

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Forty-Third Session
Geneva, November 23 to 26, 2020

DRAFT REPORT

prepared by the Secretariat

INTRODUCTION

1. The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (hereinafter referred to as “the Standing Committee”, “the Committee” or “the SCT”) held its forty-third session, in Geneva, from November 23 to 26, 2020. The session was held in hybrid mode, with some delegations attending physically in Geneva, and others participating via the *Interprefy* platform (see document SCT/43/INF/2).

2. The following Member States of WIPO and/or the Paris Union for the Protection of Industrial Property were represented at the meeting: Afghanistan, Algeria, Angola, Argentina, Australia, Bangladesh, Belarus, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Bulgaria, Burundi, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Democratic People’s Republic of Korea, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Lithuania, Malaysia, Mexico, Mongolia, Morocco, Nepal, Netherlands, Nicaragua, Nigeria, North Macedonia, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saudi Arabia, Serbia, Singapore, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Viet Nam, Zimbabwe (98). The European Union was represented in its capacity as a special member of the SCT. Palestine was represented in its capacity as Observer.

3. The following intergovernmental organizations took part in the meeting in an observer capacity: African Intellectual Property Organization (OAPI), Benelux Organization for Intellectual Property (BOIP) (2).
4. Representatives of the following non-governmental organizations took part in the meeting in an observer capacity: American Bar Association (ABA), *Association française des indications géographiques (AFIGIA)*, Centre for International Intellectual Property Studies (CEIPI), Consortium for Common Food Names (CCFN), European Brands Association (AIM), European Communities Trade Mark Association (ECTA), European Law Students' Association (ELSA International), Health and Environment Program (HEP), Intellectual Property Latin American School (ELAPI), Inter-American Association of Industrial Property (ASIPI), International Association for the Protections of Intellectual Property (AIPPI), International Chamber of Commerce (ICC), International Federation of Intellectual Property Attorneys (FICPI), International Wine Law Association (AIDV), Japan Patent Attorneys Association (JPAA), MARQUES – The Association of European Trade Mark Owners, Organization for an International Geographical Indications Network (oriGIn) (17).
5. The list of participants (document SCT/43/INF/3) is contained in Annex I to this document.
6. The Secretariat noted the interventions made and recorded them.

AGENDA ITEM 1: OPENING OF THE SESSION

7. Mr. Daren Tang, Director General of the World Intellectual Property Organization (WIPO), opened the forty-third session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) and welcomed the participants.
8. Mr. Marcus Höpperger (WIPO) acted as Secretary to the SCT.

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

9. Mr. Alfredo Carlos Rendón Algara (Mexico) was elected Chair. Mr. Willie Mushayi (Zimbabwe) and Mr. Jan Techert (Germany) were elected Vice-Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

10. The SCT adopted the draft Agenda (document SCT/43/1 Prov. 4).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE FORTY-SECOND SESSION

11. The SCT adopted the draft Report of the forty-second session (document SCT/42/9 Prov.).

General Statements

12. The Delegation of the Russian Federation, speaking on behalf of the Group of Central Asia, Caucasus and Eastern European Countries (CACEEC), thanked the Secretariat for the organization of the SCT session and emphasized the great interest attached by the Group to the agenda items pertaining to the session. With respect to the protection of graphical user interface (GUI), icon, typeface and type font designs, after having thanked the Secretariat for

the preparation of the documents and Member States for their inputs, the Group highlighted the importance of exchanging experiences on the matter, since GUIs were becoming more popular thanks to technical developments. For that reason, the Group stressed the need to continue working on the issue. Turning to the protection of country names and nation brands, after having thanked Member States for their proposals on the issue, the Group highlighted the importance of finding a balanced approach to the question, which would respect everyone's interests. Finally, as the Group was also interested in the discussions concerning trademarks and domain names, as well as in the issue of geographical indications, the Delegation thanked the Secretariat for the organization of Information Sessions on Geographical Indications, which would provide a useful overview of national and regional protections. The Delegation concluded by expressing the Group's readiness to work in a constructive way and to take the floor on all agenda items during the session.

13. The Delegation of China thanked the Secretariat for the preparation of the Committee's session and the documents. Observing that trademarks, industrial designs and geographical indications had been playing an important role for long, the Delegation expressed its appreciation for the important achievements accomplished by the Committee in those fields. While stating that it continued to pay attention to, and support, the Committee's work, the Delegation announced that it would actively participate in the discussions on the various agenda items during the session. In its view, under the Chair's leadership and through the joint efforts of all members, the current session would achieve new outcomes. With respect to the Design Law Treaty (DLT), the Delegation called upon all members to adopt a cooperative attitude, to demonstrate further flexibility and to fully understand and consider all parties' concerns in view of achieving substantive results at the WIPO Conference. The Delegation expressed the hope to discuss further divergent provisions on the DLT in view of reaching more convergence. With respect to the protection of GUI, icon, typeface and type font designs, while thanking the Secretariat for its efforts, the Delegation noted that the topic had gained new attention from all parties and expressed its willingness to participate in the discussions to share its experience. At the same time, the Delegation encouraged members to take part in those discussions to gain a more in-depth understanding of the developments in the area and to lay a solid foundation for further work on the topic. The Delegation also informed the Committee that it continued to pay attention to the update on the Digital Access Service (DAS) for priority documents. Then, turning to trademark-related topics, the Delegation considered that the discussions on country names and well-known marks would contribute to a better understanding of the practices in various countries. Finally, with respect to geographical indications, the Delegation pointed out that it supported countries' efforts in relation to the respect of national conditions. The Delegation indicated that it looked forward to further exchanges during the session, expressing the view that the Information Session on Geographical Indications would further strengthen SCT members' understanding in the field.

14. The Delegation of Zimbabwe, speaking on behalf of the African Group, expressed the Group's confidence in making positive progress during the Committee's deliberations, under the Chair's leadership, and extended the Group's appreciation to the Secretariat and the conference services for their strenuous efforts in the preparation of documents and conference facilities in the current difficult conditions. Recalling that it attached great importance to the Committee's work on trademarks, industrial designs and geographical indications, the Group reiterated its desire to conclude the discussions on the DLT, which should be balanced and include the concerns and interests of all Member States. However, the Group regretted the lack of substantive discussions on the convening of a diplomatic conference on the DLT, due to the COVID-19 pandemic. The Group looked forward to the analysis of the returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs, as well as to the revised proposal for a Joint Recommendation put forward by the Delegations of Japan and the United States of America. Although it welcomed discussions on the matter, the Group expressed the view that those processes were not meant to culminate in any normative, soft or binding law. In the Group's view, the Committee should continue to conduct information-sharing discussions in an open and inclusive manner. The Group also welcomed, and looked forward

to, the discussions on the Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention for the Protection of Industrial Property. Turning to the trademark area, the Group reaffirmed its strong support for all proposals and discussions on the protection of country names and geographical names of national significance against registration or use as word marks by private persons, as well as on the protection of country names and geographical names of national significance in the Domain Name System (DNS). In the Group's view, country names should neither be monopolized by private persons, nor be used in a misleading manner in connection with products and services not originating in the country concerned. Lastly, while looking forward to the Information Session on Geographical Indications, the Delegation announced the Group's willingness to participate actively, constructively, and in good faith in view of reaching successful Committee's deliberations.

15. The Delegation of Panama, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), considered that, under the Chair's experience and guidance, the Committee would be able to have productive discussions during the current SCT session, held in very peculiar times due to the COVID-19 pandemic. After having thanked the Secretariat for the preparation of the session and the documents, the Delegation reiterated the Group's interest in continuing to work constructively in all the discussions of the Committee during the session. With regard to industrial designs, recalling the Group's interest in having a decision on the convening of a diplomatic conference on the DLT, as soon as the conditions would permit it, the Group invited all delegations to reflect, in the meantime, on the way to address the issue to reach an agreement that would benefit all. The Group said that it would listen carefully to the discussions related to the Compilation of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs and to the Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention for the Protection of Industrial Property. With regard to trademarks, the Delegation stressed the importance attached by the Group to the protection of country names, as they provided a valuable opportunity for national branding schemes that could bring value through the use of trademarks, especially in developing countries. Observing the lack of consistent protection for country names at the international level, the Group reiterated its commitment to continue discussing the protection of country names, based on the revised proposal by the Delegation of Jamaica, as contained in document SCT/43/9, and on the proposal concerning the protection of country names and geographical names of national significance in the DNS, submitted by the Delegations of Brazil, Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and United Arab Emirates, as contained in document SCT/41/6 Rev. In that respect, the Group reiterated its concern about the domain name "Amazon", a term recognized as part of the culture, identity and heritage of the Amazon region, which had affected the cultural and linguistic heritage of each of the eight Amazonian countries. The Group called on Member States to take into account the interests and the impact on the patrimonial and cultural aspects of other Member States, when granting domain names. That also applied to decisions involving country and regional names. Noting with interest the proposal by the Delegations of Ecuador and Peru to conduct a survey on nation-brand protection in Member States, the Group took note of the responses to the questionnaire. Announcing that it would participate in a constructive manner in the discussions on geographical indications, the Group expressed its commitment to work hand-in-hand with the Chair and the other Member States in the development of the Committee's agenda.

16. The Delegation of the United Kingdom, speaking on behalf of Group B, stated that Group B looked forward to working together, under the Chair's leadership, and expressed its gratitude to the Secretariat for its hard work in organizing the SCT session, considering the challenges in light of the COVID-19 pandemic. Thanking Member States for their commitment to making the session a success, the Group observed that the continued adaptability of all involved, including the Member States, was essential to ensure the continuation of the important intergovernmental work of WIPO in those unprecedented times. Although it would follow a

truncated schedule, the Committee had a very full agenda reflecting the delegations' ambition to make good progress on the SCT work at the session. The Group showed appreciation to the Secretariat for the compilation and analysis of the returns to three questionnaires on the session's agenda, namely the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs, the Questionnaire on Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention for the Protection of Industrial Property and the Questionnaire on Nation-Brand Protection in Member States. In addition, the Group expressed its gratitude to the Member States and Intergovernmental Intellectual Property Organizations for having completed those questionnaires. Considering that developing an evidence base was essential to understand the issues discussed within the Committee, the Group observed that questionnaires were a good way to gather evidence to support the SCT work, as they gave an excellent overview of the approaches in various jurisdictions. The Delegation added that information sessions were also an effective way of sharing perspectives. In that respect, the Group thanked the Secretariat for the organization of the Information Sessions on Geographical Indications and on the Temporary Protection Provided to Industrial Designs under Article 11 of the Paris Convention, which would assist in enhancing the Committee's understanding of the topics at stake. While thanking all delegations for their proposals pertaining to the Committee's work, the Group looked forward to productive discussions on those proposals. Finally, reiterating its commitment to work constructively to pursue the Committee's objectives, the Group said that it remained strongly supportive of the SCT as an important forum to discuss issues, facilitate exchange of views and provide guidance on the progressive development of international intellectual property law on trademarks, industrial designs and geographical indications.

17. The Delegation of Bangladesh, speaking on behalf of the Asia and the Pacific Group, expressed confidence in the Chair's ability and skills to guide the SCT session towards a successful conclusion and expressed its appreciation for the Secretariat's work. In the area of industrial designs, after having thanked the Secretariat for the update of the Compilation of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs, as reflected in document SCT/41/2 Rev., the Group noted that the document now included further or revised replies by delegations. While appreciating Member States' inputs to the questionnaire, the Group expressed the hope that document SCT/43/2, containing an analysis of the returns to that questionnaire, would help the Committee in its further deliberations. Turning to the area of trademarks, the Group highlighted the importance of providing sufficient protection for country names, to prevent undue registration or usage as trademarks. Expressing support for the revised proposal by the Delegation of Jamaica on the matter, the Group looked forward to an appropriate action in that respect. Welcoming the revised proposals tabled by the Delegations of Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance, the Group announced that it would continue to engage constructively on those issues. The Group added that it looked forward to the discussions on the proposal submitted by the Delegations of Ecuador and Peru to Conduct a Survey on Nation-Brand Protection in Member States, as well as on the proposal submitted by the Delegations of Japan and the United States of America for a Joint Recommendation on Industrial Design Protection for Designs for Graphical User Interfaces. The Group concluded by stating that it looked forward to constructive discussions and productive deliberations in the session of the SCT.

