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COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP)

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THEMATIC PROJECTS

prepared by the Secretariat

1. During the first and second sessions of the CDIP, a number of delegations requested the Secretariat to avoid duplication of activities foreseen to implement the various Development Agenda recommendations and expressed concerns about the lack of information on clear objectives, timeframes and monitoring and evaluation mechanisms for the activities suggested by the Secretariat. Comments were also made about the need for an accelerated discussion on, and implementation of, all the recommendations, as a number of recommendations require agreement on activities before implementation can begin.
2. In order to address the above concerns, and with the intention of implementing the adopted recommendations in an effective and coherent manner, the Secretariat has taken the initiative of grouping recommendations which address the same or similar subject matter and could be implemented jointly through thematic projects. This grouping is largely based upon the cross-references between proposed activities that had been included in document CDIP/1/3. In developing the thematic projects, particular attention has been paid to ensuring that activities that had previously been proposed by the Secretariat for the relevant recommendations in document CDIP/1/3 are included in the proposed projects.
3. Accordingly, the following project documents are submitted to the CDIP for consideration:

(a) Annex I – Intellectual Property (IP) and the Public Domain:
Development Agenda Recommendations 16 and 20;

(b) Annex II – IP and Competition Policy: Development Agenda
Recommendations 7, 23 and 32;

(c) Annex III - IP, Information and Communication Technologies (ICTs) and the
Digital Divide: Development Agenda Recommendations 19, 24 and 27; and

(d) Annex IV - Developing Tools for Access to Patent information:
Development Agenda Recommendations 19, 30 and 31.

4. Subject to the approval of this approach, further thematic projects would be submitted to future sessions of the CDIP for consideration and approval.

5. The estimated cost for the four thematic projects is Sfr.5,109,000 of which Sfr.3,031,000 relate to non-personnel costs and Sfr.2,078,000 to the personnel costs, pertaining to current WIPO staff that will be devoted to the implementation of these projects. The non-personnel resources required for implementation of the approved projects would be made available via the 2010-11 Program and Budget.

6. The Committee is invited to consider the suggested thematic projects approach and to consider and approve the project documents in the annexes to this document.

[Annex I follows]

ANNEX I

DEVELOPMENT AGENDA RECOMMENDATIONS NOS. 16 AND 20

PROJECT DOCUMENT

1. SUMMARY	
Project Code:	DA_16_20_01
Title:	Intellectual Property and the Public Domain
Development Agenda Recommendation(s):	<p>Recommendation 16 (Cluster B): Consider the preservation of the public domain within WIPO's normative processes and deepen the analysis of the implications and benefits of a rich and accessible public domain.</p> <p>Recommendation 20 (Cluster B): To promote norm-setting activities related to IP that support a robust public domain in WIPO's Member States, including the possibility of preparing guidelines which could assist interested Member States in identifying subject matters that have fallen into the public domain within their respective jurisdictions.</p>
Project Budget:	<p>Non-personnel costs: Sfr.385,000</p> <p>Personnel costs: Sfr.380,000</p>
Project Duration:	24 months
Key WIPO Sectors Involved and Links to WIPO Programs:	<p>Patent Division; Copyright and Related Rights Sector; Sector of Trademarks, Industrial Designs and Geographical Indications; Global IP Issues Division; and Development Agenda Coordination Division</p> <p>Links to WIPO Programs 1, 2, 3, 4, 8 and 14.</p>
Brief Description of Project:	<p>Identifying subject matter that has fallen into the public domain, and preventing subject matter that is in the public domain or under a common or communal proprietorship from individual appropriation, is a key challenge for firms, individuals and Member States, worldwide. With a view to addressing the concerns raised under Recommendations 16 and 20, this project is divided into four components that will address the issue from the perspective of copyright, trademarks, patents and traditional knowledge (TK). Recognizing the importance of the public domain, the project will comprise a series of surveys and studies that will analyze good practices and the currently available tools for identifying content that is in the public domain and to preserve such content from individual appropriation. The surveys and studies should facilitate the planning of the subsequent steps of possible preparation of guidelines and/or possible development of tools to facilitate the identification of and access to public domain subject matter.</p>

2. PROJECT DESCRIPTION

2.1. Introduction to the Issue/Concern

The support for, and the preservation of, the public domain requires a clear identification of subject matter that has fallen into the public domain, of what should remain in the public domain, and of what is protected by IP rights. The distinction is a key challenge for firms, individuals and Member States, worldwide. At the moment, for various reasons outlined below, the public does not always have effective tools which provide easy access to the updated public record for verifying the validity of relevant IP rights. With a view to addressing the concerns raised under Recommendations 16 and 20 both of which have the same root of challenges, and based on discussions at the previous sessions of the CDIP, this project will be divided into four components that will address the issue from the perspective of copyright, trademarks, patents and traditional knowledge.

Component (1) Copyright and Related Rights:

Uncertainty over copyright ownership and status of works may result in works not being made available to the public, even where no living person or legal entity is asserting claims to ownership of copyright, or where the owner has no objection to such use. With respect to works of unknown authorship or in respect of which the owner cannot be identified (“orphan works”), uncertainty can undermine the economic incentives to create, imposing additional costs on subsequent user/creators wishing to incorporate material taken from existing works into new creations. In recent years, commentators have highlighted the importance of registration of copyright and related rights in the evolving digital environment, beyond its traditional functions of facilitating the exercise of rights, for example, as a means to prove the existence and/or ownership of a work, and to identify works that have fallen into the public domain. In relation to copyright registration systems, the role of rights management information (RMI) has tremendous potential for identifying and locating content. RMI is increasingly used in the networked environment, which helps users to customize their searches, find the content they are seeking, and where appropriate enter into licensing agreements with right owners. Understanding how different registration systems function (both those established in the public sector as well as the emerging private ones) will thus prove useful in order to identify works that have fallen in the public domain. In addition, it is important to understand how different jurisdictions, define the public domain, directly or indirectly, and to identify the existing initiatives and tools, technical and legal, which can facilitate access to, use, identification and location of public domain material.

Surveys and studies proposed for the Development Agenda should be able to take advantage of work which has already been undertaken by WIPO for different purposes in the area of registration of copyright works, such as a Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights (SCCR 13/2) undertaken at the request of Member States, in November 2005, and the WIPO Seminar on Rights Management Information which took place in 2007.

Component (2) Trademarks:

IP rights in distinctive signs, such as trademarks, confer exclusive rights over those signs, provided that particular conditions for protection are met. Typically, those conditions concern the distinctive character of the signs for which an exclusive right is claimed. Generally speaking, the refusal of trademark protection of certain signs for those reasons is referred to as “absolute grounds of refusal” (although this terminology is not being necessarily used by all existing trademark laws). Trademark registration procedures usually address this issue through *ex officio* refusals of trademark applications consisting of non-registrable signs, through the possibility of post-grant invalidation procedures or different third party interventions, such as opposition or observation procedures. Nevertheless, problems can arise in situations where the appropriation of such signs occurred in an abusive manner. Examples for such practices are bad faith registration of trademarks incorporating signs that are descriptive terms or that are functional, or the appropriation of signs that are part of a common

communal heritage or patrimony, such as sacred signs, signs of cultural significance, or geographically descriptive signs. To preserve the public domain in the area of distinctive signs, understanding what tools and practices are currently used by Trademark Offices should be useful to the consideration of further projects.

Component (3) Patents:

One of the essential elements of the patent system is the public disclosure of patent information, which includes both technical and legal information relating to patents. Information dissemination policies, the legal framework and the technical infrastructures all play an important role in supporting access to and use of publicly available patent-related information and in facilitating the identification of technology that is in the public domain. In the context of the Standing Committee on Patents (SCP), WIPO has developed a preliminary study on “Exclusions from patentable subject matter and exceptions and limitations to the rights” and “dissemination of patent information” (SCP 13/3 and 13/5), which address, *inter alia*, the role of the patent system in the identification, access and use of technology that is in the public domain. For instance, as explained in the study on dissemination of patent information, the public domain in relation to patent law consists of knowledge, ideas and innovations over which no person or organization has any proprietary rights. Subject matter in the public domain with respect to patents could be identified by confirming the absence of legal restrictions on use (i.e., exclusion from patent protection under applicable laws), the rejection of a patent application, the expiration of patent protection, non renewal, revocation or invalidation of a patent. However, in practice, it is hard for the public to identify the validity of relevant patents due the lack of effective tools in many jurisdictions such as patent legal status databases accessible to the public.

