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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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STANDING COMMITTEE ON THE LAW OF PATENTS

Thirteenth Session Geneva, March 23 to 27, 2009

SUMMARY BY THE CHAIR

Agenda Item 1: Opening of the Session

1. The thirteenth session of the Standing Committee on the Law of Patents (SCP) was opened by the Chair, Mr. Maximiliano Santa Cruz (Chile). The Director General, Mr. Francis Gurry, welcomed the participants. Mr. Philippe Baechtold (WIPO) acted as Secretary.

Agenda Item 2: Adoption of the revised Draft Agenda

2. The SCP adopted the revised draft agenda (document SCP/13/1 Prov.2) with the addition of an agenda item regarding the July 2009 conference, which was included in the final version (document SCP/13/1).

Agenda Item 3: Accreditation of Observers

3. The SCP approved the accreditation of the Royal Institute of International Affairs (Chatham House) as *ad hoc* observer (document SCP/13/6).

Agenda Item 4: Adoption of the Draft Report of the Twelfth Session

4. The Committee adopted the draft report of its twelfth session (document SCP/12/5 Prov.) as proposed, with an amendment in the Annex.

Agenda Item 5: Report on the International Patent System

5. The discussions were based on documents SCP/12/3 Rev.2 and SCP/12/3 Rev.2 Add.
6. The SCP agreed that document SCP/12/3 Rev.2 would remain open for further discussion at the next session of the SCP. If further comments are received from Member States, Annexes II and III of that document will be updated.

Agenda Item 6: Preliminary Studies on Selected Issues

7. Discussions were based on documents SCP/13/2, 3, 4 and 5. Many delegations stated that these documents constituted a good basis for discussions, and requested further elaborations and clarifications on various issues contained in the documents.

Agenda Item 7: Discussion on the July 2009 Conference

8. The Committee supported the holding of a Conference in July 2009 as suggested at the 12th session of the SCP. The Chair of the SCP and the Secretariat will conduct jointly open-ended consultations with all Member States on the program of the Conference, which will include the issues of health, the environment, climate change and food security.

Agenda Item 8: Future Work

9. Following a proposal by the Chair, the Committee
 - (a) reaffirmed that the non-exhaustive list of issues identified at the twelfth session of the SCP held in June 2008 would remain open for further elaboration and discussion at its next session, and decided to include two further issues in the list, namely “patents and the environment, with a particular attention to climate change and alternative sources of energy”, as well as “patent quality management systems”¹;
 - (b) agreed that documents SCP/13/2, 3, 4 and 5 would remain open for further discussion and comments at the next session of the SCP;
 - (c) decided that five studies will be prepared as follows, taking into account interventions of Members:

¹ See attached revised list.

(i) the Secretariat will commission external experts a study on exclusions, exceptions and limitations focused on, but not limited to, issues suggested by Members, such as public health, education, research and experimentation and patentability of life forms, including from a public policy, socio-economic developmental perspective, bearing in mind the level of economic development;

(ii) the Secretariat will prepare a concept paper on technical solutions to improve greater access to, and dissemination of, patent information;

(iii) the Secretariat will expand the preliminary study on the client-attorney privilege (document SCP/13/4), to reflect the current state of play in this area, taking into account perspective of various stakeholders and using external experts, if necessary;

(iv) the Secretariat will establish preliminary studies on the two following additional topics contained in the non-exhaustive list of issues agreed at the 12th session of the SCP: “Transfer of Technology” and “Opposition Systems”.

(d) The Secretariat will hold presentations of the studies at the beginning of the next meeting.

(e) Several delegations expressed the importance of engagement in the work of the Committee, and in so doing underlined the need for the studies prepared to be available in all official UN languages. The Committee requested the Secretariat to produce the cost estimates of translating the studies.

10. The International Bureau informed the SCP that its fourteenth session was tentatively scheduled to be held from November 9 to 13, 2009, in Geneva.

11. 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.

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

[Annex follows]

ANNEX

LIST OF ISSUES

(in the order of their appearance in document SCP/12/3)

Economic impact of the patent system

Transfer of technology

Competition policy and anti-competitive practices

Dissemination of patent information (including the registration of licenses)

Standards and patents

Alternative models for innovation

Harmonization of basic notions of substantive patentability requirements (e.g. prior art, novelty, inventive step, industrial applicability, disclosure)

Disclosure of inventions

Database on search and examination reports

Opposition system

Exceptions from patentable subject matter

Limitations to the rights

Research exemption

Compulsory licenses

Patent quality management systems

Client-attorney privilege

Patents and health (including exhaustion, the Doha Declaration and other WTO instruments, patent landscaping)

Relationship between the patent system and the CBD (Genetic resources/Traditional knowledge/disclosure of origin)

Relation of patents with other public policy issues

Patents and the environment, with particular attention to climate change and alternative sources of energy