18. The Delegation of Bolivia (Plurinational State of), thanking the Secretariat for the preparation of the documents and the organization of the SCT session, endorsed the statement made by the Delegation of Panama on behalf of GRULAC. As part of the Amazon Cooperation Treaty Organization (ACTO), the Delegation expressed its deep concern regarding the assignment of the domain name "Amazon" by the Internet Corporation for Assigned Names and Numbers (ICANN). In the Delegation's viewpoint, the registry agreement, concluded in December 2019, had not taken into consideration the legitimate interests of the eight Amazonian countries, affecting their cultural and linguistic heritage and compromising the

continued well-being of the societies living in the Amazon region, by limiting future possibilities regarding recognition, competitiveness and sustainable development. As it considered that decision as an illegal and unjust expropriation of the culture, tradition, history and image of the Amazon region, the Delegation called on Member States not to allow similar situations to occur in relation to other cities or regions in other countries.

19. The Delegation of Nigeria, aligning itself with the statement delivered by the Delegation of Zimbabwe on behalf of the African Group, expressed its confidence in the Chair's leadership to make concrete progress in the Committee's deliberations. The Delegation also extended its appreciation to the Secretariat and the conference services for the efforts put into the preparation of the documents and conference facilities for the Committee's work in the current challenging times. With respect to industrial designs, as it attached great importance to the SCT work, the Delegation reiterated its desire to conclude discussions on a DLT, which would be just, fair and balanced and would reflect a disclosure requirement on traditional knowledge, traditional cultural expressions and genetic resources, including technical assistance issues. However, the Delegation had taken note that, due to the global pandemic, no substantive discussions could take place on a possible diplomatic conference on the DLT. Aligning itself with the African Group's position on the Analysis of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs, as well as the revised proposal for a Joint Recommendation by the Delegations of Japan and the United States of America, the Delegation welcomed discussions on those matters, but underlined, at the same time, that those processes were not meant to culminate in any normative or binding law. In its viewpoint, the Committee should continue conducting information-sharing discussions and sessions in an open and inclusive manner. The Delegation also welcomed future discussions on the temporary protection provided to industrial designs at certain international exhibitions under Article 11 of the Paris Convention for the Protection of Industrial Property. With respect to trademarks, the Delegation reaffirmed its strong support for all proposals and discussions on the protection of country names and geographical names of national significance against registration, appropriation or use as word marks by private persons, as well as on the protection of country names and geographical names of national significance in the DNS. In the Delegation's opinion, country names should neither be monopolized by private persons, nor be misappropriated or used in a misleading manner, in connection with products and services not originating in the country concerned and without due permission or authorization. Finally, looking forward to the two information sessions, the Delegation concluded by stating that it would constructively engage in related discussions and that it stood ready to participate actively, constructively and in good faith in all discussions towards a successful outcome of the Committee's work.

20. The Delegation of Trinidad and Tobago, lending its support to the statement made by the Delegation of Panama, on behalf of GRULAC, joined others in applauding the tireless work of the SCT. Turning to key domestic developments relevant to the SCT work, the Delegation announced that, in 2020, its Trade Marks Act No. 8 of 2015 and concomitant Regulations had been proclaimed, reflecting the most modern global developments in trademark legislation. Furthermore, the previous month, Trinidad and Tobago had deposited its instrument of accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol), which would become operational in the country on January 12, 2021. In the field of industrial designs, the Delegation reported that its Intellectual Property Office was assiduously working on the finalization of the draft legislation related to the accession, in 2021, to the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs. Referring to the DLT, the Delegation fully supported the statement of GRULAC regarding a decision on the convening of a diplomatic conference on the DLT, when circumstances would permit it. Turning to GUI design, icon, typeface/type font designs, the Delegation indicated that it would listen carefully to the discussions on the matter. In the field of trademarks, the Delegation shared the views expressed by the Delegation of Panama, on behalf of GRULAC, on the commitment to continue the discussion on the revised proposal put forward by the Delegation of Jamaica, as contained

in document SCT/43/9, as well as the discussion on document SCT/41/6 Rev. Concerning the Protection of Country Names and Geographical Names of National Significance in the DNS. In that respect, the Delegation indicated that it anticipated a balanced approach to those issues. Looking forward to future Committee's work, which sought to support and guide Member States along their developmental paths, the Delegation concluded by expressing its continued gratitude to WIPO for its assistance in respect of its domestic legislative agenda.

AGENDA ITEM 5: INDUSTRIAL DESIGNS

Analysis of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs (documents SCT/41/2 Rev. and SCT/43/2)

21. Discussions were based on document SCT/41/2 Rev (Compilation of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs) and document SCT/43/2 (Analysis of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs).
22. The Delegation of the Russian Federation, speaking on behalf of CACEEC, welcomed the exchange of experiences on the registration of GUIs as industrial designs, pointing out that the documents contained a large quantity of material showing the different practices in Member States. Expressing its interest in GUI, icon, typeface/type font designs, the Delegation underlined the fact that a legal definition of the term "GUI" was currently lacking. At the same time, the Delegation noticed that GUIs were broadly used. While noting that information on graphical elements of GUIs was provided in national standards, the Group considered that rules on the visual representation of GUIs needed to be elaborated. Pointing out to the specificities of GUIs, which associated visual elements with other elements, the Delegation highlighted the complexity of the legal governance of GUIs. For that reason, the Delegation considered that it would be useful to pursue the examination of the question, with a view to gaining a better understanding thereof. Reporting that, in countries belonging to the Group, the representation was mostly in two dimensions, the Delegation expressed the view that, with the development of new technologies, three-dimensional designs could go forward. In conclusion, the Delegation expressed the Group's interest in researches on the topic.
23. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Secretariat for the preparation of documents SCT/41/2 Rev. and SCT/43/2 and all parties for their replies to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs. In the Delegation's view, the topic was particularly relevant and important since the use of GUIs in the modern economy continued to develop and to evolve. The Group observed that, with the pandemic resulting in an increased use of virtual platforms and applications relying on GUIs to differentiate themselves in the market and to be user-friendly, an analysis of that issue was even timelier. The pandemic could further encourage innovative breakthroughs in the area from virtual communication technologies, such as Zoom and Webex, to e-health platforms, resulting in more GUI innovators seeking protection to be able to make their efforts helpful to the public. Underlining the usefulness of the replies' analysis carried out by the Secretariat, the Group took note of the trends, as set out in paragraph 105 of document SCT/43/2.
24. The Delegation of Chile, thanking the Secretariat for the preparation of documents SCT/41/2 Rev. and SCT/43/2, pointed out that the analysis of the returns to the questionnaire showed a diversity in the ways of dealing with GUI, icon, typeface/type font designs. In addition, the analysis was a very useful tool in evaluating the question at issue within Member States. Noting the limited number of replies from Member States, the Delegation considered that getting a broader view of the situation in SCT members would be useful and, therefore, proposed keeping the questionnaire open to collect additional replies.

25. The Delegation of China, after having thanked the Secretariat for the tremendous efforts allocated to the questionnaire and Member States for their returns, underlined the usefulness of the questionnaire to understand the diverse practices in different Member States. The Delegation added that the questionnaire enabled all SCT members to be aware of, and understand, the latest developments and problems in the area, to learn from each other and seek new ideas to address those challenging developments. As it considered that the questionnaire would lay a solid foundation for future work in the area, the Delegation said that it looked forward to sharing its experience and to hearing from other Member States on the topic.

26. The Delegation of the European Union, speaking on behalf of the European Union and its member states, recalled that, at the last SCT session, it had welcomed the decision to leave open the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs to collect additional responses with a view to expanding further the volume of information available. After having thanked SCT members for their further contributions and the Secretariat for the preparation of the analysis of the returns to the questionnaire, as contained in document SCT/43/2, the Delegation indicated that the analysis provided a very valuable summary and lent its support to the conclusions reflected in paragraph 105 of document SCT/43/2. Referring to paragraph 102 of the document, the Delegation observed that the indication of the percentage of offices that accepted documents for priority claim purposes in paper format only, as indicated in the first bullet point (98 per cent) was not in line with the corresponding indication underneath (31 per cent). Reiterating that it saw in all the responses a wealth of information, which would prove useful in further debates on GUI, icon and typeface/type font designs within the Committee, the Delegation expressed its full support for document SCT/43/2 to be used as reference for further work on selected pertinent issues for such designs.

27. The Delegation of Japan, expressing its gratitude to the Secretariat for its hard work in preparing the session and the documents and to Member States and Intergovernmental Organizations for their valuable replies, reported that, in Japan, the revision of the Design Act, aiming at expanding the scope of protectable GUI designs, had entered into force on April 1, 2020. The revised Design Act regarded GUI designs *per se* as protectable subject matter. In other words, in Japan, GUI designs not recorded or displayed on an article, provided via a network, or projected onto a road or a wall, were all considered as protectable industrial designs under the revised Design Act. The Delegation informed the Committee that, under the revised Design Act, the Japan Patent Office (JPO) had established registration for such GUI designs for the first time in November 2020. While observing that the analysis of the returns to the questionnaire had shed light on significant differences in the ways of protecting GUI designs in the respective jurisdictions, the Delegation hoped that discussions on the protection of GUI designs would deepen further at the Committee, with a view to ensuring international consistency of the protection of those designs, for the benefit of the users of the design system.

28. The Chair concluded that the Secretariat was requested to re-open the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs until January 29, 2021, for further replies by delegations.

*Revised Proposal by the Delegations of Japan and the United States of America
(document SCT/43/10)*

29. Discussions were based on document SCT/43/10.

30. The Delegation of the United States of America, expressing its confidence in the Chair's ability to guide the SCT work, in the current virtual format too, thanked the Secretariat for the rapid translation of the revised proposal for consideration at the session of the SCT, particularly under those challenging conditions. The Delegation recalled that, over several past SCT sessions, the Committee had studied industrial designs in the context of new

technological environments in relation to GUI designs, which seemed to be more and more used by all SCT members in the virtual world. In the Delegation's viewpoint, the revised proposal for a Joint Recommendation, as reflected in document SCT/43/10, would be of assistance to users and intellectual property offices across the globe since it aimed at providing guidance for jurisdictions looking to adopt commonly used or best practices in relation to those designs. Although the current version of the proposal was substantially similar to the previous one, contained in document SCT/42/6, the Delegation drew the Committee's attention to the updates, which addressed comments made during the forty-second session of the SCT: firstly, the revised proposal further emphasized the non-obligatory nature of the Joint Recommendation; secondly, it highlighted, in the footnotes, the correlating questions and responses from SCT questionnaires relating to the subject matter, such as document SCT/37/2 Rev.; thirdly, it incorporated suggestions on drafting language made by other delegations. The Delegation further pointed out that two new recommendations, Recommendations Nos. 6 and 7, had been added and that, consequently, other recommendations had been renumbered, where appropriate. Although not reflected in the document yet, the Delegation said that it understood that the Delegation of Israel intended to become a co-proponent of the revised proposal, along with Japan and the United States of America, and invited the Delegation of Israel to confirm and elaborate on that matter. Finally, while thanking the Delegation of Japan for its continued collaboration and support as a co-proponent and developer of the proposal, the Delegation looked forward to listening to comments and views from SCT members on the revised proposal.

31. The Delegation of Israel thanked the Secretariat, not only for the preparation of the documents for the session, but also for ensuring the continuity of the work during those challenging times. Referring to the statement made by the Delegation of the United States of America, the Delegation confirmed that it wished to become a co-sponsor of the Revised Proposal for a Joint Recommendation on Industrial Design Protection for Graphical User Interface (GUI) Designs, as contained in document SCT/43/10. In addition, the Delegation thanked the Delegations of Japan and the United States of America for the fruitful dialogue following the suggestions and observations made during the forty-second session of the Committee, which had led to the accommodation of certain substantive issues in the revised proposal. In the Delegation's viewpoint, the ongoing exchange of information between Member States on the topic and the development of common practices, as proposed in the document under consideration, would be useful tools for all Member States to elaborate their approaches to the protection of GUIs as designs. The Delegation concluded by encouraging offices to adopt an advanced approach to emerging technologies.

32. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the Delegations of Japan and the United States of America for the revised proposed Joint Recommendation, contained in document SCT/43/10. The Delegation expressed the Group's support for the initiative aiming at generalizing effective regional and national practices for the protection of GUI designs. As the revised proposal had been published a few days before the session, the Delegation suggested deferring discussions until the next SCT session, to enable members to study it in details.

33. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Delegations of Japan and the United States of America for their proposal setting out a Joint Recommendation on Industrial Design Protection for Graphical User Interface (GUI) Designs. In addition, the Delegation expressed its appreciation to those delegations for the proposals update, which emphasized the non-obligatory nature of the recommendations and included two new recommendations allowing the use of a verbal description to supplement drawings for GUIs and providing for electronic filing systems and databases for registered design rights for GUI designs. In the Delegation's viewpoint, the revised proposal was wide ranging, covering a series of issues, from definitions to enforcement. Although there were different approaches with regard to formalities and the scope of protection, the Delegation observed that the analysis of the returns to the questionnaire had highlighted that most jurisdictions granted protection to

GUIs through industrial design registrations or patents. The Delegation considered that non-binding recommendations, such as those proposed by the Delegations of Japan and the United States of America, would provide a useful framework on the protection of GUIs to ensure that designers across the globe were supported in that evolving field.

34. The Delegation of the European Union, speaking on behalf of the European Union and its member states, while thanking the Delegations of Japan and the United States of America for the recently released new version of their proposal, regretted the lack of time to study and discuss internally document SCT/43/10. For that reason, the Delegation informed the Committee that its opinion would be delivered on the basis of the former version of the proposal, contained in document SCT/42/6. With respect to GUI, icon and typeface/type font designs, the Delegation shared the common understanding that existing divergences should be directly addressed and that further work on those issues could pave the way for a more harmonized approach. As regards future work on the topic, the Delegation recalled that, at the previous SCT session, it had noted with much interest the proposal submitted by the Delegations of Japan and the United States of America, as reflected in document SCT/42/6. Welcoming that new initiative, the Delegation endorsed the aim of adopting the Joint Recommendation as a practical way forward to achieve a more harmonized approach in relation to industrial design protection for GUI designs. While reiterating its support for the rationale to provide for, at least, a common baseline for GUIs protection, the Delegation considered that the recommendations should leave it open for legislations to provide for a protection for GUIs more tailored or more advanced than such a baseline. In other words, the recommendations should only establish a common floor but not a ceiling. For the Delegation, such a concept was relevant in particular in the context of the two following recommendations: Recommendation No. 6, according to which GUI design applications should be examined under the same criteria as other types of design applications, and Recommendation No. 8, according to which rights granted to GUI designs should not differ from rights granted to designs for other products. In the Delegation's viewpoint, the recommendations should not inhibit or prevent members from providing a specialized protection for GUIs. Lending its support to the observation made by the Delegation of Spain at the previous SCT session about the importance of addressing divergences as to formal requirements, the Delegation welcomed the fact that Recommendation No. 3 already covered some formal requirements with respect to formats of representation. Pointing out that the required minimum and maximum numbers of views for industrial design applications for GUI designs should permit an accurate design representation, the Delegation added that formal aspects were relevant, not only for the appropriate representation of GUIs, notably with respect to animations, but also for the interoperability of jurisdictions by means of priority claims. Referring to questions contained in the questionnaire on the methods of representations and the applicable formal requirements, the Delegation wondered whether the recommendations could cover those aspects as well. Finally, the Delegation sought clarification as to Recommendations Nos. 2 and 4. Firstly, with regard to Recommendation No. 2, the Delegation said that the wording "*how the GUI was installed on a product*" was not clear and its interpretation was uncertain. While that was mentioned as a criteria irrespective of which design protection should be afforded to GUIs, the Delegation understood that the other two such criteria – namely "*operating status of the underlying electronic device*" and "*the amount of time the design is visually available*" – were related merely to the transitional display of a GUI. The Delegation wondered, in particular, whether the wording referred to the concept of protection for the underlying software that did not extend to the graphic display produced by it, and *vice versa*. Secondly, with regard to Recommendation No. 4, it was not clear whether the provision allowed for a party to require a product indication where such indication did not affect the scope of protection afforded to the GUI design, as was the case in the European Union design system. Thirdly, while it concurred with the overarching idea of having an independent design protection for GUIs, pursuant to Recommendations Nos. 2 and 4, the Delegation pointed out that aspects such as the amount of time the design was visually available or the use in multiple screen display environments could play a crucial role in the examination of the material requirements for design protection. The visibility of a design, and the way it was used and presented in different display environments, could be important in determining whether the

design was new or had individual character, as well as for assessing infringement. For that reason, the Delegation believed that a clarification on that point could also be helpful. Looking forward to continuing discussions on the revised proposal, the Delegation announced that it stood ready to work together with the proponents and other delegations to foster a more harmonized approach.

35. The Delegation of Japan, thanking the Delegation of the United States of America for having revised the draft Joint Recommendation, welcomed the participation of the Delegation of Israel as a co-sponsor of the proposal. Due to the negative impact of the COVID-19 pandemic, making close contact with others had been restricted. As a result, with the advancement of digitalization, the Delegation of Japan was of the view that the utilization of GUI designs would continue to expand and that the importance of international protection for those designs would grow. Pointing out that document SCT/43/10 had been prepared based on the discussions on GUI designs held at the previous SCT session, the Delegation indicated that the revision aimed at clarifying the non-obligatory and non-normative nature of the recommendations. The Delegation added that new Recommendations Nos. 6 and 7 would be useful because they would add to the clarity of GUI designs by allowing the requirement of a description and would establish a framework for searches through electronic databases. Reiterating the view that those recommendations would be beneficial to users of the design system worldwide, the Delegation announced its willingness to contribute, in cooperation with the Delegations of Israel and the United States of America, to the advancement of the discussions towards a Joint Recommendation on Industrial Design Protection for Graphical User Interface (GUI) Designs.

36. The Delegation of China, thanking the Delegations of Japan and the United States of America for their proposed Joint Recommendation, observed that the protection of GUIs was a trendy topic in the field of industrial designs and that users were calling for greater protection of those designs. In the Delegation's viewpoint, studying and discussing the strengthening of GUIs protection would deepen the understanding of various Member States on the issue. The Delegation was therefore keen to learn from others' experience to improve the design regime. Referring to its domestic legislation, the Delegation reported that its examination guide had been amended in 2014 and in September 2019 to further protect GUIs and address the need of GUIs' users. Adding that its patent law had also been modified to extend the duration of protection for GUIs to 15 years, the Delegation indicated that the newly amended patent law would come into force on June 1, 2021. The Delegation announced its willingness to share its domestic practices and legislation and to listen to advice provided by other countries, in order to learn from their useful experiences. With regard to the proposed Joint Recommendation, the Delegation expressed the view that countries' domestic regimes had to be considered within the SCT and stressed the need to listen to various parties' suggestions.

37. The Delegation of Chile, thanking the Delegations of Israel, Japan and the United States of America for the revised proposal, indicated that its capital was currently reviewing the new version of the proposal. The Delegation concurred with the statement made by the Delegation of the Russian Federation on behalf of CACEEC, concerning the need to continue the discussions on the matter at the next SCT session, taking into account the short time given to review the revised proposal. Finally, the Delegation expressed the hope that the dialogue would allow SCT members to find the best way to address the issue.

38. The Delegation of the United Kingdom, speaking in its national capacity, looked forward to working with the Chair throughout the session to progress the important work of the Committee. While thanking the Delegations of Japan and the United States of America for their proposal and the Secretariat for the preparation of the compilation of the returns to the questionnaire, the Delegation recognized the increasing importance of GUIs in the ever-expanding digital economy and noted that creators of those designs were spread across the globe serving global markets. As design law was not fully harmonized internationally, the Delegation believed that reaching a decision on agreed minimum standards of protection for GUIs would be beneficial. Therefore, the Delegation welcomed the proposal put forward by the Delegations of Japan and the United

States of America, now co-sponsored by the Delegation of Israel. While looking forward to a constructive discussion on the recommendations contained in document SCT/43/10 and to making progress towards an agreement on that important area, the Delegation believed that the design system in the United States of America already largely met the minimum standards set out in the recommendations. The Delegation pointed out that its national law did not allow for mixed formats of representations. Referring to Recommendation No. 3, the Delegation sought clarification as to the scope of the terms "*other electronic or digital means of visual representation*". In that respect, the Delegation reported that, in its country, online applications by those means were currently accepted. However, moving images as representations for design applications were not accepted, so that GUIs or animated sequences needed to be represented by screenshots or a sequence of still images. Referring to the analysis of the returns to the questionnaire, contained in document SCT/41/2 Rev, the Delegation noted that most respondents had indicated that they did not accept moving images. The Delegation welcomed clarification on that point and looked forward to hearing views of other delegations on the issue. Then, turning to Recommendation No. 9, the Delegation reported that its Office was able to provide applicants with a digital version of paper-certified priority documents, but not with a digital-only service.

39. The Delegation of Australia, expressing confidence in the Chair's leadership to undertake positive and constructive discussions during the session, thanked the Secretariat for the organization of the session and the Delegations of Israel, Japan and the United States of America for the preparation of their revised proposal. While observing that the preamble was helpful to indicate the intention of the draft Joint Recommendation, the Delegation considered the latter very informative and appreciated the useful framework that it provided. Reporting that, in the context of the ongoing holistic review of its national design system, its Office was notably considering ways to better accommodate newer types of designs, such as GUIs, in the design system, the Delegation expressed its interest in discussing manners in which the Joint Recommendation could support designers to protect their new technologies.

40. The Delegation of the United States of America, after having expressed gratitude to the delegations for their remarks on the revised proposal and to the co-sponsors for their comments, addressed the questions raised by the Delegations of the European Union and the United Kingdom. Firstly, underlining the non-obligatory nature of the draft Joint Recommendation, the Delegation considered that the revised proposal contained recommended practices, which were theoretically neither a floor nor a ceiling. Secondly, referring to the questions on Recommendations Nos. 2 and 4, the Delegation highlighted that the recommendations aimed at ensuring that applicants focused their protection on the design itself, without being required to incorporate various limitations of particular products covered by, or used on or in, the GUI design. As such, the design claimed in one application would be able to cover a single protected GUI design on different electronic devices made by different manufacturers with different shapes, particularities or electronic features. Thirdly, with regard to Recommendation No. 4, the Delegation believed that the recommendation, as currently drafted, would allow for a product indication practice, as the one applicable in European Union member states, where multiple designs could be protected with a common product indication as long as they belonged to a common or related class. Similarly, as it appreciated that many European Union member states did not restrict the particular device or computer that a GUI was housed on for protection, the Delegation said that it saw many ways in which the practice, mentioned by the Delegation of the European Union, would be blessed by those recommendations. Finally, turning to the comment made by the Delegation of the United Kingdom, the Delegation observed that both countries had similar practices with respect to transitional or moving GUI designs. Indeed, in the United States of America, those designs were also protected by submitting a sequence of individual screenshots showing the transitional elements. Therefore, the Delegation was of the view that the draft Joint Recommendation covered the concern raised by the Delegation of the United Kingdom.

41. The Chair concluded that the SCT would continue the discussion on document SCT/43/10 at its forty-fourth session.

Compilation of the Returns to the Questionnaire on Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property (document SCT/42/2)

42. Discussions were based on document SCT/42/2.

43. The Chair drew the attention of the Committee to the fact that document SCT/42/2, which compiled the returns to the Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention for the Protection of Industrial Property, contained 52 replies from Member States and two from Intergovernmental Organizations. The Chair recalled that the questionnaire had been kept open until January 10, 2020, for further or revised replies by delegations. The Chair announced the holding of an information session on that topic on Thursday, November 26, 2020.

44. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Secretariat for having prepared document SCT/42/2, as well as all respondents to the questionnaire. The Group looked forward to more substantive analysis of the responses by the SCT Secretariat, and to ideas on how that work might be taken forward. The Delegation said that it counted on the Information Session on Article 11 of the Paris Convention to provide better understanding of the issue.

