

## Advisory Committee on Enforcement (ACE)

### Tenth Session

Geneva, November 23 to 25, 2015

#### LIST OF PREPARATORY DOCUMENTS

*prepared by the Secretariat*

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WIPO/ACE/10/4	Experience of the Center for Conciliation and Arbitration of the National Directorate of Copyright of Colombia <i>prepared by Giancarlo Marcenaro Jimenez, Director General, National Directorate of Copyright, Colombia</i>
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Abstract: In Colombia, the National Directorate of Copyright has established the Center for Conciliation and Arbitration. Relying on its staff members that are certified mediators, this Center deals exclusively with disputes relating to copyright and related rights. Although the implementation process has not been easy, the results after about two years show success, suggesting that in the near future, the conciliation mechanism will become the main tool of enforcement, even overtaking the judicial proceedings provided for in Colombian law. The main challenges to be resolved by the Center for Conciliation and Arbitration include improving its structure, increasing staff strength and implementing the Memorandum of Understanding (MoU) on the provision of alternative dispute resolution services signed with the World Intellectual Property Organization (WIPO) in May 2014.

WIPO/ACE/10/5	Mediation of IP Infringement Disputes: A Philippine Experience <i>prepared by Allan B. Gepty, Deputy Director General for Advocacy, Policy, Enforcement and International Relations of the Intellectual Property Office of the Philippines</i>
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Abstract: Globalization and the increasing interface of economies have brought challenges on the effective enforcement of intellectual property rights (IPRs). As international trade and business increase, the effects and application of IP beyond national borders become more relevant. Given the intricacies and sensitivities in handling IP cases and the various modalities by which IPRs are protected and enforced in various jurisdictions, it is perceived that mediation would be one effective venue to address IP disputes. This is especially true for IP related cases that involve genuine business considerations. Rights holders basically want speed, confidentiality, efficiency, and a certain degree of predictability in enforcing their IPRs. However, for mediation to have a high degree of acceptance and success, the mechanism must be properly structured; mediators must be properly selected and trained; and the people and the platform for mediation services must be credible and capable.

WIPO/ACE/10/6	WIPO Fast-Track Intellectual Property Dispute Resolution Procedure for Palexpo Trade Fairs <i>prepared by Dr. Thomas Legler, Attorney-at-Law, PESTALOZZI Attorneys at Law, Geneva, Switzerland</i>
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Abstract: The Geneva exhibition organizer Palexpo and the World Intellectual Property Organization Arbitration and Mediation Center (WIPO Center) have developed a special Fast-Track Intellectual Property Dispute Resolution Procedure for Palexpo Trade Fairs (Fast-Track Procedure). The Fast-Track Procedure is a dispute resolution procedure specially designed to protect Exhibitor's and Non-exhibitor's Intellectual Property (IP) rights against infringements at trade fairs organized at Palexpo's premises. The Fast-Track Procedure grants Exhibitors and Non-exhibitors a cost- and time-efficient legal mechanism to protect their IP rights and related commercial interests at a trade fair within 24 hours. An expert panel with relevant expertise in the substance of the dispute renders a binding

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decision enforceable with immediate effect at the trade fair. The parties use model forms developed by WIPO enabling a simplified procedure. The proceedings are initiated by a request from the Claimant alleging the infringement of copyright, trademarks, design rights or breach of law on unfair competition under Swiss law. Disputes relating to the alleged infringement of patents may not be submitted to the Fast-Track Procedure. The Fast-Track Procedure was used for the first time during the 85th Geneva International Motor Show in March 2015, with the expert panel successfully deciding its first case. It is expected for the future that the Fast-Track Procedure will apply to other exhibitions in the Palexpo premises.

