

Geneva, May 2002

## WORLD INTELLECTUAL PROPERTY DAY



## CHANGING THE INTERNATIONAL PATENT SYSTEM



## NATIONAL FOCUS: THE SWISS APPROACH



Statement by Dr. Kamil Idris,  
Director General of the  
World Intellectual Property Organization (WIPO),  
on World Intellectual Property Day, April 26, 2002

“Encouraging Creativity”, the theme of this year’s World Intellectual Property Day, springs from the World Intellectual Property Organization’s (WIPO) conviction that human inventiveness, harnessed by the intellectual property system, is key to generating wealth, raising living standards and enriching our global cultural heritage.

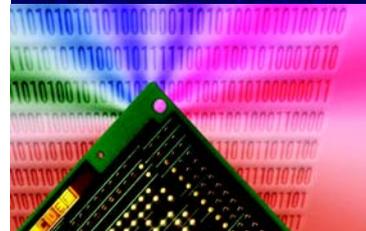
The ability to generate original and useful ideas and imagine a better future has fuelled human progress since the beginning of time generating a stream of life-enhancing breakthroughs in areas such as environmental protection, food security and healthcare, and a richer choice of music, films, and books.

WIPO is committed to the development of a universal culture of creativity, in which the intellectual property system is widely used to strengthen economic performance and enhance wealth creation for the betterment of all. The components of the intellectual property system such as patents, trademarks, and copyright, are powerful tools to capture the value of creativity and knowledge to promote economic and cultural development.

It is our mission at WIPO to encourage use of this system to realize the creative potential that lies in us all. This will help to make this world a better place for current and future generations.

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# APRIL 26 WORLD INTELLECTUAL

April 26 marked World Intellectual Property Day, an opportunity to highlight the significance of creativity and innovation in people's daily lives and in the betterment of society. WIPO, its member States and a number of intergovernmental and non-governmental organizations planned various activities for World Intellectual Property Day, making use of information materials distributed by WIPO. Events lasted the day, the week, some the entire month.

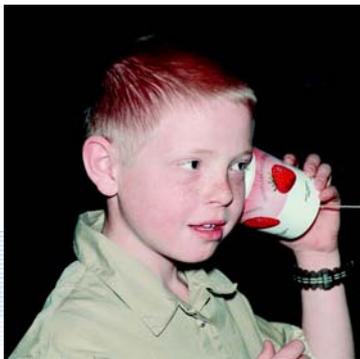
The theme of this year's World Intellectual Property Day – "Encouraging Creativity" – was carried in a 30-second spot, broadcast on CNN throughout the month of April. WIPO, having made the video available to member States for broadcasting, received some 30 requests for copies to be aired on local television stations worldwide.

## " Comics, Cartoons, and Creativity"

During the week of April 26, WIPO arranged tours and presentations for schoolchildren from the Geneva area to the "Comics, Cartoons, and Creativity" exhibition on view in the WIPO Information Center until the end of August. Artist from the Walt Disney Company, present at the Center on April 26, gave demonstrations to the visiting school children, making sketches and wax sculptures of famous cartoon characters. WIPO also filmed several interviews with famous cartoonists, among them Derib, a well-known Swiss artist.



Photos p. 2, 3: Mercedes Martinez Dozal



# PROPERTY DAY



Rooted in the world's oldest forms of creative expression, comics and cartoons are an example of human creativity at its most innovative. Throughout the ages, artists and authors have adapted to new technologies – beginning with simple paint and ink, then the printing press, cinema and television, and now via computers and the Internet – to better express their ideas. They have provided enjoyment to generations of fans, regaling them with the adventures of enduring characters such as Mickey Mouse, Astérix, Tintin, and countless other characters from around the world.



*“Comics, Cartoons, and Creativity”* explores this universal medium, and explains how copyright gives creators the ability to gain recognition and financial reward for their work, thus providing encouragement for further creation.

Included in the exhibition is WIPO's own comic strip (shown below) – produced in cooperation with the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOP) of Peru – which uses this very accessible medium to explain the basic elements of copyright and related rights

and how they help encourage creativity. Along with the examples of cartoons and comics from around the world, they help give a picture of just one aspect of human creativity that continues to entertain millions of people, young and old, every day.

>>>



The Copyright comic jointly produced by WIPO and INDECOP

## Winners of the Essay Competition



Photo: Mercedes Martínez Dozal

Mr. Mpazi Sinjela (WIPO Worldwide Academy) greets Ambassador Yolande Biké, chairperson of the WIPO essay competition

The WIPO Worldwide Academy (WWA) announced on April 26 the winners of an essay competition, launched the previous year, which was open to university students around the world. The theme of the essay was *"What does intellectual property mean to me in my daily life?"* By the close of the competition on December 1, 2001, some 210 entries from 50 countries had been received. The WWA announced the following winners, who will each receive a prize of 1,000 Swiss francs:

- ⇒ Arabic language: Mr. Suhair Saleh Natto, studying at the Faculty of Dentistry, King Abdulaziz University Hospital, Jeddah, Saudi Arabia;
- ⇒ Chinese language: Ms. Gao Yun, studying at Nanjin University, Nanjin, China;
- ⇒ English language: Mr. Nikhil Gyan, studying at the University of West Indies, St. Augustine, Trinidad and Tobago;

- ⇒ French language: Mr. Djidjan Koffi, studying at the University of Lomé, Togo;
- ⇒ Russian language: Mr. Emin Arif Begliarov, studying at the State University of Azerbaijan, Baku, Azerbaijan;
- ⇒ Spanish language: Ms. Yadira del Carmen Areas, studying at the University of Panama, Faculty of Law and Political Science, Republic of Panama.

The Chairperson of the jury, Ambassador Yolande Biké, Permanent Representative of the Republic of Gabon to the United Nations in

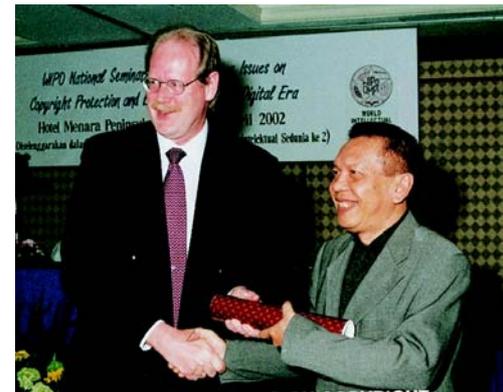
Geneva, thanked all participants in the essay competition and said she was impressed by the quality of the winning essays. "I am pleased that the response to this essay competition came from students in 50 different countries," she said. "This underscores the growing interest in intellectual property the world over and a new understanding of its vital role in our daily lives as well as the welfare of society as a whole."

