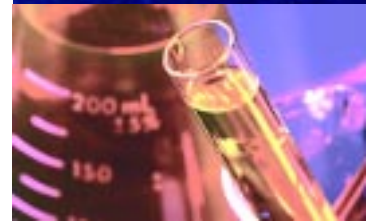


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Geneva,  
January 2002

# WCT TO ENTER INTO FORCE

Gabon's accession in December to the WIPO Copyright Treaty (WCT) – the 30<sup>th</sup> accession to this key treaty that brings copyright law in line with the digital age – means that the WCT will enter into force on March 6. The WCT opens new horizons for composers, artists, writers and others to use the Internet with confidence to create, distribute and control the use of their works in cyberspace.

The WIPO Performances and Phonograms Treaty (WPPT), with 28 accessions to date, is also expected to enter into force in the near future. The two treaties – known as the “WIPO Internet Treaties” – provide responses to the challenge of protecting the rights of creators within the digital environment.

“This is an important day in the history of copyright, making it better equipped to meet the technological challenges of cyberspace,” said WIPO Director General Kamil Idris. He noted that the WCT would provide a platform for creators to further exploit the Internet with confidence. “Together, these treaties represent a milestone in modernizing the international law of copyright and neighboring rights, ushering it into the digital age,” said Dr. Idris.

The Director General emphasized the importance of the new norms provided in the WCT and the WPPT which are crucial for the further development of the Internet, electronic commerce, and the culture, entertainment, and information industries. These two treaties will help ensure that artists, composers, writers, musicians and others involved in the creative process are protected from Internet piracy, Dr. Idris noted.

He stressed that for the treaties to be truly effective in the borderless world of cyberspace, they must become widely adopted by countries in all regions of the world. “While we have reached the key number of 30 countries required for entry into force, I urge all other countries to follow suit and to incorporate the provisions of the WCT and WPPT into their national legislation,” he said. “This will create the conditions necessary for the broad-based and legitimate distribution of creative works and recordings on the Internet.”



## International Protection Provided in the Treaties

Copyright law provides protection for literary and artistic works, giving authors the ability to control the exploitation of their works. The law of related rights provides similar protection for the creative contributions of those involved in presenting works to the public, such as performers, phonogram producers and broadcasters. National laws in individual countries provide these rights. International treaties serve to forge links among different national laws, ensuring that creators are also protected in countries other than their own. The treaties do not overrule national law, but require the countries that join them to grant some specified minimum rights, and to do so on a nondiscriminatory basis.

Adopted in 1996, the WCT and WPPT update and improve the international protection that was established prior to the development and widespread use of personal computers and the Internet. The WCT introduces new and far-reaching norms to protect the rights of authors within the digital environment. It protects literary and artistic works, a broad category that includes books, computer programs, music, art, and movies. It updates

and supplements the Berne Convention for the Protection of Literary and Artistic Works, the major international copyright treaty in the world today, which was originally adopted in 1886 and most recently revised in 1971.

The WPPT will similarly safeguard the interests of producers of phonograms or sound recordings as well as those of the performers whose performances are fixed in phonograms. It updates and supplements the major related rights treaty, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (adopted in 1961).

Both treaties require countries to provide a basic framework of rights, allowing creators to control and be compensated for the various ways in which their creations are used and enjoyed by others. The treaties ensure that rightholders will continue to receive adequate and effective protection when their works are disseminated over the Internet. They do so, first, by clarifying that the traditional right of reproduction continues to apply in the digital environment, including the storage of material in digital form in an electronic medium; and by confirming the rightholders' right to control the availability of their creations to individual members of the public. In order to achieve a balance of interests, the treaties also make clear that countries have flex-



ibility in establishing exceptions or limitations to rights in the digital environment, and may either extend existing exceptions and limitations or adopt new ones, as appropriate in the circumstances.

### **Anti-circumvention Provision**

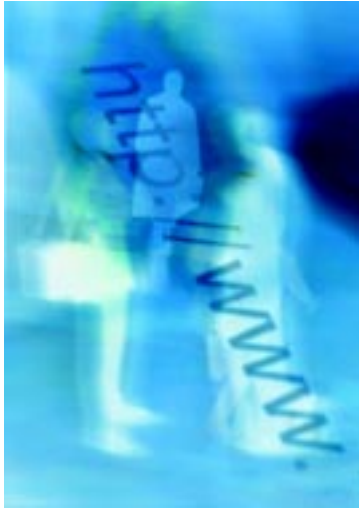
The treaties also break new ground by ensuring that rightholders can effectively use technology to protect their rights and to license their works online. The "anti-circumvention" provision addresses the problem of "hacking" by requiring countries to provide adequate legal protection and effective remedies against the circumvention of technological measures, such as encryption. Rightholders use such technologies to protect their rights when disseminating their creations on the Internet. The treaties also serve to safeguard the reliability and integrity of the online market-

place, by requiring countries to prohibit the deliberate alteration or deletion of electronic "rights management information": that is, information that identifies a work, its author, performer or owner, and the terms and conditions for its use.

Both treaties also contain provisions on rights of distribution and rental, rights to be remunerated for certain forms of broadcasting or communication to the public, and an obligation for countries to provide adequate and effective enforcement measures.



# SCT LOOKS AT WAYS TO PREVENT CYBERSQUATTING



The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) met in a special session in Geneva from November 29 to December 4 to discuss whether currently existing procedures to protect trademarks against abusive domain name registrations should be expanded to cover other types of identifiers. The SCT based discussions on the report of the Second WIPO Internet Domain Name Process (WIPO Magazine, October 2001) which noted that, while there is clear evidence of abuse of the identifiers in question in the domain name system, the international legal framework is not sufficiently well developed for introducing new protective measures for all the identifiers concerned.

In September 2001, WIPO member States decided that the report required additional study and convened two special sessions of the Standing Committee to that end. At this first session, the committee focused mainly on determining, from among all identifiers covered by the report – the names of intergovernmental organizations, the names of persons, international non-proprietary names of pharmaceutical substances, geographical indications,

country names and trade names – which warrant protection at this stage in the domain name system.

