Topic 1(a)

WIPO and the International Patent System

Philip Thomas
Senior Director-Advisor (PCT and Patents)
WIPO

WIPO in Cooperation with the Government of Kenya
Regional Forum on the Role of Patents and the PCT in Research in Developing Countries
March 30 to April 1, 2009, Nairobi

WIPO

• Mission: To promote the protection of intellectual property (IP) rights worldwide and extend the benefits of the international IP system to all
• Status: An international intergovernmental organization, established by the WIPO Convention (a multilateral treaty)
• Member States: 184
• Staff: ≈1,300 from ≈100 countries
• Treaties administered: 24
• Decisions by: Member States in the General Assembly and other bodies
Intellectual property

- Creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.
- Industrial property: inventions (patents), trademarks, industrial designs, and geographic indications of source
- Copyright: literary and artistic works (novels, poems, plays), films, musical works, artistic works (drawings, paintings, photographs and sculptures), and architectural designs.
  - Related rights: performing rights, phonogram recordings, and broadcasters rights (radio and television)

WIPO’s strategic goals

I. Balanced evolution of the international normative framework for IP
II. Provision of premier global IP services
III. Facilitating the use of IP for development
IV. Coordination and development of global IP infrastructure
V. World reference source for IP information and analysis
VI. International cooperation on building respect for IP
VII. Addressing IP in relation to global policy issues
VIII. Responsive communications interface between WIPO, its member states and all stakeholders
IX. Efficient administrative and financial support structure to enable WIPO to deliver its programs
Aims of the international patent system

• The system should effectively serve the public interest (both right holders and society)
• Fundamental features
  – Credible
    • timely grant and improved quality/validity of patents
  – Functional
    • rational use of resources
    • improved access to patent system, including access to patent information (costs)
  – Acceptable
    • accommodate different economic and social conditions and interests, without foreclosing further development

The broader policy arena

• Patent policy has been recognized as integral part of national trade, economic, development, public health, science and research policies
  – increasing number of international fora
  – enlarged participation in policy discussions
  – coordination necessary both nationally and internationally
  – new technology and new economic reality may provoke new policy debates
    • biotechnology and ethics
    • transition to knowledge-based economy
Global IP environment

Increasing demand
Increasing tension

International cooperation

Economic
Political
Legal
Technological

International Patent System

Treaties administered by WIPO

Establishment of WIPO
- WIPO Convention

IP Protection (14)
- Berne Convention (copyright)
- Brussels Convention (transmission of satellite signals)
- Film Register Treaty
- Madrid Agreement (indications of source)
- Nairobi Treaty (Olympic symbol)
- Paris Convention (general IP principles)
- Patent Law Treaty
- Phonograms Convention
- Rome Convention (rights of performers, phonogram producers and broadcasting organizations)
- Singapore Treaty on the Law of Trademarks
- Trademark Law Treaty
- Washington Treaty (integrated circuits)

Global Protection System (6)
- Budapest Treaty (microorganism deposits)
- Hague Agreement (industrial designs)
- Lisbon Agreement (appellations of origin)
- Madrid Agreement (marks)
- Madrid Protocol (marks)
- PCT (patent applications)

Classification (4)
- Locarno Agreement (industrial designs)
- Nice Agreement (marks: goods and services)
- Strasbourg Agreement (patent classification)
- Vienna Agreement (marks: figurative elements)
Patent-related treaties

WIPO-administered treaties

• Paris Convention (concluded 1883) 173
• Patent Cooperation Treaty (1970) 141
• Strasbourg Agreement (1971) 59
• Budapest Treaty (1977) 72

Treaties outside WIPO

• WTO TRIPS Agreement (1994)
• Regional treaties

Paris Convention

• Covers patents, trademarks, service marks, trade names, industrial designs, utility models, indication of source, appellation of origin, repression of unfair competition

• Sets out certain basic principles that Member States must abide by
  – other aspects are left to national law
Paris Convention: Basic principles (patents)

- National treatment: national law must afford patent protection to foreigners the same as locals
- Right of priority up to 12 months from date of first application for the same invention filed in a Member State
- Territoriality, independence of patents granted in different Member States
- Inventors’ right to be named as such
- Patent not invalid because of restrictions on sale or use of invention under national law
- Compulsory licenses for non-working, on limited grounds only

Patent Law Treaty (PLT)

- Entered into force on April 28, 2005
- (Presently) 19 Contracting States
- Streamlines and simplifies formal requirements for national and regional patent applications and patents (e.g. filing date requirements)
  - in general, a maximum set of requirements that Offices may apply
  - model international forms
    - request form, change in name or address, change in applicant or owner, power of attorney etc.
  - avoidance of unintentional loss of rights
    - extension of time limit / continued processing
    - restoration of rights
Patent Cooperation Treaty (PCT)

• International patent application filing system
  (see Topic 2(d))

• Patent information database
  (see Topic 4(d))

Regional treaties

• African Regional Intellectual Property Organization (ARIPO)
• Eurasian Patent Office (EAPO)
• European Patent Office (EPO)
• Gulf Cooperation Council (GCC)
• Organisation africaine de la propriété intellectuelle (OAPI)
**Work on patent law issues**

- Standing Committee on the Law of Patents (SCP)
  - established in 1998
  - deal with clusters of interlocking issues
  - discussion on the draft Patent Law Treaty (concluded 2000)
  - working towards the establishment of the work program

**Improving the PCT**

- Build confidence in international search and preliminary examination work
- Reduce “reservations” resulting from differences between national procedures
- Encourage applicants to gain a “clean” IPRP in the international phase and follow these results through into the national phase
- Reduce unnecessary duplicative work by national and regional Offices
- Reduce costs and delays
Beyond the PCT and the PLT

• Rapid growth of patent applications filed in foreign countries (globalization vs. territoriality)
  – applicants: expanding demand; costs; legal uncertainty
  – patent offices: duplication of work; resources
• Better platform for international cooperation
• Better access to international patent system
• Ensure validity of patents (quality)

Thank you

Philip Thomas
Senior Director-Advisor (PCT and Patents)
WIPO
Tel: + 41 22 338 9551
Fax: + 41 22 338 8780
Email: philip.thomas@wipo.int