Component (4) Traditional Knowledge:

There are forms of traditional knowledge which are already readily accessible by individuals well beyond the original community or custodians of knowledge, and so in a technical sense may be considered to be part of the “public domain”. Yet patent search and examination authorities are often not aware of this knowledge and may not systematically take account of it in assessing the validity of patent applications. This situation has led to concerns that inappropriate patent rights may be taken out on elements of such traditional knowledge. In turn, this has led to initiatives to pre-empt such patents and to preserve relevant public domain use entitlements through ‘defensive protection’ measures.

In this context, defensive protection refers to both legal and practical/administrative measures taken to pre-empt or reverse the grant or exercise of patents over traditional knowledge, where the claims of these patents inappropriately cover traditional knowledge that is ineligible for patent protection by virtue of its origin apart from the claimed inventor and its public availability. One such measure is the creation of national traditional knowledge databases that include information on traditional knowledge in languages and formats that can be used by patent search and examination authorities to pre-empt or reverse the grant of patents over knowledge that is in the public domain. The Traditional Knowledge Digital Library (TKDL) developed by India is a leading example in this respect.

2.2. Objectives

The overall project objective is established by Recommendations 16 and 20 of the WIPO Development Agenda. In particular, the project will focus, as a first step, on the second part of Recommendation 20, namely, analysing the various tools available for identifying and accessing subject matter that has fallen into the public domain, and wherever possible suggest or work towards the development of new tools or guidelines in this respect in order to enhance access to the public domain and preserve knowledge that is already in the public domain.

2.3. Delivery Strategy

In order to achieve the objectives indicated above, a series of studies, surveys, pilot and feasibility tests will be undertaken by the Secretariat. This may be the first step in the implementation of the Recommendations, which will enable Member States to get an initial understanding of the subject under consideration. The studies will analyze the various tools that are available for identifying subject matter that is in the public domain, and consider whether further action is required in any field to enhance the capacity of actors to identify material in the public domain. Depending on the findings and conclusions of the studies, Member States may decide on additional activities that might be undertaken to meet the concerns of the Recommendations:

(1) Copyright:

1.1. Second Survey on Voluntary Registration Systems. The new survey would expand on the 2005 Survey in at least four different respects, namely, (i) enable scrutiny of the operational requirements for voluntary registration/recording in the digital environment; (ii) include information on how Member States with voluntary registration systems address the issue of orphan works in those systems; (iii) solicit information on recorded/registered public domain subject matter; and (iv) include a greater number of countries and a broader regional balance.

1.2. Private Copyright Documentation Systems and Practices. This would cover the use of copyright documentation in the form of RMI by entities such as collective management organizations or the Creative Commons system, and would examine how these systems identify, or might contribute to identifying, content that is protected or in the public domain. In the context of the preparation of the study, a Seminar on Rights Management Information and Recordation would be organized.

1.3. Scoping Study on Copyright and Related Rights and the Public Domain. The scoping study would include an illustrative comparison of national legislation that directly, or indirectly, defines the public domain (as far as copyright is concerned), a survey of initiatives and tools, technical and legal, which facilitate access, use, identification and location of public domain material, and, finally, recommendations for further work to be undertaken by WIPO in regard to the public domain as far as copyright is concerned.

(2) Trademarks:

Study on bad faith appropriation of distinctive signs and possibilities to prevent such practices. The proposed study would analyze the situation in a representative number of Member States by looking at the applicable legal provisions, primarily in trademark law, and researching reported cases of alleged bad faith registrations of trademarks. The findings of the study could form the basis for further consideration and deliberation as to whether concrete action needs to be undertaken in that area. The study would be prepared by a consultant with contributions from a number of regional consultants.

(3) Patents:

3.1. Study on patents and the public domain: It is proposed to undertake a study that would focus on patents and the role of patent information in the identification, access and use of public domain material. As mentioned above, a preliminary study on the dissemination of patent information (which has, *inter alia*, addressed the public domain issue) and another study on exclusions from patentable subject matter and exceptions and limitations to the rights were prepared for the SCP and will be a useful basis for preparing a specific study focusing on the public domain. The specific study will be useful to further deepen the analysis of patent information and certain provisions of the patent system as a tool and basis for identifying and claiming subject matter that has fallen in the public

domain. The study would focus particularly on legal status information to identify off-patent technology.

3.2. Feasibility Study: The Study will analyze the feasibility of WIPO supporting IP Offices that wish to establish a national database containing the legal status of national patents so that the register may enhance the public access to information necessary for identifying inventions in the public domain. The study includes also the possibility of creating a global portal in PATENTSCOPE® linking to those patent registers.

(4) Traditional Knowledge

Pilot Exercise for the Establishment of a Traditional Knowledge Database. The pilot exercise will lead to the establishment of a national traditional knowledge database in one country for the purpose of defending disclosed traditional knowledge (that is already in the public domain) from being patented by un-entitled parties. This will require the development of a methodology for the development of national TK databases that could be replicated in other countries. Based on the lessons learnt from the pilot phase, the methodology would be refined and further developed for its possible use in other Member States.

3. REVIEW AND EVALUATION

3.1. Project Review Schedule

A mid-term review will be undertaken after one year, which will be the basis for reporting on progress to the CDIP.

3.2. Project Self-Evaluation

In addition to the project self-evaluation, an independent evaluation may also be undertaken for the project

Project Outputs	Indicators of Successful Completion (Output Indicators)
1.1. Second Survey on Voluntary Registration Systems	Reasonable number of replies to the questionnaire from Member States enabling a meaningful analysis by the Secretariat; Completion of the paper within the established timeframe and the quality required by the terms of reference (TORs) for presentation to the CDIP; and Feedback from Member States on the paper when presented to the CDIP.
1.2. Survey of Private Copyright Documentation Systems and Practices	Completion of the paper within the established timeframe and the quality required by the TOR for presentation to the CDIP; and Feedback from Member States on the paper when presented to the CDIP.
1.3. Scoping Study on Copyright and Related Rights and the Public Domain	Completion of the paper within the established timeframe and the quality required by the TOR for presentation to the CDIP; and

	Feedback from Member States on the paper when presented to the CDIP.
2. Study on bad faith appropriation of distinctive signs and possibilities to prevent such practices	Completion of the study within the established timeframe and the quality required by the TOR for presentation to the CDIP; and Feedback from Member States on the study when presented to the CDIP.
3.1 Study on patents and the public domain	Completion of the paper within the established timeframe and the quality required by the TOR for presentation to the CDIP; and Feedback from Member States on the study when presented to the CDIP.
3.2. Feasibility study on creation of a national patent register database and linkage to PATENTSCOPE®	Completion of the study within the established timeframe and the quality required by the TOR for presentation to the CDIP; and Decision taken on the basis of conclusions reached by the Study.
4. Pilot National TK Database	National TK database completed; and Methodology ready for being implemented in other countries.
Project Objective(s)	Indicator(s) of Success in Achieving Project Objective (Outcome Indicators)
Enhanced understanding of the available tools for identifying subject matter that has fallen into the public domain	Quality of discussion among Member States on the studies/tools/surveys developed; and Feedback by Member States on the extent to which the outputs have met the concerns addressed in the Recommendation.
Identification of new tools or guidelines to be developed on the basis of findings of studies	List of tools and guidelines for possible development by WIPO in the specified areas, to be made available at the end of the project for evaluation by Member States.

4. IMPLEMENTATION TIMELINE

ACTIVITY	QUARTERS									
	2009*		2010				2011			
	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4 th
1.1. Second Survey on Voluntary Registration Systems	X	X	X	X						
1.2. Survey of Private Copyright Documentation Systems			X	X	X	X	X	X		
1.3. Scoping Study on Copyright and the Public Domain	X	X	X							
2. Study on Bad Faith Appropriation of Distinctive Signs			X	X	X	X	X	X		
3.1 Study on Patents and the Public Domain			X	X	X	X	X			
3.2. Feasibility study on creation of a national patent register database and linkage to PATENTSCOPE®			X	X	X	X				
4. Pilot National TK Database			X	X	X	X	X	X		
REVIEW SCHEDULE					X					

* Activities foreseen for 2009 are of a preparatory nature requiring no financial resources.

