

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **ADVISORY COMMITTEE ON ENFORCEMENT**

### **Fifth Session**

**Geneva, November 2 to 4, 2009**

**ACTIVITIES OF WIPO IN THE FIELD OF INTELLECTUAL PROPERTY ENFORCEMENT  
INCLUDING THE GLOBAL CONGRESS ON COMBATING  
COUNTERFEITING AND PIRACY**

**FUTURE WORK OF THE ADVISORY COMMITTEE ON ENFORCEMENT (ACE)**

*Document prepared by the Secretariat*

#### **I. ACTIVITIES OF WIPO IN THE FIELD OF INTELLECTUAL PROPERTY ENFORCEMENT**

1. In order for the Advisory Committee on Enforcement (ACE) to review the activities of WIPO in the field of enforcement of intellectual property rights, the Secretariat prepared a summary of activities relating to, or including, IP enforcement issues organized by, or held with the participation of, WIPO. Paragraphs 2 to 14, below, outline these activities. They were undertaken through the WIPO Enforcement and Special Projects Division which serves as the focal point for enforcement activities in the International Bureau, in close cooperation with other WIPO sectors concerned.

A. Consultations with WIPO Member States regarding the work of the ACE

2. At the fourth session of the ACE, in absence of an agreed topic to be considered at its fifth session, the Chair invited Member States to have consultations and to submit to the Secretariat proposals for a topic. Subsequently, the Secretariat received written proposals from various regional Groups, and convened a round of consultations with the Group coordinators in which these proposals, as well as additional ones submitted during the consultation phase, were carefully considered and discussed. In a spirit of compromise, the Groups agreed to the topic “Contribution of, and cost to, right holders in enforcement, taking into account Recommendation No. 45 of the WIPO Development Agenda”. In response to the request by the Asia and Pacific Group coordinator, the Groups further agreed that the agenda of the fifth session of the ACE also includes an item within which to identify and define the elements of an enabling environment for promoting respect for intellectual property on a sustainable basis. Details of the consultation process, as well as the individual proposals of the different regional Groups, are set out in WIPO document WIPO/GA/38/4.

B. International Coordination and Cooperation in the Field of IP Enforcement

3. In the period under review, WIPO continued to coordinate international efforts to effectively fight counterfeiting and piracy, and closely cooperated with other international organizations as well as the private sector in various international enforcement initiatives, focusing on different aspects related to IP enforcement.

*Global Congress on Combating Counterfeiting and Piracy*

4. One important example of international cooperation against counterfeiting and piracy is the “Global Congress on Combating Counterfeiting and Piracy”<sup>1</sup>, a public-private partnership based on a mutual commitment and a recognition that both sectors must work together to find solutions to the problem of counterfeiting and piracy. The Congress is convened by WIPO, the International Criminal Police Organization (INTERPOL), and the World Customs Organization (WCO), in cooperation with the International Chamber of Commerce (ICC), the International Trademark Association (INTA), and the International Security Management Association (ISMA). It has become a prominent international forum for shaping practical strategies to combat counterfeiting and piracy, bringing together political and business leaders and experts from law enforcement, the judiciary, academia and the private sector.

5. The Fourth Global Congress on Combating Counterfeiting and Piracy was held in Dubai, United Arab Emirates, from February 3 to 5, 2008, co-hosted by Dubai Customs and the WCO. The Congress attracted over 1,200 delegates representing 90 countries that shared their experiences and identified concrete actions and solutions to more effectively combat counterfeiting and piracy. The Congress was organized around five themes that consistently have emerged as the key focus areas for concrete actions: cooperation and coordination, legislation and enforcement, capacity building, awareness-raising, and health and safety risks. In addition, special sessions discussed free trade zones and issues of transshipment, and counterfeiting and piracy over the Internet.