The SCT decided that no immediate action was necessary with regard to international non-proprietary names of pharmaceutical substances and personal names. However, it asked that WIPO prepare proposals for its consideration at the next session on possible means for protecting the names and acronyms of international intergovernmental organizations, as well as the names of countries. The SCT also decided that further discussions are necessary on the question of geographical indications and trade names. Talks at the second special session in May are expected to look at the nature of the measures to be put in place to resolve problems encountered in relation to those identifiers.

The committee will make recommendations for member States to consider at the next WIPO General Assembly in September 2002.



# BROADCASTER'S RIGHTS TAKE FRONT SEAT

The rights of broadcasting organizations topped the agenda of the last Standing Committee on Copyright and Related Rights (SCCR) which took place in Geneva from November 26 to 30. The emergence of new forms and means for broadcasts and transmissions to enter the home and a growing signal piracy problem in many parts of the world has generated a need to discuss the nature and scope of the protection available to broadcasting organizations.



The intellectual property rights of broadcasting organizations are currently provided for under the 1961 Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. The adoption in 1996 of the WIPO Performances and Phonogram Treaty (WPPT) modernized and updated the standards applicable to the first two categories of rightholders in respect to audio performances and producers of phonograms, but did not touch upon the rights of broadcasting organizations.

Over the past 40 years, broadcasting has changed considerably as a result of the development of transmission technology and equipment. The advent of cable distribution, satellite broadcasting and the development of digital technology has challenged the limits of traditional broadcasting, which was technically limited to transmission by hertzian waves. It is now possible to transmit via an unlimited number of channels, to interact with the user, to decide on who may receive the broadcast and to use the Internet as an additional medium for transmission of programs.

The SCRR assessed the impact of these operations on the current protection of broadcasting organizations and how they fit the traditional definition of broadcasting. Over the two-and a half day meeting, participants discussed several treaty language proposals received

from a number of member States. Delegates agreed on the need to define and clarify the rights of broadcasting organizations in view of the impact of new technologies and the need to balance the different interests of all rightholders.

The discussions focussed on the following main substantive issues:

- ▶ **Object of Protection:** Delegates were of the opinion that the new instrument should be limited to the protection of broadcast signals and should not interfere with the copyright or related rights in the content. Whereas it is theoretically possible to separate signals from the programs or content which the signals carry, in practice, they are inseparable. Broadcasting pirates are mainly interested in the illegal capture and relay of signals because of the content they carry.
- ▶ **Definitions of "broadcast," "broadcasting organization":** The SCCR discussed whether the traditional definition of broadcasting, which refers only to wireless broadcasting, was sufficient in the light of new means of transmission or whether some forms of wire transmission, like cablecasts, should also be protected.

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# HARMONIZATION OF PATENT LAW MOVES AHEAD

- ▶ **New technologies; webcasting/Internet transmissions:** The Committee discussed the possible inclusion of webcasting (use of the Internet as a medium for transmitting programs) under the scope of the new instrument.
- ▶ **The Protection of Pre-Broadcast Signals** refers to the signals transporting programs to broadcasters for simultaneous or deferred use. The questions involve whether such signals should be protected and, if so, how such signals should be defined, particularly in cases in which the broadcast is not simultaneous.
- ▶ **Retransmission right:** The Committee addressed the need to grant broadcasters a broad transmission right covering simultaneous as well as deferred retransmissions.

All these issues require further work before a consensus can be reached. The rights of broadcasters will remain the main point on the agenda of the next committee meeting planned for May 13 to 17.

Although talks on harmonization of substantive patent law are still in their initial phase – aimed at determining the common features and difference among patent systems around the world – the Standing Committee on the Law of Patents (SCP), which took place in Geneva from November 5 to 9, was able to reach agreement on a number of key issues. The SCP, meeting for a second round of talks on the revised draft provisions of the Substantive Patent Law Treaty (SPLT), agreed in principle to create a seamless interface between existing international treaties – the Patent Law Treaty (PLT) and the Patent Cooperation Treaty (PCT) – and the SPLT as regards the filing, search and examination of patent applications and the grant of patents.

Such an interface would involve integrating the provisions of the SPLT that govern substantive harmonization with certain elements of other international patent-related treaties. Thus, contracting parties of the SPLT would have to comply with the requirements under the PLT that govern the harmonization of formality requirements. The SPLT would also include certain requirements under the PCT with respect to claims, description, drawings and abstracts of an application. Such a scheme will serve to stream-



line procedures associated with the application and grant of patents and thereby generate significant cost savings for applicants and patent offices alike.

The SCP further agreed to establish a working group to examine issues related to complex applications and multiple invention disclosures. These types of application are one of a number of factors contributing to the increasing workload of patent offices.

## Basic Principles in the draft SPLT

The draft SPLT covers a number of basic legal principles that underpin the grant of patents in different countries of the world, such as the definition of prior art, novelty, inventive step (non-obviousness), industrial applicability (utility), sufficiency of disclosure, and the structure and interpretation of claims. The present international landscape of patent law and practice is made up of a wide variety of

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# MEETING WITH PRESIDENT OF SLOVAKIA

legal regimes. As a consequence of these divergences, a patent application may lead to the grant of a patent in certain countries, whereas in others, a patent may not be granted for the same invention, or the patent may be invalidated after grant. In addition, lack of harmonization leads to increased costs for inventors and applicants, as well as for patent offices, due to duplication of work.

Patent offices have experienced significant increases in their workload as a result of the speed of technological advance today. This is a strong incentive to further harmonize patent laws to reduce duplication of search and examination work, to streamline existing divergences in terms of different outcomes of examining the same patent applications in different offices and to simplify the complexity of the international patent system for the users. Such measures promise to generate significant efficiency gains and cost savings for both applicants and patent offices.

