

Standing Committee on the Law of Patents

Twenty-Sixth Session
Geneva, July 3 to 6, 2017

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The twenty-sixth session of the Standing Committee on the Law of Patents (SCP) was opened by Ms. Bucura Ionescu (Romania), elected Chair of the SCP. Mr. Francis Gurry, Director General, welcomed the participants. Mr. Marco Aleman, Director, Patent Law Division, acted as Secretary.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

2. The SCP adopted the draft agenda (document SCP/26/1 Prov.2).

AGENDA ITEM 3: ADOPTION OF THE DRAFT REPORT OF THE TWENTY-FIFTH SESSION

3. The Committee adopted the draft report of its twenty-fifth session (document SCP/25/6 Prov.3) as proposed.

AGENDA ITEM 4: REPORT ON THE INTERNATIONAL PATENT SYSTEM

4. Discussions were based on document SCP/26/2.

5. Some delegations and one representative shared information on recent developments of their national/regional patent laws with the Committee. The Delegation of Spain made a presentation on its new patent law.

6. The SCP agreed that the information concerning certain aspects of national/regional patent laws [http://www.wipo.int/scp/en/annex_ii.html] would be updated based on input received from Member States.

AGENDA ITEM 5: EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

7. Discussions were based on documents SCP/14/7 and SCP/19/6.

8. The Committee continued discussion on the aspects reflected in the above documents. Some delegations suggested activities to be carried out by the Committee with respect to exceptions and limitations to patent rights.

AGENDA ITEM 6: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEMS

9. Discussions were based on documents SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4, SCP/24/3, SCP/26/3 and 4.

10. The Committee discussed the responses to the Questionnaire on the Term “Quality of Patents” and Cooperation between Patent Offices in Search and Examination (documents SCP/26/3 and 4).

11. In addition, the Committee continued discussion on the issues under this agenda item. Some delegations suggested activities to be carried out by the Committee with respect to quality of patents, including opposition systems.

AGENDA ITEM 7: PATENTS AND HEALTH

12. Discussions were based on documents SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/26/5 and 6.

13. The Committee discussed a study on constraints faced by developing countries and least developed countries (LDCs) in making full use of patent flexibilities and their impacts on access to affordable especially essential medicines for public health purposes in those countries (document SCP/26/5).

14. The Delegation of Canada introduced its proposal to conduct a review of existing research on patents and access to medical products and health technologies (document SCP/26/6). The Committee discussed the proposal, and continued further discussion on the aspects reflected in the proposals by the African Group (SCP/16/7 and 7 Corr. and SCP/24/4) and by the United States of America (SCP/17/11). Some delegations suggested other activities to be carried out by the Committee with respect to patents and health.

AGENDA ITEM 8: CONFIDENTIALITY OF COMMUNICATIONS BETWEEN CLIENTS AND THEIR PATENT ADVISORS

15. The Committee continued discussion on confidentiality of communications between clients and their patent advisors. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that discussion on this agenda item be discontinued.

AGENDA ITEM 9: TRANSFER OF TECHNOLOGY

16. The Committee continued discussion on transfer of technology. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that discussion on this agenda item be discontinued.

AGENDA ITEM 10: OTHER ISSUES: PROPOSAL OF THE GROUP OF COUNTRIES OF LATIN AMERICA AND THE CARIBBEAN (GRULAC) ON THE REVISION OF THE 1979 WIPO MODEL LAW FOR DEVELOPING COUNTRIES ON INVENTIONS

17. Discussions were based on document SCP/22/5.

18. The Delegation of Paraguay on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC) presented an alternative proposal. Following some discussions and consultations with the regional coordinators and Member States, the Committee decided that, as the final deliberation of the proposal by GRULAC on the revision of the 1979 WIPO Model Law for Developing Countries on Inventions (SCP/22/5), the Secretariat would organize, at the next session of the SCP, an informative session on legislative assistance in the field of patents and related capacity building.