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<sup>1</sup> <http://www.ccapcongress.net/>

6. Since, cooperation with INTERPOL, WCO and the private sector has continued, through the Global Congress Steering Group, for the organization of the Fifth Global Congress on Combating Counterfeiting and Piracy, to be hosted by INTERPOL and the Mexican Institute of Industrial Property (IMPI). The fifth Global Congress is scheduled to take place in Cancun, Mexico, from December 1 to 3, 2009. Held for the first time in the Americas, the Congress will build, under the banner “*Bridging Boundaries for Shared Solutions*”, on the outcome of the first four Congresses, and will focus on developing tangible solutions to the current challenges in fighting counterfeiting and piracy globally.

7. The 6<sup>th</sup> Global Congress will be hosted by WIPO. In this regard, it should be noted that the activities of the Enforcement and Special Projects Division are guided by Strategic Goal VI of WIPO - International Cooperation on Building Respect for IP; the objective of Program 17 (Building Respect for IP), namely “[I]nformed and empirically well-founded policy discussions at the international level to support the creation of an enabling environment that promotes respect for IP in a sustainable manner and strengthened capacity in Member States for the effective enforcement of IP rights in the interests of social and economic development and consumer protection;” as well as by Recommendation No. 45 of the WIPO Development Agenda.

8. The expected results, as well as the performance indicators and targets for Program 17, drafted to facilitate the implementation of Recommendation No. 45 of the WIPO Development Agenda, would guide the activities of the Enforcement and Special Project Division towards the integration of building respect for IP in the activities of partner Organizations. It is envisaged that elements identified in the ACE as forming part of an enabling environment to promote respect for IP be integrated into the agenda for the 6<sup>th</sup> Global Congress under the banner “Building Respect for IP.” All interested stakeholders, including civil society, will be invited to participate in the deliberations.

#### *Cooperation with Other Organizations*

9. The advice and input of WIPO has been sought by the Organization for Economic Cooperation and Development (OECD) Advisory Group on Counterfeiting and Piracy. The group continues to work on a project aiming to assess the economic impact of counterfeiting and piracy, and to improve the understanding of their effects on governments, businesses and consumers<sup>2</sup>. In 2008, both phase I of the project, focusing on tangible products that infringe intellectual property rights, and phase II, covering digital piracy, have been completed. The objective of the ongoing Phase III is to study the economic impact of infringements of other intellectual property rights as provided for in the TRIPS Agreement.

10. In the period under review, there further was continued cooperation, including in connection with WIPO’s enforcement-related training and awareness-raising activities between WIPO and the World Health Organization (WHO), the United Nations Economic Commission for Europe (UNECE), the United Nations Conference on Trade and Development (UNCTAD), the IPR Business Partnership Group, and the Business Action to Stop Counterfeiting and Piracy (BASCAP).

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<sup>2</sup> [http://www.oecd.org/document/50/0,3343,en\\_2649\\_34173\\_39542514\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/50/0,3343,en_2649_34173_39542514_1_1_1_1,00.html)

### C. Technical Assistance

#### *Training, Strategic Approaches and Awareness-Raising*

11. At its fourth session, the ACE took note of the considerable number of WIPO expert missions, training and study visits, seminars and workshops, as well as other enforcement-related training and awareness-raising activities. The Committee encouraged the efforts of WIPO and recommended that the Secretariat should continue these activities in cooperation with other organizations and the private sector.<sup>3</sup>

12. In line with the above, and in response to the large number of requests for assistance by Member States, WIPO continued to organize, or participate in, seminars, study visits, colloquia and workshops, each designed to discuss specific issues related to the enforcement of intellectual property rights. These events were attended, in particular, by judges and magistrates, customs and police officials, officials from intellectual property offices, intellectual property attorneys, representatives from the business community, and consumer groups. In many cases, requests for assistance included strategy consultations with the respective authorities. These consultations often concluded with the formulation of a strategic approach to intellectual property enforcement in the Member State, or the group of Member States concerned, aiming to effectively integrate intellectual property issues into national policies and programs designed to strengthen the enforcement infrastructure and institutions. Many events were organized with the assistance of Member States, and/or in cooperation with other intergovernmental organizations and the private sector. A full list of the WIPO enforcement-related training and awareness-raising activities in the period under review<sup>4</sup>, as well as the respective cooperation partners, is reproduced in the Annex to this document.