The work of the SCP in the harmonization of substantive patent law complements WIPO's ongoing work in other patent-related projects such as PCT reform and the launch of the WIPO Patent Agenda.

During a visit to Slovakia on December 4 and 5, WIPO Director General Kamil Idris applauded the Slovakian authorities for their efforts to bring intellectual property legislation in line with regional and international standards and reiterated WIPO's support in enhancing the intellectual property system in Slovakia. The visit featured a meeting with President Rudolf Schuster of the Slovak Republic, who shared the Director General's views on the value of the intellectual property system to countries such as Slovakia in promoting economic growth and social advancement.

Under the terms of a memorandum of understanding signed by the Director General and the President of the Industrial Property Office of Slovakia, Mrs. Darina Kyliánová, WIPO will provide a comprehensive program of assistance to help strengthen the intellectual property system in Slovakia. This will include legal and technical advice in industrial property and copyright matters, training programs, including distance learning modules, online intellectual property services and support of small and medium-sized enterprises (SMEs). The memorandum of understanding places particular emphasis on the development of collective management of copyright and folklore.

While in Slovakia, the Director General also met with the State Secretary of the Ministry for Foreign

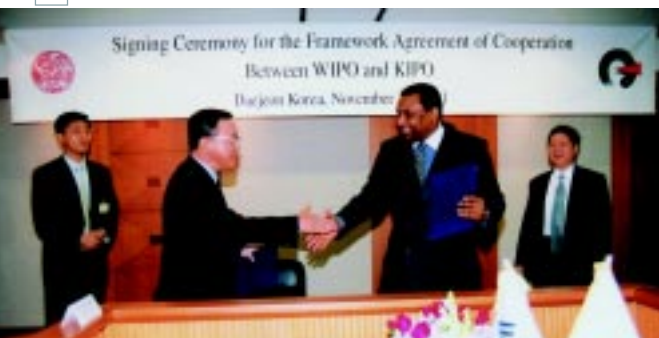
Affairs, Mr. Jaroslav Chlebo, and the Minister of Culture, Mr. Milan Knazko. They discussed the ongoing changes in the intellectual property system and its inclusion in broader economic policy. Dr. Idris said that the intellectual property system provided opportunities for countries such as Slovakia to transform their innovative and creative capacities into concrete economic assets to boost the national economy and social well-being. He referred to a number of WIPO activities, in particular the intellectual property training programs offered by the WIPO Academy, the Organization's public awareness initiatives to create broad-based understanding of the value of intellectual property in daily life, and the WIPONET project.

## Visit to University of Matej Bel

The Director General also visited the University of Matej Bel in Banská Bystrica, where he was awarded an honorary doctorate. On accepting this honor, Dr. Idris urged closer cooperation between the universities in Slovakia and the WIPO Worldwide Academy as a means to promote the dissemination of knowledge on intellectual property issues and broader understanding of the value of the system and how it works.



# DR. IDRIS VISITS KIPO AND ADDRESSES APEC SYMPOSIUM



*Mr. Laegue and Mr. Idris at the signing of the Agreement*

WIPO Director General Kamil Idris met on November 19 in Daejeon with senior officials of the Korean Intellectual Property Office (KIPO) for talks on the further development of Korea's intellectual property infrastructure. The outcome of the talks was the signing of an agreement for cooperation between the two organizations.

The talks between the Director General and KIPO Commissioner Mr. Leem Laegue, Deputy Commissioner, Mr. Yoo Young-Sang, as well as other senior officials focussed on current and future areas of collaboration between the two organizations. The resulting Framework Agreement of Cooperation signed by the Director General and the Commissioner of KIPO highlighted the following nine priority areas:

- ▶ information technology;
- ▶ electronic commerce;
- ▶ small and medium-sized enterprises (SMEs);
- ▶ traditional knowledge;
- ▶ genetic resources and folklore;
- ▶ enforcement;
- ▶ human resource development;
- ▶ global industrial property protection systems including reform of the Patent Cooperation Treaty (PCT) and the patent system in general; and
- ▶ promotion of modern management practices.

## APEC Symposium

During his visit to Korea, Dr. Idris also addressed the Asia-Pacific Economic Cooperation (APEC) International Symposium on Intellectual Property and Information Technology. He spoke of the rapid development of information and communication technologies, which has fueled a leap forward in knowledge creation and has increased general ability to share that knowledge. He focussed attention on the growing "digital divide," which is part of an even larger problem that he called the "knowledge divide." The "knowledge divide", he noted, separates those countries that use and manage their knowledge assets effectively from those that have not yet been able to do so. APEC members, which in 1999 accounted for almost half of the world's global trade, have been highly effective in using knowledge assets – human

capital bolstered by a strong intellectual property system – to drive research and development, increase manufacturing and distribution, stimulate employment-creating transactions like licensing and joint ventures, and to maximize revenues and distribution of goods and services.

The Director General highlighted WIPO's commitment to help its member States capitalize on the opportunities for growth and advancement presented by the rapidly evolving information technologies. He referred to on-going WIPO initiatives to facilitate the legal protection for intellectual property assets, such as the forthcoming entry into force of the WIPO Copyright Treaty (WCT) and the WIPO Phonograms and Performances Treaty (WPPT) – which set out minimum standards of copyright protection in the digital environment – as well as reform of the Patent Cooperation Treaty (PCT) and PCT automation.

Dr. Idris also referred to the WIPONET Project, which enables national intellectual property offices to be linked to WIPO and to each other via a secure network. The deployment of powerful information technology-based solutions,

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# ASSISTANCE PLEDGED TO MONGOLIA

he said, would enable member States to access global information resources, including the rich and growing pool of intellectual property information. This, he said, is a major step towards overcoming both the digital and the knowledge divide and in ensuring that all countries are in a position to harvest the social and economic fruits of their creative and innovative potential.



