



WORLD
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SECOND LIFE

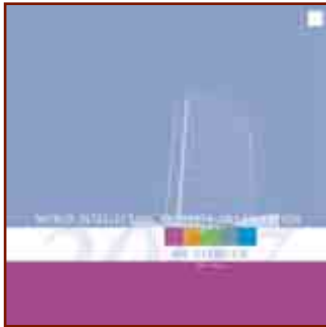
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SHAGGY

Dancehall Comes
to WIPO



The WIPO Overview 2007 Edition

Intellectual property (IP) is a multi-faceted subject; and WIPO is a multi-faceted organization. Among the United Nations family of organizations WIPO is unusual for the breadth and diversity of its functions. These range from providing Member States with a forum to negotiate international IP treaties and standards, to assisting governments in using IP as part of their development strategies; from providing tailored IP education and skills training, to delivering commercial IP services to the private sector.

The new WIPO Overview explains in simple terms how WIPO works and how the Organization carries out its mission of promoting a balanced IP system. While far from exhaustive, the booklet offers examples and highlights which illustrate the range of WIPO's activities and achievements. These will be updated in new edition each year. The WIPO Overview replaces the former General Information Brochure and the Annual Report with a single, streamlined and more accessible public information booklet.

The WIPO Overview is available in PDF format at: www.wipo.int/freepublications/en/general/1007/wipo_pub_1007.pdf. Print copies can be requested from the e-bookshop at the address on the back cover of the WIPO Magazine.

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THE 2007 WIPO ASSEMBLIES

The Assemblies of WIPO's 184 Member States met from September 24 to October 3 to review activities over the past year and discuss the future work program. The General Assembly was chaired by Ambassador Martin I. Uhomobhi, Nigeria's Permanent Representative to the UN in Geneva, who presided over at times protracted discussions, as Member States moved forward on areas of agreement and sought to resolve differences on issues where consensus proved elusive. The following is a summary of the main decisions.

Development Agenda

Sealing what Director General Kamil Idris described as a "milestone decision," the General Assembly adopted a Development Agenda for WIPO, consisting of a series of recommendations to enhance the development dimension of the Organization's activities. These include a set of 45 proposals agreed by the Provisional Committee on a WIPO Development Agenda (PCDA) covering six clusters of activities:

- technical assistance and capacity building;
- norm-setting, flexibilities, public policy and public knowledge;
- technology transfer, Information and Communication Technology (ICT) and access to knowledge;
- assessments, evaluation and impact studies;
- institutional matters including mandate and governance.

Member States agreed to establish a new Committee on Development and Intellectual Property (CDIP) to monitor, assess and report on the implementation of the adopted recommendations, in coordination with relevant WIPO bodies. The Committee, which will be made up of Member States and will be open to all accredited intergovernmental and non-governmental organizations, is expected to meet for the first time in the first half of 2008. The General Assembly also approved a set of 19 proposals for immediate implementation, which were identified following informal consultations organized by the Chairman of the PCDA prior to the General Assembly.



"WIPO has a role to play in meeting today's challenges, supreme among which is the challenge of development... It is incumbent on us to sustain and deepen the role of our Organization, to improve the quality and enjoyment of life for all peoples." – Chair of the General Assembly, Ambassador Martin Ihoeghian Uhomobhi (Nigeria)

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

The General Assembly agreed to extend the mandate of the IGC for a further two years. Member States recognized the significant work done by the Committee to date, and reaffirmed their commitment to achieving greater convergence on the issues. The decision renews the 2005 General Assembly's directions to the IGC to accelerate its work, and to focus in particular on the international dimension. The mandate excludes no outcome, including the possible development of international instruments in this field without prejudice to the work pursued in other fora.

Standing Committee on the Law of Patents (SCP)

Delegates unanimously agreed to commission a report by WIPO on issues relating to the international patent system, covering the different needs and interests of all Member States. They agreed a draft outline for the report and specified that it should contain no conclusions. The report will constitute

“My Chairmanship of the WIPO Assemblies has strengthened my sincere belief that multilateralism remains a powerful instrument for forging international cooperation on IP issues that, in turn, could lead to tremendous benefits for mankind.”