5. BUDGET

5.1. Project Budget for the 2010/2011 Biennium (non-personnel costs)

	TOTAL (Swiss Francs)
<i>Travel and Fellowships</i>	
Staff Missions	25,000
Third-party Travel	30,000
Fellowships	
<i>Contractual Services</i>	
Conferences	30,000
Experts' Honoraria	240,000
Publishing	
Others	60,000
<i>Equipment and Supplies</i>	
Equipment	
Supplies and Materials	
TOTAL	385,000

6. SUPPLEMENTARY INFORMATION FOR THEMATIC PROJECTS

1. Linkages to activities contained in document CDIP/1/3 for Recommendation 20

This Project Document is based on the activities suggested by the Secretariat for Recommendation 20 in Document CDIP/1/3. It reflects the modifications requested by Member States during discussions and includes some additional components.

Copyright: the copyright component of this project draws from the discussions that took place at the second session of the CDIP, in which changes were requested to the initial suggestions made by the Secretariat.

Trademarks: the trademark component remains as included in document CDIP/1/3 and additional information on this component is provided in this document.

Patents: the patent component reflects the changes requested during the second session of the CDIP, and includes some additional activities that are proposed to be undertaken by the Secretariat, including a feasibility study on the inclusion of information on legal status in the databases of national patent offices and PATENTSCOPE®.

Traditional Knowledge: in the field of traditional knowledge, document CDIP/1/3 referred to the “*development of practical tools to ensure that public domain traditional knowledge and genetic resources are not the subject of inaccurately granted patents*”, without providing guidance about the nature of the tools . The project document suggests that the main tool would be the development of a methodology or guidelines for the establishment of National Traditional Knowledge Databases (NTKD), and that a pilot project would be undertaken in one country applying the methodology.

2. Linkages to activities contained in document CDIP/1/3 for Recommendation 16

Copyright: in the field of copyright, document CDIP/1/3 referred to the first WIPO Survey on Voluntary Registration Systems and mentioned the possibility of intensifying that work. The Project Document proposes the elaboration of a second survey which will provide additional information on more countries that would be particularly relevant to the issue of the public domain. Similarly, the document referred to the Seminar on Rights Management Information (RMI) that took place in September 2007. The Project takes this line of work a step further, proposing a Survey of Private Copyright Documentation Systems and Practices that would cover the use of copyright documentation in the form of RMI by entities such as collective management organizations.

Trademarks: the document refers to activities undertaken under the SCT but no new activities were proposed. The study proposed in this project document, is closely related to the issues mentioned in CDIP/1/3.

Patents and Traditional Knowledge: the document makes reference to the work under the SCP and the IGC, which will continue its course on the basis of Member State requests in those WIPO bodies, while taking into account the need to “*consider the preservation of the public domain*” in such normative processes.

[Annex II follows]

ANNEX II

DEVELOPMENT AGENDA RECOMMENDATIONS NOS. 7, 23 AND 32

PROJECT DOCUMENT

1. SUMMARY	
Project Code:	DA_7_23_32_01
Title:	Intellectual Property and Competition Policy
Development Agenda Recommendation(s):	<p>Recommendation 7 (Cluster A): Promote measures that will help countries deal with intellectual property related anti-competitive practices, by providing technical cooperation to developing countries, especially LDCs, at their request, in order to better understand the interface between IPRs and competition policies.</p> <p>Recommendation 23 (Cluster B): To consider how to better promote pro-competitive intellectual property licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs.</p> <p>Recommendation 32 (Cluster C): To have within WIPO, an opportunity for exchange of national and regional experiences and information on the links between IPRs and competition policies.</p>
Project Budget:	<p>Non-personnel costs: Sfr.430,000</p> <p>Personnel costs: Sfr.640,000</p>
Project Duration:	24 months
Key WIPO Sectors Involved and Links to WIPO Programs:	<p>Patent Division; Copyright and Related Rights Sector; Sector of Trademarks, Industrial Designs and Geographical Indications; Technical Assistance and Capacity Building Sector; and Development Agenda Coordination Division.</p> <p>Links to WIPO Programs 1, 2, 3, 8 and 9.</p>
Brief Description of Project:	<p>In order to promote a better understanding of the interface between intellectual property and competition policy, particularly in developing countries and countries with economies in transition, WIPO would undertake a series of studies that would analyze recent practices, legal developments, jurisprudence and legal remedies available in selected countries and regions, with a focus on issues relating to IP licensing. In addition, a series of sub-regional seminars and Geneva-based symposia will be organized as fora for exchange of experiences in this field. WIPO's licensing training programs will include a component on the pro-competitive aspects of licensing and anti-competitive licensing practices, and a Global Meeting will be organized on Emerging Copyright Licensing Modalities. The studies and the proceedings of a number of meetings will be published. A Guide on Franchising will also be elaborated.</p>

2. PROJECT DESCRIPTION

2.1. Introduction to the Issue/Concern

The interface between the intellectual property system and competition policy has attracted increasing attention in recent years, as intellectual property rights have gained increasing importance in the knowledge economy and a number of countries have established or enhanced the role of national authorities entrusted with competition policy. While the literature on the interface between intellectual property and competition policy generally, and more specifically in relation to licensing, is well-developed, analysis has generally focused on the experience of a few developed countries, and there is scope for analyzing how the issue is being addressed in other jurisdictions, particularly in developing countries and countries with economies in transition, for the benefit of Member States who might be able to draw lessons from the experiences of other countries.

One key area of interaction between IP and Competition policy is in relation to licensing agreements between private parties. Licensing is a mechanism used by IP right-holders to authorize others to use their IP under agreed terms and conditions. Licensing agreements may be concluded for a variety of purposes and may be useful instruments for the transfer of technology between parties and, more generally, for the dissemination of technology, creative works and other subject matter protected by IPRs. However, under certain circumstances, licensing agreements may have an anti-competitive effect in the marketplace, and many countries have developed mechanisms to deal with such instances.

In recent years, Member States and stakeholders have shown an increasing interest in licensing practices that are emerging in the new technological environment, for example, how certain territorially-limited licensing practices in the field of collective management of copyright may have anti-competitive effects. The emergence of new licensing practices appear to reflect the development of new models of collaborative innovation and creativity. In the field of copyright, for example, this has resulted in a new, more dynamic position of the user in the network environment, which is no longer considered as a mere passive recipient of creativity but as a creative agent itself.

WIPO's prior work in this area:

The interface between IP and competition law has increasingly attracted the interest of Member States and has recently been included as a topic in a number of WIPO meetings and seminars. For example, a number of recent WIPO meetings organized in Latin America, have dedicated full sessions to IP and Competition Policy. In October 2008, the WIPO Asia-Pacific Regional Seminar on Intellectual Property Rights and Competition Policy, held in Daejeon (Republic of Korea) was entirely devoted to the issue. In the context of WIPO's legislative assistance, WIPO has, where so requested, addressed the inclusion of competition-related provisions in industrial property laws. Such inclusion has been primarily on two different levels: (1) the definition of the scope of rights and obligations under intellectual property, including appropriate limitations and exceptions; and (2) the establishment of systems to address anti-competitive practices by means of the use of intellectual property mechanisms (e.g. compulsory licenses). Information on WIPO's technical and legal assistance on this issue is available in document CDIP/2/INF/5.

Licensing has been an important area of work for WIPO for many years. In recent years, WIPO has developed a series of tools, training kits and flexible interactive training programs in the area of licensing, tailored to the needs of Member States, particularly developing countries and countries with economies in transition. In particular, the "Successful Technology Licensing" training program has been conducted in a large number of Member States, with a view to enhancing the capacity of institutions to negotiate licensing agreements.

Over the past few years, WIPO has also issued a number of publications on licensing including, in particular, a *Guide on the Licensing of Copyright and Related Rights* (Publication No. 897), *Successful Technology Licensing* (Publication No. 903) and *Exchanging Value – Negotiating*

Technology Licensing Agreement: A Training Manual (Publication No. 906).

To the extent that anti-competitive practices may operate in a unilateral manner (as opposed to licensing and assignment agreements) by means of the leveraging of IP owners' market power, where it exists, more research work is required in this area.

2.2. Objectives

The objective of this project is established by recommendations 7, 23 and 32, of the WIPO Development Agenda. Taking into account the proposed activities in Document CDIP/1/3, the project will aim at enabling policy-makers, particularly in developing countries and LDCs, to better understand the interface between IPRs and competition policies; promote pro-competitive intellectual property licensing practices; and provide an opportunity for the exchange of national and regional experiences and information on the links between IPRs and competition policies.