*Dr. Idris visited Hannam University in Daejeon where he was awarded an Honorary Doctoral degree*

WIPO Director General Kamil Idris traveled to Mongolia on November 20 to meet with President Natsagyn Bagabandi and hold talks with a number of high ranking officials on further enhancing cooperation between WIPO and Mongolia. Dr. Idris pledged WIPO's continued support of the Mongolian government's effort to build and maintain a solid intellectual property infrastructure.

Mongolia has given priority to the development of its intellectual property system and has sought WIPO's assistance in this endeavor. The Intellectual Property Office of Mongolia (IPOM) has received much assistance from WIPO in the area of legislative reform, human resource development and the administration of intellectual property. WIPO also assisted in the automation of IPOM's intellectual property administration by setting up information dissemination facilities and training of staff and officers. The Director General's visit to Mongolia reinforced the bonds between Mongolia and WIPO, and gave impetus to the efforts to develop the country's intellectual property system.

A highlight of the Director General's visit was a meeting with the Minister for Justice and Internal Affairs, Mr. Tsendiyn Nyamdorj. During a ceremonial exchange of letters, Dr. Idris and the Minister

agreed on further cooperation in the development of the intellectual property system in Mongolia. Emphasis will be placed on assisting small and medium sized enterprises (SMEs), holders of traditional knowledge, creators of copyright work and the agriculture sector in better exploiting the intellectual property system for strategic growth. Mongolian officials expressed their support for and appreciation of the development dimension that WIPO is using in its assistance programs.

## Visit to University of Science and Technology

Speaking to scientists and academics gathered at the University of Science and Technology, Dr. Idris also highlighted the role of academic institutions as vast storehouses of knowledge and information as well as teachers of younger generations. He expressed certainty that the intellectual property system is the best tool for social development, economic growth and wealth creation, and underlined WIPO's goal to enable all countries to use that tool to their best advantage. Dr. Idris also expressed gratitude for an Honorary Doctoral degree awarded him by the university.

# EGYPTIAN PARLIAMENTARIANS AT WIPO



*Cairo, Egypt*

In advance of discussions in the Egyptian People's Assembly of a new draft comprehensive intellectual property legislation, a group of Egyptian parliamentarians visited WIPO from October 22 to 26 and met with WIPO Director General Dr. Kamil Idris. The visit to WIPO provided an opportunity for the parliamentarians to review comments made by WIPO on the draft legislation.

Discussions with Dr. Idris highlighted the need for countries such as Egypt to invest in the building of a robust intellectual property system. Dr. Idris said that such a system would help developing countries secure a competitive edge in the knowledge-based economies of the 21<sup>st</sup> century. The Director General stressed the critical role of parliamentarians in ensuring that the proper legislative framework is in place.

Egypt has actively sought to increase education in intellectual property, so Dr. Idris focussed discussion on having the teaching of intellectual property rights included in school curricula at all levels. He noted that students' exposure to notions of intellectual property should begin as early as possible.

Three years ago Cairo University introduced a post graduate intellectual property diploma program in cooperation with WIPO. The Organization has since sponsored fellows from Arabic-speaking countries for the special one-year program. Many officials from intellectual property offices in the region have also been trained in Egypt.

Dr. Idris also underlined the opportunities that exist for Egypt to exploit digital technologies to disseminate its rich cultural heritage, through, for example, making museum collections available on the Internet. The Director General expressed WIPO's readiness to extend its assistance in such efforts.

## **Briefings on WIPO's Work**

The parliamentarians met with a number of WIPO officials for talks concerning WIPO's work and future areas of cooperation between WIPO and Egypt. These covered the Organization's norm-setting activities relating to the progressive development of intellectual property law, Cooperation for Development Program, electronic commerce,

public outreach and the services that WIPO provides to the private sector. They also discussed issues concerning the pharmaceutical industry and bio-genetic research, and met with officials of the International Union for the Protection of New Varieties of Plants (UPOV) to discuss the protection of new plant varieties in the new draft legislation.

WIPO has been assisting developing countries in ensuring that their intellectual property laws are compatible with international standards laid out in the Agreement on Trade Related Aspects of Intellectual Property (TRIPS Agreement). Dr. Hossam Badrawi, Chairman of the Assembly's Committee on Education and Scientific Research, welcomed WIPO's comments on the draft legislation.

The parliamentary delegation was headed by Dr. Badrawi and included Mr. Hussein El Serafy, Mr. Talat El Sayed, Mr. Abu El Ezz El Hariri, Ms. Fayza El Tahnawy, Mr. Amr Al Heiny, Mr. Hussein Megawer, Mr. Seif Rashad, Mr. Fayez Abu Harb, and Mr. Talat Mahran.



# GHANA'S MINISTER FOR JUSTICE DISCUSSES COOPERATION



Photo: Mercedes Martinez Dozal

*Minister Akufo-Addo,  
Mrs. Korkoi Nkrumah,  
and Dr. Idris*

At a meeting with the Attorney General and Minister for Justice of Ghana, Mr. Nana Akufo-Addo on November 14, WIPO Director General Kamil Idris reaffirmed the Organization's commitment to support Ghanaian authorities in their efforts to strengthen and modernize the intellectual property system in their country. Dr. Idris and Minister Akufo-Addo also discussed ongoing and future areas of cooperation between WIPO and Ghana.

In this regard, the Director General underlined the training activities of the WIPO Worldwide Academy, and the services available under the WIPONET project. Under the project, Ghana, along with all other WIPO member States, will benefit from a range of central services including e-mail, web hosting, discussion groups on intellectual prop-

erty-related topics, virus scanning, user administration and help desk services. The Director General also underlined the Organization's commitment to promoting better understanding and use of the intellectual property system in Ghana.

In the course of his two-day visit, Mr. Akufo-Addo was also briefed on a wide-range of WIPO activities including electronic commerce, alternative intellectual property dispute resolution mechanisms, collective copyright management, traditional knowledge, genetic resources and folklore, public outreach and training. The Minister acknowledged the importance of intellectual property as a tool for wealth creation and called on WIPO to provide further assistance in modernizing the intellectual property system in Ghana and in raising public awareness about the role and value of intellectual property in that country.