Statement by the outgoing Chair of the General Assembly, Mr. Enrique Manalo (Philippines).

the working document for a session of the SCP to be held in the first half of 2008, and will be made available to all SCP members and observers by the end of March 2008.

Protection of Broadcasting Organizations

Delegations noted that, following two special sessions of the Standing Committee on Copyright and Related Rights (SCCR), progress had been made towards a better understanding of the positions of the various stakeholders. Member States expressed the wish that all the parties continue to strive to achieve agreement on the objectives, specific scope and object of protection. They decided that the subject of broadcasting and cablecasting organizations should be retained on the SCCR agenda for its regular sessions, and that they should only consider convening a Diplomatic Conference after agreement on objectives, specific scope and object of protection has been achieved.

The Protection of Audiovisual Performances

Member States noted that WIPO had organized a series of seminars in Africa, Asia and Latin America to promote progress at the levels of national legislation and international consensus-building. In preparing these events, which would continue next year, WIPO followed a flexible and balanced approach to the protection of performers at the national level, in such practical areas as contractual relations and collective bargaining, the exercise and transfer of rights and remuneration systems. Member States agreed to keep the issue on the agenda of the 2008 General Assembly.

Advisory Committee on Enforcement (ACE)

The General Assembly noted the large number of activities undertaken in the field of IP enforcement in the last year at the international, regional and national levels. Member States discussed the future

work of the ACE, including whether the Committee should focus on elaborating best practices and guidelines or on examining development-oriented concerns and broader societal interests.

Madrid System for the International Registration of Trademarks

Decisions by the Assembly of the Madrid Union for the international registration of trademarks will fundamentally change the structure of the Madrid system. In particular, Members approved the repeal of the “safeguard clause.” This means that, as from September 1, 2008, for states bound by both the Madrid Agreement and the Madrid Protocol, only the provisions of the Protocol – the more recent and flexible of the two treaties – will apply. The Protocol relaxes certain provisions of the Agreement, in order to allow adherence by states and intergovernmental organizations (IGOs) whose trademark registration systems do not match with the provisions of the Agreement, particularly in respect of the fees to be paid by applicants, the choice of working languages and the applicable time-limits.

The Hague System for the International Registration of Industrial Designs

The Assembly of the Hague Union agreed a number of changes to the fee structure under the Hague Agreement, as a result of which applicants from least developed countries (LDCs) will soon benefit from a significant reduction in certain fees payable under the Hague System. The Assembly also adopted a recommendation encouraging member countries which charge individual designation fees, to indicate that, for applicants from LDCs, these fees are reduced to 10 percent of the fixed amount.

The Madrid and Hague Unions also approved a four-year investment program (2008-2011), aimed at generating efficiencies by modernizing the IT infrastructure of both the Madrid and Hague systems.

1. Namely, the offices of Australia, Austria, Canada, China, Finland, Japan, the Republic of Korea, the Russian Federation, Spain, Sweden, the US, the European Patent Office and the Nordic Patent Institute



“The future of the IP system depends on the commitment of those participating in it. To ensure its healthy and constructive evolution, individual advantage has to take second place to the collective good. Such a symbiotic system ultimately can only survive if all its constituent parts flourish and receive the nourishment they need.”

From “WIPO, The Past Decade and Beyond,” submitted to the Assemblies by the WIPO Secretariat.

Patent Cooperation Treaty (PCT)

The PCT Assembly approved several new features and flexibilities to enhance the international patent application filing system under the PCT.

The Brazilian National Institute of Industrial Property and the Indian Patent Office were appointed as International Searching Authorities (ISAs) and as International Preliminary Examining Authorities (IPEAs). This brings to 15 the total number of such Authorities, which prepare international search reports and opinions on patent applications submitted under the PCT. The appointment of the other 13 offices presently acting as ISAs and IPEAs¹ was extended for a period of 10 years. Member States also approved an optional supplementary international search system to enable applicants to find additional relevant prior art at an early stage and in additional languages. The Regulations governing this system will enter into force on January 1, 2009, although the supplementary search services will only be available when at least one ISA offers them. ISAs are free to decide whether to provide this supplementary service and under which conditions.