WIPO/ACE/10/7

Serbian Experience in Domain Name Dispute Resolution  
*prepared by Prof. Dušan Popović, Ph.D, Associate Professor, University of Belgrade Faculty of Law; President, Serbian Domain Name Dispute Resolution Body, Member, ICANN Intellectual Property Constituency*

Abstract: The Serbian Rules on National Domain Names Dispute Resolution were developed under the auspices of RNIDS – the Serbian Internet Domain Name Registry. RNIDS is a private not-for-profit organization established to manage country-code top level domains in Serbia - .rs (latin alphabet domain name) and .cpб (cyrillic alphabet domain name). RNIDS is governed through the multi-stakeholder model, similarly to the Internet Corporation for Assigned Names and Numbers (ICANN). All interested parties, other than Government entities, may become co founders of RNIDS. RNIDS established an independent commission for the resolution of domain name disputes – the Serbian Domain Name Dispute Resolution Body. The Dispute Resolution Body operates under the umbrella of the Serbian Chamber of Commerce, but it is independent from both the Chamber and RNIDS. The Serbian Rules on National Domain Names Dispute Resolution were drafted following the Uniform Domain Name Dispute Resolution Policy (UDRP) model. Whereas the Serbian Rules are not identical to the UDRP, the UDRP model was followed as closely as possible, while taking into consideration the specificities of the national legal regime.

WIPO/ACE/10/8

The Uniform Domain Name Dispute Resolution Policy (UDRP) as a Model for the Resolution of Intellectual Property Rights Disputes  
*prepared by Lawrence Nodine, Partner, Ballard Spahr, LLP, Adjunct Professor, Emory University School of Law, Atlanta, Georgia, U.S.A., WIPO Domain Name Panelist*

Abstract: As an alternative dispute resolution (ADR) mechanism, the WIPO-initiated Uniform Domain Name Dispute Resolution Policy (UDRP) has already resolved over 32,000 WIPO cases involving the bad-faith registration of trademarks as Internet domain names. Trademark owners from around the world value the UDRP for its speed, transparency, low cost, and international application and enforcement. This paper considers whether the UDRP's design elements might be effectively applied to other online disputes involving Intellectual Property Rights (IPR). After outlining these design elements, the paper identifies two example areas that might benefit from considering such application. First, the paper discusses extending the UDRP model to domain names that

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	<p>are not confusingly similar to another's trademark, but that nonetheless host content that violates IPR, for example through the sale of counterfeit goods. Second, the paper notes that, while online platforms like Google and Facebook have been active in facilitating takedown of alleged IPR infringements, such private protection programs might benefit from adopting the UDRP's emphasis on transparency and neutrality, notably in an appeal mechanism.</p>
WIPO/ACE/10/9	<p>Enforcement of Industrial Property Rights: Experience of the Spanish Patent and Trademark Office (OEPM)  <i>prepared by Cristina Fernández Ordás, Director, Department of Legal Coordination and International Relations, OEPM, Ministry of Industry, Energy and Tourism, Madrid</i></p> <p>Abstract: The Spanish Patent and Trademark Office (OEPM) encourages and supports economic and technological development by affording legal protection to the various forms of industrial property. One of its main objectives is to raise awareness of the importance of intangible assets to Spain's business environment and the disadvantages of counterfeits. In the past few years, it has made significant outreach efforts on this issue through studies, dedicated days and campaigns. The most recent campaign was on the theme "Don't Be Complicit in Counterfeiting", which highlighted the adverse effects of counterfeits and called for consumer responsibility as a key tool for eradicating counterfeiting. In addition to posters with powerful messages, the campaign produced a video of the testimony of a man who used to be residing illegally in Spain, devoting his time to "top-manta" (the selling of pirated goods on the street, usually on a blanket).</p>
WIPO/ACE/10/10	<p>The Experience of the Republic of Moldova in Building Respect for Intellectual Property, in Particular Through Education Campaigns Designed for Public Authorities and Young People  <i>prepared by Mr. Ion Tiganas, Deputy Director General, State Agency on Intellectual Property of the Republic of Moldova (AGEPI) and by Ms. Natalia Mogol, Deputy Head, Trademarks and Industrial Designs Department, AGEPI and Deputy Head, Observatory on Enforcement of IP Rights</i></p> <p>Abstract: The document describes the substantial progress that the Republic of Moldova has achieved in pursuing its National Strategy on Intellectual Property (IP). Activities have mostly been geared towards three objectives: the creation of balanced IP legislation; the strengthening of the institutional framework for IP; and education and public awareness raising. The document concludes by summarizing what, in the experience of the Republic of Moldova, are the most important aspects that need to be considered in order to create an environment in which IP is respected and can be enforced.</p>