13. WIPO further undertook a “Comparative study on technical assistance needs relating to the enforcement of intellectual Property Rights (Border Measures) within Oceania”. The report aims to detail the intellectual property enforcement-related needs in this sub-region, including with a view to transshipment issues, and will serve as a basis for the technical assistance that may be rendered there by WIPO. In addition, the findings of the study were discussed in various training events held in other countries.

#### *Legislative Advice*

14. The WIPO Secretariat continued to provide legal advice on legislative reform projects in all areas of intellectual property law, upon request by Member States. This service included the advice on IP enforcement-related legislation, for instance with a view to effective civil procedures and remedies, criminal sanctions and border measures. Depending on the particular request, such assistance also included advice on the compatibility of a particular draft Act with the enforcement-related obligations under the TRIPS Agreement and WIPO-administered treaties, including with a view to flexibilities under those instruments. Member States wishing to explore such assistance are invited to submit their request to the WIPO Secretariat.

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<sup>3</sup> Paragraph 10 of document WIPO/ACE/4/10

<sup>4</sup> From September 2007 to August 2009

#### D. Publications, Exchange of information

15. Following the success of WIPO publication No.791E (WIPO Intellectual Property Enforcement Case Book), its author, the Hon. Justice Louis Harms, Deputy President of the Supreme Court of South Africa, updated its common law part and added references to case law developments in countries within the civil law tradition. The second edition was published in the first quarter of 2009<sup>5</sup>.

16. In the period under review, WIPO continued its activities aimed at providing information on the adjudication of IP-related disputes. Through its website, WIPO facilitates online access to databases of intellectual property case law. In order to further develop this service, WIPO invites members and observers of the ACE to submit additional information, where available.

17. The Enforcement and Special Projects Division also makes available an electronic enforcement newsletter, reflecting information on ongoing developments in the field of IP enforcement at the national and international levels. Members and observers of the ACE are invited to submit to the Secretariat any relevant information which they wish to be included in these newsletters.

#### II. FUTURE WORK OF THE ACE

18. In its first session, the ACE agreed on a thematic approach for its sessions and the inclusion of expert presentations related to the selected theme<sup>6</sup>. In this sense, the second session analyzed and discussed the role of the judiciary and quasi-judicial authorities, as well as of the prosecution, in enforcement activities (including related issues such as litigation costs)<sup>7</sup>, while the third session considered the issue of education and awareness-raising, including training, concerning all factors relating to enforcement, primarily those that are indicated in requests for assistance by Member States<sup>8</sup>. During its fourth session, the Committee examined the coordination and cooperation at the international, regional and national levels in the field of enforcement<sup>9</sup>, and the fifth session addresses the theme “Contribution of, and cost to, right holders in enforcement, taking into account Recommendation No. 45 of the WIPO Development Agenda”.

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<sup>5</sup> WIPO publication 791/2.

<sup>6</sup> Paragraph 16 of document WIPO/ACE/1/7 Rev.

<sup>7</sup> Meeting documents at [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=5662](http://www.wipo.int/meetings/en/details.jsp?meeting_id=5662)

<sup>8</sup> Meeting documents at [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=9964](http://www.wipo.int/meetings/en/details.jsp?meeting_id=9964)

<sup>9</sup> Meeting documents at [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=12802](http://www.wipo.int/meetings/en/details.jsp?meeting_id=12802)

19. Delegations are invited to propose themes, in line with Agenda Item 7, for discussion at the sixth session of the ACE, within the mandate of this body<sup>10</sup>. Delegations may wish to consider, in that context, the proposals submitted by the regional Groups in the consultation process referred to under paragraph 2, above.