Korean and Portuguese were added to the existing eight languages in which PCT applications may be published, with effect from January 1, 2009.

Regarding PCT fees, Member States requested that WIPO carry out a study on eligibility criteria to determine the developing and least developed countries whose applicants should benefit from reduced fees. There was no agreement, however, regarding proposals for an across-the-board PCT fee reduction at this stage.

Patent Law Treaty (PLT)

The PLT Assembly unanimously agreed on the applicability to the PLT of a number of modifications to the Administrative Instructions under the PCT made in the past year, and adopted four model international forms, which can be used for the relevant purposes before the patent office of any contracting party to the Treaty. Member States took note of measures to

provide developing and least developed countries and countries in transition with additional technical assistance to meet their obligations under the PLT, in particular, in relation to the filing of communications in electronic form in those countries.

Digital Access Service for Priority Documents

Member States noted progress in implementing a new voluntary service that responds to the business needs of applicants by enabling them to meet priority document requirements of patent offices without having physically to obtain and submit certified copies with each of them. This service, under development by WIPO with a number of patent offices, is expected to become operational in the first half of 2008.

Internal Audit Report

Member States were divided over the procedure to adopt in respect of a confidential internal audit report concerning allegations against the Director General. The views of delegations were split broadly between those advocating a debate on the substance of the report in the current session of the General Assembly, and those who held that such a debate would compromise due process, and that the General Assembly should at this stage address only the procedural aspects.

Following informal consultations on the agenda item by the “Friends of the Chair” (a small group of delegates comprising the regional coordinators plus one delegation from each regional group), the Chairman proposed that the report should be referred to the Audit Committee for a review within 60 days. The Friends of the Chair, however, were unable to find agreement on the proposal. The Chairman finally ruled, therefore, that “the Assembly did not agree on this matter,” and left it for Member States to determine, through further consultations, how the matter should be addressed.

Program and Budget

Notwithstanding the recommendations of the Program and Budget Committee in September,

Member States were unable to reach consensus on the adoption of the revised budget for the 2006/07 biennium and the proposed 2008/09 program and budget. Some delegations felt that it was not possible to approve these items without further addressing certain other unresolved issues on the Assemblies' agenda; while other delegations favored immediate approval of the program and budget without linkage to other issues. In the absence of consensus, Member States put the matter to the vote. While a majority of votes cast were in favor (64 for; 44 against), this did not constitute the required two-thirds majority (72 votes) and hence the program and budget documents were not adopted at this session.

Under the *WIPO Convention* (Article 11(4)(e)), if the budget is not adopted before the beginning of a new financial period, the budget continues at the same level as the previous year's budget, in accordance with the financial regulations.

Report of the Desk-to-Desk Assessment

Member States widely welcomed the Final Report on the Desk-to-Desk Assessment of WIPO's Human and Financial Resources as helpful for all WIPO's stakeholders in improving key elements within the management and administrative areas such as human resource policies and performance management. Member States concluded that the proposal for implementing the recommendations of the Final Report under an integrated Organizational Improvement Plan and the corresponding road map prepared by the secretariat should be reviewed by the Audit Committee and then be submitted to Member States for consideration and approval.

Internal Oversight Mechanisms

The General Assembly approved the revised terms of reference of the Audit Committee and the revised Internal Audit Charter, which constitutes the framework for WIPO's internal audit function and establishes its mission. The General Assembly took note of the report from the Director of Internal

Audit and Oversight and the Audit Committee, including a first Evaluation Policy for WIPO. This will provide a comprehensive framework for planning and conducting evaluations in order to improve the effectiveness of activities within WIPO's results-based management system.

New Financial Regulations and Rules

Member States adopted the new Financial Regulations and Rules which were elaborated in consultation with Member States, the WIPO Audit Committee, the External Auditor and the Internal Auditor, and in line with current best practice in the United Nations organizations and other international standards. These will enter into force on January 1, 2008.