45. The Delegation of Spain, thanking the Secretariat for the compilation of responses to the questionnaire, welcomed the holding of an information session in the framework of the SCT on the topic under consideration. Moreover, the Delegation, in the interest of users, proposed to develop a database based on the responses received from Member States. The Delegation believed that making the database publicly available would be useful and would give Member States the possibility to get ahold of the information. The Delegation concluded by stating that it would submit a written proposal with regard to future discussions in the Committee.

46. The Delegation of the Republic of Moldova welcomed the holding of an information session on Article 11 of the Paris Convention on the margins of the Committee's session and expressed the wish to continue discussing the topic in the next Committee.

47. The Delegation of China, thanking the Secretariat for the questionnaire and for compiling the returns, considered that document SCT/42/2 would help offices and users to better understand the different practices in Member States. The Delegation expressed its willingness to participate in the discussion and to share its practice under Article 24 of the Chinese patent law. Reporting that in China the creator benefitted from a temporary protection during six months before the grant of the patent protection, the Delegation indicated that the applicable exhibitions were limited to those recognized by the Government of China.

48. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the Secretariat for the document on the application of Article 11 of the Paris Convention and was of the opinion that the issue was also relevant for filings for trademarks. Noting that, during the exhibitions, companies showed their developments and obtained information on the trends in their sector, the Delegation believed that the question was to determine which exhibitions were targeted, at what level, but also who could take part in such exhibitions. The Delegation added that, in the current circumstances, it was necessary to direct the Committee's efforts towards a definition of universal criteria for users, in order to know which exhibitions were covered by the provisions of Article 11 of the Paris Convention.

49. The Delegation of the United Kingdom thanked the Secretariat for the preparation of document SCT/42/2, summarizing the replies to Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention, and extended its gratitude to all delegations for having provided valuable information to progress further work in that area. The Delegation said that it looked forward to the Information Session and to further discussions on the issue under consideration.

50. The Chair concluded that the SCT would revert to document SCT/42/2 at its forty-fourth session to discuss the way to advance work on this topic.

Update by Member States on the Digital Access Service (DAS) for Priority Documents

51. The Secretariat informed the Committee of the fact that WIPO DAS had been implemented, as of January 15, 2020, free of charge, for applications under the Hague System for the International Registration of Industrial Designs.

52. The Delegation of Israel, announcing that the digital library on the DAS had been expanded on July 1, 2020 to include industrial designs, expressed the view that the DAS would benefit users, as it would streamline processes when seeking protection in other countries and would reduce costs for the applicants. The Delegation added that, at the same time, the DAS would benefit IP offices, as it would facilitate paperless transactions, especially during the current challenging period. Finally, the Delegation thanked WIPO for its continued support and looked forward to continuing contributing to the work of the Committee.

53. The Delegation of Brazil said that the Brazilian Office had notified WIPO that it would extend the scope of its participation in the DAS for priority documents to trademark and industrial design applications, as a depositing office, from August 3, 2020.

54. The Delegation of the Russian Federation, speaking on behalf of CACEEC, underlined the importance of the DAS in the current COVID-19 pandemic context and looked forward to working on the development and spreading of the DAS.

55. The Delegation of France said that, from December 1, 2020, its office would join the DAS as a receiving office for patents. Subsequently, the French Office would decide on a date in 2021 for the opening of the service for trademarks and industrial designs.

56. The Delegation of the United Kingdom, speaking on behalf of Group B, underlined the importance of the DAS for industrial design applications. Group B expressed its gratitude to the Member States for the updates on their experience using the DAS, showing that the system was delivering clear benefits for innovators around the globe.

57. The Delegation of the European Union, speaking on behalf of the European Union and its member states, informed the Committee that the European Union Intellectual Property Office (EUIPO) had been implementing the WIPO Digital Access Service as office of first filing since July 2020, and as office of second filing since last September.

58. The Delegation of China, stating that it would continue to support the extension of the system to industrial design applications, expressed the hope that the DAS would gain more support and be further used, as the system was helpful to increase the efficiency of examination and lower the burden on applicants.

59. The Delegation of the United States of America noted the increase of jurisdictions using the WIPO DAS System and the work particularly important and fruitful on that topic in light of the present COVID-19 pandemic. The Delegation observed that applicants had been able to use the WIPO DAS system in order to avoid issues that could have arisen in their priority claims with

certified priority documents of earlier filed applications. The Delegation expressed its appreciation for the updates on the topic and continued to recommend Member States to consider WIPO DAS in the context of industrial design priority document exchanges. Underlining its positive experience with the DAS service, the Delegation encouraged Member States to also share information on their experience. The Delegation added that if Member States were joining the Hague System, that often provided a particularly convenient time to also implement WIPO DAS for industrial designs, as some of the same legislation or IT aspects might be implicated and might provide some efficiencies. The Delegation also congratulated the Delegation of the United Kingdom and applauded their continued work towards looking at WIPO DAS and similar electronic priority document environments.

60. The Delegation of the United Kingdom, recognizing the potential efficiencies of WIPO DAS for users and national offices, informed the Committee that its office was currently developing its digital transformation program, which included the extension of the DAS to industrial designs.

61. The SCT noted the progress in the implementation of the DAS for industrial designs by members and the Chair concluded that the SCT would revert for an update to this item at its next session.

AGENDA ITEM 6: TRADEMARKS

Proposal by the Delegations of Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance (document SCT/43/6)

62. Discussions were based on document SCT/43/6.

63. The Delegation of Switzerland explained that the new proposal contained in document SCT/43/6 had drawn from the large volume of information resulting from the discussions on the protection of country names, which had taken place for several years. The Delegation recalled that the replies to the Questionnaire Concerning the Protection of Names of States Against Registration and Use as Trademarks, received from more than 70 members, had been compiled in document SCT/24/6. Further, reference document (WIPO/Strad/INF/7) had been adopted by the Committee and published, and in 2016, the Secretariat had prepared document SCT/35/4 on the Protection of Country Names Against Registration and Use as Trademarks: Practices, Approaches and Possible Areas of Convergence. The Delegation explained that those convergences had been transcribed in the form of non-binding examination guidelines in document SCT/43/6. Recalling that 94 per cent of the respondents to the questionnaire had indicated that a country name was excluded from registration as a trademark if it was devoid of distinctive character, the Delegation said that these terms should remain fully available to all and indicated that point 4 of the proposal reflected that principle. Pointing out that 98.5 per cent of the respondents had indicated that a country name was excluded from registration as trademark if the use of that name could be considered misleading as to the origin of the goods, the Delegation referred to point 5 of the proposal, which mirrored that principle. The Delegation highlighted the fact that, despite a near unanimity on the general principles, the implementation of those principles differed considerably from one office to another, as it had transpired in the information session held in the framework of SCT/39. The Delegation said that, in order to reflect the diversity of practices, the proposal now contained several exceptions to the general principles. It mentioned in particular that a geographical name should remain fully available and was in principle misleading if used with products originating from another place. However, a country name included in a combined trademark could have a predominantly non-geographical meaning and, in such a case, the principle would not apply. Similarly, a geographical name referring to a well-known company could be registered as a trademark,

since there was no geographical deception. The Delegation indicated that a country name written in a language unknown to the target public would not be descriptive and therefore not deceptive. Expressing the view that those exceptions, which were new compared to the previous proposals, reflected the diversity of practices applied by the members of the Committee, the Delegation expressed the hope that the document could be accepted. The Delegation stressed the fact that the proposal contained examination guidelines and did not intend to bind, nor to create additional burdens on, the Member States. The proposal only sought to reflect the consensus of Member States and facilitate the examination of trademarks that consisted of, or contained, country names or geographical names of national significance. The Delegations and the co-sponsors of the proposal stood ready to answer any question from the delegations.

64. The Delegation of Iceland, thanking the Delegation of Switzerland for the presentation of the proposal, underlined the fact that it was of great importance as it set out principles followed by a number of countries. The Delegation acknowledged that dealing with trademark applications that contained country names or geographical names of national significance was not necessarily straightforward, and stressed the fact that the proposal consisted of guidelines allowing certain space for interpretation. The Delegation pointed out that there were some examples of strict enforcement on behalf of proprietors of registered marks that consisted of, or included, country names, against market players from the country or the area of which the mark consisted. The Delegation saw it as paramount that even though a trademark registration consisted of a country name, such proprietary rights should not be without limitations. In addition, the Delegation stated that IP rights should not override the fundamental rights of a national to claim in a mark the origin of the product or service. The Delegation believed that the trademark system should safeguard co-existence when appropriate, as well as responsibility of the right holders themselves. The Delegation reiterated that a trademark registration containing a country name should not prevent others to use it as a reference to the origin of goods or services, provided that the reference was correct. The Delegation considered unacceptable that some countries should consistently stand before courts defending their own nationals which sought to indicate the origin of the product in their trademarks, as such actions were costly, time consuming and detrimental to the trademark system. The Delegation therefore requested the SCT to carefully consider the proposal at hand, and looked forward to more in-depth discussions.

65. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Delegation of Switzerland for presenting the proposal contained in document SCT/43/6 and took note of the proposed examination guidelines for trademarks that consisted of, or contained, country names and geographical names of national significance. The Group looked forward to a constructive discussion on that topic.

66. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the co-sponsors for the proposal concerning examination guidelines for trademarks containing country names and geographical names of national significance. The Delegation indicated that countries of the region used very similar guidelines at national level. Noting a trend in a number of countries towards splitting off categories of designations and a use of those names as a means of differentiation, the Delegation expressed the view that designations that were identical or confusingly similar to protected geographical indications or appellations of origin should not be permitted as trademarks.

67. The Delegation of the European Union, speaking on behalf of the European Union and its member states, thanked the proponents for the proposal contained in document SCT/43/6. Having studied the new proposal with interest, the European Union sought clarification from the co-sponsors about its relationship with the proposal contained in document SCT/39/8 Rev.3. The European Union would welcome an attempt to merge some concepts underlined in the proposals, as well as the simplification of discussions by reducing the number of competing revised proposals. Commending the spirit of seeking consensus reflected in the new joint

proposal, the European Union expressed its continued appreciation for any endeavor that would neither imply a legislative exercise nor envisage any disruption of existing practices on descriptiveness and distinctiveness. The European Union and its member states sought clarification from the co-sponsors as to whether the revised proposal aimed at establishing new grounds for refusal in trademark laws. Expressing concern that the proposal put on equal footing country names and geographical names of national significance for the purpose of examination of trademark applications, the Delegation said that, although the EUIPO had adapted its practice to enhance protection for country names, it appeared problematic to have the same approach for the much broader and less homogeneous category of geographical names of national significance. The Delegation pointed out that examination practices were supported by the case law of the Court of Justice, which differentiated the concept of geographical indications from a simple indication of a geographical provenance. The Delegation considered that there was no direct link between a specific quality, reputation or other characteristics of the product and its specific geographical origin. In addition, the Delegation wondered why the criteria listed in points 5.B i) to iv) to be applied in respect of misleading signs were not referred to in respect of non-distinctive signs under point 4. Noting a difference between a stronger protection in case of trademarks consisting solely of a country name or a geographical name of national significance and a more flexible approach in case of trademarks containing such a name, the Delegation expressed the view that considerations such as whether or not the name had lost its geographical meaning or was perceived as a fanciful name, were of equal relevance in assessing both non-distinctiveness and misleading character. Furthermore, in its opinion, the goods and services should not be considered irrelevant in the case of non-distinctive signs, but instead should be taken into consideration like in the case of misleading signs under points 5.A) and 5.B)ii). The European Union and its member states looked forward to continuing discussion on the new proposal and stood ready to further explore it in cooperation with the co-sponsors and other delegations.