During the visit, Ambassador and Permanent Representative Fritz Poku of Ghana, Assistant Copyright Administrator Yvonne Korkoi Nkrumah and First Secretary Mrs. Victoria Mansa Tettegah, Permanent Mission of Ghana accompanied the Minister.



# DISCUSSIONS WITH MEXICAN PERFORMERS AND OFFICIALS



*Folk Ballet,  
Mexico*

WIPO Director General Kamil Idris met on November 30 with representatives of Mexico's National Association of Performers (ANDI) and government officials for an exchange of views on enhancing copyright protection and promoting the rights of creators in Mexico. During the meeting, the delegation informed the Director General of Mexico's strategy to strengthen its audiovisual sector and called upon WIPO to help in undertaking a study to quantify the value and contribution of the audiovisual sector to the Mexican economy.

Ambassador Gustavo Albin, Permanent Representative of Mexico in Geneva, stressed that the composition of the delegation, including a senior senator, represented the cohesion which exists between policy makers and performers in Mexico. He underlined the significant impact of WIPO's work in improving people's well-being and reiterated his government's firm support of the Organization and its leadership.

Dr. Idris praised Mexico's commitment to its creators and welcomed the proactive and original approach adopted by ANDI to strengthen the audiovisual performers sector. He said the forthcoming study, to be undertaken with WIPO's support, would be a strategic tool in demonstrating the present and potential contribution of the audiovisual sector to the national economy. In this regard, WIPO and ANDI will co-organize an international seminar to address questions relating to the implementation of the WIPO "Internet Treaties," taking into account the social and cultural specificity of each country.

The delegation expressed its appreciation for WIPO's work to conclude a treaty on the rights of performers in their audiovisual performances. At an international conference organized by WIPO in December 2000, member States provisionally agreed on 19 of the 20 provisions contained in the draft treaty. In spite of the significant progress in shoring up the rights of

performers in their audiovisual performances, agreement could not be reached at that time on the fundamental question relating to the right of transfer, namely the question of how the performers' rights are acquired by the producers, by law or agreement. In September 2001, the WIPO General Assembly agreed to maintain the item on its agenda until a solution to this question is reached.

ANDI is a civil society organization that groups the performing artists of Mexico. It includes more than 8,000 members and administers the rights of over 40,000 artists. ANDI is also a member of the Ibero-Latin American Federation of Performers (FILAIIE).

Ambassador Albin was accompanied by Senator Guillermo Hergbert, Committee of Education and Culture, ANDI Vicepresident, Ms. Emilia Carranza, Secretary, Mr. Ismael Larumbe, and Legal Director, Mr. Jose D. Gonzalez, as well as Minister Arturo Hernández and Third Secretary Karla Ornelas, Permanent Mission of Mexico.





# LATIN AMERICAN INTELLECTUAL PROPERTY OFFICES DISCUSS COOPERATION

The directors of industrial property and copyright offices of 19 Latin American countries met in separate meetings in Quito, Ecuador in November to coordinate policy on intellectual property matters in the region, and to assess the relevance and the impact of the WIPO cooperation programs. These meetings also provided an opportunity to introduce the WIPO initiative for the development of the international patent system, and to hold a special session on improving the growth and competitiveness of small and medium sized enterprises (SMEs) through the use of intellectual property.

In preparation for the meetings, the directors of each office had prepared reports describing the situation of industrial property and copyright in their country, not only in terms of legislation but also administration, enforcement and use of intellectual property rights. These reports facilitated the flow of information on the latest developments in the intellectual property field in the region.

## Industrial Property Directors

Several suggestions were made concerning areas in which the countries could cooperate among themselves and in which WIPO could provide assistance, in particular:

- ▶ modernization of legislation, particularly in the field of electronic commerce and domain names;

- ▶ strengthening of office administration in the use of modern information technology, training of staff, institutional legal framework, corporate image and public communications strategies and management techniques;
- ▶ further development of the jurisprudence database containing leading and main decisions in industrial property made by competent authorities in the region;
- ▶ traditional knowledge and access to genetic resources;
- ▶ promotion and support of innovation and SMEs;
- ▶ human resource development;
- ▶ support of the teaching of intellectual property in the region.

## Study on Economic Relevance of Copyright

The copyright directors discussed the results of a study on the economic relevance of copyright industries made by WIPO consultants in five Latin American countries – Argentina, Brazil, Chile, Paraguay and Uruguay. The study measured the economic importance of copyright industries in terms of their contribution to Gross Domestic Product (GDP), employment and foreign trade. Preliminary results showed that the contribution of copyright industries to the GDP of Argentina, Brazil, and Uruguay, in the last decade, was approximately 6 percent. It indicated that the employment figures for copyright industries in the five countries represented between 3 and 5 percent of total employment.

This information is of strategic interest for policy makers and shows the relevance and weight of intellectual property in the economy of those countries. The participating delegations requested WIPO support



for similar initiatives in this area and in particular in coordinating the preparation of a methodology in order to carry out similar studies in other countries in the region.

*The directors of copyright offices of 19 Latin American countries at their meeting in Quito, Ecuador*

As a result of their discussion on development in copyright in their region and on WIPO cooperation programs, the copyright directors also requested WIPO's assistance in connection with:

- ▶ the implementation of new legislation,
- ▶ office administration,
- ▶ automation,
- ▶ jurisprudence,
- ▶ traditional knowledge and folklore,
- ▶ work with SMEs operating in the cultural industries,
- ▶ human resource development,
- ▶ teaching of intellectual property and promotion of regional cooperation.

The directors at the meetings also expressed their intention to participate, and facilitate the participation of other parties concerned, in the development of the international patent system.