The full text of each winning essay has been published on the WIPO website.

## New Creativity Award

This year's activities also included the introduction of the WIPO Creativity Award program. The award recognizes individuals or groups whose creativity, artistic skills and imagination have resulted in original works, performances or productions in both the digital and analog environments. The award will be presented to individuals who have made a substantive contribution to cultural, social and economic development in their respective countries.

The first Creativity Award, presented as part of WIPO's activities for World Intellectual Property Day 2002, went to Mr. Rinto Harahap, an Indonesian pop music composer. A panel of independent judges appointed by the intellectual property office of Indonesia (DGIPR) chose Mr. Harahap for his



Mr. Harahap is presented with the first WIPO Creativity Award by Mr. Jorgen Blomqvist (WIPO Copyright Division)

life time achievement as a composer of some 500 songs – including top hits – and for his commitment to the promotion of copyright and the fight against piracy. He is the creator of the GRENEK musical genre, which is a blend of traditional and pop music.

## IP Day in Member States

By press-time, some 66 member States and organizations had informed WIPO of events held in celebration of World Intellectual Property Day, which have been listed on the WIPO website at [www.wipo.int](http://www.wipo.int). Space does not permit us to report a few:

■ **Asia and Pacific.** The Intellectual Property Office of **Singapore** celebrated throughout the month of April with a number of workshops and seminars covering different aspects of intellectual property. Events (pictured here) reached a climax with the HIP (Human + Intellectual Property) Alliance concert on April 26.

■ **Africa.** The **Benin** Copyright Office postponed events due to the death of an ex-head of state. Therefore, a professional day for authors and composers and a workshop on writing and reading music, planned for IP Week, took place at the beginning of May and was followed by the presentation of a WIPO Creativity Award to a national author-composer.

■ **Americas.** A bookfair and seminar, which received wide television and newspaper coverage, was organized in **Colombia**. At the closing ceremony, several films on the fight against piracy were screened, and the message from WIPO Director General Kamil Idris was extensively quoted. The **United States** Patent and Trademark Office in cooperation with the Copyright



Office held "The Copyright Conference" on domestic and international copyright and related issues in Washington D.C. The conference featured current topics on the implementation of the WIPO Copyright and Performances and Phonograms Treaties, end user issues, perspectives on international enforcement, folklore issues and broadcasting, webcasting and audiovisual issues.

■ **Caribbean. Antigua and Barbuda** had an exhibition on intellectual property and an interview of the Deputy Registrar of the High Court broadcast on the local television station. A special feature on intellectual property and the role of WIPO published in the Antigua Sun will be followed by a weekly series on intellectual property. **Haiti** held a series of information sessions related to copyright, which culminated on April 26 with the deposit of a law on copyright and related rights, a conference on the role of copyright in cultural development and an exhibition of posters on intellectual property.

■ **Europe.** At a ceremony held by the **Hungarian** Patent Office at the Károlyi Palace, the Millennium prize was presented to representatives of institutions and organizations active in the field of intellectual property. The office also organized a travelling exhibition on wine trademarks jointly with the **Austrian** Patent Office. The exhibition posters showed the close connection between wine production and industrial property protection tools.

■ **Arab Region.** The **Moroccan** Industrial and Commercial Property Office held an open day to inform stakeholders and the general public of the advantages offered by the intellectual property system to encourage innovation and creation. Presentations prepared especially for World IP Day explained the role of the Office in reinforcing the industrial property system in Morocco, as well as the action it has taken to improve its services to stakeholders.



# CHANGING THE INTERNATIONAL PATENT SYSTEM

WIPO Director General Kamil Idris opened the Conference on the International Patent System on March 25 in Geneva with a call for consideration of wide-ranging reforms to ensure a more efficient and just system that, in an evolving world, would balance the interests of both inventors and the general public.

The Director General emphasized that if the patent system is to remain effective and enjoy the confidence of users, it must continue to develop and that both adaptation and more fundamental change are needed in certain areas, internationally and at the national level. Dr. Idris stressed that "the patent system must operate for the maximum benefit of all countries and communities of those who use the system and are affected by it, taking into account their differing levels of economic and technological development."

The purpose of the conference, Dr. Idris pointed out, was to help identify and analyze detailed measures in the process of reshaping the international patent system. "The conference affords a great opportunity to explore these issues and will help to set the tone for future discussions among WIPO's member States and interested organizations and groups, in the course of which priorities will need to be identified and established, and to inspire thinking in WIPO's secretariat." The Director General stressed that this process should be as inclusive as possible. "In the process of reshaping the international patent system, it is very important to achieve a broad basis of consensus as to how to benefit the widest range of countries, individuals and enterprises that participate in, make use of, and are affected by the system," he said.

## *Preparing the Blueprint for a Future Patent System*

The conference, organized by WIPO, was part of the WIPO Patent Agenda announced by the Director General in the fall of 2001. It forms part of international discussions whose purpose is the preparation of a strategic blueprint for the future evolution of the international patent system (see WIPO Magazine Nov./Dec. 2001).

The three-day gathering brought together representatives from both public and private sectors, including senior government figures and chief executives of major enterprises, as well as academia. It covered a wide variety of topics, including issues such as tensions and competing demands between the patent system, public policy and ethics when faced with new technologies, redesigning the system in light of the needs of users and the demands they place on patent offices, and meeting the need of the developing world to gain the most from the system. Among the particular themes explored were:

- ⇒ patent policy in relation to public health, genetic resources and traditional knowledge;
- ⇒ the patent system as an instrument of economic policy and its impact on research investment for developing countries;



Photo: Mercedes Martinez Dóral

*Meeting participants  
at the patent  
conference*

"Change in the wide sense is vital, and it should be based on long-term needs and objectives, in addition to addressing present critical concerns," Dr. Idris told some 400 delegates attending the meeting. "To make such change attainable requires the commitment and political will of all concerned." He urged countries to formulate national patent policies that would promote development, "while bearing in mind that a proper balance needs to be maintained between the interests of patent owners and the public."

- ⇒ patents as financial instruments;
- ⇒ the cost of obtaining a patent;
- ⇒ alternatives to litigation;
- ⇒ the impact of information technology on the patent system;
- ⇒ the role of patent offices of all sizes;
- ⇒ regional approaches;
- ⇒ the past, present and future of the Patent Cooperation Treaty (PCT);
- ⇒ the path to mutual recognition of search and examination.

