

SCT/43 – Opening Remarks

November 23, 2020

Honorable Delegates,
Ladies and Gentlemen,

Welcome to the 43rd session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

This meeting takes place under difficult circumstances. I am grateful to the Member States and observer delegations, as well as my colleagues in the Secretariat, who are braving the adversities posed by the current global pandemic and are determined to continue with this important work.

I also thank the many participants from around the world – I am told there are close to 300 – who are joining us from many different time zones. Our appreciation goes out especially to those who are from distant time zones.

This Committee's work in advancing the normative agenda in the area of brands and designs, is of deep importance. The 2020 edition of WIPO's Global Innovation Index includes for the first time brands as a key intangible asset through a new indicator showing which economies have the most valuable brands. Our studies show that firms that invest more in innovation also invest more in branding. And simply put – every enterprise needs a brand – from the young F&B entrepreneur who wants to franchise a new food concept across borders to the SME owner in your country who

wants to better reach out to his or her customers in the region and beyond. Without brands and the trademarks that afford protection to these brands, their desire to grow their business would be much more difficult. Every enterprise needs a brand, and brands and trademarks are therefore the bread and butter of the IP world, so the work that you do here lays the foundations for enterprise growth all over the world.

Distinguished Delegates,

Ladies and Gentleman,

Beyond brands, I want to share some perspectives on our work relating to designs, which is sometimes seen as the quiet sibling in the family of IP. We are drawn to what is aesthetically attractive. It is simply part of who we are. That is why many of our traditional crafts from all over the world have distinctive designs that we associate with a certain culture, or have a certain emotional impact on us. And that is also why as consumers, we gravitate to products that are packaged in a beautiful, impactful or interesting manner.

Conversely, designs have become much more important to enterprises, and these trends are also reflected in the figures that we see at WIPO. Let me share some of them with you.

- According to the 2019 World Intellectual Property Indicators, 1.31 million designs were filed worldwide in 2018.
- Globally, resident applicants filed applications containing 84.8% of all designs and accounted for the majority of filings at 15 of the top 20 offices. This is clear evidence that, among all industrial property titles, industrial designs are mostly used by domestic designers – which indicates the important role industrial designs play in innovation by domestic or resident designers.

A recently published report on IPR¹ intensive industries in the European Union found strong economic impact of design-intensive industries across the EU. According to that Report,

- industries that use design rights account for 30.7 million direct jobs and contribute 16.2% of the EU's total GDP.
- Exports in this sector generated a trade surplus of over EUR 66 billion in 2016.
- It is noteworthy that, according to those findings, design-intensive industries generate the same portion of the EU GDP as patent-intensive industries, namely some 16%. This is clear evidence thus of the economic importance of design.

But where I think there is much potential is the use of designs in developing countries where our designers are drawing on the richness of their heritage whilst updating it, combining it in interesting and unusual new ways. In Southeast Asia – notably Indonesia, the Philippines, Thailand, and Viet Nam – we see intensive use of the design system with several thousand ID filings each year. In addition, local users account for most applications in those countries, in contrast to patents where non-residents constitute the largest user group.

A recent study by the WIPO Secretariat (Study on the understanding on the use of industrial designs in Southeast Asian Countries – The Case of Indonesia, the Philippines and Thailand)² covering Indonesia, the Philippines and Thailand found that

- Most ID users are private and locally-owned companies.
- Small firms account for most users, followed by medium-sized firms and large firms.

¹ https://euipo.europa.eu/ohimportal/en/web/observatory/ip-contribution#ip-contribution_1

² https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=418095

- Around 22 percent of ID users indicated that they engaged in exporting. This share exceeds the typical export shares in the general population of firms and suggests that design innovation may be a way of breaking into foreign markets.
- ID holders assign considerable value to their ID rights, with the median value lying in the 30,000 to 100,000 USD range.