# URUGUAY SYMPOSIUM ON GEOGRAPHICAL INDICATIONS

WIPO and the National Directorate for Industrial Property, Ministry of Industry, Energy and Mining, Uruguay, organized a symposium on the international protection of geographical indications on November 28 and 29 in Montevideo, Uruguay. Geographical indications are currently at the center of debate in the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications and at the World Trade Organization (WTO).

As regards recent international developments in the WTO, the focus of the debate was on the Ministerial Declaration of the Fourth Ministerial Conference, which deals with geographical indications twice:

- ▶ in setting a time frame for negotiating the system for notification and registration for geographical indications contemplated by the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 23.4), and
- ▶ in addressing the extension of TRIPS Article 23 to geographical indications for products other than wines and spirits.

- ▶ safeguarding the national cultural heritage of a country;
- ▶ creating incentives for the rural population in certain countries to abstain from migrating to urban centers; or
- ▶ the building of bargaining capital for bilateral and multilateral trade negotiations.

The symposium provided for a useful exchange of information on the protection of geographical indications at the national, regional and international levels and on future trends in that area and, once more, demonstrated the divergent approaches to the subject.



Photo: Erwin Ojeda

Panel discussions at the symposium

Some 170 participants from 32 countries attended the symposium. Registration was open to representatives of governments, intergovernmental organizations, non-governmental organizations and the private sector. The symposium generated an open debate in which the audience actively participated. The conference documentation is available from WIPO's web site at [http://www.wipo.int/eng/meetings/2001/geo\\_mvd/index.htm](http://www.wipo.int/eng/meetings/2001/geo_mvd/index.htm).

Speakers from, among others, Mexico and Peru described the actions taken in their respective countries in order to ensure the protection of local geographical indications. Those countries are paying special attention to providing protection of geographical indications within the existing social, economic and legal framework. They discerned the importance of adopting a proactive position to serve the interests of their national industries and to protect their national geographical indications.

Valid policy considerations that are taken into account by countries in the process of setting up particular systems of protection for geographical indications were identified as follows:

# PROTECTING TRADITIONAL KNOWLEDGE IN AFRICA



At a conference in Gaborone, Botswana in October, ARIPO (African Regional Industrial Property Organization) member and potential member states discussed the protection of traditional knowledge and the conceptual problems posed by its implementation. WIPO participated in the meeting, outlining the Organization's work in the field – the fact-finding missions carried in 1998 and 1999 and the work of the WIPO Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGC) – and providing possibilities for intellectual property protection of traditional knowledge.

ARIPO Director General Mr. Mzondi Chirambo spoke of Africa's rich and highly diverse biological resources and traditional knowledge, which have been, and still remain, one of the main sources of many medicines. He emphasized that this knowledge developed over the years was in urgent need of protection. He repeated the resolution taken by the ARIPO Council of Ministers in 2000

to link its initiatives with those undertaken by WIPO through active involvement in the IGC.

The WIPO representative, Mr. Wend Wendland, reported on three broad approaches for intellectual property protection of traditional knowledge expressed by States and other stakeholders, which include the existing intellectual property systems, modified intellectual property systems and new intellectual property - type *sui generis* systems. He noted that all of these approaches raise legal, conceptual and operational questions and that the term "traditional knowledge" for intellectual property purposes must also be clearly understood.

## Conceptual Problems of Traditional Knowledge Protection

ARIPO has participated in the review of the African model legislation and expects to come out with an effective legal instrument for the protection of traditional knowledge for its member states. The lack of a documented database on traditional knowledge is one of the problems the Organization must resolve. According to ARIPO, it must also define:

- ▶ the legal competence of national or regional authorities to authorize the utilization of traditional knowledge;
- ▶ the arrangements to make in situations where traditional knowledge is shared by two or

more countries, some of which may be party to an international treaty on traditional protection and others which are not;

- ▶ the allocation of royalties that may rise from authorized commercial exploitation of regional traditional knowledge between different concerned communities and countries;
- ▶ the criteria and procedures to be determined when an element of traditional knowledge is national or regional; and
- ▶ the means to settle disputes that may arise about such determinations.

Mr. Wendland presented a further topic on Genetic Resources, Traditional Knowledge and the TRIPS Agreement. This presentation highlighted the needs and issues raised by developing countries in the World Trade Organization (WTO) meetings. Those include technical and ethical issues relating to the patentability of living organisms, protection of plant varieties, patents derived from genetic resources and the protection of traditional knowledge. Specific proposals relating to traditional knowledge advanced by developing countries include a certificate of origin requirement, prior informed consent, and evidence of benefit - sharing. Mr. Wendland emphasized that these issues are still being discussed with the WTO.



# ASIAN SYMPOSIUM ON INTELLECTUAL PROPERTY RIGHTS

WIPO organized a symposium in cooperation with the Directorate General of Intellectual Property Rights (DGIPR) of Indonesia in October on intellectual property rights, traditional knowledge and related issues. The objective of the symposium was to explore emerging issues and to facilitate discussions for a better understanding of the inter-related intellectual property issues regarding access to genetic resources, traditional knowledge and expressions of folklore.

Some 115 participants from the academic field, local government and the private sector as well as stakeholders of traditional knowledge attended the seminar, which covered three inter-related themes:

- ◆ legislative, administrative and policy measures relating to genetic resources and benefit sharing;
- ◆ traditional knowledge for which intellectual property protection is sought;
- ◆ protection of tangible expressions of folklore in particular, handicrafts.

Speakers stressed to the participants the importance of ensuring that the issue of folklore, with its vast dimension of arts and humanities, is not left to legal experts alone. They emphasized that the protection of expressions of folklore, in particular handicrafts, should be given

adequate protection or cumulative protection, for example both copyright and industrial property protection.

A study visit organized to an herbal factory served as a good case in point of the topics discussed in the symposium. The management of the factory presented its findings on export products, and expressed their hope that the intellectual property system could be used to assist them in protecting their formulas.