68. The Delegation of Jamaica recalled that, for over 40 years, States had expressed concerns regarding the lack of international protection for country names. Since 2009, the Delegation of Jamaica had advocated in the Committee for more consistent, adequate and effective protection for names of States, similar to equally important symbols of statehood, such as flags and armorial bearings, which were protected under the Paris Convention. The Delegation firmly believed that names of States constituted verbal symbols and indicia of statehood similar to State flags and national symbols and emblems, which ought to be protected by the international intellectual property system. The Delegation reiterated that, although some protection was available for country names through existing national trademark laws of some Member States, such protection was inadequate and inconsistent, often leaving country names available and vulnerable to free ride on the goodwill and reputation of a country, without any genuine connection to the country name. The Delegation explained that the guidelines contained in document SCT/43/6 had taken into account the perspectives of other SCT members and reflected the diversity of practices applied in Member States with regard to examination of trademarks consisting of, or containing, country names or geographical names of national significance. The Delegation explained that the most recent joint proposal drew from the earlier proposal made by that Delegation and from the previous joint proposal. It provided a succinct list of principles and approaches that could be used by IP offices as guidelines for the examination of trademarks which consisted of, or contained, country names or geographical names of national significance. The Delegation supported the Joint Proposal contained in document SCT/43/6, and looked forward to constructive engagement at future sessions of the SCT.

69. The Delegation of Japan, expressing its appreciation to the co-sponsors of the proposal for their efforts in preparing the working document, highlighted the importance of protecting country names and geographical names. The Delegation however considered that the definition of “geographical names of national significance” contained in the proposed guidelines was too broad. It was of the opinion that national systems and examination practices in each

country should be considered in determining whether to provide for absolute protection to country names and geographical names and remove them from trademark registration, or to regard them as issues related to distinctiveness or misleading character, and decide whether they were registrable as a trademark or not. The Delegation considered that even if the draft Joint Recommendation would not legally bind the Member States, it would substantially compel their practices. In addition, although the draft Joint Recommendation prescribed an exception for fair use, in principle, it would restrict the use of country names without the permission of the relevant country's authorities. The Delegation stated that this differed from its trademark system, which refused registration to trademarks lacking distinctiveness or which were misleading as to the origin of the products, and not only because they contained country names.

70. The Delegation of Brazil, thanking the proponents of document SCT/43/6, explained that Brazilian law explicitly affirmed the right to register a geographical name as a trademark, as long as it did not lead to confusion as to the origin of the products and services. Moreover, Brazilian law did not differentiate among types of geographical names, such as country names and geographical names of national significance, for the purpose of registration of a trademark. The Delegation remained available for further clarifications if necessary.

71. The Delegation of the United Kingdom thanked the proponent delegations for their work on the proposal Concerning the Protection of Country Names and Geographical Names of National Significance. Recalling that the issue had been discussed in the Committee for some time, the Delegation supported the efforts to ensure effective protection to country names and geographical names of national significance. Nevertheless, it stressed that legal means existed to secure appropriate protection in national legislation. While recognizing that nation branding and the protection of country names were issues that deserved further consideration in the SCT, the Delegation remained unconvinced that the creation of a new norm-setting instrument was desirable or feasible. The Delegation thanked the proponents for the preparation of the proposal as well as the Delegations of Jamaica and Switzerland for presenting it. It however expressed interest in hearing more about how the proposed guidelines would deal with issues that were not already addressed in the domestic legislation of WIPO Members. The Delegation indicated that the law of the United Kingdom already prevented geographical names, including those of countries, cities, towns and localities, from registration as trademarks where there was a likelihood of association between the place name and the product in question. The Delegation also mentioned national provisions that limited the effect of a registered trademark by protecting third parties' rights to use signs denoting the geographic origin of products. The Delegation also expressed concern about the prescriptive nature of the proposed examination guidelines, which may curtail the flexibility that many national offices had in protecting country names and geographical names. The Delegation thanked the Delegation of Jamaica for the revised proposal on the Protection of Country Names contained in document SCT/43/9 and for similar reasons set out in relation to document SCT/43/6, expressed interest in better understanding how current protections for country names and geographical names in trademark systems were insufficient. Recalling that the proposal had been on the table since 2014, the Delegation believed that the work carried out by the Committee since then had not revealed a need for additional action other than awareness raising. It recommended that such action focused in particular on the availability of grounds for refusal or invalidation of trademarks containing country names and geographical names and on the possibility of addressing the relevant issues in trademark examination manuals. Welcoming the opportunity to continue discussions on the proposal contained in SCT/41/6 Rev., concerning the Protection of Country Names and Geographical Names of National Significance in the DNS, the Delegation expressed its interest in hearing how the sponsors of the proposal saw it fitting in the clear delineation of responsibilities between WIPO and ICANN. The Delegation also sought information on how the proposal now intended to fit with ICANN processes concerning ccTLDs, given that the timetable had moved on since the proposal was originally presented to the Committee.

72. The Delegation of Australia, thanking the co-sponsors for preparing the proposal contained in document SCT/43/6 and the Delegation of Switzerland for presenting it, took note that the proposal had moved from recommendations to examination guidelines and more clearly defined some of the core terms and concepts therein. The Delegation was of the view that certain elements of the proposal had been clarified. While the Delegation was still considering its contents, the Delegation noted that the proposal appeared to address some of the Delegation's previous concerns, including concerning the registrability of a trademark where it was not likely to be perceived by the public as a country name or geographical name of national significance. Although it could potentially support future discussions on a non-binding set of guidelines to assist examiners, the Delegation observed that the proposed examination guidelines used mandatory language, which it could not endorse. The Delegation further expressed concern about the fact that the protection of country and geographical names of national significance in the proposed examination guidelines was too broad and potentially created problems and costs that could prove larger than the issue the proposal was trying to address. Echoing the statements made by other delegations, the Delegation remained unclear of the nature or size of the issue under consideration and called for a better understanding of the issue.

73. The Delegation of the United States of America expressed its appreciation for the revised proposal contained in document SCT/43/6. The Delegation observed that the proposal reflected an understanding that country names were not always perceived as such by the average consumer, and that the perception of the local average consumer determined whether a mark was non-distinctive or deceptive. The Delegation held the view that it was not for any international list to make that decision for national offices, and thanked the delegations for the proposal, which was a constructive way forward. The Delegation however raised concerns about the scope of the proposed examination guidelines as they currently stood, and did not believe that there was a common understanding of the meaning of geographical names of national significance. While it would welcome an exchange of information in that matter, the Delegation considered that geographical names of national significance should be excluded from the text of any examination guidelines discussed by the Committee. In addition, it believed that the proposed definition of country names contained a language that was too broad in nature. Concerning translations in transliterations into any language, the Delegation recommended that the proposal considered only the six official UN languages for greater certainty. In addition, the Delegation held that the inclusion of former names of countries was extensive and unnecessary from a public policy perspective, and would be challenging to administer. Noting that the proposal captured abbreviations and adjectival use of country names, the Delegation considered that this might go too far. The Delegation believed that the scope of the proposal needed further discussion in the Committee before diving into discussions on the substantive text concerning the registrability of non-distinctive and misleading signs, and looked forward to working with the co-sponsors on the proposal.

74. The Delegation of the Republic of Moldova, thanking the proponents, expressed its interest in the discussion and the elaboration of examination guidelines that would be useful for national offices. The Delegation stood ready to find the best solution and work on the substantive text of the document.

75. The Delegation of China, thanking the co-sponsors for their work, highlighted the existence of formal and informal country names, which scope of protection might differ. The Delegation stressed the need to further clarify the definition of country names before defining the scope of their protection. Considering the objectives of the proposal, the Delegation

suggested a further study on that issue. With regard to geographical names of national significance, the Delegation sought clarification as to what such concept meant. The Delegation suggested to conduct further studies for a better understanding of the diverse practices in different countries on the matter.

76. The Delegation of Israel thanked the proponent delegations for the interesting proposal, which it was currently analyzing, and looked forward to contributing to the discussion at the next session.

77. The Delegation of Switzerland, thanking the delegations that had expressed positions and commented the proposal, responded to four points raised. First, the Delegation reiterated that this non-binding proposal did not introduce new grounds for refusal or any obligation to amend internal legislations. Therefore, the fears raised would not materialize, since the members would not be required to adapt their legislation to be in line with the proposal. Secondly, stating that the proposal constituted a minimum, which sought to reflect consensus, and was not an exhaustive regulation of the problem, the Delegation clarified that national laws would still apply if they went beyond. Thirdly, the Delegation confirmed that exceptions were based on the perception of the relevant public and that national legislation determined how the country or geographical name was understood. Finally, with regard to the language and definition issue, the Delegation explained that it was not up to the SCT to determine what a country name was, as such name remained a country name whatever the language. However, that did not imply that it should be protected in all languages and all jurisdictions. The Delegation referred to one exception, which clearly and expressly stated that when the name was used in a language which was not understood by the target public, it was irrelevant to protect it. Wondering whether new studies or questionnaires would be useful and bring new information, the Delegation suggested continuing discussions in future sessions to find understanding and consensus.

78. The Delegation of Iraq, expressing the view that the proposal was important, considered that no country name should be monopolized as a trademark, and that criteria should be established to define brands, country names and geographical indications. The Delegation proposed that general guidelines be drafted in that matter, to guarantee an appropriate implementation of those criteria by the countries. The Delegation recalled that in certain cases, the name of a country might have a specific geographic significance, which prevented it from being monopolized, as it would create a conflict and problems for registration offices.

79. The Representative of the Japan Patent Attorneys Association (JPAA) held the view that, under Japanese law, trademarks that consisted of, or contained, country names or geographical names of national significance were already carefully handled in connection with issues of distinctiveness and misleading character as to the origin or quality of the goods and services. The Representative thus expressed concern that the adoption of new examination guidelines could create unexpected difficulties for Japanese users. In particular, allowing the State identified by a country name or a geographical name of national significance, or a legal person authorized by the relevant State, to invalidate the registration of such trademarks could cause unnecessary conflicts or otherwise place Japanese trademark owners in an unstable position. This could also create unexpected disadvantages to right holders whose trademarks had already been lawfully registered. The Representative expressed the fear that the proposed examination guidelines would impose additional burden on applicants and increase examiners' workload, since applicants would have to verify, before filing applications, whether the trademarks contained country names or geographical names included in the United Nations Group of Experts on Geographical Names (UNGEGN) list, ISO 3166, the World Heritage List or the like. The Representative therefore urged the Committee to consider the proposal very carefully.

80. The Representative of the Health and Environment Program (HEP), expressing support for the proposal contained in document SCT/43/6, underlined the importance of avoiding abusive use of country names in trademarks, as well as misleading use of geographical names

of national significance. The Representative suggested that delegations should share their respective experiences in order to help others understand the matter, and hoped for progress of the work in the SCT.

81. The Representative of the Inter-American Intellectual Property Association (ASIFI), expressing support for the proposal contained in document SCT/43/6, said that country names of national significance required a better protection than they currently enjoyed, and stood ready to collaborate with the Committee on its future work on the matter.