2.3. Delivery Strategy

The project will include seven components:

- (i) Introducing the Issue in WIPO Training Programs on Technology Licensing: Introduction of a specific, but descriptive and factual, part on licensing, anti-competitive licensing practices and other competition aspects into the WIPO training programs on technology licensing, with a view to making available more focused information on the pro-competitive aspects of licensing as a tool for fostering innovation and technology transfer, and on licensing practices that can be considered as anti-competitive. As a first step, the issue would be incorporated as a regular item into WIPO's technology licensing programs. In addition, the toolkit and publication used for the training programs will be updated in order to include this issue.
- (ii) Studies on IP and Competition in Selected Countries and Regions: A series of studies on recent developments concerning the interface between intellectual property rights and competition policy will be undertaken. The focus will be primarily on the pro/anti-competitive effects of different licensing provisions and will analyze recent practice, legal developments, jurisprudence and legal remedies in this respect in different countries and regions. The studies could also analyze the interaction of agencies dealing with the two legal areas – IP and competition law – in different countries.
- (iii) Meetings on IP and Competition at the Regional Level: Following the first regional meeting on IP and Competition held in Daejeon, Republic of Korea, in October 2008, similar meetings would be held in other regions or sub-regions, upon the request of Member States. The purpose of those meetings would be to explore the interface between IP rights and competition policy and understand the different approaches towards the issue in an objective and factual manner.
- (iv) Global Meeting on Emerging Copyright Licensing Modalities: This two-day meeting would gather in Geneva an array of stakeholders who are implicated by copyright licensing practices. Taking into account the rapid developments in regard to online uses, and the ways in which older and newer forms of licensing are increasingly interacting with each other (e.g. the rise of open-access scientific publishing, the development of mixed software platforms, where proprietary and open source software are combined in the same technology or application), it is proposed to convene a Global Meeting on Emerging Copyright Licensing Modalities in order to examine new challenges in this area, including from a competition standpoint. Multiple issues flow from the different licensing practices, which would be useful to examine, such as the compatibility between traditional copyright licenses and newer forms of licensing, including the competitive impact of territorially-limited versus multi-jurisdictional licenses, in order to identify potential problems. Therefore, there is work to be done in terms of collecting /gathering the facts concerning different copyright licensing practices, describing

and analyzing them in a manner useful to Member States. The Global Meeting would be a useful first step in this respect.

(v) Organization of Geneva-based Symposia on Emerging Challenges over the Anti-Competitive Use of IP: A half-day symposia would be organized at WIPO headquarters to discuss in depth certain practices that are emerging from new business models and new economic circumstances. Other issues would also be scrutinized, such as: restraining courts' authority to automatically issue injunctions in the event of IP infringement; the technical bundling of computer programs as a way of fencing-off competition; and the recurring issue of exhaustion, in its diverse modalities. This type of meeting is cost-effective to the extent that experts from the private sector could be self-financed. The symposia would target Geneva-based diplomats, industry representatives, and a number of relevant NGO's. As participation in these Symposia would be necessarily limited, the Secretariat could open a forum on the Internet, preceding each symposium, with the purpose of collecting broader views and positions about each specific topic. Those views and positions would be summarized and presented to the participants of each Symposia.

(vi) Elaboration of a survey and development of a Guide on Franchising: Franchising is seen as a very effective model for triggering new business opportunities in developing countries, and it is actually a thriving business in a number of countries. A Guide on Franchising would look not only at the general IP aspects of that sort of contractual relationship, but would also examine potential antitrust implications. Its development would be preceded by a survey of practices in Member States. The purpose of the survey is to identify general trends and common solutions, particularly as far as the interface between franchising agreements and competition policy is concerned. The Guide would reflect prevailing practices in that particular field and comment on them. This Guide would build on previous WIPO works on franchising, and the Guide to be issued would be rather an expansion and updating of WIPO publication No. 480(E), with a special focus on antitrust-related provisions and clauses.

(vii) Publication of studies and proceedings of relevant meetings: Publications will be preceded by a review of contents in order to assess convenience, opportunity and quality. It is foreseeable that not all meetings will produce material for publication, and therefore it is impossible to predict, at this stage, how many (and when) publications may be issued. As WIPO's Symposia will be focused on specific topics, reviewing and editing contents of the corresponding publications will be nevertheless a relatively simple task.

As per the recommendations that are being addressed through this project, the focus will be primarily on exploring the issues, promoting a better understanding on the interface between IP and competition policy, analyzing various options, facilitating an exchange of experiences and promoting the pro-competitive use of IP, particularly in developing countries and LDCs. The activities to be undertaken under this project may be the basis for more in-depth work which may be undertaken subsequently by the Organization in this area, if agreed by Member States. Legislative assistance on IP issues, including where they interface with competition issues, would continue to be provided outside of this project, in a confidential manner and on request, as part of the regular activities of WIPO on legislative assistance.

3. REVIEW AND EVALUATION

3.1. Project Review Schedule

A mid-term review will be undertaken after one year, which will be the basis for reporting on progress to the CDIP.

3.2. Project Self-Evaluation	
<i>In addition to the project self--evaluation, an independent evaluation may also be undertaken for the project</i>	
Project Outputs	Indicators of Successful Completion (Output Indicators)
(i) Introducing IP and competition issues into technology licensing programs:	Actual inclusion of the issue into training programs; and Updating of the guide and toolkit so as to include elements concerning IP and Competition Policy.
(ii) Studies on IP and Competition:	Completion of the studies within the established timeframe for presentation to the CDIP; and Broad agreement of Member States with the thrust and the conclusions of studies, when presented to the CDIP.
(iii) Regional or Sub-Regional Meetings on IP and Competition:	Request for such meetings from Member States; and 75% of the participants confirm usefulness of the meetings with regard to the objectives set.
(iv) Global Meeting on Emerging Copyright Licensing Modalities:	Organization of a conference in the first quarter of 2010; Broad participation of a wide range of stakeholders at the Global Meeting; and 75% of participants confirm usefulness of the meeting with regard to the objectives set.
(v) Geneva-based Symposia on IP and Competition Policy:	Organization of one symposium per semester; Participant of relevant stakeholders and contribution to a better understanding of the topics; and 75% of the participants confirm usefulness of the meetings with regard to the objectives set.
(vi) Elaboration of a survey, development of a Guide on Franchising and organization of two workshops:	Obtaining a representative number of replies to the questionnaire; and Timely elaboration and publication of the Guide on Franchising.
(vii) Publication of studies and proceedings of relevant meetings:	Publication made on the basis of merit (i.e., fully meeting the specifications of the ToR) and convenience (i.e., assisting to determine priorities and having a broader usefulness beyond those who participated in the meetings).

Project Objective(s)	Indicator(s) of Success in Achieving Project Objective (Outcome Indicators)
Better understanding of the interface between IP and Competition among policy-makers:	Feedback by Member States on the extent to which the outputs have met the concerns addressed in the recommendation.
Promoting pro-competitive intellectual property licensing practices:	<p>Feedback from participants to the training programs concerning the new component; and</p> <p>Adoption of appropriate legal provisions in national or regional laws; adoption of guidelines and recommendations at the national or regional level.</p>
Opportunity for exchange of national and regional experiences:	<p>Feedback from Member States on the seminars;</p> <p>Feedback from stakeholders on the symposia; and</p> <p>75% of participants confirm usefulness of the meetings with regard to the objectives set. This should be re-checked no later than 6 months later after the event took place.</p>

5. BUDGET

5.1. Project Budget for the 2010/2011 Biennium (non-personnel costs)

	TOTAL (Swiss Francs)
<i>Travel and Fellowships</i>	
Staff Missions	80,000
Third-party Travel	120,000
Fellowships	
<i>Contractual Services</i>	
Conferences	120,000
Experts' Honoraria	110,000
Publishing	
Others	60,000
<i>Equipment and Supplies</i>	
Equipment	
Supplies and Materials	
TOTAL	430,000

6. SUPPLEMENTARY INFORMATION FOR THEMATIC PROJECTS

The overall Project on IP and Competition Policy (Recommendations 7, 23 and 32) is based on the activities that were proposed to the first session of the CDIP, in document CDIP/1/3, in the context of Recommendation 23. The main difference, if any, between the seven components of the Project and the activities listed in document CDIP/1/3 is that those components appear more focused.