The draft report produced at the symposium was a step forward for the Asian countries in anticipation of the second Intergovernmental Committee meeting (IGC-II), held at WIPO in December. The Asian Group had decided before the event to take the opportunity and time offered by the symposium to consolidate and formulate views on these significant global issues.

## COPYRIGHT AND NEW TECHNOLOGIES

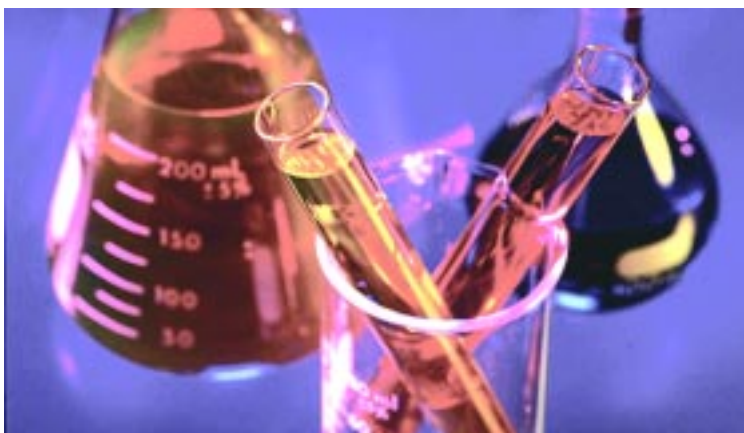
The adequate protection of intellectual property rights to ensure the continued cultural and scientific development of North and West African countries was the subject of a seminar held on November 8 and 9, organized by WIPO and the Business Software Alliance in cooperation with the Government of Morocco, in Rabat. The meeting focussed on copyright and related rights in the context of information technology and highlighted the value of the software industry in the development of a vibrant economy.

Presentations by experts dealing with the socio-economic consequences of piracy and counterfeiting were followed by workshops examining strategies for combating piracy. Participants searched out avenues for cooperation in this area and discussed courses of action that could lead to greater success in fighting piracy.

The participating countries in the meeting were Algeria, Egypt, Tunisia, Ghana, Cameroon, Côte d'Ivoire, Morocco (host), Nigeria and Senegal.



# THE PCT EXPERIENCE IN INDIA



Since India joined the Patent Cooperation Treaty (PCT) in 1998, PCT applications have been doubling every year – from 61 applications filed in 1999, to 156 in 2000, to over 300 expected in 2001. In just three years, the Indian government, the Indian Patent Office (IPO), big, medium and small industry and research and development institutions and inventors have fully embraced the PCT system. Today, the PCT system is regarded in India as a strategic business tool, essential in seeking patent protection abroad and in gaining strategic competitive advantage.

The pharmaceutical and biotechnology industries have been the biggest users of the PCT system in India. The Council of Scientific and Industrial Research (CSIR) – the world's largest publicly funded industrial research and development agency with 39 laboratories and

25,000 strong workforce, which includes 6,000 scientist and technologists – has emerged as the biggest user of the PCT in India and one of the major users of the PCT in the developing countries. CSIR has filed over 100 PCT applications during 2001 and is expected to file over 200 applications during 2002. Ranbaxy Research Laboratories, Dr. Reddy's Research Foundation, Biocon India Group and Lupin Laboratories Limited are other major users of the PCT in India.

## International Searching Authorities under the PCT

- Austrian Patent Office
- Australian Patent Office
- China Intellectual Property Office
- European Patent Office
- Japan Patent Office
- Korean Intellectual Property Office
- Russian Patent Office
- Spanish Patent and Trademark Office
- Swedish Patent Office
- United States Patent and Trademark Office

PCT applicants from India usually file through patent agents and more than three-quarters of the applications are filed with the IPO head office in Kolkata and its branch offices in Chennai, New Delhi and Mumbai. Indian applicants have the choice of six out of the ten International Searching Authorities currently available under the PCT system. However, more than 65 percent of the international searches on Indian applications are conducted by the European Patent Office, 20 percent by the Austrian Patent Office and some 11 percent by the United States Patent and Trademark Office.

## India Designated in International Applications

India is also designated in over 75 percent of the international applications filed worldwide. During 2001, some 6,000 PCT applications from abroad should enter the national phase before the IPO.

Since international search reports accompany the majority of PCT applications and international preliminary examination reports accompany over 80 percent of the applications, the Indian Patent Office expects the processing of the PCT applications to become more efficient and cost effective. The IPO recognizes the substantial contribution of the PCT in streamlining and improving efficiency in the country's patent administration.

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## Promoting Awareness Nationwide

In order to promote better awareness about the PCT system in India, WIPO has developed an active program of cooperation with the Government of India. Over the past three years, WIPO has organized several training programs, workshops and seminars relating to the PCT in different parts of India with the active cooperation of the IPO, the chambers of commerce and industry and the Indian Institute of Intellectual Property Development (IIPD). These seminars have brought together speakers and experts from the local patent office and the local industry.

At recent WIPO Roving Seminars on the PCT, organized in Mumbai, Cochin, Ahmedabad and Hyderabad, experts from the CSIR, Ranbaxy Laboratories and Biocon India Group, presented interesting case studies on the use of the PCT system by their respective firms. Some of the most useful features of the PCT system identified by Indian applicants were the extra decision-making time, the relatively low cost and the international search and preliminary examination reports.

# WHY IS INTELLECTUAL PROPERTY RELEVANT TO BUSINESS?

Understanding the importance of the various components of the intellectual property system and using it effectively as an integral part of its business strategy is crucial to success in the market place. Businesses need the intellectual property system to protect manufacturing secrets or other useful information and remain ahead of the competition. Businesses need to fully exploit their intellectual property assets to maintain consistent quality and market products and services to consumers so as to develop long-term customer loyalty.

To remain ahead of competitors, business entities must either continuously introduce radically new products and services or make small improvements to the quality of existing products and services. Changes are also made in response to customer needs; therefore almost every product or service used in daily life gradually evolves as a result of a series of big or small innovations, such as changes in design or improvements in a product's

look and function. Businesses are also concerned with maintaining consistent quality and marketing products and services to consumers. Knowledge, both original and new, is essential to all of these processes.