### **Challenges Highlighted**

One of the key themes revisited by speakers throughout the conference was the need to reduce the duplication of work, for both applicants and patent offices, that is required under the current international patent system. A number of speakers encouraged increased reliance on the work of other patent offices as a first step towards greater international effectiveness of patent rights. They highlighted the challenge faced by the international patent community in tackling the current workload difficulties faced by many offices while not losing sight of broader and long-term needs and issues.

Emphasis was also put on the fact that the WIPO Patent Agenda should complement and strengthen other ongoing initiatives such as work towards harmonization of substantial aspects of patent laws, PCT reform, and regional initiatives. Several speakers pointed to



Photo: Mercedes Martínez Dozal

the PCT as a possible vehicle for change, bearing in mind its great attractiveness to applicants and its proven record in harmonization of formal requirements.

*Mr. Ma Lianyuan,  
Deputy Commissioner,  
State Intellectual Property Office,  
People's Republic of China*

### **Discussion Paper**

The discussion paper to be prepared by the WIPO secretariat, taking into account the comments on the WIPO Patent Agenda (available on the WIPO website) and the papers and presentations at the conference, will be submitted to the WIPO Assemblies in September.

WIPO will publish a multi-media CD-ROM covering the event. All papers and presentations from the conference are available in their original languages on the WIPO website ([www.wipo.int](http://www.wipo.int)). The presentations will be included on the CD-ROM, together with curricula vitae and filmed interviews.



# TALKS WITH THE PRIME MINISTER OF CÔTE D'IVOIRE

Prime Minister N'Guessan Affi of Côte d'Ivoire presented WIPO Director General Kamil Idris with a medal representing his country's highest distinction, *Commandeur dans l'Ordre du Mérite National*, during an official visit to Abidjan on April 8 and 9. The Prime Minister awarded the medal in recognition of the Director General's contribution to promoting development and social progress. Dr. Idris thanked the Prime Minister for this gesture and assured him of WIPO's continued support.

In talks with the Prime Minister, Dr. Idris highlighted the strategic importance of the intellectual property system in attracting foreign direct investment, building business competitiveness, enhancing market access, and harnessing the benefits of a nation's rich cultural heritage. Dr. Idris assured the Prime Minister of WIPO's support in the areas of intellectual property legislation, institution and capacity building, and human resources development.

Mr. Affi expressed his Government's commitment to intellectual property, which he said was of direct interest to Côte d'Ivoire in capturing the value of its rich cultural heritage and in meeting its development goals.

Discussions covered innovation promotion, the importance of intellectual property to research and development, the relevance of intellectual property to traditional knowledge and folklore, and collective management of copyright. Other issues included the intellectual property implications of electronic commerce and strategic use of intellectual property assets by small and medium-sized enterprises. The question of teaching intellectual property at Abidjan University was also explored.

## *Talks with Minister*

The Director General also held talks focused on ways of further strengthening cooperation between WIPO and Côte d'Ivoire and on how best to support national efforts to enhance the intellectual property system with Mr. Abdou Dramane Sangaré, Minister of State, Minister for Foreign Affairs, and Mr. Alain Cocauthrey, Minister of Industry and Promotion of the Private Sector.

## *Opening Regional Seminar*

During his visit, Dr. Idris also opened a regional seminar on intellectual property and the protection of expressions of folklore and traditional knowledge. The Director General presented an overview of the relevance of the intellectual property system to traditional knowledge. On the sidelines of the meeting, the chairperson of the seminar and First Lady of Côte d'Ivoire, Mrs. Simone Gbagbo received the Director General. The First Lady of Rwanda, Mrs. Jeanette Kagame, was also present at the opening of the seminar.



*The Director General along with the First Ladies of Côte D'Ivoire (at his left), Rwanda (at his right) and the representatives of the First Ladies of Benin and Nigeria*



# AGREEMENT ON EDUCATION SIGNED WITH ROMANIA

Prime Minister Adrian Nastase of Romania and WIPO Director General Kamil Idris signed, during the Prime Minister's visit to WIPO on April 15, a framework agreement of cooperation in the field of education between the WIPO World-wide Academy (WWA) and the Romanian Government to enhance the teaching of intellectual property in that country. The agreement reflects the strong cooperation between WIPO and Romania.

Dr. Idris welcomed the Romanian Government's efforts to strengthen the national intellectual property system, particularly in upgrading the intellectual property enforcement system and assistance to small and medium-sized enterprises (SMEs) to use the intellectual property system more effectively. The Director General reaffirmed WIPO's continued support for the strengthening of the intellectual property system in Romania, particularly in the field of human resources development and institution building.

Prime Minister Nastase underscored the importance of the intellectual property system in promoting economic and cultural development in Romania and in using the nation's creative resources. He reaffirmed his Government's commitment to strengthening the na-

tional intellectual property system and expressed support for implementation of the framework agreement between the WWA and the Romanian authorities to upgrade intellectual property human resource capacity through expanded teaching programs.

In June 2001, Romania signed a cooperation agreement with WIPO aimed at modernizing and further strengthening the intellectual property system in Romania. Activities under this program include initiatives to upgrade intellectual property enforcement capacity in Romania, intensified training in intellectual property, efforts to promote innovation and assist SMEs in effectively using the intellectual property system, and the protection of traditional knowledge and folklore.

Photo: Mercedes Martinez Dozal



Romanian Prime Minister Adrian Nastase and Ambassador Anda Filip arrive at WIPO

# AGREEMENT WITH COMMUNITY OF PORTUGUESE-SPEAKING COUNTRIES

WIPO Director General Kamil Idris signed an agreement on April 17 with the Executive Secretary of the Community of Portuguese-Speaking Countries (CPLP), Ambassador Dulce Maria Pereira, aimed at reinforcing cooperation between the two organizations. Present for the signing of the agreement at WIPO headquarters in Geneva were ambassadors from several Portuguese-speaking countries, namely Angola, Brazil, Cape Verde, Mozambique and Portugal.



*The signing of the agreement by Ambassador Dulce Maria Pereira and Dr. Idris*

The agreement reflects the importance that WIPO attaches to language and cultural diversity. It stipulates that WIPO's cooperation for development activities with Portuguese-speaking countries will be undertaken in Portuguese. Some 176 million people in eight countries spread over four continents speak Portuguese (Angola, Brazil, Cape Verde, East Timor, Guinea Bissau, Mozambique, Portugal, and Sao Tome and Principe).