A short identification of the links between the proposed activities in CDIP/1/3 (in the context of Recommendation 23) and in the Project Document concerning IP and Competition Policy follows:

WIPO will intensify its work on these issues, as and when requested by Member States. For instance, subject to availability of resources, a global meeting on emerging licensing issues and copyright can be organized in Geneva in 2008. [...]

This activity is covered by Component 4.

It is also proposed to continue with awareness-raising activities concerning new approaches to copyright licensing, for example Creative Commons and open-source software, through which subject matter protected by copyright may be freely, or with few restrictions, disseminated for various purposes. [...]

This activity is covered by Component 4.

In addition, it is proposed to commission a series of studies on IP and competition issues (please also see comments for proposal 22¹) and to organize an international conference, in Geneva, on the interface between IP and competition law and policy.

This activity is covered by Components 2, 3, 4 and 5.

On request, WIPO can also provide legal and technical advice to promote pro-competitive provisions in IP licensing instruments.

This activity is not directly reflected by the project Components because legal and technical advice is a normal, on-going activity of the International Bureau. It will continue being carried out upon request of Member States on a routine basis. Such advice is also linked to Recommendations dealing with public policy and flexibilities, which are outside the scope of this particular Project, even if interrelated with it.

WIPO would also establish a technology transfer database and make available model licensing agreements relating to different technology transfer partners. The database will be available on the 'STL Fellows Website', as well as on hard copy for training purposes.

¹ Proposed activities concerning Recommendation 22 are:
It is proposed to commission a series of studies on IP and competition issues (please also see comments for proposal 23).
This activity is covered by Components 2, 3 and 5 of the Project.

This activity would be included in the WIPO portal on innovation and technology transfer being developed for implementation of recommendation 10.

It is proposed to also develop a guide on franchising and to organize a series of workshops on this issue.

This activity is contemplated by Component 6. Component 6 proposes the previous elaboration of a Survey, with the purpose of identifying Members' prevailing practices and their practical impact. The Guide should reflect successful prevailing practices.

On activities relating to licensing and technology transfer more generally, please see comments for proposal 25.

This activity is covered by Component 1.

[Annex III follows]

ANNEX III

DEVELOPMENT AGENDA RECOMMENDATIONS NOS. 19, 24 AND 27

PROJECT DOCUMENTS

1. SUMMARY	
Project Code:	DA_19_24_27_01
Title:	IP, Information and Communication Technologies (ICTs) and the Digital Divide.
Development Agenda Recommendation(s):	<p>Recommendation No. 19 (Cluster B): To initiate discussions on how, within WIPO's mandate, to further facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation and to strengthen such existing activities within WIPO.</p> <p>Recommendation No. 24 (Cluster C): To request WIPO, within its mandate, to expand the scope of its activities aimed at bridging the digital divide, in accordance with the outcomes of the World Summit on the Information Society (WSIS) also taking into account the significance of the Digital Solidarity Fund (DSF).</p> <p>Recommendation No. 27 (Cluster C): Facilitating IP-related aspects of ICT for growth and development: Provide for, in an appropriate WIPO body, discussions focused on the importance of IP-related aspects of ICT, and its role in economic and cultural development, with specific attention focused on assisting Member States to identify practical IP-related strategies to use ICT for economic, social and cultural development.</p>
Project Budget:	<p>Non-personnel costs: Sfr.1,280,000</p> <p>Personnel costs: Sfr.418,000</p>
Project Duration:	24 months
Key WIPO Sectors Involved and Links to WIPO Programs:	<p>Copyright, E-Commerce, Technology and Management Division; and Global IP Information Services and IP Office Modernization Division in cooperation with Technical Assistance and Capacity Building Sector.</p> <p>Links to WIPO Programs 3, 9, 14 and 15.</p>
Brief Description of Project:	<p>The copyright system provides key infrastructure for achieving the goals of digital inclusion, enabling global and affordable access to ICTs and to information and knowledge, thus helping to bridge the "Digital Divide." The first component of the project regarding copyright aims at providing Member States a source of relevant and balanced information on the opportunities provided by new models of distributing information and creative content, focusing on the areas of education and research, software development and e-information services (e.g., e-journals and public-sector information).</p> <p>The digitization of national industrial property documents to create a database will enhance access of the public to digital content generated by</p>

	<p>the industrial property system for enriching and empowering the stakeholders of innovation with the power of knowledge. The second component of the project of industrial property data digitization project aims to assist Member States in digitizing paper-based documents of IPRs as a first step to improve the digital divide and to gain skills for creating a national IP database which would provide users with easy access to intellectual property information.</p>
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2. PROJECT DESCRIPTION

2.1. Introduction to the Issue/Concern

The Declaration of Principles of the WSIS encourages development of a global Information Society, by harnessing the potential of ICTs to promote the development goals of the Millennium Declaration. The Declaration recognizes that “education, knowledge, information and communication are at the core of human progress, endeavor and well-being” (*Article 8*); it further emphasizes the importance of removing barriers to equitable access to information; of ensuring a rich public domain; and of raising awareness of different software models to ensure affordable access to software (*Articles 25 to 28*). In addition, the WSIS Plan of Action outlines goals which correlate directly to IP legislation, including that “Governments should foster a supportive, transparent, pro-competitive and predictable policy, legal and regulatory framework, which provides the appropriate incentives to investment and community development in the Information Society” (“Enabling environment”, Action Line C.6).

The digital divide results from many reasons: lack of basic ICT infrastructure, lack of physical access to ICT, affordability for the acquisition of ICT equipment and facilities, lack of content made available in electronic form, and the lack of human capacity to use it. This project will particularly target the latter two issues, both in the field of industrial property and in the field of copyright and related rights. The project is complemented by projects in relation to Recommendations 8 and 10 as well as the thematic project on the public domain (implementing Recommendations 16 and 20), which address related issues.

As concerns IP rights and IP contents for which registration/grant are necessary for protection, namely industrial property such as patents, trademarks, and industrial designs, the lack of digitized databases makes it difficult for many stakeholders (including domestic and international businesses), particularly in developing countries, to identify holders of national IP rights who are potential major players of innovation and business in the country. Nationals also have difficulties in understanding and benefiting from technologies disclosed in patents, if they are only available in the form of publications made by foreign IP Offices in foreign languages. The digitization of national IP filings and documents prepared in national or common languages and their dissemination through publicly-available databases would significantly enhance access to knowledge created in the country and elsewhere, because they would be more easily searchable and retrievable to anyone including those who reside in a region remote from the IP Office.

Proper digitization of IP documents requires a special know-how and knowledge about WIPO standards and relevant technologies in order to generate the electronic database which should be capable of being used for multiple purposes and, where necessary, also be shared with other intellectual property offices (IPOs) for possible regional and international collaboration. Validation and verification of the captured data are necessary for ensuring the quality, integrity and accuracy of the data and the database. WIPO and several IPOs have obtained enough experience to establish best practices and this area, which would be the basis for this project.

In the field of copyright, there is a need to raise awareness of the opportunities provided by the copyright system to support new models of distributing information and creative content and thereby helping to bridge the digital divide. The traditional model of returning value to creators and right holders is rapidly changing in light of the convergence of digital technology and the distributive power of the Internet. This may work to the disadvantage of the developing world, where creators and users do not have the same access to the Internet, bandwidth and alternate models for managing and distributing information and creative content as their counterparts in the developed world.

Governments have a leading role in developing forward-looking strategies at the intersection of copyright and ICTs; the private sector and civil society can also play crucial roles in promoting sustainable public sector information and IP policies. Thus, as recommended by the WSIS, a

multi-stakeholder approach should be followed in addressing the issue.

2.2. Objectives

Component (1) Copyright

The copyright component of the project will consist of gathering information and raising the awareness of Member States concerning the potential of the copyright system for fostering development by enhancing access to information and creative content, with a particular focus on the following three areas: education and research; software development practices; and e-information (e.g., e-journals and access to public sector information). In addition, in order to fully address Recommendation 24, a complementary objective is to conduct an interdisciplinary evaluation of opportunities for WIPO, within its mandate, to engage in new activities that help Member States achieve the stated development goals through enhancing access to information and creative content.

Component (2) Industrial Property

In the field of industrial property, the overall objective will be to contribute to the reduction of the knowledge gap between industrialized and developing countries (especially LDCs) through the digitization of IP data including national IP data. More specifically, the industrial property component of this project will aim to:

- Increase availability of technological knowledge for digitization of paper documents in developing countries, especially LDCs;
- Increase the capacity of IP Offices, including regional and sub-regional organizations (hereinafter referred to as the “IPOs”) to effectively create databases comprising the digitized data and provide access to the databases which contain IP information and knowledge nationally/regionally and internationally created; and
- Increase awareness of the benefits of IPRs, and the value of IP information in particular.

