

Standing Committee on the Law of Patents

Thirty-first Session
Geneva, December 2 to 5, 2019

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The thirty-first session of the Standing Committee on the Law of Patents (SCP) was opened by Ms. Sarah Whitehead (United Kingdom), 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/31/1), with the addition of working document SCP/31/8 under agenda item 6 and working documents SCP/31/7 Add. and 7 Corr. under agenda item 9 as well as the replacement of document SCP/30/11 Prov. with SCP/30/11 Prov.2 under agenda item 3.

AGENDA ITEM 3: ADOPTION OF THE DRAFT REPORT OF THE THIRTIETH SESSION

3. The Committee adopted the draft report of its thirtieth session (document SCP/30/11 Prov.2) as proposed.

AGENDA ITEM 4: REPORT ON THE INTERNATIONAL PATENT SYSTEM

4. Discussions were based on document SCP/31/2.
5. Some delegations shared information on recent developments of their national/regional patent laws with the Committee.
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, SCP/19/6 and SCP/30/3.
8. The Committee held discussions on the draft reference document on compulsory licensing (SCP/30/3). The Committee continued discussion on the issues regarding exceptions and limitations to patent rights.

AGENDA ITEM 6: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEM

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/28/8, SCP/30/4 and 9 and SCP/31/3, 4 and 8.
10. A study on approaches to the quality of patent grant process (document SCP/31/3) was discussed.
11. In addition, the Committee discussed a further study on inventive step (part III) (document SCP/30/4).
12. The Secretariat submitted a report on WIPO's technical assistance activities relating to opposition systems and other administrative revocation mechanisms (document SCP/31/4).
13. Furthermore, a sharing session was held with respect to the use of artificial intelligence for examination of patent applications.
14. The Committee continued discussion on the issues and the proposals by the Member States relating to this agenda item, including the proposal by the Delegation of Brazil (document SCP/31/8). Some other delegations suggested other activities to be carried out by the Committee with respect to quality of patents, including opposition systems.

AGENDA ITEM 7: PATENTS AND HEALTH

15. Discussions were based on documents SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/28/9 Rev. and 10 Rev., and SCP/31/5 and 6.
16. The Committee was informed about the recent developments with respect to:
(i) MedsPaL; (ii) Pat-INFORMED; (iii) Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book); and (iv) List of Off-Patent, Off-Exclusivity Drugs without an Approved Generic. Furthermore, in accordance with the decision of the Committee at its twenty-ninth session, the Committee discussed which initiatives on publicly accessible

databases of patent status information concerning medicines and vaccines would be invited to provide updates on the advances of their information platforms.

17. The Secretariat submitted a report of the sharing session regarding the experiences on capacity building activities related to negotiating licensing agreements, which had been held during the thirtieth session of the SCP.

18. The Committee discussed a review of existing research on patents and access to medical products and health technologies (document SCP/31/5), prepared by the Secretariat. Some delegations requested that document SCP/31/5 be made available in all official languages of the Committee.

19. The Committee 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 other 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

20. A sharing session were held by practitioners and Member States on recent developments and experiences with respect to confidentiality of communications between clients and their patent advisors, covering policy and practical issues and with a particular attention to cross-border elements.

21. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that the issue be left to national laws.

AGENDA ITEM 9: TRANSFER OF TECHNOLOGY

22. Discussions were based on documents SCP/31/7, 7 Add. and 7 Corr.

23. The Committee discussed patent law provisions that had contributed to effective transfer of technology, including sufficiency of disclosure (documents SCP/31/7, 7 Add. and 7 Corr.).

24. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that discussion on this topic in the SCP should avoid duplication of work with the CDIP.

AGENDA ITEM 10: FUTURE WORK

25. 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

- In accordance with the agreement within the Committee at SCP/28, the Secretariat will continue to work on a draft reference document on exceptions and limitations to patent rights in conjunction with patent protection. Based on the agreement at SCP/30, the Secretariat will prepare a draft reference document on the exception regarding prior use for discussion at SCP/32, taking into account any additional inputs from Member States for the preparation of the said draft document.

Quality of Patents, including Opposition Systems

- As decided at SCP/30, the Secretariat will organize a one-day information sharing session on issues related to the patentability of inventions, such as artificial intelligence software as computer-implemented inventions, the use of artificial intelligence as an aid to the creation of inventions or inventions generated independently by artificial intelligence, at SCP/32.
- The Committee will continue discussion on the proposal by the Delegation of Brazil regarding a further study and sharing sessions on sufficiency of disclosure (document SCP/31/8).
- The Secretariat will submit, at SCP/32, a report of the sharing session held during SCP/31, with respect to the use of artificial intelligence for examination of patent applications, and information relating to WIPO's technical assistance activities relating to use of artificial intelligence as tools for patent offices.
- The Committee would continue discussions on document SCP/31/3.

Patents and Health

- Based on the agreement at SCP/30, the Secretariat will organize, at SCP/32, a sharing session by Member States on challenges and opportunities in relation to types of patent licensing provisions in the healthcare technologies.
- Document SCP/31/5 will be made available in the six official languages for further discussion at SCP/32.
- National/regional patent offices will be invited to share information on their collaborations with initiatives on publicly accessible databases of patent status information concerning medicines and vaccines, such as MedsPaL, at SCP/32. In addition, the Health Canada Patent Register will be invited to present its database at SCP/32.

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.
- The Secretariat will submit, at SCP/32, a report of the sharing session held during SCP/31, by practitioners and Member States on recent developments and experiences with respect to confidentiality of communications between clients and their patent advisors.

Transfer of Technology

- In accordance with the decision at SCP/30, the Secretariat will organize, at SCP/32, a sharing session by Member States on patent law provisions and practices that contributed to effective transfer of technology, including sufficiency of disclosure.
- The Secretariat continues to compile information on patent law provisions and practices that contributed to effective transfer of technology, based on inputs received from Member States and discussions in the Committee.

26. The Secretariat informed the SCP that the dates of its thirty-second session, to be held in Geneva, were tentatively scheduled from June 2 to 5, 2020.

27. 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 Committee noted that in line with paragraph 32 of the Summary Report of the fifty-ninth series of Meetings of the Assemblies of the Member States of WIPO (document A/59/13), the verbatim reports of the thirty-first and thirty-second sessions of the SCP would be replaced by a fully automated speech-to-text transcript in English, synchronized with the video recording, and with automated translations into the other five UN languages. Accordingly, the report of the current session will be made available in that form. In order to help improve the automated speech-to-text technology, delegations are requested to provide corrections of substantial nature to the Secretariat, preferably four weeks before the following session of the Committee.

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

[End of document]