Designs are also an important interface between creativity and branding. When all these types of IP that please the eye and touch the heart are combined together to create a distinct identity and flavor, it can be a very powerful tool for our entrepreneurs. You can see how this has made an impact, again drawing from examples around the world – by looking at the bottle design for Panama Springs mineral water, which incorporates a visual device inspired by the Pico de Loro flower native to the region where the water is drawn from and with the entire bottle carefully designed to allude to Panama's geography, or by admiring the highly distinctive perfume bottles for the Oman Perfumery LLC, which you may better know as the perfume house Amouage, using caps shaped like the handle of an Arabian dagger, or the Sultan Qaboos grand mosque in Muscat for special editions.

With the important role that design is playing in supporting job creation, enterprise growth and economic development, it is a pity that, due to the pandemic, the WIPO General Assembly this year was not able to discuss the issue of the possible Convening of a Diplomatic Conference of the Design Law Treaty, and this Committee does not have this item on the agenda for this meeting, as has been the case in previous sessions. Be that as it may, the WIPO Secretariat stands ready to support Members in any way, with regard to movement on this topic, and we are looking forward to the extra-ordinary session of the WIPO GA, where we hope a positive decision on this issue amongst Members can be reached.

Of course, the SCT agenda, even in the absence of certain items, remains full. There are other important topics for discussion, including a compilation of the returns to the Questionnaire on Graphical User Interface (GUI), Icon, and Typeface/Type Font Designs, (document SCT/41/2 Rev.), which contains information on certain specific features of the practices of offices with respect to these increasingly important types of design. The design of GUIs replaces more and more traditional hardware design and is gaining increasing economic importance. How often do we say: “There must be an app for it”, or “where is the app for this”, whilst not being alive to the fact that what allows us to put any of the literally thousands of software applications existing around the world to use is their GUI.

In this regard, the SCT has before it a revised proposal by the Delegations of Japan and the United States of America for a joint recommendation on the protection of this type of designs (document SCT/43/10).

In addition, the SCT will consider a compilation of the returns to the questionnaire on the temporary protection provided to industrial designs at certain international exhibitions under Article 11 of the Paris Convention (document SCT/42/2.), gathering interesting information on how Member States implement that provision with respect to industrial designs, and how they interpret the term “official or officially recognized international exhibitions”.

This is also the topic of the second of two information sessions that will take place this week, namely on Thursday, addressing (i) the practices of offices and (ii) the experience of users, with regard to the temporary protection provided to industrial designs under Article 11 of the Paris Convention.

Regarding trademarks, there are three proposals on country names on the agenda, namely the revised proposal by the Delegation of Jamaica and two joint proposals on the topic of country names and geographical names of national significance, presented by a group of 12 countries (Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and United Arab Emirates). The first aims at a recommendation by the WIPO General Assembly for the protection of country names and geographical names of national significance against their registration as distinctive signs, such as trademarks, under certain conditions. The second aims at a recommendation by the WIPO General Assembly for the protection of country names and geographical names of national significance in the Domain Name System (DNS).

Brands may be owned individually and privately by businesses, or collectively. In relation to the collective brands, the SCT is braking new grounds with its emerging work on nation brands. Based on an original proposal by the Delegations of Ecuador and Peru, SCT Members have made good use of the pandemic-enforced break in on-line contacts since March of this year. Together with the Secretariat, they have elaborated and conducted a survey on Nation-Brand protection in Member States. Forty-five Members have provided returns, which were compiled and are now presented to the SCT for consideration.

Regarding another form of collective brands, namely geographical indications, the Tuesday of this week is devoted to an Information Session, in line with the decision taken by the SCT at its 42nd session. The program for that information session will comprise two panels on the following topics: (i) evaluation of the conditions that created the basis for the geographical indication protection and evaluation of any changes to those conditions; (ii) ways to prevent operators profiting from bad faith use and registration of GI intellectual property rights in the DNS.

I would like to take this opportunity to express our gratitude to the panelists and moderators for both information sessions, for their readiness to participate and to share their knowledge and insights.

Two days of ordinary sessions and two days of information sessions will offer plenty of food for thought for all participants and I am confident that it will lay the groundwork for the continuation of the work of the Committee in 2021.

I wish you much success in your deliberations and for you and your family, as well as colleagues, to keep safe and healthy.