Once the system is installed, IP office staff members should be able to maintain a sustainable operation and updating of data on the basis of knowledge and skills transferred and developed during the pilot project.

2.3. Delivery Strategy

The project will have two components, one on digitization of industrial property rights, and the other on copyright and access to information and creative content.

Component (1) Copyright and Access to Information and Creative Content:

A Study will be prepared on “Using Copyright to Promote Access to Information and Creative Content”, which will consist of a survey of legislation, public policies and strategies of governments linked to use of the copyright system to enhance access to information and creative content in three key areas: education and research; software development practices; and e-information services (e.g. e-journals, public sector information). Emphasis will be placed on surveying existing government policies and strategies, and relevant supporting legislation, which have proven effective and beneficial to a wide range of users in the three strategic areas. The Study will also provide some analysis on which of the public policies and practices surveyed could deliver results if implemented by other Governments, notably in LDCs and Developing Countries.

The Study will be conducted by a team of researchers and monitored by WIPO officials, in order to maintain a balanced and multi-stakeholder approach. The Study will be developed in three different stages:

- (i) Research, information-gathering and first draft of the individual contributions;
- (ii) A workshop, hosted at WIPO headquarters, devoted to collective analysis and evaluation of individual contributions; and
- (iii) Finalization and delivery of the Study, which will include recommendations on future activities to be undertaken by WIPO.

The Study will constitute a first step towards implementation of Recommendations 19, 24 and 27 as far as copyright and ICTs are concerned, to provide Member States with basic understanding of the issues under consideration. The Study will also facilitate an assessment of opportunities for WIPO, within its mandate, to engage in new activities that help Member States achieve the stated development goals through use of the copyright system to enhance access to information and creative content.

Based on the findings and the conclusions of the Study and the assessment, Member States may decide on additional activities to meet the objectives of Recommendations 19, 24 and 27.

Component (2) A Project of Digitization of Industrial Property Data:

The steps to be taken to implement this component of the project will be as follows:

- 1.1. Selection of the Project Countries: For the duration of this project (the 2010-11 biennium), WIPO will select six countries as project countries on the basis of a preliminary assessment of needs for digitization of paper-based documents of industrial property data in the country.
- 1.2. Project Development: Preparing and customizing a plan for the digitization of paper documents will be drawn up in consultation with the beneficiary country and IP Office. At least one mission should be undertaken to ensure the feasibility of the implementation of the project and inspecting the site of the digitization project.
- 1.3. Project Implementation: WIPO will assist the beneficiary country in setting up facilities and acquiring equipment needed for digitization of industrial property data, where necessary, by engaging a local company. The IP Office takes principal duties to identify and orderly classify paper documents to be converted into digitized data for inclusion in a database in accordance with WIPO standards and following the best practices of other IP Offices. WIPO will also assist the beneficiary country in managing the project, checking the quality of deliverables and evaluating the results of the project.
- 1.4. Deployment of the Equipment and Facilities: Where necessary, WIPO will also assist the beneficiary country in locally acquiring PCs and a digital scanner as well as other equipment for the implementation of the project. WIPO will provide digitization software and advice to be compatible with WIPO standards for exchange of data. After the integration of the digitized data into the national database, the beneficiary country is expected to update the database with their continuous work of digitization based on the experience and knowledge transferred during the project.
- 1.5. Delivery of the Service: After digitizing paper documents and integrating into the national database system or creating a new database, WIPO will assist the beneficiary country in searching facilities in order to provide public access to the database in a user friendly manner. WIPO will use the platform and experience gained for creating PATENTSCOPE® in finalizing the delivery of services to the public. Where appropriate a necessary hyperlink will be established between the national databases and PATENTSCOPE®.

3. REVIEW AND EVALUATION	
3.1. Project Review Schedule	
<p>(a) Project plan: for the first component (industrial property), after identifying the pilot project countries and undertaking a fact finding mission to ensure the feasibility of the project proposal, a project plan will be prepared with a detailed implementation timetable and statement of responsibility of the participating parties;</p> <p>(b) For both components, a mid-term review will be undertaken after 12 months to examine progress made. If any milestones have not been reached on time, an analysis will be made on the reasons of difficulties and, where necessary, the project/plans would have to be revised accordingly; and</p> <p>(c) Self evaluation report: a self-evaluation report will be prepared at the end of project implementation.</p>	
3.2. Project Self-Evaluation	
<i>In addition to the project self--evaluation, an independent evaluation may also be undertaken for the project</i>	
Project Outputs	Indicators of Successful Completion (Output Indicators)
1.1. Study on “Using Copyright to Promote Access to Information and Creative Content”	Completion of the Study within the established timeframe and the quality required by the TOR for presentation to the CDIP. Feedback from Member States on the Study when presented to the CDIP.
1.2. Feasibility Assessment on Possible New WIPO Activities	Completion of the paper within the established timeframe and the quality required by the TOR for presentation to the CDIP. Feedback from Member States on the paper when presented to the CDIP.
2.1 Project Plans	Timely preparation of the project plans and acceptance by the beneficiary countries.
2.2. Digitized data generated from paper-based documents of industrial property	Milestones are met according to a timetable and acceptance of the intermediate deliverables.
2.3. Creation of a new database, or integration of the digitized data into the existing databases	Milestones are met according to a timetable and acceptance of the intermediate deliverables.
2.4. Grounds laid for operation and updating of the databases by continuing digitization of new documents	At least for the next five years from the integration of the new data, the updating of the database by sufficient local staff trained in the project, and the provision of WIPO PATENTSCOPE® Search Service to the public.

Project Objective(s)	Indicator(s) of Success in Achieving Project Objective (Outcome Indicators)
<p>1.1. Raising Member States' awareness of the potential of the copyright system to enhance access to information and creative content and thus contribute to development</p>	<p>Quality of discussion among Member States on the Study and its findings;</p> <p>Feedback, during CDIP sessions, on the extent to which the outputs have met the concerns addressed in the recommendation;</p> <p>Evaluation by Member States of the Study's recommendations.</p>
<p>1.2. To discuss and evaluate possible new engagements of WIPO</p>	<p>Discussion and decision on whether new engagements are required to address the recommendations.</p>
<p>2.1. Mitigation of the digital divide among users of the IP system in developing countries and LDCs</p>	<p>Access by users to the newly created database containing the digitized data.</p>
<p>2.2. Increased capacity to digitize documents and to update IP information databases</p>	<p>New or improved skills which enables the IP Office to operate IP databases and continuously update them with the minimum additional assistance of WIPO.</p>

4. IMPLEMENTATION TIMELINE

ACTIVITY	QUARTERS											
	2009 ²				2010				2011			
	1 st	2 nd	3 rd	4 th	1 st	2 nd	3 rd	4 th	1 st	2 nd	3 rd	4 th
1.1. Project Planning and Preparation												
1.1.1. Recruitment of a consultant for assisting the project planning and implementation			X									
1.1.2. Preparatory meetings and at least one mission to a beneficiary country (x 2)			X									
1.2. Project Development												
1.2.1 Discussions with government officials and engagement of a local company for work of digitization			X									
1.2.2. Preparation of documents to be digitized				X								
1.2.3. Agreement on detailed implementation plan and the creation of a task force which should collaborate with the local company engaged for the project					X	X	X				X	X
1.3. Project Implementation												
1.3.1. Possible start of digitization and the evaluation of the quality of first deliverables						X	X	X				
1.3.2. Fine-tuning the process and possible reinforcement of the task force							X	X	X	X		
1.3.3. Preparation of a new database or the commencement of a process for possible integration of the digitized data into PATENTSCOPE®								X	X	X		

² Activities foreseen for 2009 are of a preparatory nature requiring no financial resources.