## **Areas of Assistance**

Cultural identity is a strong unifying element among the CPLP member States. Talks on the relevance of the intellectual property system to cultural heritage and traditional knowledge are currently taking place under the auspices of WIPO. In addition, a recent WIPO study in several South American countries revealed the economic importance of the culture industries. In Brazil alone, the culture industries accounted for 6.7 percent of gross domestic product, representing some 54 billion US dollars, and employed some one million people. Copyright is at the heart of those culture industries. Under the agreement, WIPO is committed to helping this group of countries to better harvest their creativity for economic, social and cultural development as well as wealth creation. WIPO will also assist the countries in establishing copyright collective management societies.

CPLP and WIPO will also collaborate on a project aimed at providing WIPO's distance learning program in Portuguese. The program is currently available in Chinese, English, French and Spanish. Arabic, Portuguese and Russian are expected later this year.

Portuguese-speaking African countries will benefit from the implementation of a global digital information network by the end of this year through the WIPONET Project,

which ensures Internet access and enables the integration of information resources, processes and intellectual property systems worldwide. WIPONET will eventually connect all of the world's intellectual property offices and facilitate the transfer of technology to developing countries as well as enhance access to intellectual property services and resources.

## **Meeting Participants**

The ambassadors present at the meeting included: Mr. João Filipe Martins, Angola, Mr. Luiz Felipe de Seixas Corrêa, Brazil, Mr. Alexandre de Conceição Zandamela, Mozambique, and Mr. Alvaro de Mendonça e Moura, Portugal. Also present were the Chargé d'affaires of Cape Verde, Mr. António Pedro Alves Lopes and Ms. Annick Melson, CPLP Counsellor to the United Nations.



# ENHANCED COOPERATION WITH THE LEAGUE OF ARAB STATES

WIPO will increase its cooperation activities with the League of Arab States (LAS) to promote the use of intellectual property assets in stimulating economic growth, particularly in the cultural industries sector. This decision came at a meeting between WIPO Director General Kamil Idris and LAS Secretary General Amre Moussa on April 18 at WIPO's headquarters and results from the shared conviction that intellectual property protection and capacity building are crucial to Arab countries, both in promoting economic development and in safeguarding the rich cultural heritage of the region.

Two years ago, WIPO and LAS started working together on activities aimed at reinforcing the intellectual property systems of countries in the Arab world and at promoting greater public awareness of the benefits of intellectual property protection. Mr. Moussa and Dr. Idris agreed to reinforce these ties further.

## **Areas of Cooperation**

Future areas of cooperation include the organization of conferences on the impact of the copyright industry on Arab national economies and emerging issues in the field of intellectual property, such as electronic commerce. A regional coordination meeting for the heads of industrial property offices of Arab States is expected to be held in Doha in October. This will aim to coordinate policies and future activities in the Arab region in the field of industrial property. A meeting to bring together the presidents and deans of law faculties of major Arab universities to promote and strengthen the teaching of intellectual property law in these institutions is planned. WIPO will also continue to provide technical assistance to Arab countries in the area of drafting laws that are compatible with international intellectual property standards.

In 2000, WIPO assisted the LAS in the establishment of an Intellectual Property Unit at its General Secretariat. This included training officials, providing intellectual property documentation, computer equipment and assistance in creating a directory of Arab national intellectual property offices. Other initiatives resulting from LAS-WIPO collaboration included an exhibition by Arab artists in September-October 2000 at WIPO's Geneva headquarters and a briefing session on intellectual property



*The painting Boy and Girl by Mohamed Hamed Ewaiss was part of an exhibition held at WIPO with the collaboration of the LAS in 2000*

at the Cairo headquarters of the LAS in April 2001 for the members of the permanent delegations to LAS in Cairo. A meeting for the New York-based Arab Permanent Representatives on the importance of intellectual property protection and WIPO's activities in the Arab region was also held in New York in May 2001. WIPO and the LAS have also worked together to set up a web page that addresses intellectual property-related matters on the LAS website.



# INCREASING INTELLECTUAL PROPERTY SKILLS AND TRAINING

Intellectual property offices in the developing and least developed countries repeatedly identify human resource development as a key concern. Many have requested assistance from WIPO to train and form personnel and to help establish intellectual property programs in local universities. In this context, the WIPO Worldwide Academy (WWA) was established in 1998 to help member States acquire specialized intellectual property knowledge and skills to enable them to derive benefits from the intellectual property system.

## **Academy Courses**

In 1999, the WWA established a post-graduate specialization course on intellectual property with the University of Turin, Italy. This intensive three-month course is directed at persons teaching intellectual property in institutions of higher learning in developing countries. The Academy also established a two-year specialization program – via distance learning – with the University of South Africa (UNISA) and a Master of Human Rights and Intellectual Property Law at the Raoul Wallenberg Institute of the University of Lund, Sweden. WIPO offers fellowships of up to one year to a select group of nationals from developing countries to follow these postgraduate courses.

The Academy also maintains a distance learning program to extend the availability and use of courses with the help of information technology, a professional training program with emphasis on developing the skills of persons engaged in the management and administration of the intellectual property system and a policy development program that provides special academy sessions to decision makers, senior officials, diplomats, industry representatives and members of civil society including non-governmental organizations and journalists. The programs have both an interregional and a national orientation. The participants in the general course on intellectual property alone reached 3,842 in 2001. (For more information, please order the WWA Catalogue of Courses)

## **National Initiatives**

Efforts to improve access to and training in intellectual property is a concern of many countries that have established or are developing their own programs. A few examples are:

### ⇒ **Korea: Cyber International IP Academy**

The Intellectual Property Office of the Republic of Korea (KIPO) is currently developing its own Cyber International Intellectual Property Academy. In its first stage set to go live this month, it will provide intellectual property education for Korean students and experts. Four

courses have already been developed for youths, teachers and the general public and KIPO aims to have ten courses by the end of 2002. The second phase will develop educational programs to expedite intellectual property development and expert training in developing countries and will be available in 2003. The third phase, the Cyber Intellectual Property College, which will provide specialized courses and conduct academic exchanges with other colleges, is expected for 2005.