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WIPO/ACE/10/11	<p>Increasing Awareness of and Building Respect for Intellectual Property Rights: The Jordanian Experience <i>prepared by Ms. Zain Al Awamleh, Director, Industrial Property Protection Directorate, Ministry of Industry and Trade</i></p>
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Abstract: The present document describes an initiative launched by the Industrial Property Protection Directorate (IPPD), Ministry of Industry, Trade and Supply, Jordan, to measure the success and impact of the Cartoon entitled “Intellectual Property - Protection for You and for Me”. Jointly produced by the League of Arab States (LAS) and the World Intellectual Property Organization (WIPO), the Cartoon was intended as a tool for increasing awareness of the importance of the protection of intellectual property rights (IPRs) in the Arab Region. Specifically, it aimed at increasing consumer awareness of the adverse effects of counterfeiting and piracy. During the ninth session of the WIPO Advisory Committee on Enforcement (ACE/9), IPPD emphasized the need for a mechanism to assess the impact of promotional tools used in increasing awareness of, and building respect for IPRs. A statistical and empirical analysis is considered a prerequisite for any specific recommendations based on feed-back from intellectual property (IP) users and stakeholders in Jordan. IPPD also proposed that this experience be extended to other Arab countries through the LAS Intellectual Property and Competitiveness Department (IPCD).

WIPO/ACE/10/12	<p>The Study of Piracy: Understanding the Shadow Market in Mexico <i>prepared by Kiyoshi Tsuru, Chair of the Intellectual Property Committee of the American Chamber of Commerce (AmCham), Mexico</i></p>
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Abstract: This study was commissioned by the American Chamber of Commerce of Mexico (AMCHAM) and carried out by the Development Research Center, AC (CIDAC), an independent, non-profit think tank. It seeks to demonstrate the extent of the consumption of pirated products in Mexico; conduct an in-depth analysis of spending habits and consumer profiles; and consider new ways to combat piracy. Interviews were conducted with 1,500 men and women of 15 years or older who reported to have consumed pirated products in the preceding year. During a segmentation analysis the surveyed population was divided into three groups, according to the volume and frequency of their consumption of pirated products. As the sample ensures the representation of urban and suburban areas in five regions of the country, inferences can be drawn for the entire country with a view to making recommendations for understanding piracy.

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WIPO/ACE/10/13	Educational Tools for Building Respect for IP in Italy: Small and Big Inventors and the Competition of Ideas <i>prepared by the Directorate General for the Fight Against Counterfeiting – Italian Patent And Trademark Office (DGLC-UIBM), Ministry of Economic Development of Italy</i>

Abstract: The document presents the “Small and Big Inventors are Growing” competition, of which the Ministry of Economic Development of Italy, through the Directorate General for the Fight Against Counterfeiting – Italian Patent And Trademark Office (DGLC-UIBM), has organized six editions so far. Young students (and their respective schools) compete for the best drawings and handmade items either of new objects, considered as useful inventions for their day-to-day activities, or of already existing objects to which they confer new functions and new shapes. Targeted at students of primary and secondary school and their teachers, the competition aims to raise awareness of the importance of industrial property rights and the consequences of buying and distributing counterfeits. It is accompanied by educational information and learning activities about the value of creativity and innovation, the appropriate tools to protect industrial property and the dangers originating from counterfeiting and targeted seminars. The impact of the event is strengthened through printed materials, online information and project presentations in institutional events, public events, seminars and trade exhibitions.

