

WIPO



STLT/A/1/1

ORIGINAL: English

DATE: August 15, 2009

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

SINGAPORE TREATY ON THE LAW OF TRADEMARKS (STLT)

ASSEMBLY

First (1st Ordinary) Session
Geneva, September 22 to October 1, 2009

RULES OF PROCEDURE

Document prepared by the International Bureau

1. The Singapore Treaty on the Law of Trademarks (hereinafter referred to as “the Singapore Treaty”) came into force on March 16, 2009, having received the required number of 10 ratifications or accessions. The present document contains information and proposals on procedural questions relative to the inaugural session of the Singapore Treaty Assembly (hereinafter referred to as “the Assembly”). It is proposed that the Assembly adopt rules of procedure, elect officers, and consider its future work during this session (document STLT/A/1/3).

General Rules of Procedure

2. Article 23(7) of the Singapore Treaty states:

“Article 23

“Assembly

[...]

“(7) [Rules of Procedure] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.”

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3. It is proposed that, in order to implement this provision, the Assembly adopt as its own Rules of Procedure the *WIPO General Rules of Procedure* (WIPO publication number 399 (FE) Rev.3), as has every other body within WIPO, amended by the introduction of the Special Rules detailed below.

Special Rules

4. Being among the most recent expressions of the will of the Member States of WIPO with respect to international legal instruments, the Singapore Treaty contains certain provisions which depart from practices in prior WIPO treaties and conventions. As a consequence, it is necessary to consider certain Special Rules to the *WIPO General Rules of Procedure*.

5. Amendment of the *WIPO General Rules of Procedure* is expressly envisaged by those Rules themselves¹.

Delegations

6. The *WIPO General Rules of Procedure* specify that delegations are comprised of only Member States². The *WIPO General Rules of Procedure* also specify that intergovernmental organizations shall be observers³.

7. Notwithstanding the foregoing, the Singapore Treaty defines the status of certain intergovernmental organizations within the context of the Assembly. That status differs from the observer status which the *WIPO General Rules of Procedure* gives to intergovernmental organizations. In that regard, Article 26(1)(i) and (ii) of the Singapore Treaty state that:

“Article 26

“Becoming Party to the Treaty

“(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

“(i) any State member of the Organization in respect of which marks may be registered with its own Office;

“(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;”

[...]

8. Rule 7 of the *WIPO General Rules of Procedure* should therefore be replaced by a Special Rule ensuring that the definition of “Delegations” is expanded to include those intergovernmental organizations which will become Contracting Parties in accordance with Article 26(1)(ii) of the Singapore Treaty:

Rule 7: Delegations

(1) Each State member of a body shall be represented by one or more delegates, who may be assisted by alternates, advisors, and experts.

(2) Any intergovernmental organization which becomes a party to the Singapore Treaty in accordance with Article 26(1)(ii) of that Treaty shall be deemed a delegation, and shall enjoy, in the Assembly, the same rights as a State delegation, in accordance with the provisions of these rules.

(3) Each delegation shall have a head of delegation.

(4) Any alternate, advisor or expert may act as delegate by orders of the head of his delegation.

(5) Each delegate or alternate shall be accredited by the competent authority of the State or intergovernmental organization which he or she represents. The Director General shall be notified of the appointment of delegates and alternates in writing, issuing preferably from the Ministry of Foreign Affairs, or the competent authority of the intergovernmental organization.

Voting

9. The *WIPO General Rules of Procedure* specify that only [State] delegations may vote:

“Rule 25: Voting

“Proposals and amendments submitted by a delegation shall be put to the vote only if they are supported by at least one other delegation.”

“Rule 39: Observers

“Observers shall not have the right to vote.”

10. However, Article 23(4)(b)(ii) of the Singapore Treaty states:

“Article 23

“Assembly

[...]

“(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.”

[...]

11. In view of the provisions of the Singapore Treaty allowing certain intergovernmental organizations to become parties, to be delegations, and to vote in the Assembly, it is proposed to replace Rule 25 of the *WIPO General Rules of Procedure*, with the following Special Rule:

Rule 25: Voting

(1) Proposals and amendments submitted by a delegation shall be put to the vote only if they are supported by at least one other delegation.

(2) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and *vice versa*. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

12. The Assembly is invited to consider and adopt, as its own Rules of Procedure, the WIPO General Rules of Procedure referred to in paragraph 3 above, as amended in paragraphs 8 and 11, above.

[End of document]

¹ “Rule 56: Amendment of General Rules of Procedure

“(1) These General Rules of Procedure may be amended, as far as each body which has adopted them is concerned, by a decision of that body, provided that the said decision is taken as far as possible in joint meeting and that the said body accepts the amendment according to the procedure laid down for amendment of its own rules of procedure.

“(2) Any amendment to these General Rules of Procedure shall enter into force for each body which has adopted these General Rules of Procedure when that body has accepted the amendment.”

² “Rule 7: Delegations

“(1) Each State member of a body shall be represented by one or more delegates, who may be assisted by alternates, advisors, and experts [...].”

³ “Rule 8: Observers

“(1) The Director General shall invite such States and intergovernmental organizations to be represented by observers as are entitled to observer status under a treaty or agreement.”