



SCP/32/7
ORIGINAL: ENGLISH
DATE: DECEMBER 10, 2020

Standing Committee on the Law of Patents

Thirty-Second Session
Geneva, December 7 to 10, 2020

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The thirty-second session of the Standing Committee on the Law of Patents (SCP) was opened by Mr. Daren Tang, Director General, who welcomed the participants. Mr. Marco Aleman, Director, Patent Law Division, acted as Secretary.

AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS

2. The SCP unanimously elected, for one year, Mr. Leopoldo Belda Soriano (Spain) as Chair and Mr. Tanyaradzwa Manhombu (Zimbabwe) as first Vice Chair. Following discussions led by the Chair, Mr. Francisco Astudillo Gómez (Venezuela (Bolivarian Republic of)) was elected as second Vice Chair, while the Delegation of the United States of America disassociated itself from the consensus decision.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

3. The SCP adopted the revised draft agenda (document SCP/32/1 Prov.2), with the replacement of document SCP/31/8 with document SCP/31/8 Rev. under "Other related documents" in Agenda Item 6.

AGENDA ITEM 4: REPORT ON THE INTERNATIONAL PATENT SYSTEM

4. Discussions were based on document SCP/32/2.
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/32/3.
8. The Committee held discussions on the draft reference document on the exception regarding prior use (SCP/32/3). Based on the comments received from delegates, the Secretariat will issue a corrigendum with respect to references to national laws. 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/30/9 and SCP/31/3 and 8 and SCP/32/4.
10. The Committee continued discussion on a study on approaches to the quality of patent grant process (document SCP/31/3).
11. The Secretariat submitted a report of the sharing session with respect to the use of artificial intelligence (AI) for examination of patent applications, which was held during the thirty-first session of the SCP (document SCP/32/4). The report also contained the information relating to WIPO's technical assistance activities relating to use of AI as tools for patent offices. The Committee noted the report. Based on the comments received from delegates, the Secretariat will issue a corrigendum.
12. In addition, a sharing session was held with respect to the patentability issues relating to artificial intelligence.
13. 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 and Spain (document SCP/31/8 Rev.). 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

14. 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.
15. A sharing session by Member States was held with respect to challenges and opportunities in relation to types of patent licensing provisions in the healthcare technologies.

16. The Committee continued discussion on a review of existing research on patents and access to medical products and health technologies (document SCP/31/5), which had been made available in six official languages of the Committee in accordance with its decision at the thirty-first session.

17. In addition, national/regional patent offices were invited to share information on their collaborations with initiatives on publicly accessible databases of patent status information concerning medicines and vaccines, such as MedsPaL. The representative of Health Canada presented its Health Canada Patent Register database.

18. The Committee continued further discussion on the aspects reflected in the proposals by the Member States. 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

19. The Secretariat submitted a report of the sharing session by practitioners and Member States on recent developments and experiences with respect to confidentiality of communications between clients and their patent advisors, which was held during the thirty-first session of the SCP. The Committee noted the report.

20. In addition, the Committee continued 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.

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 document SCP/32/6.

23. A sharing session by Member States was held with respect to patent law provisions and practices that had contributed to effective transfer of technology, including sufficiency of disclosure.

24. The Committee also discussed document SCP/32/6, in which the Secretariat continued to compile information on such patent law provisions and practices.

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

AGENDA ITEM 10: FUTURE WORK

26. The Committee decided its future work as follows:

- The Secretariat will publish written statements relating to SCP/32, submitted by members and observers of the SCP, on the SCP electronic forum.
- 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

- Document SCP/32/3 will be kept open for discussion by the Committee at the next session.

Quality of Patents, including Opposition Systems

- The Committee will continue discussion on document SCP/31/3.
- The revised proposal regarding a further study on sufficiency of disclosure (document SCP/31/8 Rev.) will be continued to be discussed at SCP/33.
- The Secretariat will organize, at SCP/33, a session to share experiences and information on the use of artificial intelligence for examination of patent applications.

Patents and Health

- The Committee will continue to receive, at SCP/33, update on the initiatives on publicly accessible databases of patent status information concerning medicines and vaccines from their representatives, in accordance with SCP/28/10 Rev.
- The Committee will continue its discussion on document SCP/31/5, in order to share considerations and findings on the state of knowledge arising from the Secretariat's review of existing research on patents and access to medical products and health technologies, and will consider proposals by delegations to extend the period under review of document SCP/31/5.

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.

Transfer of Technology

- The Committee will continue discussion on document SCP/32/6.

27. The Secretariat informed the SCP that the dates of its thirty-third session, to be held in Geneva, would be announced in due course.

28. 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 the 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.

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

[End of document]