New Observers

In line with the Organization's commitment to transparency and inclusive debate, the WIPO Assemblies granted observer status to ten additional IGOs and four additional national non-governmental organizations. At present, 66 IGOs, 211 international NGOs and 35 national NGOs have observer status with WIPO.

2006 Program Performance Report

The General Assembly approved the Organization's Program Performance Report for 2006, expressing satisfaction with progress in a wide range of activities, most notably the positive results obtained by the PCDA. Member States commended WIPO's extensive technical and legal assistance in building capacity within developing countries and transition economies, and urged WIPO to continue and intensify this activity.

Further information

All documents relating to the Assemblies are available at:
http://www.wipo.int/meetings/en/details.jsp?meeting_id=12803.

ASSEMBLIES EXHIBITION: HONG KONG CREATIVITY

Hong Kong – the Pearl of the Orient – is a gateway for international trade, attracting to its shores the best of east and west to complement its rich Chinese cultural heritage. The exhibition “HK Creativity – Intellectual Property in Hong Kong, China,” held at WIPO headquarters during the WIPO Assemblies of Member States, celebrated the contribution that IP has made to Hong Kong’s social and economic development, displaying works of art, design, fashion, film and highlighting IP enforcement efforts.

Branding Hong Kong

In 2000 Hong Kong commissioned a team of international communications firms to develop a strategy to position the city on the world stage. This was the launching pad for the Brand Hong Kong project. An international test audience selected the dragon image below, which incorporates the letters H and K and the Chinese characters for Hong Kong.



Art

Ah Chung started his artistic career as one of Hong Kong’s first political cartoonists. In 1984, he started to create a series of ink and color painting, which made him one of Hong Kong’s most popular artists. A collection of his works can be seen in the Hong Kong Museum of Arts.

1. **Broad-minded** (1998), Riding the clouds and mounting the mist. Yellow river becomes a brook.

2. **Happy-go-lucky** (2005), Easy to be perspicacious. Forbearance is hard.



1.



2.

“Innovation is at the heart of progress of a nation. It provides an inexhaustible source of inspiration for a country to achieve prosperity and development.”

Ambassador Li Baodong, Permanent Representative of China to the United Nations office in Geneva.

Design

The Hong Kong Designers Association (HKDA), founded in 1972, advocates public interest in design and a higher profession status for designers. The Association organizes many events to promote Hong Kong’s designers, such as the HKDA Awards, exhibitions, and seminars to educate designers on protecting their IP rights.

1. **In Love with Bamboo** by Alan Chan, 2004. The poster replicates the same image joined together horizontally to form a series of verticals that look like bamboo. The Chinese character for the human being is depicted from the Chinese character for bamboo.

2. **Flip: Chinese Contemporary Book Design** by Freeman Lau, 2004.



1.



2.

Calligraphy

Chinese calligraphy is over 3,000 years old and a revered form of art in China, Japan and Korea. Its practitioners are many – it requires simply paper, ink and brush – but its masters few. Tsang Tsou Choi, a poor, barely literate worker, began to mark the streets of Hong Kong with his calligraphic graffiti at the age of 35. At first considered a nuisance, his work had been elevated to an art form by the time he passed away this year at the age of 86. The fashion designer William Tang created a line using Tsang Tsou Choi’s calligraphy as theme.



1.

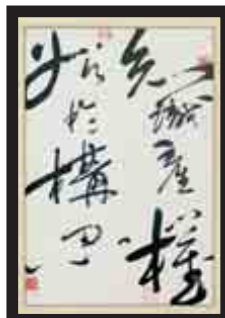
1. The graffiti calligraphy of **Tsang Tsou Choi** documents the contributions of the “Kowloon Emperor” – his self proclaimed title.

2. **William Tang’s** fashion designs based on Tsang Tsou Choi’s calligraphy.

3. **Hung Chuen Wa**, a master of calligraphy whose works have featured in exhibitions in China, Japan, Korea and across Europe, created four works using the WIPO themes for World Intellectual Property Day.



2.



3. “IP – It starts with an idea”



“IP – A Tool for wealth creation”



“Encouraging Creativity – Protect IP”

SHAGGY – DANCEHALL COMES TO WIPO

Photos: Jonathan Mannon



Biodata

Born: October 22, 1968, in Kingston, Jamaica.

