

Standing Committee on the Law of Patents

Twenty-Fourth Session
Geneva, June 27 to June 30, 2016

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The twenty-fourth session of the Standing Committee on the Law of Patents (SCP) was opened by Mr. Francis Gurry, Director General, who welcomed the participants. The session was chaired by Mrs. Bucura Ionescu (Romania). Mr. Marco Aleman (WIPO) acted as Secretary.

AGENDA ITEM 2: ADOPTION OF THE AGENDA

2. The SCP adopted the draft agenda (document SCP/24/1 Prov.) with an addition of the words “see document SCP/24/3” under agenda item 6.

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

3. The Committee adopted the draft report of its twenty-third session (document SCP/23/6 Prov.2) as proposed.

AGENDA ITEM 4: REPORT ON THE INTERNATIONAL PATENT SYSTEM

4. Discussions were based on document SCP/24/2.

5. 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

6. Discussions were based on documents SCP/14/7 and SCP/19/6.
7. The Committee continued discussion on the issues under this agenda item. Some delegations suggested other activities to be carried out by the Committee under this agenda item.

AGENDA ITEM 6: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEMS

8. Discussions were based on documents SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4 and SCP/24/3.
9. The Secretariat made a presentation on its webpage concerning work sharing and collaborative activities with respect to search and examination of patent applications, including WIPO CASE. The Delegation of Mexico made a presentation on CADOPAT.
10. The Delegation of Spain introduced its proposal regarding additional studies on the assessment of inventive step (document SCP/24/3). 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

11. Discussions were based on documents SCP/16/7 and 7 Corr. and SCP/17/11.
12. The Delegation of Nigeria, speaking on behalf of the African Group, submitted and introduced its proposal regarding patents and health (document SCP/24/4), which updated its previous proposal (documents SCP/16/7 and 7 Corr.). 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 patents and health.

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

13. 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

14. 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 transfer of technology.

AGENDA ITEM 10: OTHER ISSUES – PROPOSAL BY THE GROUP OF LATIN AMERICAN AND CARIBBEAN COUNTRIES (GRULAC)

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

16. The Delegation of Bahamas on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC) presented the proposal. The Committee continued discussions on the proposal. Some delegations expressed their support on the proposal, while some other delegations expressed their opposition. Following some discussions, the Chair suggested continuing discussing the issue at the next session and that the interested delegations may make contributions.

AGENDA ITEM 11: FUTURE WORK

17. 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 document, compiling information to be submitted by members and observers of the SCP, regarding their practical experiences on the effectiveness of, and challenges associated to, exceptions and limitations, in particular in addressing development issues.
- A sharing session among Member States on case studies, including court cases, on those exceptions and limitations that have proven effective to address development issues and/or economic strengthening.

Quality of Patents, including Opposition Systems

- The Secretariat will circulate a draft Questionnaire prior to SCP/25 for comments from Member States and regional patent offices, which will contain the following elements:
 - how each Member State understands “quality of patents”; and
 - implementation of cooperation and collaboration between patent offices in search and examination of patent applications, including experiences, their impacts, exchanging search strategies, tools to share information and capacity building needs in the area of such cooperation and collaboration.

Based on the responses to the Questionnaire, a compilation of information by the Secretariat will be submitted to SCP/26.

- Based on input received from Member States and regional patent offices, the Secretariat will update the information contained in document SCP/18/4 (Opposition Systems and other Administrative Revocation and Invalidation Mechanisms), and publish the information on the SCP electronic forum website in more accessible and user-friendly format.

- Continuation of a sharing session on examples and cases relating to assessment of inventive step, including, but not limited to, the topics suggested in document SCP/24/3, paragraph 8.

Patents and Health

- A sharing session among Member States on national experiences relating to use of health-related patent flexibilities for promoting public health objectives or the challenges thereof with a view to explore the issues to be examined in a study to be submitted to SCP/26.
- The study to be submitted to SCP/26 will be prepared by the Secretariat, consulting with independent experts, the WHO and the WTO, and will examine the constraints faced by developing countries and 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 least developed countries (LDCs).
- Further discussion on the feasibility study on the disclosure of International Nonproprietary Names (INN) in patent applications and patents (document SCP/21/9), specifically where the INN is known to applicants at the time of filing. Members and regional patent offices are invited to make presentations in order to clarify the issues and their concerns. The Secretariat is invited to make a presentation on the PATENTSCOPE Chemsearch which facilitates patent search using the INN.

Confidentiality of Communications between Clients and Their Patent Advisors

- Based on the information received from members and observers of the SCP, the Secretariat will prepare a compilation of court cases with respect to aspects of client-patent advisor privilege including limitations or difficulties encountered.

Transfer of Technology

- A sharing session on the relationship between patent systems and transfer of technology as well as examples and cases presented by experts from different regions with a view to deepening the understanding of the impact of sufficiency of disclosure on transfer of technology.
- The Secretariat will update the WIPO webpage on transfer of technology.

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

19. 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.

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

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