82. The Chair concluded that the SCT would continue the discussion on document SCT/43/6 at its forty-fourth session.

Revised Proposal by the Delegation of Jamaica (document SCT/43/9)

83. Discussions were based on document SCT/43/9.

84. The Delegation of Jamaica recalled that since the thirty-second session of the SCT in 2014, it had placed on the table a draft Joint Recommendation for the Protection of Country Names, so as to facilitate focused discussion, within the SCT, on this important intellectual property issue. As indicated at the forty-second session of the SCT, the Delegation said that it had prepared a Revised Draft Joint Recommendation for the Protection of Country Names, as had been done in relation to other trademark areas of common importance and convergence, which could guide and be used by Member States in trademark examination manuals at the national and regional level, in order to promote consistent and comprehensive protection of country names. The Delegation stressed the fact that, like the two previous versions, the Revised Draft Joint Recommendation incorporated language and definitions largely taken from the previous Joint Recommendations (including well-known marks and marks on the Internet), as well as from Article 6^{ter} of the Paris Convention, the WIPO Study (document SCT/29/5) and the Revised Draft Reference Document on the Protection of Country Names Against Registration and Use as Trademarks (document SCT/30/4). It also incorporated the definition of “nation brand” taken from document SCT/43/3 Rev. 2, Compilation of Questions on Nation-Brand Protection in Member States, and document SCT/43/8, Returns to the Questionnaire on Nation-Brand Protection in Member States. Pointing out that the revised proposal sought to positively respond to previous comments from Member States at the SCT, the Delegation indicated that it had narrowed somewhat the definition of “country name”. Articles 2 to 5 addressed trademarks that conflicted with country names and essentially provided for the same protection as was provided for well-known trademarks. Turning to Article 2 of the revised draft Joint Recommendation, the Delegation pointed out that it related to bad faith applications for registration and would only be for guidance purposes. Article 3 of the revised draft Joint Recommendation detailed what should qualify as conflicting marks, that is, trademarks which conflicted with a country name. With respect to Articles 4 and 5, the Delegation stated that the provisions were drafted based on the SCT Study and Report on Country Names and sought to recommend acceptable grounds for refusal and acceptable grounds for acceptance of trademarks which consisted of, or contained, country names. The Delegation drew the Committee’s attention to the fact that the revised proposal placed the onus on applicants, rather than on intellectual property offices, to establish the legitimacy of the use of the country name. The Delegation added that Article 6 covered oppositions and invalidations and Article 7 covered unfair competition and passing off. Finally, Article 8 outlined factors for determining a false connection to a State. This provided the express flexibility desired by many delegations, as it gave additional grounds and factors for applicants to establish a genuine connection to a State and, therefore, a valid basis to use a country name in a trademark. The Delegation also pointed out that it had streamlined the articles to refer to trademarks only, and not business identifiers and domain names, and that the language had also been simplified, which resulted in a shorter and more readable text. The Delegation reiterated that the aim of the revised Proposal for a Draft Joint Recommendation was not to prescribe rules that

intellectual property offices must follow, nor to create additional obligations, but to establish a coherent and consistent framework to guide intellectual property offices, competent authorities and trademark applicants, regarding trademarks which consisted of, or contained, country names. While both proposals were complementary and helpful, the Delegation said that its proposal for a Draft Joint Recommendation differed from the Joint Proposal by Switzerland and other co-sponsors in that it provided more detail and guidance regarding how IP Offices might treat country name protection in their examination of trademarks. In addition, the Draft Joint Recommendation was drafted as a Joint Recommendation of the Paris Union and the WIPO Assembly, whereas the Joint Proposal set out proposed examination guidelines. Considering that several possible solutions had been presented to the SCT, the Delegation continued to believe that convergence among Member States on an agreed approach to the protection of country names in the trademark system was possible. The Delegation remained hopeful that a solution could be found, which could enjoy the consensus among SCT member States. The Delegation concluded by saying that it looked forward to the Member States' constructive engagement at future sessions of the SCT, in order to find the most practicable expression of international convergence regarding the protection of country names in the trademark system.

85. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the Delegation of Jamaica and the co-sponsors of the proposal concerning the Protection of Country Names and Geographical Names of National Significance. Welcoming the information given on the global practice regarding methods of examination of trademarks consisting of, or containing country names, the Delegation said that its Group was interested in a balanced approach to the issue.

86. The Delegation of Switzerland, thanking the Delegation of Jamaica for its revised and streamlined proposal, reiterated its support for the proposal, which provided a set of relevant examination guidelines to prevent the registration of misleading trademarks. Observing that the mechanisms on which that proposal were based to exclude deception were not identical to those presented in document SCT/43/6, the Delegation highlighted the complementary nature of the new proposal with the one contained in document SCT/43/6, to propose responses to the problem of the registration of misleading trademarks in relation to country names.

87. The Delegation of the United States of America, thanking the Delegation of Jamaica for its revised proposal, stated that it needed more time to review in depth the proposed revision.

88. The Delegation of Japan, expressing its appreciation to the Delegation of Jamaica for its efforts in preparing the revised proposal, was of the view that the revised proposal would still impose a heavy burden on trademark applicants and restrict the use of registered trademarks since it would still restrict registration and use of trademarks which included country names, even when they would not be likely to be misunderstood by consumers as to the origin of goods or services. Because imposing excessive restrictions on the registration and the use of trademarks could hinder economic activities by companies, the Delegation believed that the matter should be discussed carefully.

89. The Delegation of Canada, thanking the Delegation of Jamaica for the revision of the proposal, concurred with the views placed on that agenda item by other members of the Committee. The Delegation expressed concerns with the deceptive use of the name "Canada", which affected consumers in Canada and abroad. However, it added that such deceptive use did not occur as part of registered trademarks, but was often more akin, in Canada's experience, to an act of unfair competition such as referred to in Article 10 *bis* of the Paris Convention. Even having experienced, and experiencing, issues relating to the deceptive use of the name "Canada", the Delegation believed that an approach based on best practices, capturing a broad range of concerns was most suitable. For example, developing awareness raising tools or approaches that would provide direction in examination and grounds for opposition and invalidation regarding geographically descriptive trademarks. In that respect,

although the Delegation required more time to consider the revision to the proposal and looked forward to discussing it at the next session of the Committee, the Delegation wished to share some preliminary comments and questions on the revised proposal. The Delegation underlined the fact that, in Article 1(ix), the inclusion and definition of “nation brand” addressed subject matter that had been already covered by an international treaty, namely Article 6ter of the Paris Convention. Thus, members of the Paris Convention would have already implemented obligations in respect of state symbols or emblems, irrespective of whether they were intended to promote national identity and/or the image of a country. Additionally, the Delegation sought clarification on whether the text of Article 3(ii) was attempting to address any misdescriptive trademarks, or misdescription that had been deceptive. For example, in the context of geographical descriptiveness, the Delegation said that, in Canada, the legal test to determine whether the use of a geographic term was found to be deceptive took into account consumer perception in the Canadian marketplace. A trademark might be deceptively misdescriptive of the place of origin if the trademark, or a portion of the trademark, was a geographic name that was not the place of origin of the associated goods or services. It would also be considered deceptively misdescriptive if the average Canadian consumer or dealer would be misled into the belief that the associated goods or services had had their origin in the location of the geographic name in the trademark. As such, the Delegation observed that it was possible, given the facts of a given case, that while the trademark had been misdescriptive of origin, it would not be deceptively misdescriptive from the perspective of a Canadian consumer. For example, on Article 3(2) concerning opposition procedures, a trademark would not be registrable in Canada solely because the trademark was misdescriptive, but because it would be deceptively misdescriptive. Additionally, with respect to Article 3(3), in Canada, invalidity in the context of geographic descriptive trademarks would require deceptive misdescriptiveness or non-distinctiveness. In that regard, the Delegation considered that that provision seemed to suggest invalidity on the basis of pure misdescriptiveness. Additionally, in the Delegation’s view, Article 5 appeared to underscore the potential differences in approaches for the protection of country names among members. Canadian law was clear that geographical descriptiveness should not be deceptive, including for country names. However, the Delegation’s position, which was of course reflected in Canadian law, was that no one single entity, including governments, should have exclusive trademark rights that were clearly descriptive of geographic origin. For example, turning to Article 5(1) (i) through (iii), the Delegation pointed out that in Canada, if the applicant confirmed that the goods or services originated from the country, then under Canadian law the trademark was not registrable if clearly descriptive of the place of origin. Additionally, since June 17, 2019, with the implementation of Canada’s modernized legal framework, trademarks which were primarily geographic locations were generally not inherently distinctive even if the place was not known for those goods or services, and such trademarks might be refused on that ground. The Delegation added that compliance with foreign law did not have an effect on whether the trademark was registrable in Canada. With respect to Article 5(2), the Delegation stated that that provision was at odds with Canadian law, which prohibited the registration of a trademark that clearly described the place of origin of the goods or services in the application. As had been demonstrated by members of the Committee, the examination of country names in trademark applications by many members excluded country names from registration either because they lacked distinctive character, were descriptive or because they were considered deceptive. For that reason, the Delegation held the view that it was crucial that countries had scope to support the ability of judicial authorities to stay current and interpret legislative provisions based on the constantly evolving state of trade. Indeed, Courts were meant to provide interpretation of legislative provisions that might remain fixed, but for which context evolved. The Delegation of Canada, recalling that Canadian judicial authorities had considered the current nature of trade and amended the legal test for geographically descriptive trademarks, indicated that such clarification provided further certainty that there was a sufficient level of protection in Canada to prevent bad faith use of country names. Finally, the Delegation said that it would be pleased to further share its experiences in the area under discussion. It also encouraged members to consider the current tools available

on the Canadian Intellectual Property Office's website, which explained in detail Canada's practices, including a Guide to Trademarks and an Examination Manual listing all applicable case law on place of origin in Canada.

90. The Delegation of China, thanking the Delegation of Jamaica for presenting a revised proposal, was of the view that the subject needed to be studied carefully, and looked forward to the views and opinions of other Member States.

91. The Delegation of Jamaica, thanking all delegations for their comments and expressing appreciation for the constructive responses, said that it would reflect on the comments going forward. The Delegation looked forward to deepening the Committee's discussions on the proposal, both bilaterally and during the next meeting of the SCT, as the Delegation deemed that the issue was one of global importance.

92. The Chair concluded that the SCT would continue the discussion on document SCT/43/9 at its forty-fourth session.

Proposal by the Delegations of Brazil, Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance in the DNS (document SCT/41/6 Rev.)

93. Discussions were based on SCT/41/6 Rev.

94. The Delegation of Switzerland recalled that the proposal contained in document SCT/41/6 Rev., aimed, first of all, at preventing the monopolization in the DNS, by a private person, of a country name or a geographical name of national significance, without the agreement of the country concerned. The proposal provided also for a recommendation contained in document SCT/31/8, namely, the establishment of a protection mechanism for geographical Indications at the second level of the DNS, as it already existed for trademarks in the Uniform Dispute Resolution Policy (UDRP). Regarding the first point, the Delegation stated that, since the first proposal, the process which was going to lead to a new wave of delegations in the first level generic domain names had well advanced. The Delegation indicated that the consensus found within the ICANN community regarding geographical names consisted in maintaining most of the 2012 rules, meaning that the protection for country names would not be modified, increased or reduced. Therefore, the Delegation observed that the issues that had been encountered during the 2012 delegation might reoccur. For example, as in 2012, the adjective version of a country name would be unprotected and could be delegated to a private person. The Delegation, which had already experienced this, expressed its interest in hearing the opinion of other delegations as to such a possibility. In addition, the Delegation, pointing out that there was no rule for geographical names of national significance and observing that that aspect remained central for several delegations, invited delegations to actively engage with the co-sponsors of the proposal. Regarding the second aspect of the proposal, the Delegation said that the presentations made during the Information Session had shown that the current protection mechanism of the second level of the DNS for geographical indications were clearly insufficient and several problems had been highlighted. Finally, underlining the relevance of the proposal, the Delegation reiterated its wish to discuss it more in depth.

95. The Delegation of Brazil, reiterating its support for the proposal contained in document SCT/41/6 Rev., expressed the view that the recommendations therein addressed the concerns of a significant number of Member States with regard to the use of country names and geographical names of national significance as top level and second level domain names. The Delegation stated that members had the legitimate right to prevent private companies from monopolizing geographical designations of national significance in the DNS, depriving the concerned communities from their use. Unlike trademarks, which could be owned by two or

more different companies if they referred to different economic activities, domain names were exclusive in nature. The Delegation explained that, as there was no sharing of a top-level domain name, it was necessary, for its innumerable public policy implications, to advance the discussions of legitimate criteria for those concessions in an open, transparent and multilateral way. The Delegation, referring to the confirmation of the assignment by ICANN of the generic top-level domain “.Amazon” to the American e-commerce Company, reiterated its disagreement with ICANN’s decision. The Delegation considered that the assignment had taken place in spite of the explicit objection of the Amazon States and the ACTO and was not conform with the advice of ICANN’s Governmental Advisory Committee (GAC), which underlined the need for a negotiated solution agreed upon by Amazon countries and by the Company. According to the Delegation, that case had revealed an imbalance in Internet governance structures, in which public policy concerns expressed by the governments of sovereign States and by the relevant communities had not duly been taken into account. The Delegation indicated that the proposal contained in document SCT/41/6 Rev. sought to address this imbalance in calling attention to UDRP and how it could be updated in order to give an adequate response to the aforementioned concerns. In conclusion, the Delegation invited members to engage constructively with the proposal and share their views on how the issue under consideration, which had important implications for the public interest, could be better addressed.