Name: Orville Richard Burrell. Nicknamed “Shaggy” by childhood friends after the popular Scooby Doo cartoon character.

Career: Joined the U.S. Marines c.1988-92. First hit record was *Oh Carolina* in 1993. Other hits include *Boombastic*, *In the Summertime*, *It Wasn't Me* and

Angel. The album *Hot Shot* (2000) sold over 15 million copies and made Shaggy the first reggae artist to top the U.S. Billboard 200 best selling album chart.

Awards: Grammy Award, Best Reggae Album for *Boombastic* (1995); Juno Award (Canada), Best Selling Album, 2002. In October 2007, he was awarded Order of Distinction with the rank of Commander for outstanding service to Jamaica.

“Yo, this is Mr. Lover-Lover, boombastic – upfront and personal. Say yea, pay attention! Utter Shaggy.”

The greeting, delivered in a baritone growl, was not quite what we were used to hearing from ambassadorial visitors to WIPO. But then, this was not a usual WIPO visitor. Orville “Shaggy” Burrell, Jamaica’s self-styled ambassador of reggae, had been invited to join speakers at WIPO’s *International Conference on Intellectual Property and the Creative Industries* in order to share his own perspective as a top-selling artist.

With album sales of over 20 million since his first hit, *Oh Carolina*, in 1993, Shaggy’s successful career in the music industry is testimony to his artistic inventiveness, and to his readiness to buck the trend. The hard-hitting rhythms and tongue-in-cheek lyrics of hits such as *Boombastic* (1995) broke through barriers, taking Shaggy’s cross-over brand of reggae or dancehall¹ music to the top of R&B, pop and hip-hop charts worldwide. His addictive new release, *Church Heathen*, though aimed at a hardcore dancehall audience, looks set to be another major hit.

Before leaving the Conference, Shaggy took time out to talk to the WIPO Magazine about his music and his personal experience from within the creative industries.

The WIPO conference has been discussing the economic contribution of the creative industries. How do you see the contribution of the music industry to Jamaica?

Jamaica will probably benefit more from music than any other country because its whole cultural background is what sells Jamaica, more so than anything else. When you think Jamaica, you think Bob Marley. The minute you land in Jamaica you feel the essence of reggae. And for an artist who’s trying to break out in the music business, Jamaica is one of the easiest places to show talent – there are so many outlets, you can just jump on a stage.

In your own music, what do you aim for when you are creating a new song?

There are too many six-week hits come out now. They get a lot of hype, but hype doesn’t mean it’s a good song. As a musician, you want to be more than just a trend. You want to be a part of history. Even the newer generation now are looking back at the older classics. So me, I strive for that song that’s going to be a monster record – that lives on forever, forever. I probably have four or five of those. I don’t always achieve it. Sometimes these songs choose you instead of you choosing them.

Kids who were singing *Boombastic* in kindergarten are now adults. How do you create fresh appeal to a changing audience over 15 years?

You have to reinvent yourself and reintroduce yourself to them. The way to stay fresh is to always be innovative and a little bit eclectic – go against the

1. Dancehall, or ragga, is a derivative of reggae that developed in Jamaica in the 1970s. It is characterized by a DJ rapping (or “toasting”) over raw, danceable, electronic “riddims.”

“Copyright... is what you could call our ‘pension,’ which is what we have been lacking in the reggae fraternity.”

grain. It’s a harder process because then not everybody is sold on it. I mean, people like to go with the current, not against the current.

And what happens if the record companies aren’t sold on it?

Record companies because they’re corporations, they tend to use the same formula: get a big producer and put him with a big star, and make sure he looks good. And the record might be mediocre, but at least you have a huge story you can sell. And we are a society that eats that up – just like we ate up Paris Hilton. The downside is you won’t create classics. But hey, you probably make a ton of money. So it’s a two sided coin.

You mentioned earlier that, when you started out, you had to be creative not just in writing the music, but in getting airplay. Tell us about that.

