to develop the copyright and related rights' industries of Latin American and the Caribbean countries.

Photo: Spanish Ministry for Education, Culture and Sport

Spanish Vice-Minister for Education, Culture and Sport Mariano Zabía Lasala

The Vice-Minister and his delegation also met with senior copyright specialists at WIPO to discuss a range of issues including the protection of audiovisual performances, the protection of broadcasting organizations, ***sui generis*** protection of databases and the implementation of the WIPO Copyright Treaty and the WIPO Phonograms and Performances Treaty in Spain.

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CALENDAR of meetings

MARCH 24 & 25
(GENEVA)

WIPO Coordination Committee

The Committee will meet in extraordinary session to consider a nomination received for the post of Director General of WIPO.
Invitations: As members, the States members of the WIPO Coordination Committee: as observers, States members of WIPO not members of the Coordination Committee.

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 7 & 8
(GENEVA)

Seminar on the Madrid System of International Registration of Marks

This Seminar, in French, aims at increasing awareness and practical knowledge of the Madrid system amongst actual and potential users, whether in industry or in private practice.
Invitations: Registration is open to all interested persons, subject to the payment of a registration fee.

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.

APRIL 30 TO MAY 1
(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.

MAY 5 TO 8
(GENEVA)

Standing Committee on Information Technologies (SCIT) - Standards and Documentations Working Group (SDWG) (Third session)

The Working Group will continue its work in the revision of WIPO standards and will receive reports from the different SDWG task forces that have been established for that purpose.
Invitations: As members, the States members of WIPO and/or the Paris Union; as observers, 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 15 & 16
(GENEVA)

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