### ⇒ **Venezuela: Postgraduate Course for Professors**

WIPO in cooperation with the Inter-American Copyright Institute (IIDA) and the University of Los Andes (ULA), Venezuela, and with the assistance of the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA) and the Regional Center for Book Development in Latin America and the Caribbean (CERLALC), supported the organization of a post-graduate course on intellectual prop-



*Opening ceremony of the 3<sup>rd</sup> Postgraduate Course on Copyright and Related Rights for university professors from Latin America in Venezuela*

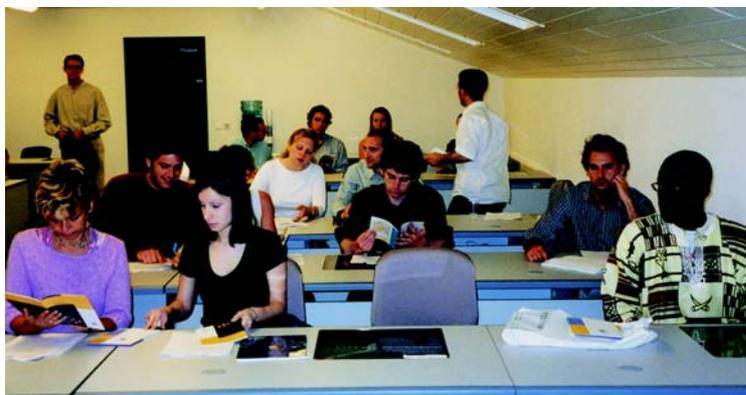
erty for university professors from Latin America. Since 1999, three courses of this kind have already been developed and some 54 professors passed the course. The course is aiming at encouraging the training of trainers by teaching intellectual property, in particular copyright and related rights to university professors.

⇒ **Egypt: Specialized Diploma in IP**

WIPO assisted the Faculty of Law of Cairo University in establishing for the first time in an Egyptian university a specialized diploma program in intellectual property. Cairo University launched the new program in October 1999. WIPO provided a tailor-made curriculum for the program and financed the participation of Arab students in the diploma program, as well as foreign speakers to make presentations on intellectual property-related issues.

⇒ **Africa: Regional center of excellence for copyright enforcement and collective management training**

The Copyright Society of Malawi (COSOMA), the Copyright Society of Burkina Faso (BBDA), the Copyright Office of Ghana and the Mauritius Society of Authors (MASA) have played an important role in hosting training programs in the area of copyright and collective management of copyright for staff of African collective management organizations and copyright offices in the last ten years. To re-



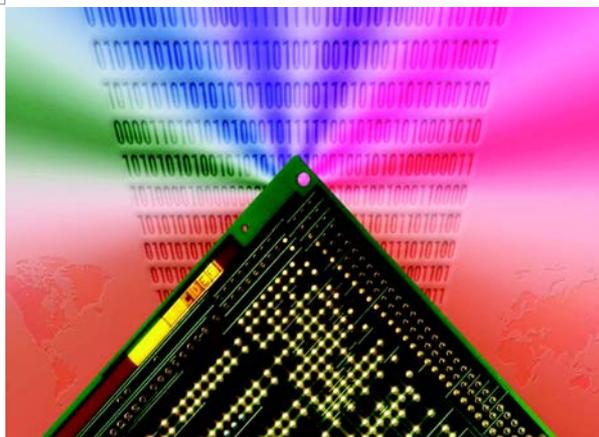
*WIPO Worldwide Academy summer school in Geneva*

spond to an ever increasing demand for training in both copyright enforcement and copyright collective management in Africa, WIPO recently organized a two-week intensive training program in copyright and collective management in Malawi for newly appointed heads of collective management societies.

The program served as a prelude to the transformation of COSOMA, with the support of WIPO, into a regional center of excellence in copyright and collective management training. The regional center's aim is to introduce regular, systematic practical training in all the principal segments of collective management and to provide practical training for the staff of copyright offices in the administration of an antipiracy initiative.



# NATIONAL FOCUS: THE SWISS APPROACH



The Swiss Federal Institute of Intellectual Property has served as a model for many intellectual property offices in developing countries, with its focus on operating more in accordance with business principles than as a government office.

As part of this new style of management, the Institute has developed a palette of customized database search products for accessing technology and patent information. With these new products, the Institute operates as a service provider in a competitive business environment, setting its fees to compete with those of the private sector. This market-based approach is taking hold among other intellectual property offices around the world.

## **Building Awareness**

Established in 1888 – its most famous employee having been Albert Einstein, who worked there from 1902 to 1909 – the Institute became a public law institution of the Swiss Confederation with its own legal identity, operationally independent of the government, in 1996.

The Institute began looking for ways to increase awareness of intellectual property issues in Switzerland several years ago when a study conducted by the European Patent Office (EPO) showed that only 20 percent of Swiss industry owned intellectual property protection titles; in Japan the figure was 40 percent. The Institute adopted a key objective of creating partnerships with the private and public sectors to help publicize the value of intellectual property among enterprises and institutions.

For instance, a special agreement reached with several universities gives free access to the Institute's intellectual property database. In exchange, the Institute is allowed to organize seminars on intellectual property issues of interest to young entrepreneurs at the universities. It has also signed a three-year partnership with the Swiss Economic Forum (SEF), considered the largest organization for small and medium-sized enterprises and start-up companies in Switzerland. The inclusion of intellectual property issues among topics relevant

to entrepreneurs has opened many doors for the Institute.

The Federal Institute of Intellectual Property has placed particular emphasis on developing its Internet presence. Aside from the many client-oriented services found on its website ([www.ipi.ch](http://www.ipi.ch)), the Institute has links with its partners and to sites for entrepreneurs and business people, such as [www.estarter.ch](http://www.estarter.ch), [www.eduswiss.ch](http://www.eduswiss.ch), and [www.kmuinfo.ch](http://www.kmuinfo.ch). These sites highlight that the first step in creating an enterprise is to protect intellectual property.

## **Client Services**

As part of defining its new focus, the Institute identified four general reasons why enterprises need information from intellectual property searches, and have used them as the basis for its new customized, modular search products. They are the following:

- ⇒ Technical: to find solutions for technical problems and information on trends;
- ⇒ Judicial: to avoid infringements; establish legal status; defend products;
- ⇒ Financial: to identify areas for research and development investment; identify competitors' areas of investment; determine market trends; clarify license agreements;
- ⇒ Others: patent translations.

Many of the business services offered by the Institute go beyond those offered by most national patent offices. For example, to assist businesses in identifying their competitors, the Institute can prepare a report identifying companies that are diversifying or specializing in a certain field. Companies can also receive reports on other areas of research being followed by their competitors. Many private sector companies offer similar services; so the Institute must remain competitive in pricing and maintain the quality of its services.