Dancehall music has now become part of popular culture. But when we released *Boombastic* in 1995 we couldn’t get it played on mainstream radio. The stations were saying “it doesn’t fit our format.” It was only by sampling [Marvin Gaye’s] *Let’s Get it On* in the remix that we started getting airplay. So yes, we had to be creative in our marketing.

For dancehall music, there has never been that history of successful cooperation with the corporate sector – like between Justin Timberlake and Coca Cola. Pitching to a board of directors to persuade them to market a product with reggae doesn’t work. But you can’t just blame it on reggae being a “minority music.” You’ve also got to blame the artists. We’re like a shop. We’ve got to sell ourselves. Otherwise people just go into the more colourful shop with the nice shopkeeper...

You have been talking at the WIPO Conference about the birth of a creative idea. Where do you look for the ideas for your songs?

The idea comes from wherever your career is at this moment. Like now with *Church Heathen*. I did not want this to be another cross-over record. After my [more mainstream hits] like *It Wasn’t Me*, I knew I had to come out with something that was going to win my core audience back. – A monster underground local hit that they could play in any dancehall.

Normally there are three ways to do that: a gun tune, a dance tune, or a girl tune. Well, I don’t do gun tunes, you don’t want to see me dance, and a girl tune



“You have to reinvent yourself.”

wouldn’t be reinventing myself. So I needed a subject that they could all relate to – young or old, straight or gay, uptown or downtown. I looked around and I saw the church. And that was the birth of the idea. And that gave us that great cathedral sound of the chorus – then the rest, the funny lyrics, and the video and bringing in *Ninja Man*, it just came. So the idea, something that you know that is going to touch people, kind of transcends into this huge success of a song.

What does copyright mean to you as a working musician?

For me copyright law in Jamaica is extremely important. I mean, it is what you could call our “pension,” which is what we have been lacking within the reggae fraternity, in my opinion.

You know, the first time that a copyright law was implemented in Jamaica was around 1993. For an island that survives off its music and its culture, it should have been long before. When I look at so many great artists from Jamaica whose recordings are owned by other people, and probably licensed out by other people, and they get nothing for it, well that saddens me. For the government to set in place certain laws that protect these artists and create our pension – that’s the best we could ask for.

What, for you, has been the impact of illegal downloading?

We all are affected by illegal downloading. With technology, music is free. That is the harsh reality of it. But what download does do, is it makes it better for the consumer. I mean, how many times have you bought



Photo: Jonathan Mannion



Shaggy – introduced by Jamaica’s Minister of Culture, Olivia Grange, as a highly professional artist “who is very special to us in Jamaica.”

an album for one song and then when you listen to the rest of the album you hate it? With downloading you could listen before you buy it – it’s a dream for a consumer.

How about the effect on the artist when people download for free instead of buying the records?

If you’re an artist that makes great records, you’re still going to make great records. You won’t make a lot of money from them, but you can have a career. One thing you cannot take away is the live performance aspect. So it can actually force the artist not to just be a studio artist, but to be an incredible live artist – to up the notch. The biggest losers are the record companies.

Though lower record sales also mean less money to invest in new artists?

You can’t blame that all on downloading. It started a long time ago – when the corporations started owning the record labels. There are no labels owned by music moguls now – no Chris Blackwells.² Remember, Chris Blackwell believed enough in Bob Marley to stick with him until he had a hit – that was only after seven albums! It would be hard to sell that now to a bunch of accountants on a company board.

2. Chris Blackwell, who founded Island Records in 1959, is largely credited with bringing reggae to international audiences. He signed Bob Marley in 1971.

You were suggesting that artists have to find a new approach? To stop thinking mainly in terms of record sales?

If you have a ton of hits you’re somebody – even if you didn’t get paid for them. You’re a brand, a force to be reckoned with. That is worth something. People were surprised when Prince gave away a million records through a newspaper. He knew why he did it. That and 21 nights in England – all sold out. He is using the record as a promotional tool, promoting his “brand.” Madonna is doing the same. Robbie Williams is doing the same. We’ve seen a lot more artists who are using the music as a marketing tool.

