

# WIPO



ACE/IP/1/5

ORIGINAL: English

DATE: October 19, 2000

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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

## ADVISORY COMMITTEE ON ENFORCEMENT OF INDUSTRIAL PROPERTY RIGHTS

First Session

Geneva, October 19 and 20, 2000

COMMENTS SUBMITTED BY:  
UNITED STATES PATENT AND TRADEMARK OFFICE  
OFFICE OF LEGISLATIVE AND INTERNATIONAL AFFAIRS

*Proposal by the Delegation of the United States of America*

### Administrative matters

#### 1. Coordination of industrial property and copyright enforcement activities

Comment: To facilitate coordination of the activities of the Advisory Committees on the Enforcement of Industrial Property (ACE/IP) and the Management and Enforcement of Copyright and Related Rights in Global Information Networks, the United States recommends holding a joint meeting of the two Committees for the purpose of identifying common issues and activities, and ways to work together to address them. This meeting should be held soon after the ACE/IP has determined the scope of the enforcement activities it will undertake, and organized by the Industrial Property and Copyright Law Divisions.

Note: Sub-programs 09.3 (Protection of Industrial Property Rights) and 10.3 (Copyright and Related Rights and Digital Technology) in WIPO's 2000-2001 Program and Budget state that the enforcement activities contained in these sub-programs will be carried out in close coordination.

## 2. Participation by enforcement officials

Comment: The enforcement of intellectual property rights is a multi-disciplinary task and involves government officials from substantive IP and enforcement agencies (e.g., customs, the judiciary, prosecutors, police, etc.). Therefore, participation by IP and enforcement officials in the Advisory Committee's meetings is critical. If this is not possible, the Member State representative attending the meetings must consult with these agencies and keep them apprised of the Committee's activities to assure useful input by all members.

Note: Deputy Director General's August 30, 2000, letter encourages Member States to notify enforcement agencies of the meeting.

## 3. Sharing of information

Comment: To facilitate the sharing of information on enforcement issues, the United States recommends that each Member State establish a delegation contact person (who may or may not be the head of delegation), and provide that information, plus a list of all of their government's agencies (substantive and enforcement) which are responsible for intellectual property matters, to WIPO for circulation to the other member States. WIPO should also consider posting this information on its website.

## 4. Cooperation and coordination with other multilateral and regional organizations

Comment: Because of the growing recognition internationally of the critical importance of enforcement of intellectual property rights, there are numerous multilateral and regional organizations, in addition to WIPO, which are considering the issue, including for example, the United Nations Economic Commission for Europe (UNECE), World Trade Organization (WTO), European Union (EU), Association of South East Asian Nations (ASEAN), etc. The Committee should consider liaising with these organizations (e.g., through inviting their representatives to attend committee meetings), both to avoid duplication of effort and to share expertise and experiences, as appropriate.

## 5. Frequency of meetings

Comment: The number of meetings will ultimately depend on how active the Advisory Committee is and the nature of its activities. However, to be effective, it must meet no less than twice a year. The increased emphasis on enforcing intellectual property rights and the need for international coordination as a result of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), globalization and the Digital Age necessitate that WIPO, as inter-governmental organization, play a more active role in addressing enforcement issues.

### Short-term proposals

#### 1. Enforcement implementation survey

Comment: With the passage of the January 1, 2000, deadline for implementation of the TRIPS Agreement, creating a TRIPS-compliant enforcement regime is a major priority for many developing countries. WIPO is already actively involved in providing technical assistance and training to developing countries in the enforcement area. However, to identify member states needing additional assistance (e.g., drafting laws, understanding enforcement requirements, operational training), the ACE/IP, through the Industrial Property Law Division, should conduct a survey to identify the countries which are requesting training and their training needs. This initiative should be coordinated with the appropriate WIPO Bureaus and Divisions and the WIPO Worldwide Academy.

Note: See document WIPO/TRIPS/2000/1.

#### 2. Technical Assistance Program

Comment: Using the information from the survey, the Committee should develop a strategy for providing technical assistance and training to developing countries consisting of the following:

- (i) identifying all technical assistance and training programs currently conducted by member states, multilateral and regional organizations (i.e., WIPO, WTO, World Customs Organization (WCO), Asian Pacific Economic Cooperation (APEC), UNECE), non-profit organizations, private industry and other groups;
- (ii) identifying potential trainers (i.e., government, private industry, etc.);
- (iii) identifying all potential funding sources (e.g., WIPO, WCO, World Bank, Asian and Latin American Development Banks, private sector organizations);
- (iv) matching money and trainers to countries;
- (v) creating and maintaining a database of potential funding sources and training matches.

### Long-term proposals

#### 1. Develop a model enforcement law or model standards for enforcement of intellectual property rights

Comment: Given the critical role of enforcement in current treaty and proposed treaty obligations, including most recently in the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT), developing countries and Least Developed Countries (LDCs) have a critical need for guidance in crafting effective intellectual property enforcement laws and standards to assure adequate protection of domestic and foreign

intellectual property rights. WIPO, given its longstanding expertise in the substantive area of intellectual property protection, is the logical source for guidance on these critical enforcement issues. In fact, many member countries are already looking to WIPO to assist in crafting laws that comply with international enforcement obligations. The creation of model provisions for diverse enforcement standards would greatly assist in these endeavors.

2. Update WIPO Model Provisions for National Laws on Measures Against Counterfeiting and Piracy.

Comment: The Advisory Committee should consider reviewing these provisions to determine whether they should be updated to reflect the evolving needs presented by the global digital environment of the 21<sup>st</sup> century, and should survey existing multilateral projects related to this effort to avoid duplication.

3. Develop a model public awareness and educational campaign

Comment: The Advisory Committee should develop a model educational and public awareness campaign, which could be used by member states to educate their citizens on the benefits of protecting intellectual property rights (both in the physical and digital worlds) and the health and safety problems posed by counterfeit products. The WIPO Worldwide Academy might serve as a possible source for assistance in creating and distributing such campaigns.

4. Address Internet enforcement issues

Comment: Enforcing trademarks in the digital, borderless Internet environment is a daunting challenge for both IP owners and government officials, and poses difficult enforcement issues (e.g., jurisdiction). With the expected increase in worldwide usage of the Internet and the projected growth of electronic commerce during this decade, this problem will only become more acute. The Advisory Committee should take an active role in exploring ways to address these issues, including participating in an advisory capacity with WIPO committees dealing with the Draft Hague Convention on Jurisdiction and Foreign Judgements in Civil and Commercial Activities to ensure that its views are heard.

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