### **Assistance for Developing Countries**

The Institute has also set up a special program of cooperation (SPC) to assist Viet Nam in the intellectual property aspects of its accession to the World Trade Organization (WTO), following an agreement for cooperation in the field of intellectual property signed between the Swiss Federal Council and the Government of Viet Nam in 1999. Several seminars have already taken place in 2001 and 2002, focusing on practical accession questions, copyright, industrial property aspects of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) as well as the International Union for the Protection of New Varieties of Plants

(UPOV) and the Paris, Madrid and Budapest Unions. The seminars, for representatives of public administrations and private companies, took place in both Hanoi and Ho Chi Minh City. Other ongoing tasks include translation, editing, printing and distribution of international intellectual property agreements in Vietnamese, as well as translation of Vietnamese regulations into English.

The Institute also participates in WIPO workshops focusing on innovation promotion in the developing countries. Some 14 participants from French-speaking African and Arab countries recently benefited from a full day of hands-on experience and practical advice while at the Institute's headquarters in Berne.



*A CD to assist businessmen in managing intellectual property, produced by the Swiss Institute*

Future work for 2002 includes an expert mission focusing on Viet Nam's international obligations; study tours to Switzerland and other countries on undisclosed information, unfair competition, trade names and geographical indications; promotion of the use of intellectual property rights, in particular in the exploitation of traditional knowledge; training of judges and enforcement agencies; and other tasks, such as setting up an intellectual property library.

# MINDS (MALAYSIAN INVENTION AND DESIGN SOCIETY)



*e-Jari winner of a WIPO Gold Medal at this year's MINDS exhibition*

MINDS, the Malaysian Invention and Design Society, is one of the leading inventors' organizations in Southeast Asia, with an impressive record of activities aimed at improving the image of inventors and assisting its members in promoting their inventions. Created in 1986 with the assistance of WIPO, MINDS annually organizes an international exhibition and workshop or symposium to address issues of particular interest to Malaysian inventors.

This year MINDS organized the 13<sup>th</sup> edition of the International Invention, Innovation, Industrial Design and Technology Exhibition from March 29 to 31, in Kuala Lumpur, Malaysia, in cooperation with the Institute of Training and Development (ITD). The quality of exhibits and the variety of inventions have increased with every new exhibition. Many inventions are proposed by universities and educational institutions, however individual inventors also use the opportunity to showcase their most recent solutions and gadgets. As has become the custom, a high government official, the Minister for Entrepreneurial Development, Mr. Dato Mustapa Bin Mohamed, honored the exhibition by addressing the participants at the opening ceremony.

The workshop held in conjunction with the Exhibition addressed the theme of "Technopreneurship: Bringing Innovations to the Global Market." Among topics addressed at the workshop were the following:

- ⇒ Creating a Culture Promoting Innovation and Invention
- ⇒ The Technopreneurship Development Flagship: Facilitating the Growth of Entrepreneurship and World Class Companies
- ⇒ Technopreneurship in the New Economy: Critical Success Factors

- ⇒ A Technopreneur's Quest for Glory and Profit through Niche-Seeking Inventions
- ⇒ Technology Transfer Through Inventionbank.com

A WIPO Gold Medal for the most outstanding invention at the exhibition was awarded to a team of five inventors working at SIRIM (Standard and Industrial Institute of Malaysia) who proposed an ***e-Jari - Intelligent Biometric Access Control System***. *E-Jari* is a security control/lock pad, activated by a thumbprint. The achievement of these inventors was in considerably reducing the size of the electronic circuit so that it could fit into a small device with a memory capacity for some 1,000 individual thumbprints.

MINDS has seen 22 WIPO Gold Medals awarded to inventors from Malaysia in its 15 year-history.



# TRADE SECRETS: POLICY FRAMEWORK AND BEST PRACTICES\*

Every business would like to know its competitors' secrets of success, including any proprietary information of commercial value. As confidential information and knowledge increasingly drives business success, companies are honing their policies and practices to safeguard confidential information of commercial value against accidental, inadvertent or willful misappropriation, misuse, sabotage, loss or theft. Competitive intelligence, industrial espionage and sabotage are facts of life that cannot be glossed over, so secret information or data needs proper protection and management if it is to be leveraged for competitive advantage. Once confidential information is disclosed to competitors, its value is lost forever.

Only with due effort to keep information confidential or secret does such an intellectual asset become property that may be licensed as a trade secret or used to obtain protection for another type of marketable intellectual property asset. Inventions (protected by utility model or patent registration), trademarks, industrial designs, artistic or literary works (the latter protected by copyright and related rights), where they have not yet been made public, are kept as trade secrets until used or published as such, or during the process of registration or grant of the relevant intellectual property rights.

\* This article is a follow up to the article on Protecting Trade Secrets in the April issue of the WIPO Magazine.

An enterprise-wide information security and protection program is essential for the protection of trade secrets. Such a program should have a wider scope, going beyond trade secrecy, to protect other types of secret information without commercial value, such as medical records of employees, attorney-client communications, etc. It should also deal with issues of business continuity and disaster planning for the secure and uninterrupted delivery of information during natural or man-made disasters. This step involves adopting a formal information security and protection policy. As many legal and technical considerations might bear on an information security and protection policy, companies should consult with legal and technical specialists to develop one that best suits their needs.

A basic step in developing and implementing such a policy and program is to identify and prioritize business secrets based on their value and sensitivity. This exercise should be carried out periodically to review and update the findings, given the fact that the value of information changes with time. Regular trade secret audits have emerged as an effective means of identifying, protecting and managing trade secrets, as they provide a basis for timely adaptation of the information security and protection system to the constantly evolving business environment.

## *Means of Protection*

A common way of protecting trade secrets is through confidentiality or non-disclosure and non-compete clauses in an employment contract. In addition, a company should have similar rules and requirements for the protection of confidential information from contractors, consultants, vendors, customers, prospective or temporary staff, interns, visitors, non-employees working on site, etc.

There is no government registration process in any country of the world that forces enterprises to reveal their confidential business information to the authorities in order to obtain trade secret rights. So the cost of protecting trade secrets is largely the cost of putting in place an information security and protection policy and program in the company and the cost of monitoring, surveillance, audit and legal measures against insiders or outsiders who breach or try to breach the security system.