*20. The Advisory Committee is invited to take note of the information contained in this document and to consider proposals submitted under paragraph 19, above.*

[Annex follows]

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<sup>10</sup> Paragraph 114(ii) of document WO/GA/28/7 reads: “The mandate of the Committee in the field of enforcement, which excludes norm setting, was limited to technical assistance and coordination. The Committee should focus on the following objectives: coordinating with certain organizations and the private sector to combat counterfeiting and piracy activities; public education; assistance; coordination to undertake national and regional training programs for all relevant stakeholders and exchange of information on enforcement issues through the establishment of an Electronic Forum.”

## ANNEX

## LIST OF WIPO TRAINING AND AWARENESS-RAISING ACTIVITIES IN THE FIELD OF IP ENFORCEMENT, SEPTEMBER 2007 - AUGUST 2009

- Workshop on Enforcement of IPRs in cooperation with the IPO/Police of the Government of Sudan, Khartoum, Sudan, September 2-5, 2007;
- Malaysian Judiciary Annual Conference, Kuala Lumpur, Malaysia, September 9, 2007;
- Seminar on Enforcement of IPRs for Members of the Judiciary, Santiago, Chile, September 10-11, 2007;
- Two National Seminars on the SILK Project (EU-Thai fight against counterfeiting) organized by the Thai-Italian Chamber of Commerce, Bangkok, Thailand, September 10-11 and 12-14, 2007;
- Cooperation with Technical Assistance Information Exchange Office (TAIEX) of the E.U.: Seminar on IPRs, Podgorica, Montenegro, October 4-5, 2007;
- WIPO National Seminar on Enforcement of IPRs for Police Officials, Colombo, Sri Lanka, October 15-16, 2007
- WIPO Roundtable on Cooperation among Law Enforcement Agencies, Colombo, Sri Lanka, October 17, 2007;
- WIPO National Seminar on Enforcement of IPRs for Customs Officials, Colombo, Sri Lanka, October 18-19, 2007;
- WIPO Colloquium for Law Enforcement Officials, in cooperation with the Swiss Federal Institute of Intellectual Property and Swiss Customs, Geneva; Berne; Zurich, October 29-November 2, 2007;
- Fourth Session of the WIPO Advisory Committee on Enforcement (ACE), WIPO, November 1- 2, 2007;
- WIPO National Workshop on Enforcement of IPRs and Public Health, Lilongwe, Malawi, November 7-8, 2007;
- WIPO National Seminar on Intellectual Property for Judges, in cooperation with the Ministry of Commerce & Industry and the Ministry of Justice of Oman, Sultanate of Oman, November 12-13, 2007;
- WIPO/OEPM/EPO Sixth Regional Seminar on IP for Judges and Prosecutors from Latin America, Madrid, Spain November 12-16, 2007; ; Munich, Germany, November 19-23, 2007;
- Regional Conference on Intellectual Property Enforcement, in partnership with the University of Kwazulu, Durban, South Africa, November 20-22, 2007;
- International Conference on Fakes and Globalization: A Challenge to be won, organized by the Italian government, Rome, Italy, December 3-4, 2007;
- WIPO National Seminar for Romanian Judges: Enforcement of IPRs, Bucharest, Romania, December 3-4, 2007;
- *Atelier sous régional OMPI/OAPI/INPI (France) sur l'application des droits de propriété intellectuelle à l'intention des magistrats des pays d'Afrique francophone*, Yaoundé, Cameroon, December 4-6, 2007 ;
- WIPO Asia and the Pacific Sub-regional Workshop on the Effective Enforcement of IPRs, in cooperation with the State IP Office (SIPO) of the People's Republic of China and with the assistance of the Japan Patent Office (JPO), Beijing, China, December 13-14, 2007;
- APEC IPR Workshop on Using Market Research to Develop IPR Campaigns, Singapore, December 12-14, 2007;