The intellectual property system is the primary key to successful management of such knowledge assets for business. The main types of intellectual property rights are (1) patents (for inventions), (2) trademarks, (3) industrial designs, (4) valuable undisclosed information or trade secrets, and (5) copyright and related or neighboring rights.

## Intellectual Property Assets Enhance Profitability

Any industry or business, whether traditional or modern, regardless of what product or service it produces or provides, is likely to regularly use intellectual property to prevent



*A business would have obtained patents for a CD player's various technical parts and mechanisms and industrial design protection for its three-dimensional shape and surface characteristics that appeal to the eye. Similarly, its distinctive brand name would be registered as a trademark and the music played on the CD player protected by copyright.*

Courtesy: Sony Overseas S.A.

others from encroaching on its due reward or taking advantage of its goodwill in the market place. Every industry or business should systematically take the steps required for identifying, protecting, and managing its intellectual property assets, so as to gain the best possible commercial results from its ownership.

If a business or industrial enterprise is intending to use an intellectual property asset belonging to someone else, it should consider buying it or acquiring the rights to use it by taking a license in order to avoid disputes and consequent expensive litigation. A business or industry could encounter legal problems for inadvertently violating the intellectual property rights of others out of sheer ignorance of the intellectual property system. Hence, a basic understanding of the intellectual property system has become a prerequisite for success in the marketplace.

Every industry or business needs a trade name and often one or more trademarks for advertising and marketing its products or services. In choosing or creating a new trade name or trademark a business must take great care in not getting into conflict with others businesses or industrial enterprises which may already be using, and have legal rights over, identical or deceptively similar trade names or trademarks. After a proper search, and selection, a business should consider protecting its trade name and trademarks.

Most enterprises have valuable confidential business information, from customers' lists to sales tactics that they may wish to protect. Many may also have created original designs or produced, or assisted in the publication, dissemination or retailing of a copyrighted work. Some may have invented or improved a product or service. In each of these situations, considerable time and energy should be spent by the enterprise concerned to prevent possible legal conflicts with the intellectual property rights of others.

In all such cases, the enterprise should consider how best to use the intellectual property system to its own benefit, and at the least possible cost. It is worth remembering that IP assets may assist an enterprise in almost every aspect of its business development and competitive strategy: from product development to product design, from service delivery to marketing, and from raising financial resources to exporting or expanding its business abroad through licensing or franchising.

For more information on various practical aspects of the IP system of interest to business and industry, please visit the website of the SMEs Division at [www.wipo.int/sme](http://www.wipo.int/sme).



Courtesy: The Parker Pen Company

*Ladislao Biro's famous patent on ballpoint pens was a breakthrough. Subsequently, many others made various improvements, legally protecting these improvements through the acquisition of patents or design rights. A trademark on a pen is also intellectual property, which helps a business enterprise to market the product and develop a loyal clientele by differentiating it from competing products of other enterprises.*

The next article in IP and Business will discuss the role of trademarks in marketing products and services.



# CALENDAR of meetings

## **FEBRUARY 18 TO 22**

(GENEVA)

### **Working Group on Constitutional Reform (Fifth session)**

The Working Group will continue its work based on the results of its fourth session (September 11 to 14, 2001).

*Invitations:* As members, the States members of WIPO and/or of the Paris and/or Berne Unions.

## **FEBRUARY 25 TO MARCH 1**

(GENEVA)

### **Committee of Experts of the Special Union for the International Patent Classification (IPC Union) (Thirty-first session)**

The Committee of Experts will adopt revision proposals to the current (seventh) edition of the IPC and will consider recommendations concerning IPC reform.

*Invitations:* As members, the States members of the IPC Union; as observers, the States members of the Paris Union, and certain organizations.

## **APRIL 22 TO 26**

(GENEVA)

### **Standing Committee on Information Technologies (SCIT) Working Group on Standards and Documentation (Second session)**

The Working Group will discuss progress towards the completion of the tasks in its work program.

*Invitations:* As members, the States members of WIPO and the Paris Union; as observers, certain organizations.

## **MAY 6 TO 10**

(GENEVA)

### **Standing Committee on the Law of Patents (Seventh session)**

The Committee will continue its work on further harmonization and other issues relating to patent law.

*Invitations:* As members, the States members of WIPO and/or of the Paris Union; as observers, other States and certain organizations.

## **MAY 13 TO 17**

(GENEVA)

### **IPC Reform Working Group of the IPC Union (Seventh session)**

The Working Group will continue elaboration of recommendations concerning IPC reform for the Committee of Experts of the IPC Union.

*Invitations:* As members, the States members of the IPC Union and member organizations of the Working Group; as observers, the States members of the Paris Union, and certain organizations.

## **JUNE 24 TO 28**

(GENEVA)

### **Working Group on Constitutional Reform (Sixth session)**

The Working Group will continue its work based on the results of its fifth session (February 18 to 22, 2002).

*Invitations:* As members, the States members of WIPO and of the Paris and Berne Unions.

## **JUNE 27 AND 28**

(GENEVA)

### **WIPO Workshop for Mediators in Intellectual Property Disputes**

An annual event for all parties interested in WIPO mediation procedures.

*Invitations:* Open to interested parties, against payment of a fee.

## **JULY 1 AND 2**

(GENEVA)

### **WIPO Workshop for Mediators in Intellectual Property Disputes**

An annual event for all parties interested in WIPO mediation procedures.

*Invitations:* Open to interested parties, against payment of a fee.

## **JULY 1 TO 4**

(GENEVA)

### **Program and Budget Committee (Fifth session)**

The Program and Budget Committee is being convened to discuss issues concerning the new construction.

*Invitations:* As members, the States members of the Program and Budget Committee; as observers, all Member States of WIPO which are not members of the Committee.



# NEW PRODUCTS

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