So long as a company has made systematic efforts that are considered reasonable under the circumstances to preserve confidentiality or secrecy, it may take legal measures to redress the misappropriation of almost any kind of information of competitive value. It is ille-

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gal to acquire another's trade secret if one knows or has reason to know that the trade secret was acquired by improper means. Improper means include theft, bribery, misrepresentation, breach or induced breach of a duty to maintain secrecy, or espionage by electronic or other means. Reverse engineering or independent derivation alone are not considered improper means. Thus, a trade secret suit will not succeed if an aspect of a product's design or construction has been obtained by examination of an item purchased in the marketplace. Nor will a suit be useful against those who independently discover a secret process or make a compilation of commercially valuable information.

### **Employee Relationships**

Employee education is an important component of a corporate trade secrets program. A good in-house information protection program informs employees of a company's policies regarding non-disclosure and educates and trains all employees on the practical aspects of information protection by providing clear, consistent definitions of confidential information, illustrated with specific examples from the work environment. It also includes a system for monitoring compliance and a process for audit, evaluation and continuous improvement.

Such a program also specifies that, when hiring, the company should exercise caution to avoid allegations that a new employee has misappropriated trade secrets from a former employer. Newly hired employees receive a copy of the information security and protection policy along with a briefing on the subject, and they agree to abide by the policy by signing an acknowledgement to that effect. Periodical reminders of the policy and proper training in its implementation are necessary throughout the period of employment. Employees leaving the company are reminded of their continuing responsibilities in that regard and of the need to return any information or document that may contain trade secrets. They also sign a separation report attesting to the return of all confidential information and trade secrets.

*"Following the recent departure of employees from our asset-backed and mortgage-backed business, we discovered that intellectual property and other proprietary business information belonging to the Bank had been wrongfully taken," said the spokesman of a Major U.S. bank involved in a trade secret dispute.*

*(National Post Online - April 18, 2002)*

### **Controls on Physical Access**

A good policy provides that physical access to a trade secret document repository or to a manufacturing or research and development facility requires a security pass. A well defined and clear system consistently marks and controls the distribution of documentation containing confidential or secret information. Access to such information is limited to key personnel and is disclosed only after a written confidentiality or non-disclosure agreement has been signed. A good confidentiality agreement is detailed and direct, and limits post-employment restrictions, if at all, in time and geographical scope.

### **Security in the Electronic Environment**

What is relatively easy in the physical world is much more complex when a company relies on computers, e-mails, instant messaging and websites for sharing information and engaging in e-commerce. A company must know its information and information systems in order to protect them, and understands all the types of information available anywhere on the company's various computer systems.



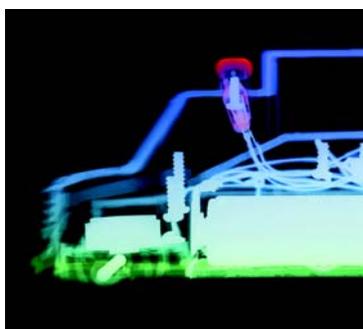
Courtesy: Osram GmbH



Top management should have a working knowledge of the different kinds of information that enter the system, what the system does with the information, how it is stored and when it leaves the system. Which employees have access to what kinds of information? How are employees prevented from accessing information without authorization? Are the internal barriers protecting different kinds of information secure? How are electronic archives created, accessed and protected? All employees are to be regularly reminded that online communications should receive the same care as written communications, and that a trade secret requires the same protection whether online, or in written or oral communication.

Electronic communications are more likely to leave a trail of inadvertent copies that can be seen with special software tools or during maintenance of computer systems. Every company should therefore have a system for encrypting and/or monitoring communication, and employees should know that this is being done. A company should monitor only enough to obtain legitimately needed information, and should stop once it has obtained sufficient information to establish employee behavior that violates its information security and protection policy.

In a computerized workplace, consideration is given to the kinds of information needed for specific job functions and to conforming the information system's internal barriers to ensure that employees have access to only the information needed for their own jobs. A centralized service assigns each authorized user a unique password,



to be protected and kept confidential by that individual, that is difficult to crack and is changed on a regular basis and deleted when no longer authorized. A good in-house policy clearly states that all employees are strictly forbidden to access another employee's e-mail or voice mail, and that violating this policy leads to severe disciplinary action.

Electronic storage media containing secret information/data, such as diskettes, compact discs and DVDs, should be physically segregated and secured in the same way as confidential or secret paper documents. Documents on such media, on hard drives of computers, and on secure central or network servers should contain a

legend that appears when the user tries to open the document stating that the document sought contains confidential or secret information or data of commercial value. Technical measures, software and encryption techniques may be employed to restrict access to classified information on secure networks, and to prevent or track unauthorized access to confidential information.

### ***E-Commerce Concerns***

Of the various concerns in e-commerce, protection of trade secrets is an important one. The main source of trade secret information created by a website is the web server, which systematically registers every visitor to the website, along with other information that may be useful for developing business strategy and marketing plans. This becomes a real issue when a company uses an external website hosting company. In this situation, such a company's directory on the web server often contains other information, data and programs that can constitute trade secrets, such as customized software. Therefore, every business should ensure that its external website host is contractually bound to ensure that the data stored on its site is adequately protected.

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### ***Take All Cases of Abuse Seriously***

Companies frequently overlook the problem of loss of trade secrets by acts of omission or commission on the part of employees with computer access. This may have serious repercussions, as the employees of today may be tomorrow's competitors. Companies must therefore take steps to protect themselves against abuse of company information by errant employees. A coherent approach to controlling information may even provide a company with a better set of legal defenses and affirmative claims against employees who misuse confidential information.

A farsighted employer treats every known abuse of its secret information seriously. If the facts establish that an employee has accessed company information without authorization, then such an employer never fails to take the appropriate disciplinary action, as failing to apply appropriate disciplinary measures to one employee is simply putting arguable evidence of discrimination into the hands of another. Moreover, the wrongful nature of the employee's conduct could provide an extremely potent defense for the employer should the employee ever sue him. So disgruntled current employees are not at liberty to surf the company's computer system looking for evidence to use against the employer in future or current discrimination litigation.

### ***Trade Secret Policy Underpins Intellectual Property Policy***

As enterprises rely increasingly on intangible or knowledge-based assets for creating and maintaining their competitiveness in the marketplace rather than on tangible or physical assets, their ability to create, deploy and strategically manage such proprietary assets is becoming a crucial factor of business success. Adequate and effective creation, protection, use and management of trade secrets is the starting point on the road to successfully developing and managing intellectual property strategy and integrating it in the business strategy of an enterprise.