WIPO/ACE/10/14	Building Respect for IP: UK Educational Awareness Raising Initiatives <i>prepared by Elizabeth Jones, IP Enforcement Policy Advisor, Intellectual Property Office, United Kingdom of Great Britain and Northern Ireland</i>
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Abstract: In today’s connected environment, even very young people are consumers of intellectual property (IP), accessing online digital content independently and regularly. They are also creators of IP and many will leave school or university to take up careers in industries that rely on the creation of IP and will go on to develop businesses founded on their own inventiveness and creativity. A basic understanding of IP and a respect for others’ IP rights is therefore a key life skill. Despite this, IP is too often ignored in our education system. For the UK Intellectual Property Office (UK IPO), ensuring that the next generation is equipped with the knowledge it needs to succeed in a competitive world and is motivated to respect the effort others have invested in developing new products, images or music is a key priority within our wider outreach work to build IP awareness. This paper sets out the recent educational awareness-raising initiatives of the UK IPO which help to give young people that knowledge and understanding.

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WIPO/ACE/10/15

Awareness Raising Through Educational Tools and Measures for Young People: The Case of Japan  
*prepared by Mai Yaguchi, Cooperation Strategy Deputy Director, International Cooperation Division, Japan Patent Office; and Taka Horio, Deputy Director, International Affairs Division, Agency for Cultural Affairs*

Abstract: In order to establish a framework in which intellectual property rights (IPRs) can be adequately protected, it is essential not only to improve the intellectual property (IP) system and business operations at IP offices but also to have the general public in their respective countries develop morals for respecting and protecting inventions and creations. The Japanese government, through the Japan Patent Office (JPO), the Agency for Cultural Affairs and other relevant organizations, works to minimize the markets for counterfeit and pirated goods through a variety of initiatives to raise the awareness of IP in the general public, including the young generation. Such initiatives include annual campaigns, Children's Visit Day, forums, and seminars.

WIPO/ACE/10/16

IP Awareness in Malaysia  
*prepared by Ms. Jamilah Kamaruddin, Head of Corporate Communications for Director General, Intellectual Property Corporation of Malaysia (MyIPO)*

Abstract: The Intellectual Property Corporation of Malaysia (MyIPO) provides services for intellectual property (IP) registration; provides information on IP that is easily accessible for public reference; and works towards creating and enhancing public awareness on the importance of protecting IP. MyIPO believes that once the planned activities to create and enhance public awareness have taken place, it could become one of the leading IP organizations acting as a strong custodian not only for the local IP stakeholders but also for the foreign IP stakeholders especially in the ASEAN region. MyIPO is aiming to increase the level of IP awareness to the highest level by the year 2020. This will help to reduce internet piracy and to combat counterfeit products, and to contribute to the economic growth in Malaysia in line with the Honourable Prime Minister's aspiration to make Malaysia a high-income nation.

WIPO/ACE/10/17

Experiences With Complementing Ongoing Enforcement Measures in the Republic of Korea  
*prepared by Sung-Yeol Kim, Deputy Director, Culture and Trade Team, Copyright Bureau, Ministry of Culture, Sports and Tourism of the Republic of Korea (MCST); and Dae-Gyeong Yang, Assistant Deputy Director, Multilateral Affairs Division, Korean Intellectual Property Office (KIPO)*

Abstract: In 2013, the piracy market in the Republic of Korea had a volume of 2.41 billion distributed works, the value of which was USD 372.8 million. Piracy online was seven times as high as offline. In addition, the economic loss that copyright holders suffer is greater with online than offline piracy because infringement is much easier and faster through an online platform. The Copyright Protection Center (CPC) has been delegated by

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the Ministry of Culture, Sports and Tourism (MCST) to perform various enforcement activities against illegally copied works, including the disposal of illegally copied works. Based on this mandate, the CPC represses online and offline illegal copying. One way to do so is through the Illegal Copyrights Obstruction Program (ICOP). ICOP was developed in order to automatically monitor 24/7 online piracy and to respond to copyright violations that have diversified with digital technology. In the area of industrial property rights, the Korean Intellectual Property Office (KIPO) responds to the physical, financial, and economic harm caused by the widespread dissemination of counterfeit goods by redoubling its efforts to create a national infrastructure that promotes genuine innovation and curbs counterfeiting. Currently, KIPO is devoting the majority of its efforts to promoting global IP awareness, restricting online transactions of counterfeit goods, and improving national laws and regulations in order to afford a higher degree of IPR protection, with plans to expand upon these endeavors well into the future.