5. BUDGET

5.1. Project Budget for the 2010/2011 Biennium (non-personnel costs)

	TOTAL (Swiss Francs)
<i>Travel and Fellowships</i>	
Staff Missions	85,000
Third-party Travel	15,000
Fellowships	
<i>Contractual Services</i>	
Conferences	
Experts' Honoraria	575,000
Publishing	15,000
Others	270,000
<i>Equipment and Supplies</i>	
Equipment	320,000
Supplies and Materials	
TOTAL	1,280,000

6. SUPPLEMENTARY INFORMATION FOR THEMATIC PROJECTS

Linkages to activities contained in Document CDIP/1/3 for Recommendations 19, 24 and 27

The copyright component of this project (a study on the use of Copyright to Promote Access to Information and Creative Content) is based on the activities suggested by the Secretariat for Recommendation 27 in Document CDIP/1/3 in which WIPO “proposed to conduct a major study that examines, *inter alia*, the following topics: digital right management tools and business models for online distribution of copyright content, including by collective management organizations; the impact on creativity of open access, open source and other emerging copyright licensing schemes; an overview of ICT standardization issues relevant to the availability of technologies needed to access digital content, including in alternative formats. Following completion of the study, an international, interdisciplinary meeting of experts can be convened to examine the results of the study and related issues.”

The industrial property component (a project of digitization) is also based on the activities suggested by the Secretariat for Recommendation 24 in document CDIP/1/3, which suggested that “within the framework of Modernization of IP Institutions, WIPO aims at reducing this digital divide by providing standard customized technological solutions, infrastructure upgrade and training to enable IP institutions to automate its business procedures, establish national IP databases, provide e-services to its stake holders and perform e-communication with international treaties.”

Parts of Recommendation 19 are also being implemented by the thematic projects on “Developing Tools for Access to Patent Information” and “IP and Technology Transfer”.

Other activities mentioned in CDIP/1/3 for implementation of recommendations 24 and 27 would be integrated in the regular activities of WIPO.

[Annex VI follows]

ANNEX IV

DEVELOPMENT AGENDA RECOMMENDATIONS NOS. 19, 30 AND 31

PROJECT DOCUMENT

1. SUMMARY	
Project Code:	DA_19_30_31_01
Title:	Developing Tools for Access to Patent Information
Development Agenda Recommendations:	<p>Recommendation 19 (Cluster B): To initiate discussions on how, within WIPO's mandate, to further facilitate access to knowledge and technology for developing countries and LDCs, to foster creativity and innovation and to strengthen such existing activities within WIPO.</p> <p>Recommendation 30 (Cluster C): WIPO should cooperate with other intergovernmental organizations to provide developing countries, including LDCs, upon request, advice on how to gain access to and make use of IP-related information on technology, particularly in areas of special interest to the requesting parties.</p> <p>Recommendation 31 (Cluster C): To undertake initiatives agreed by Member States, which contribute to the transfer of technology to developing countries, such as requesting WIPO to facilitate better access to publicly available patent information.</p>
Project Budget:	<p>Non-personnel costs: Sfrs.936,000</p> <p>Personnel costs: Sfr.640,000</p>
Project Duration:	30 months
Key WIPO Sectors Involved and Links to WIPO Programs:	<p>Global IP Information Service in cooperation with the Global Challenges Division, Patent Division, and Global IP Issues Division.</p> <p>Links to WIPO Programs 1, 14 and 18.</p>
Brief Description of Project:	<p>This project aims to provide developing countries, including LDCs, upon request, with services which will facilitate the use of patent information on specific technology for facilitating their indigenous innovation and R&D in cooperation with other intergovernmental organizations. In order to achieve these aims, the project will implement the following elements:</p> <ul style="list-style-type: none"> — Patent Landscaping Reports will be drafted which exploit the vast resources of patent information to provide an analysis of specific technologies and related existing IP rights for selected areas of technology; — An e-tutorial available on DVD or on the internet will provide training on using and exploiting patent information, in particular focusing on the preparation of technology and patent search reports similar to Patent Landscaping Reports; and

	<p>Conferences, including workshops and training courses, will be organized for users, in particular for staff of Technology and Innovation Support Centers, in order to exchange experiences and best practices regarding the use of patent information, as well as to develop specific skills such as preparing Patent Landscaping Reports by local research institutions and universities.</p>
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2. PROJECT DESCRIPTION

2.1. Introduction to the Issue/Concern

Patent information comprises technical, legal, business-relevant and public policy-relevant information which can be used to stimulate further creativity and innovation.

The rapid growth in the use of the patent system, and in the diversity of users, has led to an explosion of raw data on patenting activities in areas of interest to public policymakers. Analytical tools are becoming more widely available, which opens up enormous potential for clearer, more accessible and representative information to support policy processes.

By focusing on a particular technology, patent landscapes contribute to highlighting essential technologies, know-how, processes and methods that are necessary to meet the basic development needs of developing countries, particularly with regards to improving the environment, life, health of human beings, animals, plants and food security.

WIPO has already cooperated with other intergovernmental organizations, such as World Health Organization (WHO), Food and Agriculture Organization (FAO), United Nations Framework Convention on Climate Change (UNFCCC), in drafting Patent Landscaping Reports (a sample of a patent landscaping report is a Study prepared by WIPO for WHO with regards to the avian flu virus and further information may be found in the WIPO Press Release PR/2007/529), as well as contributing to such landscapes produced by private non-profit research institutes, such as CAMBIA.

Patent Landscaping Reports on specific technological challenges will be prepared on the basis of patent information and its analysis in the search for practical answers. The reports are expected to guide stakeholders of innovation such as policymakers, managers of public research institutions and industry, as the reports will identify what is actually being patented, where and by whom, and with what implications for R&D strategy and new products' development by local innovation players in developing countries. Patent Landscaping Reports will also provide an overview of the most updated trends in technologies in the fields in question. The Reports should be useful also to scientists and engineers in developing countries to overcome the knowledge gap between a complex and rapidly evolving body of patent information, and their needs for searching technological solutions sought in research themes which are often linked to problems and challenges unique to developing countries.

General knowledge and techniques in searching patent information, including the extraction of relevant information from patent databases such as PATENTSCOPE[®] to prepare Patent Landscaping Reports, is not readily known and is, therefore, fundamentally important to support. While WIPO will continue to showcase Patent Landscaping Reports on selected fields and subjects of technologies as one of the associated services of PATENTSCOPE[®], it is also crucial to train a critical mass and develop skills of patent information users and analysts in developing countries in order to empower them to be capable of preparing such reports to support indigenous innovation and local public research institutions and universities.

An effective means to train potential users of patent information are e-learning modules available on the internet or on DVDs. However, currently available tutorials either have only one section on patent information or are directed only to one specific internet search system.

Moreover, regular opportunities for discussing patent information tools and services by specialists do not currently exist, except in Europe for the PATLIB Network of patent libraries. It is essential to reinforce the international cooperation with other international organizations in particular specialized agencies of the United Nations system which have already worked on the field to collaborate with local institutions for promoting innovation and building the research capability, since the currently

available knowledge about technological challenges accumulated in on-going projects and constraints in a given country already known to such organizations as partners must be fully used in analyzing and extracting the most relevant patent information from databases.

2.2. Objectives

- To increase understanding by stakeholders of innovation, businesses and public policymakers in developing countries of key trends in specific technology and its effects on business and society, so as to enable them to identify and exploit specific areas of technology;
- To increase the skills in searching and exploiting patent information, as well as how to prepare Patent Landscaping Reports by teaching in an effective and convenient manner: how, why and where to carry out patent searches; and
- To facilitate discussions and the exchange of experiences, views and best practices in the field of patent information by inviting users to meet on a regular basis.

2.3. Delivery Strategy

The project will implement the following elements according to the indicated steps:

A. Landscapes

1. Determining a format so as to be effective and useful to users:
 - (a) Concise;
 - (b) Standard layout and format; and
 - (c) Easily accessible.
2. Determine themes and topics for the landscapes; the following are examples of possible themes, topics and subtopics which could be proposed:

<u>Theme</u>	<u>Topic</u>	<u>Sub-topics</u>
Health	HIV/AIDS	Treatment
	Malaria	Prevention, treatment
	Neglected tropical diseases	Prevention, treatment
	Drinkable water	Purification
Environment	Ozone-depleting chemicals	Reduction, alternatives
	Desertification/land degradation	Prevention, remediation
	Persistent organic pollutants	Reduction, remediation
	Waste management	Treatment
Food and Agriculture	Soil management	Tools, techniques
	Pest control	Pesticides (chemical and biological), other control technologies
	Food safety	Food treatment, food testing
	Sustainable fishing	Tools, techniques
Disability	Accessibility	
	Assistive devices and technologies	Vision, hearing, mobility

3. The eventual choice of landscapes will take into consideration input received from Member States and follow consultations with other intergovernmental organizations and NGOs;
4. Drafting terms of reference and clear requirements for the deliverables, i.e. the patent landscapes, in a specific format and analyzing patent information in determined technology fields:
 - (a) Identify possible prominent institutions working in the field of IPRs, and patent information analysis in particular and/or;
 - (b) Identify experts in the technological field concerned to perform a patent information search;
5. Selecting writers to carry out the required analysis and to draft their reports within the specified format and timeframe;
6. The tenders or Request for Information/Proposal would be opened on a regular periodic basis for two landscapes at a time, so as to control the quality of the written landscapes;
7. Periodic review and revision, if necessary, of the terms of reference; and
8. Final review of the deliverables by WIPO, if appropriate, in collaboration with relevant international organizations such as specialized agencies of the UN system and/or PCT ISAs, and publishing the patent landscapes on the PATENTSCOPE[®] website.