I think more artists are going to be moving, like Beyonce, from not just being artists but being celebrities. It is depressing to think that you can’t just make a great composition and that be it. Unless you make that hit work for you – make some deals that can sell sneakers, cologne, clothing lines, whatever else – then that record isn’t going to make a big profit for you because the profit margin is just so diluted at this point.

That works if you’re already successful. But what about the kind of hurdles faced by new talent?

As a young artist you don’t have much of a choice. You’re nobody if you have no hits. That’s just how it is! First, you have to get so as you are in a bargaining position. So the main thing for a young artist right now is to somehow get their name out there, become a household name, because you have nothing to lose, so ride the wave, get to a point where you can then make some choices.

WIPO International Conference on IP and the Creative Industries

Shaggy was among 20 guest speakers at the WIPO conference on October 29 to 30, who presented wide-ranging perspectives on the role of IP in the creative industries.

Following key-note statements by the ministers of culture from Jamaica, Lebanon and Nigeria, speakers addressed topics such as: the evolution of the creative industries in the digital environment, including protecting online content and collective management; best practices in the use of IP by innovative businesses in the music, book, film and online games industries; and measurement issues, including cultural economics as a tool for analysis, the creativity index and WIPO’s experience in assessing the economic contribution of the creative industries.

For the program and speaker presentations see: www.wipo.int/meetings/en/2007/ip_ind_ge/program.html

SECOND LIFE -

Brand Promotion and Unauthorized Trademark Use in Virtual Worlds

Intellectual property (IP) is the basis for the creation and protection of rights in online gaming. But the creators of virtual worlds, such as Second Life, also recognize the new IP developed by the players who interact and evolve in the worlds they have created. This has become the basis for buying and selling creations in such worlds, and has made millionaires in the real world. This article* discusses the use of trademark rights in Second Life, where IP is a cornerstone for in-world trade. The article was adapted with permission from the INTA Bulletin, (Copyright © 2007 the International Trademark Association).

An entirely new world is emerging as a hotbed for brand promotion as well as possible trademark infringement – the world of virtual reality. The popular press reports with increasing frequency about business activities taking place in virtual worlds. Gartner, Inc., an information technology research and advisory company, predicted in a recent report that by the end of 2011, 80 percent of active Internet users will have some sort of presence in a virtual world. One of the most popular virtual worlds at present is Second Life®, an online economy that is growing at a rate of more than 25 percent per month. Second Life is often described as a massive multiplayer online role-playing game (MMORPG, pronounced mor' peg), but it is certainly not a traditional computer game.

Linden Lab, the San Francisco, California-based company that owns and operates Second Life, describes it as a "3D online world with a rapidly growing population from more than 100 countries around the globe, in which the residents themselves create and build the world, which includes homes, vehicles, nightclubs, stores, landscapes, clothing and games." These residents are online personas, called avatars, created by their users. The strong identification of users with their avatars, together with the ability to create and build virtual businesses that participate in a very real economy, is beginning to capture the attention of major brand owners. This environment offers a new means of brand promotion as well as a new platform for creating and using intellectual property rights and, consequently, for possible infringements of intellectual property rights, including trademark infringements.

Opportunities and challenges

Linden Lab responds to allegations of copyright infringement in accordance with the process and procedures of the U.S. Digital Millennium Copyright Act. The stated Second Life policy on trademarked mate-

"You retain copyright and other IP rights with respect to content you create in Second Life."

Second Life, Terms of Service, 3.2

rial states that "Linden staff generally removes content that uses trademarks without apparent authorization, with or without giving notice to the object's owner... Any resident may file an abuse report if they see any other resident making unauthorized use of trademarked material in Second Life." Since there is no case law on point, it is unsettled whether use of a real world trademark by an avatar in a virtual world constitutes trademark use, which is a necessary element of trademark infringement.

Photo: Second Life



The strong identification of users with their online avatars has captured the attention of big brand owners.

