



WO/GA/54/5
ORIGINAL: ENGLISH
DATE: JULY 2, 2021

WIPO General Assembly

Fifty-Fourth (25th Ordinary) Session
Geneva, October 4 to 8, 2021

REPORT ON THE STANDING COMMITTEE ON THE LAW OF PATENTS (SCP)

prepared by the Secretariat

1. During the period under consideration, the Standing Committee on the Law of Patents (SCP) held its thirty-second session from December 7 to 10, 2020, in a hybrid format. The session was chaired by Mr. Leopoldo Soriano (Spain).
2. The SCP continued to address the following five topics during its thirty-second session: (i) exceptions and limitations to patent rights; (ii) quality of patents, including opposition systems; (iii) patents and health; (iv) the confidentiality of communications between clients and their patent advisors; and (v) transfer of technology.
3. The discussions were based on a number of proposals submitted by various delegations and documents prepared by the Secretariat. Delegations discussed those proposals and documents from various viewpoints. The exchange of their views and experiences contributed to advancing their understanding of each topic. In addition, sharing sessions held during this session provided a good opportunity for Member States to share their views and experiences, challenges and solutions on each of those issues.
4. Specifically, during the thirty-second session, the Committee held discussions on the draft reference document on the exception regarding prior use and a study on approaches to the quality of patent grant process. The Committee also discussed a review of existing research on patents and access to medical products and health technologies as well as patent law provisions that had contributed to effective transfer of technology, including sufficiency of

disclosure. Furthermore, the Committee continued discussion on the proposals by the Member States, including the revised proposal by the Delegations of Brazil and Spain regarding a further study and sharing sessions on the requirement of sufficiency of disclosure.

5. In addition, the following three sharing sessions were held during the thirty-second session: (i) sharing session with respect to the patentability issues relating to artificial intelligence (AI); (ii) a sharing session on challenges and opportunities in relation to types of patent licensing provisions in the healthcare technologies; and (iii) a sharing session on patent law provisions and practices that had contributed to effective transfer of technology. In addition, under the agenda item, patents and health, the representative of Health Canada presented its Health Canada Patent Register database.

6. Member States also took note of the Secretariat's reports on the two sharing sessions held during the thirty-first session of the SCP, namely: (i) the sharing session with respect to the use of AI for examination of patent applications; and (ii) the sharing session on recent developments and experiences with respect to confidentiality of communications between clients and their patent advisors.

7. As regards the future activities of the Committee, the SCP will further advance its work based on the agreement on its future work reached at its thirty-second session. The Committee agreed that the non-exhaustive list of issues would remain open for further elaboration and discussion at the thirty-third session of the SCP. In addition, without prejudice to the mandate of the SCP, the Committee agreed that its work for the following session be confined to fact-finding and should not lead to harmonization at that stage. The future work program of the five topics under the SCP's agenda, agreed by the Committee, is as follows:

- (a) With respect to the topic "exceptions and limitations to patent rights", a draft reference document on the exception regarding prior use will be kept open for discussion at the thirty-third session.
- (b) Regarding the topic "quality of patents, including opposition systems", during the thirty-third session, the Committee will continue discussion on the study on approaches to the quality of patent grant process as well as on the revised proposal by the Delegations of Brazil and Spain regarding a further study and sharing sessions on sufficiency of disclosure. In addition, the Secretariat will organize a session for sharing experiences and information on the use of AI for examination of patent applications.
- (c) As regards the topic "patents and health", at its thirty-third session, the Committee will continue to receive update on the initiatives on publicly accessible databases of patent status information concerning medicines and vaccines, in accordance with document SCP/28/10 Rev. The Committee will also continue its discussion on document SCP/31/5 (Review of Existing Research on Patents and Access to Medical Products and Health Technologies) in order to share considerations and findings on the state of knowledge arising from that document, and will consider proposals by delegations to extend the period under review in relation to document SCP/31/5.
- (d) Concerning the topic "confidentiality of communications between clients and their patent advisors", the Committee will continue discussion on recent developments and experiences with respect to confidentiality of communication between clients and their patent advisors, and on any suggestions/proposals by Member States.
- (e) As regards the topic "transfer of technology", the Committee will continue discussion on patent law provisions and practices that contributed to effective transfer of technology.

8. It was also agreed by the Committee that the information concerning certain aspects of national/regional patent laws would be updated, based on input received from Member States.

9. *The WIPO General Assembly is invited to take note of the "Report on the Standing Committee on the Law of Patents (SCP)" (document WO/GA/54/5).*

[End of document]