96. The Delegation of Jamaica believed that allowing private companies to register country names and geographical names of national significance as top-level domain names resulted in the monopolization of those names and deprived the concerned countries of the possibility of using such domain names. The Delegation considered that country names and geographical names did not benefit adequately from the current rights protection mechanism under the UDRP. In addition, the Delegation explained that the proposal contained in document SCT/41/6 Rev. was to primarily use existing lists of country names, capitals, regions and rural heritage sites for protection purposes. Each country would have the right, within a timeframe of 18 months, to submit to the WIPO Secretariat, a list of geographical names of national significance according to its relevant public policy or applicable national laws. The list would be published on the WIPO website. In order to seek an effective protection for country names and geographical names of national significance against registration and use as domain names, the Delegation emphasized that the objective of the proposal was to agree on possible language that would capture the areas of convergence, while leaving policy space for divergent approaches. Therefore, with a view to agreeing a workable solution to the pervasive problem of lack of protection of country names and geographical names of national significance in the DNS, the Delegation encouraged Member states to review the proposal contained in document SCT/43/6 Rev.

97. The Delegation of Ecuador, concurring with the view expressed by the Delegation of Panama, on behalf of GRULAC, underscored the importance of the cultural and patrimonial aspects of Member States when assigning domain names. The Delegation expressed its concerns about, and rejected, ICANN’s decision regarding the assignment of the top-level domain name “.Amazon” to the Amazon Company. Such decision had been objected by ACTO and had not been in conformity with the GAC’s advice, which had underlined the need to reach a mutually acceptable solution. Thus, the Delegation stressed the importance of defending the interests regarding the protection of geographical and cultural names, as well as the right to cultural identity which, in that situation, had shown a structural imbalance of Internet governance in which public policy concerns, expressed by the governments of sovereign States and by the relevant communities, had not been taken into account. Consequently, the Delegation was of the view that it would be appropriate to convey to ICANN the concerns of WIPO members, such as those expressed, so that the aspects addressed regarding the registration of country names and geographical names could be reviewed. In conclusion, the Delegation, stating that it would follow closely the discussion on the protection of country names and geographical names of national significance in the DNS, thanked the delegations which had submitted proposal along those lines, with a firm commitment of continuing constructively with the work of the Committee.

98. The Delegation of Peru endorsed the statements made by the Delegations of Brazil, Ecuador, Jamaica and Switzerland, in particular, concerning the allocation of the “Amazon” domain name by ICANN, despite a contrary recommendation issued by the GAC. The Delegation recalled that the Heads of State and Representatives of Bolivia (Plurinational State of), Brazil, Colombia, Ecuador, Guyana, Peru and Suriname, who had met in Colombia in August 2020, had reiterated their disagreement with said decision, which had set a serious precedent in placing the private commercial interests above the public policy considerations of States, such as the rights of indigenous peoples and the preservation of the Amazon. The Delegation urged ICANN to promote a negotiating process, which would lead to a mutually agreed solution and asked the Permanent Secretariat of ACTO to continue joining the necessary efforts, so that the entity and the company would assume a formal commitment to respect and guarantee such rights.

99. The Representative of the Intellectual Property Latin American School (ELAPI) highlighted the legal challenges resulting from the Internet, such as among others, the violation of Intellectual Property Rights and cybersquatting. Underlining the work of the WIPO Arbitration and Mediation Center since December 1, 1999, and the application of the UDRP, the Representative stated that from January to November 2020, more than 3,717 disputes had been handled. The Representative believed that it was necessary to generate trust, not only for consumers, but also to protect the holders of industrial property rights on the Internet. Inviting the countries of the GRULAC Group to disseminate the use of such tools as UDRP in their territories, the Representative urged those countries to check whether their internal rules met the identity verification requirements at the time of domain name registration, in order not to affect the intellectual property rights of third parties. In conclusion, the Representative expressed its willingness to collaborate with GRULAC countries by building bridges for mitigating the occurrence of IP infringements on the Internet.

100. The Chair concluded that the SCT would continue the discussion on document SCT/41/6 Rev. at its forty-fourth session.

Update on Trademark-Related Aspects of the Domain Name System (document SCT/43/4)

101. Discussions were based on document SCT/43/4.

102. The Delegation of the Russian Federation, speaking on behalf of CACEEC, expressed its interest in discussing trademark-related aspects of the DNS. Thanking the Secretariat for the preparation of document SCT/43/4, the Delegation took note of the updated information with regard to trademark-related aspects of the DNS, as well as of the evolution of policy in that regard. Acknowledging WIPO’s regular updates on the growth of cybersquatting and taking into account the increase of e-commerce, the Delegation believed that the role of mechanisms that guarantee an effective protection of rights on the Internet would only increase. Noting a regular growth in the number of complaints in relation to which UDRP procedures applied, the Delegation expressed the view that the demand for resolution of such disputes would also increase.

103. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Secretariat for preparing the update on trademark-related aspects of the DNS, as contained in document SCT/43/4. Taking note of policy developments in the DNS, the Delegation believed that it was important to maintain light touch on effective ways for right holders to manage their rights. Acknowledging the ongoing process in ICANN to review rights protection mechanisms, the Delegation recognized the interest of WIPO in it. Noting that the review would be moving to phase two in due course, the Delegation encouraged all relevant stakeholders to participate actively to help ensure that rights protection mechanisms remained effective.

104. The SCT considered document SCT/43/4 and requested the Secretariat to keep members informed of future developments in the DNS.

Proposal by the Delegations of Ecuador and Peru to Conduct a Survey on Nation-Brand Protection in Member States (document SCT/42/4 Rev. and SCT/43/3 Rev. 2)

Questionnaire on Nation-Brand Protection in Member States (document SCT/43/7)

Returns to the Questionnaire on Nation-Brand Protection in Member States (document SCT/43/8)

105. Discussions were based on documents SCT/42/4 Rev., SCT/43/3 Rev. 2, SCT/43/7 and SCT/43/8.

106. The Delegation of Peru, thanking the SCT members for replying to the questionnaire and the Secretariat for the preparation of document SCT/43/8, said that the members that had responded to the questionnaire were a representative sample, although not exhaustive, of the Organization, both in terms of geographic diversity and of the different conceptual and legal approaches to the issue of nation brand. The Delegation expressed the view that the responses had confirmed that there was a great interest from many members in developing country brands. In the Delegation's view, country brands were an instrument that allowed countries to generate significant value for various facets of their international activity, for their identification and positioning in front of other international actors and, in many cases, for the identification and positioning of their citizens and companies in international markets. Presuming that the restrictions imposed by the COVID-19 pandemic had prevented many members to respond to the questionnaire in the expected time frame, the Delegation asked the Committee to open a second period for the admission of responses, in order to give all members an opportunity to reply and to enable the Committee to have the most complete information possible for discussion at the next session of the SCT.

107. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the Delegations of Ecuador and Peru for the proposal to conduct a survey on nation brand protection and the Secretariat for compiling the information in a document. Noting that neither international treaties, nor the national legislation of CACEEC countries had legally formalized the notion of a nation brand, the Delegation believed that, in a broader sense, a nation-brand comprised registered geographical indications, appellations of origin and trademarks consisting of elements that indicated a geographical region for the production of goods or the provision of services. Noting the importance of promoting regional brands, the Delegation expressed the view that the regional aspect presented interest, not only for local producers, but also for regional public authorities who were interested in promoting their economy and the access to international market for products under individualization means that reflected their traditions, values, originality and uniqueness. In conclusion, the Delegation believed that it was important to ensure that both public and private interests were respected when granting legal protection to those means of individualization.

108. The Delegation of the European Union, on behalf of the European Union and its member states, thanked the Delegations of Australia, Brazil, Ecuador, Peru and Switzerland for their contributions to the draft Questionnaire on Nation-Brand Protection in Member States and the Secretariat for preparing the compilation of questions and for taking on board comments from members and observers in its finalized version. The Delegation welcomed document SCT/43/8, which contained the returns to the questionnaire by 45 respondents, including the European Union. Having studied the returns to the questionnaire with interest, the Delegation had the impression that the nation brands identified in the responses benefited from protection as trademarks and by means of Article 6*ter* of the Paris Convention and that significant problems relating to their protection were not immediately apparent from the responses. The Delegation said that it remained open to continue exploring the state of play with regard to nation-brand protection in Member States and that it looked forward to hearing views of other delegations on the matter.

109. The Delegation of the United States of America, thanking the Secretariat for the preparation of document SCT/43/8, said that it had reviewed the returns to the questionnaire and found them very interesting. Lending its support to the proposal made by the Delegation of Peru to re-open the questionnaire for additional replies, the Delegation noted that Member States were using nation brands primarily for commercial purpose, for example, to promote tourism or domestic goods and services. Observing that many respondents had already used both domestic and foreign trademark systems to protect their nation brands and that the returns did not appear to report extensive problems with unauthorized or infringing uses of nation brands abroad (about 20 per cent of the respondents had indicated such occurrence), the Delegation considered that there was no problem that WIPO needed to resolve.

110. The Delegation of China, thanking the proponent countries for the Questionnaire on Nation-Brand Protection in Member States, said that it was important to study the matter. Expressing the view that the notion of nation brand was vague and different countries understood it in different ways, the Delegation believed that, from that perspective, it was difficult to identify and protect a nation brand. Noting that the Paris Convention contained precise provisions allowing to identify a nation brand, the Delegation urged all delegations to refer to that text.

111. The Delegation of Ecuador, thanking the countries that had proposed to conduct a survey on nation-brand protection in Member States and the countries that had responded to the questionnaire, said that it had reviewed with great interest the replies reflected in document SCT/43/8. Lending its support for the proposal made by the Delegation of Peru to re-open the questionnaire for additional replies, the Delegation expressed the interest to have broader information on the matter, in order to analyze and discuss it at the next meeting of the SCT.

112. The Delegation of Jamaica, thanking the Secretariat for compiling the returns to the Questionnaire on Nation-Brand Protection in Member States in document SCT/43/8, stated that the survey had shown the essential importance of country name protection for nation brands. Expressing the view that the issue of protection of nation brands was intrinsically related to the protection of country names and geographical names of national significance, the Delegation said that many countries had devised and employed nation branding schemes to harness the good will that all countries possessed and to channel that good will into marketing strategies to the benefit of State economies and people. Without the ability of States to control and protect use of country names and geographical names of national significance, nation-branding schemes were futile and not capitalizing on the returns of investment expected by Member States employing such schemes. Continuing to advocate for the need to protect country names and other geographical names of national significance, symbols, trademarks and slogans used in nation-brand schemes, the Delegation joined to the request to re-open the questionnaire to

allow additional Member States to submit answers, so that the survey data could be strengthened. In the Delegation's view, having relevant information from more Member States would improve the survey and benefit the SCT as all Member States were seeking solutions to intellectual property issues of international importance.

113. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Secretariat for the preparation of document SCT/43/8, following on the proposal of the Delegations of Ecuador and Peru to conduct a survey on nation-brand protection. Considering that the compilation of returns provided a factual basis for further reflections on the issue, the Delegation looked forward to the analysis of the returns and to the identification of trends, which might form the basis of the future work of the Committee on the matter.

114. The Representative of ELAPI, observing that many countries used distinctive signs to implement policies aimed at promoting their national identity, attributes, values and positive image to compete in the international arena, noted that those types of signs were used in various forms and modalities. However, the absence of a harmonized international conceptual and normative framework had resulted in the treatment of nation brands differently from one country to another. In many cases, they had not yet been given recognition, taking into account their *sui generis* nature. The Representative believed that the results of the questionnaire, as well as a seminar on the matter carried out by ELAPI, had shown that most of the countries had made the decision to create and use a sign that could be considered as a nation brand. Countries used it to promote tourism, obtain greater visibility, promote national products and services, promote culture, values and traditions, among others. Based on existing evidence on the use of nation brands, the Representative believed that it would be convenient to have a uniform regulation on nation brands at the international level, which would provide due protection to them. Currently, each country treated nation brands differently and the signs were not recognized as a category of Industrial Property, although they were used in that area.