WIPO/ACE/10/18

French Initiatives to Prevent and Combat Cyber-Counterfeiting  
*prepared by Stéphanie Leguay, Coordinator of the National Anti-Counterfeiting Committee (CNAC), Directorate of Strategy and International Relations, National Institute of Industrial Property (INPI)*

Abstract: We all know, unfortunately, that online counterfeiting is a growing industry. This “scourge” jeopardizes the economic interests of companies in our country and affects practically all business sectors (luxury goods, textiles, cosmetics, toys, spectacle frames, multimedia products...). These products can represent a threat to the health and security of individual consumers in the form of low-quality cosmetics and medicines. On the other hand, counterfeit goods harm the reputation of brands that are copied. The losses caused by the counterfeit market are incalculable. The National Institute of Industrial Property (INPI), in its capacity as the General Secretariat of the National Anti-Counterfeiting Committee (CNAC), plays a key role in the fight against counterfeiting, alongside other partners. Various types of activities are carried out in order to prevent and combat counterfeiting.

WIPO/ACE/10/19

A National Strategy to Combat Intellectual Property Crimes in Zambia  
*prepared by Richard Mweene, Deputy Commissioner, Zambia Police Service*

Abstract: Zambia, surrounded by eight neighbors, is a hub of trade in Southern Africa. It is because of her strategic geographical location that the Headquarters for COMESA (Common Market for Eastern and Southern Africa) is in Zambia. Due to its location, Zambia became vulnerable to pirated goods and counterfeits. Realizing the negative impact that intellectual property (IP) crimes have on the economy and the security of the country, the Zambia Police Service developed the so-called PESTEL MODEL in a bid to reduce IP crimes to negligible levels. The application of the PESTEL MODEL in the fight against IP crimes in Zambia has yielded positive results.

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WIPO/ACE/10/20	<p>Copyright Enforcement in the Digital Age: Empirical Economic Evidence and Conclusions  <i>prepared by Dr. Brett Danaher, Assistant Professor, Department of Economics, Wellesley College, Dr. Michael Smith, Professor, Heinz School of Public Policy and Management, Carnegie Mellon University, and Dr. Rahul Telang, Professor, Heinz School of Public Policy and Management, Carnegie Mellon University</i></p>
<p>Abstract: The digitization of media goods weakened the effective strength of copyright policy by allowing widespread sharing of media files over the Internet, forcing governments to consider how to reform copyright policy to reflect the digital era and forcing firms to consider new strategies in order to compete with online piracy. This paper reviews the economic evidence on the effectiveness of various government antipiracy interventions as well as firm strategies aimed at mitigating piracy's impact. By synthesizing the results of various studies, we provide insights on the principles that drive the degree of success or failure of various antipiracy policies. This study should be of value to policymakers and rightsholders considering copyright reform initiatives, and also to researchers looking for guidance toward what questions remain important but unanswered by current academic literature.</p>	
WIPO/ACE/10/21	<p>Interactive Advertising Bureau (IAB): Poland Initiatives on Advertising Misplacement to Tackle Intellectual Property Rights (IPR) Infringement  <i>prepared by Mr. Włodzimierz Schmidt, President &amp; CEO of IAB Poland, Board Member of IAB Europe, Board Member of the Polish Advertising Council</i></p>
<p>Abstract: The problem of IPR infringing sites that reap their profits from advertising is extremely important, as it brings with it long-term consequences, not only ethical and social, but also financial. In the short or long term everybody loses. "Advertise consciously. Initiative for fair advertising" is an action launched by IAB Poland as the first "Follow-the-Money" initiative in the country, and one of the first in the European Union (EU). The initiative aims to promote placing ads on legal content sites that respect copyright law. Experience shows that the key to developing successful advertising misplacement initiatives is to embrace an approach that is voluntary, flexible and that involves the highest possible amount of relevant players.</p>	
WIPO/ACE/10/22	<p>The Activities of the Federation of the Swiss Watch Industry in the Area of Preventive Actions to Address Online Counterfeiting  <i>prepared by Carole Aubert, Head of the Internet Unit, the Federation of the Swiss Watch Industry (FH)</i></p>
<p>Abstract: The Internet allows counterfeiters to reach a global audience at very low cost and minimal risk. Counterfeiters benefit from the anonymity of the Internet and consumers are extensively exposed to the phenomenon. Because there is little to no risk associated with their behavior, perpetrators are eager to develop the online sale of counterfeits, which renders enforcement increasingly complex and sophisticated. Therefore, the issue should be tackled within a global approach that takes into account the various dimensions of the</p>	