AGENDA ITEM 11: FUTURE WORK

19. The Committee decided its future work as follows:

- The non-exhaustive list of issues will remain open for further elaboration and discussion at the next session of the SCP.
- Without prejudice to the mandate of the SCP, the Committee agreed that its work for the next session be confined to fact-finding and not lead to harmonization at this stage, and would be carried out as follows:

Exceptions and Limitations to Patent Rights

- The Secretariat will prepare a draft reference document on exceptions and limitations to patent rights in conjunction with patent protection, which will contain the following elements for each exception and limitation: (i) the description of the exception and limitation; (ii) its objectives and goals; (iii) national/regional implementation; (iv) challenges faced by Member States in its implementation; and (v) results of its implementation. The Secretariat will make use of all information available from the SCP activities. As a first step, the draft reference document will cover the exception regarding acts for obtaining regulatory approval from authorities, and will be submitted to SCP/27. The Secretariat will invite Member States to send any additional inputs for the preparation of the draft reference document.

Quality of Patents, including Opposition Systems

- The Secretariat will update a summary of the responses to the Questionnaire on the term "Quality of Patents" and Cooperation between Patent Offices in Search and Examination, taking into account the additional responses to be submitted by Member States and regional patent offices.

- With a view to preparing a further study on inventive step to be submitted to SCP/28, a sharing session will be held on further examples and cases relating to assessment of inventive step, giving a particular attention to the topics suggested in paragraph 8 of document SCP/24/3 (Proposal by the Delegation of Spain).
- The Secretariat will continue to update and present the webpage on opposition and administrative revocation mechanisms, based on inputs received from Member States and regional patent offices [http://www.wipo.int/scp/en/revocation_mechanisms/].
- A half-day information exchange session on cooperation between patent offices in search and examination will be held. The session will address, among other issues, the effects of such cooperation on the patent granting process and capacity building.

Patents and Health

- The Secretariat will supplement the study (document SCP/26/5) with inputs from members and observers of the SCP with respect to the constraints faced by developing countries and least developed countries (LDCs) in making full use of patent flexibilities and their impacts on the access to affordable especially essential medicines for public health purposes in developing countries and LDCs.
- A half-day information exchange session on publicly accessible databases on patent information status and data on medicines and vaccines will be held. The Chair will invite a representative of the WHO to make a presentation on this topic and a representative of the Medicines Patent Pool (MPP) to make a presentation on its Medicines Patents & Licenses Database (MedsPaL). The session will address, among other issues, practical utilization of those databases and the issues addressed in paragraphs 18 and 19 of document SCP/24/4 (Proposal by the African Group for a Work Program on Patents and Health).
- The Secretariat will update the feasibility study on the disclosure of International Nonproprietary Names (INN) in patent applications and patents (document SCP/21/9), to be submitted to SCP/28.
- A sharing session among Member States on patents and other related issues on access to medicines will be held. The Secretariat will invite experts from the WHO and WTO to present the issues regarding the availability of generic medicines in developing countries and LDCs.

Confidentiality of Communications between Clients and Their Patent Advisors

- A sharing session on the experiences of Member States in implementing the confidentiality of communication between clients and their patent advisors through national legislation, including cross-border issues will be held.

Transfer of Technology

- A sharing session on patent law provisions that contributed to effective transfer of technology will be held.

20. The Secretariat informed the SCP that the dates of its twenty-seventh session, to be held in Geneva, would be announced in due course.

21. The SCP noted that the present document was a summary established under the responsibility of the Chair and that the official record would be contained in the report of the session. The report would reflect all the interventions made during the meeting, and would be adopted in accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), which provided for the members of the SCP to comment on the draft report made available on the SCP Electronic Forum. The Committee would then be invited to adopt the draft report, including the comments received, at its following session.

22. The SCP noted the contents of this summary by the Chair.

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