115. The Chair concluded that the Secretariat was requested to:

- re-open the survey tool on the Questionnaire on Nation-Brand Protection in Member States until January 29, 2021, for further replies by delegations; and,
- finalize document SCT/43/8 thereafter and present it for consideration at the forty-fourth session of the SCT.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

116. The Delegation of the United States of America, expressing its interest in hearing about other SCT members' practices on specific geographical indication examination issues, explained that the United States Patent and Trademark Office (USPTO) was refining its examination procedures and aligning them with international practices, where possible. Lending its support to conducting additional Geographical Indication Information Sessions, including on the margins of the forty-fourth session of the SCT, the Delegation proposed the following topic for discussion: "Examination of geographical indications in *sui generis* systems and trademark systems, including combination with graphic elements, the weight given to descriptive elements, conflicts and scope of protection". Explaining that the proposed topic was a combination of the proposal made by the Delegation of the United States of America in document SCT/41/7 and the proposal made by the Delegation of Switzerland in document SCT/41/8, the Delegation wished to explore how IP Offices weighed the various components of a multicomponent geographical indication term when evaluating conflicts with prior marks or prior geographical indications. Making an analogy with trademark practices where there was usually a dominant element that was given more weight in determining likelihood of confusion for infringement or examination, the Delegation said that it would be interested to know whether the same applied in cases of evaluating conflicts between

geographical indications versus other geographical indications or geographical indications versus trademarks. Referring to the virtual Information Session on Geographical Indications, the Delegation believed that, for future sessions, it would be advisable to have fewer speakers who would offer shorter presentations focused specifically on the targeted issue, so that time for questions and answers would be allowed, which was crucial in making those information sessions work for everybody. In conclusion, the Delegation expressed the wish to use the chat function for future sessions in order to allow everyone to submit questions to the moderator.

117. The Delegation of the Russian Federation proposed two topics for consideration at the Information Session on Geographical Indications within the framework of the forty-fourth session of the SCT, namely:

(1) The possibility and advisability of including, in national legislations, a temporary right to use a registered geographical indication by persons who do not have the right to the corresponding geographical indication, but who had used such an indication before its registration, and;

(2) The possibility of granting legal protection to geographical indications consisting of, or containing, a figurative element.

118. The Delegation of the European Union, on behalf of the European Union and its member states, suggested the following topic for the next information session on geographical indications: "Ways to prevent bad faith registration of domain names consisting of, or containing, geographical indications". The Delegation said that the idea behind the proposed topic was to discuss the risk that the allocation of a geographical indication, as a "domain name" within the DNS, to bad-faith operators might bring to the geographical indication's reputation or might otherwise undermine the geographical indication. The Delegation expressed the wish to address, for example, questions on what kinds of risks would stem from the allocation of the new generic top-level domains or how many of those generic-top-level domains were being released and when.

119. The Chair concluded that the SCT would revert to the proposals at its forty-fourth session for discussion.

AGENDA ITEM 8: SUMMARY BY THE CHAIR

120. The SCT agreed to the Summary by the Chair as presented on the screen.

121. The SCT approved the Summary by the Chair as contained in the present document.

AGENDA ITEM 9: CLOSING OF THE SESSION

122. The Delegation of Panama, speaking on behalf of GRULAC, thanked the Chair for his capability and professionalism in leading the work of the SCT. Reiterating the position of GRULAC to continue the work in the forthcoming session, the Delegation looked forward to discussions on the protection of country names, the protection of country names and geographical names of national significance in the domain name system and the proposal made by the Delegations of Ecuador and Peru on nation-brand protection in Member States. Expressing its gratitude for the organization of the Informal Session on Geographical Indications, the Delegation said that it had appreciated the opportunity of getting familiar with the different ways of evaluation of the conditions that created the basis for the geographical indication protection and with the ways to prevent operators profiting from bad faith use and registration of geographical indication intellectual property rights in the DNS.

123. The Delegations of China, expressing its appreciation to all SCT members for the successful completion of the session in hybrid mode, thanked the WIPO Director General, the Deputy Director General, the Secretariat, the Chair, the Conference Service and the interpreters for their efforts directed to a smooth running of the meeting. Reiterating the statement on the DLT, made in the opening of the session by the WIPO Director General, Mr. Daren Tang, the Delegation urged all members to conduct discussions in a cooperative and constructive manner on that issue and to demonstrate their flexibility to promote substantive progress at the next session of the SCT.

124. The Delegation of the United Kingdom, speaking on behalf of Group B, thanked the Chair for his guidance during the Committee, the Vice Chairs, the Secretariat, the Conference Services and the interpreters for the hard work and professionalism. Reiterating the commitment to continuing work, while acknowledging the challenges faced by all colleagues on site and in the capitals, the Delegation said that the combination of discussions under the formal agenda items and the information sessions had been valuable in improving the understanding of various positions and views. In conclusion, the Delegation expressed Group B's full support and constructive spirit to contribute to the fruitful discussions taking place during the SCT.

125. The Delegation of Bangladesh, speaking on behalf of the Asia and Pacific Group, commended the Chair and the Vice Chairs on their able and effective leadership in the discussions and thanked the Secretariat, the Conference Service and the interpreters for their excellent work in supporting the Committee. Taking note on the re-opening of the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs until January 29, 2021, the Delegation believed that additional replies would contribute to strengthen the discussion on that topic. Looking forward to continuing the discussions on the revised proposal by the Delegations of Japan and the United States of America (document SCT/43/10) and to hearing updates on trademark-related aspects of the DNS and on the DAS for priority documents, the Delegation also reiterated the importance of discussions on country names. Welcoming the re-opening of the Questionnaire on Nation-Brand Protection in Member States, the Delegation looked forward to the consideration of the final document compiling the returns at the next session of the SCT. Expressing its appreciation for the successful organization of two fruitful Information Sessions on Geographical Indications and on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention, the Delegation said that those sessions had provided an opportunity to share best practices. The Delegation looked forward to continuing that sharing of experience in the future. Finally, regretting that the current extreme circumstances had not allowed the Committee to discuss the Design Law Treaty, the Delegation expressed the hope to resume those discussions in due course.

126. The Delegation of Zimbabwe, speaking on behalf of the African Group, extended its appreciation to the Chair and the Vice Chairs for guiding the deliberations in an efficient and amicable manner, and to the Secretariat for providing the Committee with a conducive atmosphere for deliberations. In spite of the restrictions due to the COVID-19 pandemic, the Delegation was pleased to note that the Organization and the SCT had been able to continue its work. Observing that the two Information Sessions on Geographical Indications and on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions under Article 11 of the Paris Convention had provided invaluable information to policymakers, the Delegation looked forward to such sessions in the future. Noting the various discussion topics in the Agenda, the Delegation stood ready to carry the work of the Committee forward by constructively engaging in future SCT sessions.

127. The Chair closed the session on November 26, 2020.

[Annexes follow]



SCT/43/INF/3

ORIGINAL: ENGLISH/FRENCH

DATE: 23 NOVEMBRE 2020/NOVEMBER 23, 2020

Comité permanent du droit des marques, des dessins et modèles industriels et des indications géographiques

**Quarante-troisième session
Genève, 23 – 26 novembre 2020**

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Forty-Third Session
Geneva, November 23 to 26, 2020**

**LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS**

*établie par le Secrétariat/
prepared by the Secretariat*

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* Sur une décision du Comité permanent, les Communautés européennes ont obtenu le statut de membre sans droit de vote.

* Based on a decision of the Standing Committee, the European Communities were accorded member status without a right to vote.

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Gavin STENTON (Mr.), Member, International Trademark Law and Practice Team, Oxford

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Jan TECHERT (M./Mr.) (Allemagne/Germany)

Secrétaire/Secretary: Marcus HÖPPERGER (M./Mr.) (OMPI/WIPO)

VI. SECRÉTARIAT DE L'ORGANISATION MONDIALE DE LA PROPRIÉTÉ
INTELLECTUELLE (OMPI)/SECRETARIAT OF THE WORLD
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WANG Binying (Mme/Ms.), vice-directrice générale/Deputy Director General

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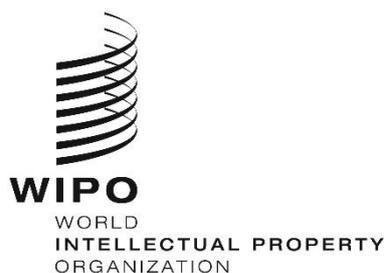
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[Annex II follows]



SCT/43/11
ORIGINAL: ENGLISH
DATE: NOVEMBER 26, 2020

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Forty-Third Session
Geneva, November 23 to 26, 2020

SUMMARY BY THE CHAIR

adopted by the Committee

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Daren Tang, Director General of the World Intellectual Property Organization (WIPO), opened the forty-third session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) and welcomed the participants.
2. Mr. Marcus Höpperger (WIPO) acted as Secretary to the SCT.

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

3. Mr. Alfredo Carlos Rendón Algara (Mexico) was elected Chair. Mr. Willie Mushayi (Zimbabwe) and Mr. Jan Techert (Germany) were elected Vice-Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

4. The SCT adopted the draft Agenda (document SCT/43/1 Prov. 4).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE FORTY-SECOND SESSION

5. The SCT adopted the draft Report of the forty-second session (document SCT/42/9 Prov.).

AGENDA ITEM 5: INDUSTRIAL DESIGNS

Analysis of the Returns to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs (documents SCT/41/2 Rev. and SCT/43/2)

6. The SCT considered documents SCT/41/2 Rev. and SCT/43/2.
7. The Chair concluded that the Secretariat was requested to re-open the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs until January 29, 2021, for further replies by delegations.

Revised Proposal by the Delegations of Japan and the United States of America (document SCT/43/10)

8. The SCT considered document SCT/43/10.
9. The Delegation of Israel stated that it wished to co-sponsor the proposal contained in document SCT/43/10.
10. The Chair concluded that the SCT would continue the discussion on document SCT/43/10 at its forty-fourth session.

Compilation of the Returns to the Questionnaire on Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property (document SCT/42/2)

11. The SCT considered document SCT/42/2.
12. The Chair concluded that the SCT would revert to document SCT/42/2 at its forty-fourth session to discuss the way to advance work on this topic.

Update by Member States on the Digital Access Service (DAS) for Priority Documents

13. The SCT noted the progress in the implementation of the DAS for industrial designs by members and the Chair concluded that the SCT would revert for an update to this item at its next session.

AGENDA ITEM 6: TRADEMARKS

Proposal by the Delegations of Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance (document SCT/43/6)

14. The SCT considered document SCT/43/6.

15. The Chair concluded that the SCT would continue the discussion on document SCT/43/6 at its forty-fourth session.

Revised Proposal by the Delegation of Jamaica (document SCT/43/9)

16. The SCT considered document SCT/43/9.

17. The Chair concluded that the SCT would continue the discussion on document SCT/43/9 at its forty-fourth session.

Proposal by the Delegations of Brazil, Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance in the DNS (document SCT/41/6 Rev.)

18. The SCT considered document SCT/41/6 Rev.

19. The Chair concluded that the SCT would continue the discussion on document SCT/41/6 Rev. at its forty-fourth session.

Update on Trademark-Related Aspects of the Domain Name System (documents SCT/43/4)

20. The SCT considered document SCT/43/4.

21. The SCT considered document SCT/43/4 and requested the Secretariat to keep members informed of future developments in the DNS.

Proposal by the Delegations of Ecuador and Peru to Conduct a Survey on Nation-Brand Protection in Member States (document SCT/42/4 Rev. and SCT/43/3 Rev. 2)

Questionnaire on Nation-Brand Protection in Member States (document SCT/43/7)

Returns to the Questionnaire on Nation-Brand Protection in Member States (document SCT/43/8)

22. The SCT considered documents SCT/42/4 Rev., SCT/43/3 Rev. 2, SCT/43/7 and SCT/43/8.

23. The Chair concluded that the Secretariat was requested to:

- re-open the survey tool on the Questionnaire on Nation-Brand Protection in Member States until January 29, 2021, for further replies by delegations; and,
- finalize document SCT/43/8 thereafter and present it for consideration at the forty-fourth session of the SCT.

AGENDA ITEM 7: GEOGRAPHICAL INDICATIONS

24. The SCT took note of the proposals for topics for an Information Session on Geographical Indications, made by the Delegations of the Russian Federation, the United States of America and the European Union (EU).

25. The Chair concluded that the SCT would revert to the proposals at its forty-fourth session for discussion.

AGENDA ITEM 8: SUMMARY BY THE CHAIR

26. The SCT approved the Summary by the Chair as contained in the present document.

AGENDA ITEM 9: CLOSING OF THE SESSION

27. The Chair closed the session on November 26, 2020.

[End of Annex II and of document]