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problem. Cooperation between different stakeholders – both private and public – is the key. Such cooperation should firstly aim at developing a better understanding of the phenomenon, through the sharing of information, intelligence, best practices, expertise and experiences. In addition, it is important to change mindsets and stimulate greater respect for intellectual property (IP) rights. Finally, there is a need to work towards the emergence of a global soft law regarding IP enforcement on the Internet.

WIPO/ACE/10/23

Danish Initiatives Complementing Ongoing Enforcement Measures

*prepared by Barbara Suhr-Jessen, Chief Legal Adviser, Policy and Legal Affairs, Danish Patent and Trademark Office (DKPTO); and Nicky Valbjørn Trebbien, Chief Legal Adviser and Daily Head of Copyright Unit, Danish Ministry of Culture*

Abstract: In order to strengthen the enforcement of industrial property rights, the establishment of an Enforcement Unit at DKPTO is planned for the end of 2015. The Enforcement Unit shall function as a focal contact point for businesses, consumers and public authorities. Here they can receive guidance in concrete cases of infringement of industrial property rights as well as general information and guidance on infringement and enforcement issues. The goal is that such guidance will result in more enforcement actions in intellectual property rights (IPR) cases concerning identical or nearly identical products, trademarks or designs. The Danish inter-agency cooperation takes place through the Danish Ministerial Network against IPR Infringements. The Network was established in 2008 and functions very well. In the area of copyright, the Danish Minister for Culture at the time published eight initiatives in June 2012 that had the overall aim of contributing to the growth of the creative industries and helping reduce piracy on the Internet. The eight initiatives were called “the copyright package”. Two of the initiatives resulted in two written Codes of Conduct (CoCs). The first CoC is about handling decisions by the courts concerning the blocking of websites due to infringements of rights (primarily but not limited to copyright infringements) and the second CoC has as its purpose to promote lawful behavior on the internet.

WIPO/ACE/10/24

Awareness Creation: the Kenya Copyright Board  
*prepared by Mr. Edward Sigei, Chief Legal Counsel, Kenya Copyright Board*

Abstract: The main challenges to the development of the copyright industries in Kenya and around the world include limited or lack of knowledge on copyright and related rights as well as the increased unauthorized commercial use of copyright protected works especially in the film, music, software, broadcasting and publishing industries. To mitigate this menace, the enforcement unit of the Kenya Copyright Board works with the rights holders and other enforcement agencies such as the police and the customs to ensure effective enforcement of the copyright laws.

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WIPO/ACE/10/25	<i>Respect for Copyright – Education Resources prepared by Ian Wall, Co-Founder, Managing Director, The Film Space, United Kingdom of Great Britain and Northern Ireland</i>

Abstract: WIPO commissioned the preparation of teaching materials on respect for copyright, with the aid of funds provided by the Ministry of Culture, Sport and Tourism of the Republic of Korea. The resources consist of five sets of teaching materials covering the 10-15 age range, which will be made available online and in print. The materials comprise attractive, accessible learning activities intended to raise young people's awareness about copyright. Teachers' notes accompany each set of resources. The materials can be used to explore a range of contemporary social, legal and moral issues relating to IP and the digital world. Based on the experience of creating the materials, it is suggested that WIPO could consider developing further resources in the form of web-based, interactive teaching materials; and that complementary resources on patents and trademarks would also be of benefit.

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