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

The next article in IP and Business will be on "Patents and Development of New Products".

***Three months after taking a job at a US communication company, an employee allegedly made a late-night visit to the office, downloaded some files on to a laptop, and walked out the door. A few weeks later, he was named vice-president of one of the company's biggest competitors. The "suspicious" career move has since ballooned into a hostile battle over corporate loyalties and heavily guarded trade secrets – a battle that recently made its way into Canadian courts.***

*(National Post Online - February 23, 2002 - Michael Friscolanti)*

# THE LAW OF COPYRIGHT AND THE INTERNET

BY DR. MIHÁLY FICSOR

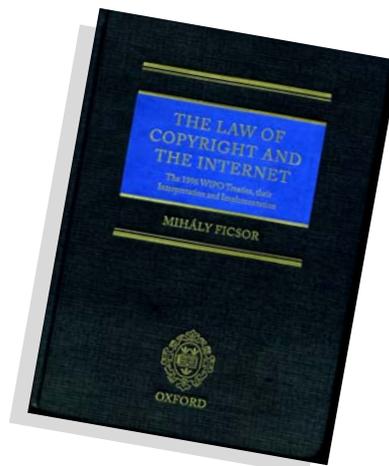
With the entry into force this year of both the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), copyright has entered the digital age. This passage is marked by the appearance of a landmark publication, *The Law of Copyright and the Internet*, by former WIPO Assistant Director General Mihály Ficsor.

Subtitled "The 1996 WIPO Treaties, their Interpretation and Implementation", the book, published by Oxford University Press, provides an in-depth and up-to-date analysis of the state of copyright in the interactive environment of the 21<sup>st</sup> century. Dr. Ficsor, who was responsible for copyright and related rights matters at WIPO during the preparatory work and 1996 Diplomatic Conference that led to the adoption of the "Internet Treaties", provides detailed analysis of the two treaties and their impact from a uniquely qualified perspective.

Dr. Ficsor is among the best-known copyright experts on the international scene. Before joining WIPO in 1985, he had already chaired various international copyright meetings organized by WIPO and the United Nations Educational, Scientific, and Cultural Organization (UNESCO). As head of the Hungarian copyright administration until 1985, he was instrumental in bringing the copyright law of his country into the frontline of international development in the field. Dr. Ficsor is still active on the international copyright scene and is frequently involved in WIPO activities in that area.

The book is a valuable and reliable source of information on the interpretation and implementation of the treaties, useful for policy-makers and practitioners as well as those interested in the economic, social and cultural implications of the use of protected material in the global information network.

Divided into four sections, the book reviews developments in copyright leading up to the 1996 Diplomatic Conference as well as issues discussed during the Conference itself. It then explores what the author refers to as the "digital agenda" of copyright, that of the applicability of rights in various digital envi-



ronments. Dr. Ficsor provides an article-by-article analysis of each of the provisions of the two treaties, and concludes with a discussion of the state of adherence of the two treaties and a review of the preparatory work, under the aegis of WIPO, on issues which were not settled by the Diplomatic Conference.

Exhaustive in its research and thorough in its analysis, the book is a timely and indispensable guide to anyone interested in how the international response to the digital revolution has shaped – and will continue to shape – the means of protecting the rights of artists, authors, and creators in cyberspace.



# CALENDAR of meetings

## MAY 6 TO 10

(GENEVA)

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

The Committee will continue its work on further harmonization and other issues relating to patent law.

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

## MAY 13 TO 17

(GENEVA)

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

The Committee will continue its work on the protection of broadcasting organizations and databases.

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

## MAY 13 TO 17

(GENEVA)

### ***IPC Reform Working Group of the IPC Union (Seventh session)***

The Working Group will continue elaboration of recommendations concerning IPC reform for the Committee of Experts of the IPC Union.

**Invitations:** As members, the States members of the IPC Union and member organizations of the Working Group; as observers, the States members of the Paris Union and certain organizations.

## MAY 21 TO 24

(GENEVA)

### ***Second Special Session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) on the Report of the Second WIPO Internet Domain Name Process***

The second of two special sessions of the SCT, the first of which took place from November 29 to December 4, 2001, will continue discussions of the Final Report of the Second WIPO Internet Domain Name Process.

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

## MAY 27 TO 31

(GENEVA)

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

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

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

## JUNE 6 AND 7

(GENEVA)

### ***Seminar on the Madrid System of International Registration of Marks***

This Seminar, in French, aims to increase awareness and practical knowledge of the Madrid system amongst trademark agents who use or will use the system, whether in industry or in private practice. These Seminars are held regularly

every year both in English and in French.

**Invitations:** Registration to participate in this Seminar is against payment of a fee.

## JUNE 10 TO 14

(GENEVA)

### ***Standing Committee on Information Technologies (SCIT) (Seventh Plenary session)***

The Plenary will receive reports from its Working Groups on Standards and Documentation and Information Technology Projects and will continue its discussions, started in January 2001, on restructuring.

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

## JUNE 13 TO 21

(GENEVA)

### ***Intergovernmental Committee on Genetic Resources and Traditional Knowledge (Third session)***

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

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

# NEW PUBLICATIONS

**International Conference on Intellectual Property, the Internet, Electronic Commerce and Traditional Knowledge, Sofia- May 29 to 31, 2001**



CD771E

30 Swiss francs

**Intellectual Property Profile of the Least Developed Countries**

(English) N°466(E)  
free of charge



**Lisbon Agreement for the Protection of Appellations of Origin and their International Registration & Regulations (as in force on April 1, 2002)**

(English) N°264(E)  
(French) N°264(F)  
(Spanish) N°264(S)  
15 Swiss francs



**Domain Name Dispute Resolution Service in 2001**

(English) N°494(E)  
(French) N°494(F)  
(Spanish) N°494(S)  
free of charge



**Patent Cooperation Treaty & Regulations (as in force on April 1, 2002)**

(English) N°274(E)  
(French) N°274(F)  
(German) N°274(G)  
(Spanish) N°274(S)  
20 Swiss francs



**Conocimientos Tradicionales: Necesidades y Expectativas en Materia de Propiedad Intelectual**

(Spanish) N°768(S)  
30 Swiss francs



**Guide to WIPO Mediation (2002 version)**

(English) N°449(E)  
(Spanish) N°449(S)  
free of charge



**Académie sur la mise en oeuvre des droits de propriété intellectuelle à l'intention de magistrats de pays en développement de droit continental**

(French) N°887(F)  
15 Swiss francs



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