- WIPO Colloquium on Intellectual Property Rights for Judges from Thailand, Geneva, December 17-19, 2007;
- WIPO Asia-Pacific Regional Symposium on the Protection and Enforcement of IPRs in Combating Counterfeiting and Piracy, Kuala Lumpur, Malaysia, January 24-25, 2008;
- IPR Business Partnership Meeting, Prague, Czech Republic, January 15, 2008;
- Italian Institute for Foreign Trade (ICE) Intellectual Property Advanced Training Courses, Milan, Italy, February 11, 2008;
- G-8 Intellectual Property Rights Expert Group Meeting, Tokyo, Japan, February 19, 2008;
- Global Secure Summit (Brand Enforcement and Protection), Vienna, Austria, February 22, 2008;
- JPO-WIPO Training Course on the Enforcement of Intellectual Property Rights, Tokyo, Japan, February 25-29, 2008;
- First International Forum on Intellectual Property, organized by the Mexican IP Office (IMPI), the College of Magistrates & Judges of the Judicial Power & the National Copyright Institute (INDAUTOR), Cancun, Mexico, February 26-29, 2008;
- International Chamber of Commerce (ICC) & Business Action to Stop Counterfeiting and Piracy (BASCAP) CEO Global Leadership Group Meeting, New York, USA, March 3, 2008;
- WIPO study visit for Albanian Enforcement Officials, Bucharest, Romania, March 17-21, 2008;
- IPR Business Partnership Meeting, Amsterdam, Netherlands, March 27, 2008;
- G-8 Intellectual Property Rights Expert Group Meeting; consultations with Japanese authorities, Tokyo, Japan, April 10-11, 2008;
- European Commission High Level Conference on Counterfeiting, Brussels, Belgium, May 13, 2008;
- 2008 International Anti-Counterfeiting Coalition (IACC) Spring Conference, Berlin, Germany, May 14-16, 2008;
- Second International IP Crime Conference; Interpol IP Crime Action Group meeting, Halifax, Canada, June 24-27, 2008;
- IPR Business Partnership Group Meeting, UN, Geneva, July 2, 2008;
- United Nations Economic Commission for Europe (UNECE) Meeting of the Team of Specialists on IP (TOS-IP), UN, Geneva, July 2-4, 2008;
- United Nations Conference on Trade and Development (UNCTAD)/International Centre for Trade and Sustainable Development (ICTSD) Conference on the Global IP Enforcement Debate, UN, Geneva, July 17, 2008;
- IPR Business Partnership Group Meeting, London, UK, October 13, 2008;
- IP Rights Enforcement Officer Training in the European region by USPTO, Budapest, Hungary, October 14-16, 2008;
- 16th Meeting of the Interpol Intellectual Property Crime Action Group (IIPCAG), Rome, Italy, October 29, 2008;
- Conference on Brand Protection, Amsterdam, Netherlands, November 4-5, 2008;
- Meeting with the International Publishers Association (IPA), Geneva, March 26, 2009;
- Interregional Judges' Colloquium, Khartoum, Sudan, April 14-16, 2008;
- International High-level Symposium on Judicial Protection of Intellectual Property Rights, Beijing, China, April 15-16, 2008;