B. E-Learning Tutorial

1. In order to facilitate learning to use and exploit patent information, in particular for preparing a Patent Landscaping Report, an e-learning tutorial will be produced;
2. Terms of reference will be drafted for the content, including an overview of patent databases, general search tools and techniques, the use of analytical tools such as patent landscapes, maps, mining, etc.;
3. The tutorial should be graphically designed so as to be easy to use and understand;
4. A tender will be opened for the contents and graphics design according to the terms of reference;
5. A writer and graphics designer will be selected; and
6. Publication on DVD and on the internet (PATENTSCOPE[®] website).

C. Regional Patent Information Conferences for IPOs and Technology and Innovation Support Centers (TISCs)

1. In order to exchange views, best practices and experiences by both specialist and non-specialist users of Technology and Innovation Support Centers (TISCs), particularly for the benefit of their staff and of IPO staff working in the field of patent information, regional conferences such as those held in Europe for the PATLIB Network of patent libraries, should be envisaged.
2. It is foreseen that one regional conference will take place in the:
 - African and Arab region;
 - Asian and Pacific region; and the

- Latin American and Caribbean region.

3. Developing countries' participants would be financed.

Risks which could impede project delivery and how these risks may be mitigated:

- Risk: Absence of databases with sufficient geographical coverage, completeness of document coverage, and specific data (e.g., legal status data) to execute meaningful analysis for patent landscapes

- Approach for mitigation: Linkage to ongoing WIPO activities to develop patent collections of selected countries in electronic format

- Risk: Lack of accessibility of patent landscapes to intended audience

- Approach for mitigation: Provision of a modular framework for the drafting of patent landscapes to individuals or organizations selected to carry out the required analysis and writing of reports

- Risk: Lack of awareness by target users of availability and utility of patent landscapes

- Approach for mitigation: Incorporation of patent landscapes into presentations on patent information, as appropriate

- Risk: Lack of awareness by the public of availability of e-learning tutorial on DVD

- Approach for mitigation: Incorporation of the e-learning tutorial into WIPO marketing products on the Organization's publications (e.g., the WIPO e-bookshop)

- Risk: Staff trained through regional patent information conferences not allocated to positions in IPOs or TISCs for which training was intended (e.g., due to internal relocation or staff turnover)

- Approach for mitigation: Establishment of a selection process to screen participants to the conferences

3. MONITORING AND EVALUATION

3.1. Project Review Schedule

Monitoring Report: A mid-term report will indicate whether the project is on track to achieve its specific objectives.

Self-Evaluation Report: An end of project report will be drafted with a view to validating that the project objectives have been achieved, as well as suggesting future actions so as to provide for the sustainability of the projects.

3.2. Project Evaluation

In addition to the project self-evaluation, an independent evaluation may also be undertaken for the project

Project Outputs	Indicators of Successful Completion (Output Indicators)
Patent Landscaping Reports accessible on PATENTSCOPE® website	Six Patent Landscaping Reports made accessible per year 2010 and 2011, with a quality corresponding to the TOR requirements; An increasing number of hits on the PATENTSCOPE® website pages containing the patent landscapes.

<p>E-learning tutorial completed and delivered</p>	<p>Tutorial published on DVD and distributed, as well as being available on the PATENTSCOPE® website – 18 months after project begins;</p> <p>A questionnaire on the usefulness of the tutorial will be available (on DVD and internet versions), so as to be filled out by users.</p>
<p>Completed organization of regional conferences</p>	<p>Surveys reporting satisfaction, and whether objectives were fulfilled, to be completed at the end of the conference by participants.</p>
<p>Overall Project Objective(s)</p>	<p>Indicator(s) of Success in Achieving Project Objective (Outcome Indicators)</p>
<p>Improved understanding of businesses and public policymakers in developing countries regarding key trends in specific technology and its effects on business and society.</p>	<p>30% of businesses and public policymakers in developing countries that have used the new PATENTSCOPE® landscapes, confirm that it enabled them to identify specific areas of technology, so as to either exploit, license-in or purchase the technology and know-how; this data would be established by means of a survey on PATENTSCOPE®.</p>
<p>Improved understanding of patent information, in particular how, why and where to carry out a search.</p>	<p>A questionnaire on the usefulness of the tutorial will be available (on both the DVD and internet versions), so as to be filled-out by users to gauge their understanding of patent information.</p>
<p>More effective use and exploitation of patent information.</p>	<p>Follow-up survey 6 months after the regional conference to be filled-out by the conference participants describing any developments with respect to knowledge, search practices and general services.</p>

4. IMPLEMENTATION TIMELINE

ACTIVITY	QUARTERS									
	2009*		2010				2011			
	3 rd	4 th	1 st	2 nd	3 rd	4 th	1 st	2 nd	3 rd	4 th
A. Landscapes										
A.1. Drafting Terms of Reference	X									
A.2. Opening tender for 1 st round of 2 patent landscapes		X								
A.3. Selection of writers, drafting, provision of landscapes and finalization of 1 st round			X							
A.3. Opening successive rounds of 2 patent landscapes for each tender & completion				X	X	X	X	X	X	X
B. E-Learning tutorial										
B. 1. Drafting Terms of Reference		X								
B.2. Tender opened			X							
B.3. Selection of writer/graphics design and drafting of contents				X	X					
B.4. Publication on DVD and internet						X				
C. Regional Patent Information Conferences										
C.1. Latin America and the Caribbean Region Conference				X						
C.2. Africa and Arab Region Conference						X				
C.3. Asian and Pacific Region Conference								X		

* Activities foreseen for 2009 are of a preparatory nature requiring no financial resources.

5. BUDGET

5.1. Project Budget for the 2010/2011 Biennium (non-personnel costs)

	TOTAL (Swiss Francs)
<i>Travel and Fellowships</i>	
Staff Missions	48,000
Third-party Travel	536,000
Fellowships	
<i>Contractual Services</i>	
Conferences	
Experts' Honoraria	352,000
Publishing	
Others	
<i>Equipment and Supplies</i>	
Equipment	
Supplies and Materials	
TOTAL	936,000

6. SUPPLEMENTARY INFORMATION PAGE

The “Proposed Activities” described in the document CDIP/1/3 for Recommendations 19, 30 and 31, are implemented in the current project document or by other projects as follows:

(a) Regarding Recommendation 19

(i) Two elements or tools in “facilitating access to knowledge and technology” are proposed in this project: namely, the provision of patent landscapes in specific fields of technology and an e-learning tutorial;

(ii) As regards “programs and *fora* [which] have been and will continue to be organized on current and emerging issues, including (...) access to patent information, (...)”, the current project intends to provide a framework to organize regional conferences to exchange experiences and best practices between patent information users, in particular Technology and Innovation Support Center (TISC) staff.

(iii) Parts of Recommendation 19 are also being implemented by the thematic projects on “IP and Technology Transfer” and “IP, ICTs and the Digital Divide”.

(b) Regarding Recommendation 30

(i) The provision of “patent landscapes” is foreseen in the current thematic project;

(ii) “Training programs” with regard to patent information are generally foreseen in the project for Recommendation 8. However, the specific learning “resource” or tool of an e-learning tutorial is included in the current thematic project.

(c) Regarding Recommendation 31

(i) The elements of the “Proposed Activities” to “enhance the PATENTSCOPE[®] portal” and the “digitization and dissemination of patent information resources” can be implemented more effectively within the overall framework of technical and capacity building activities, specified under Recommendation 10, for “further development of infrastructure”;

(ii) The provision of “patent landscaping activities” is foreseen in the current thematic project.

[End of Annex IV and of document]