- Colloquium on “Professional Practice of Lawyers in and before International Organizations” and “Specialist Course on IP Rights”, Mexico City, April 17-19, 2008;
- G8 Intellectual Property Experts Group (IPEG) Meeting, Rome, Italy, April 27–28, 2009;
- Study Visit from Students of the WTO Course on Economic Policies, Geneva, June 9, 2008;
- WIPO-USPTO Regional Conference on the Law and Enforcement of Copyright, Rabat, Morocco, June 10-12, 2008;
- WIPO-USPTO Seminar on the Law, Policy & Enforcement of Intellectual Property, Abuja, Nigeria, June 24-26, 2008;
- WIPO Back-to-Back National Workshops on the Protection of IP Rights for Enforcement Officials; (1) St Vincent & the Grenadines, June 26-27; (2) Grenada, June 30-July 1, 2008;
- WIPO-WTO Colloquium for Teachers of IP, Geneva, July 9, 2008
- Series of Seminars on Copyright and Related Rights for Judges, Magistrates, Prosecutors and the Judicial Police, Guayaquil, Cuenca, Quito; Ecuador, July 8-11, 2008;
- WIPO-USPTO Consultation Workshop on the Enforcement of IP Rights Within the Southern African Development Community (SADC) in cooperation with the SA Department of Trade and Industry, Pretoria, South Africa, July 10-11, 2008;
- WIPO Academy Summer School on IP, Geneva, July 14-25, 2008
- WIPO Study Visit by Senior Officials from the Sudanese Center for IP Studies, Geneva, September 4, 2008
- WIPO Asia and the Pacific Regional Workshop on Effective Enforcement of IP Rights: Strengthening Border Measures, Bangkok, Thailand, September 8-10, 2008;
- National Seminars “*Observancia de los Derechos de Propiedad Intelectual*” (Enforcement of IP Rights) for Judges and Police Officers, Santiago, Chile, September 9-10, 2008;
- International Conference “Fighting Against Piracy”, Bucharest, Romania, September 16, 2008;
- WIPO Study Visit from the Dubai Chamber of Commerce and Industry, Geneva, September 17, 2008;
- Sub-regional WIPO-INDECOPI-USPTO Seminar on Border Enforcement of IP Rights, Lima, Peru, October 29-31, 2008;
- WIPO Study Visit by High Level Officials from Yemen, Geneva, November 5, 2008;
- Regional Conference on IP Enforcement in the Digital Age, Cairo, Egypt, November 9-11, 2008;
- WIPO Seminar on IP for Journalists, Geneva, November 10-13, 2008;
- Visit by Geneva Master in International Dispute Settlement (MIDS), Geneva, November 18, 2008;
- WIPO Study Visit by High Level Policy Makers from Afghanistan, Geneva, November 20, 2008;
- WIPO-USPTO Sub-regional Symposium on Enforcement of IP Rights, Sofia, Bulgaria, November 27-28, 2008;
- WIPO-SCIPS Training Program on IP for Small and Medium-Sized Enterprises, Geneva, November 28, 2008;
- JPO-WIPO Regional Training Course on the Enforcement of IPRs; Tokyo, Japan, December 8-19, 2008;

- WIPO Malaysian National Seminar on Counterfeit Medicines and Public Health, Kuala Lumpur, Malaysia, December 22-23, 2008;
- Commonwealth consultative Meeting on Cooperation on the Enforcement of Intellectual Property Rights, Belize City, Belize, March 24–26, 2009;
- WIPO National Workshop for the Judiciary, Police and Customs on the Enforcement of Intellectual Property Rights, in cooperation with the State Agency on IP of the Republic of Moldova (AGEPI), Kishinev, Moldova, April 7–8, 2009;
- Study Visit from the State Administration of Radio, Film and Television of China (SARFT), Geneva, April 28, 2009;
- Consultation meetings on EC-WIPO Project to determine the assistance required on enforcement by Bangladeshi authorities, Dhaka, Bangladesh, May 4–7, 2009;
- WIPO Conference on Enforcement of Copyright in cooperation with the Nigerian Copyright Commission (NCC), Abuja, Nigeria, May 5–6, 2009;
- Regional IP Enforcement Program for Southern Africa under the US Department of Commerce with the assistance of the USPTO, in cooperation with the Department of Trade and Industry (the dti), Cape Town, South Africa, May 13–15, 2009;
- Study Visit of High-Level Policy Makers from Nepal, Geneva, June 3–5, 2009;
- Seminar for students from the Washington College of Law, Geneva, June 5, 2009;
- Seminar on Industrial Property, Geneva, June 10–12, 2009;
- Meeting of the IPR Business Partnership, Paris, France, June 17, 2009;
- Study visit of Master of Trainers on Intellectual Property Enforcement from Vietnam, Geneva, June 29, 2009
- WIPO-WTO Colloquium for Teachers of IP, Geneva, July 2, 2009;
- WIPO Summer School, Geneva, July 15, 2009
- APEC-ASEAN-USPTO Workshop on Effective Practices in the Border Enforcement of IPRs, Honolulu, Hawaii, July 20–23, 2009.

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