Trademark owners should be aware of the opportunities and challenges to their brand in virtual worlds like Second Life. Some brand owners have established an online presence by building retail stores in Second Life to sell products in the real world. All of the attendant concerns of brand reputation and disparagement are present in this new medium, just as they are in the real world. There have been instances of counterfeiting and allegations of copyright infringement for misappropriation of others' property created and used in virtual worlds. With over 11.5 million transactions reported in recent months, if only one percent of the transactions involves unli-



“Any resident may file an abuse report if they see any other resident making unauthorized use of trademarked material in Second Life.”

The average user is online between 20 to 40 hours a week.



Photo: Second Life

censed trademarks, that translates to 115,000 actionable cases of infringement in only one month and more than 1.4 million infringements per year.

Assessing the potential of Second Life as a marketing tool is of fundamental importance to brand owners. Because the average age of the virtual world participants is 32 and the ratio of men to women is roughly 1:1, it has become an ideal place for companies to consider marketing their goods to an older and wealthier demographic. This is especially so considering the site's incredible growth rate. It's no wonder that companies like Toyota, Dell and Reebok have decided to expand into the "digital marketplace" by opening their own online stores and choosing to make use of the site for advertising purposes.

“You will comply with the processes of the Digital Millennium Copyright Act regarding copyright infringement claims covered under such Act.”

Second Life,
Terms of Service,
4.3

Created in 2003, Second Life is reported to have more than 9 million registered persons (persons can create more than one avatar) and an active community of 600,000 residents who participate regularly. More than half of Second Life users live in Europe; another third are from the United States. The average user is online between 20 and 40 hours a week. As a testament to the rapid growth in popularity of Second Life, Time magazine included Second Life creator Phillip Rosendale in this year's list of the world's 100 most influential people, and media organizations such as Reuters have stationed reporters in Second Life.

The German state of Baden Württemberg has a representation in Second Life and has been joined by embassies from the Maldives and Sweden. Second Life is home to a virtual business incubator, known as Nonprofit Commons, for 30 nonprofits, and the Linden Bar Association, with, at last count, 30 real-life attorneys. The American Cancer Society established a virtual Relay for Life fundraiser that raised US\$82,000 in the months prior to the virtual event.

Trading virtual IP

Second Life is different from other MMORPGs in two important ways. First, the Terms of Service of Second Life permit the creators of virtual property to own property they create. Specifically, the Terms of Service state: "you retain copyright and other IP rights with respect to content you create in Second Life, to the extent that you have such rights under applicable law." Because Second Life allows residents to retain the rights in their online creations, they are increasingly creating digital objects and inventory to sell to other users for use by their avatars.

Second, the economy of Second Life is driven by an in-world currency, the Linden Dollar, which is exchangeable on the Linden Currency Exchange (known as the LindeX) at the current rate of approximately 270 Linden Dollars per U.S. dollar. There are at least three other currency exchanges that exchange Linden Dollars for real-world currency. Residents collect Linden Dollars by selling digital creations or virtual real estate to other residents and then convert the Linden Dollars to currency.

Rosendale stated at the August 1, 2007, *AlwaysOn* technology conference that 830 residents make more than US\$1,000 a month in Second Life. Some residents' Second Life business activities have been successful enough to replace their real-life income. The virtual real estate market in Second Life and other MMORPGs has created a market with a collective value estimated to be in the hundreds of millions of U.S. dollars, and the economy in Second Life is 100 percent larger than it was six months ago. *Time magazine* reported that US\$6.8 million changed hands in June 2007 on LindeX and that U.S. Congress is looking into whether to tax this commerce. Companies whose entire business is building virtual property in virtual worlds have been created.

Courtesy of Dell



Dell Computers has established a factory and virtual store in Second Life.

The Virtual Economy

Ailin Graef's avatar, Anshe Chung, cost her an initial investment of just US\$9.95 to set up her Second Life account, but has made her a real life millionaire. Anshe bought Second Life real estate, which she subdivided, developed and landscaped with panache, and put up for rent and resale. Other avatars bought into the lifestyle Anshe created. Two and half years later, Anshe is a virtual real estate mogul with projects that vie with large scale real world models.

Anshe Chung is not the only virtual resident earning a comfortable living for her owner. More and more subscribers are making Second Life their place of business. As of April 2007, economic activity on Second Life averaged over US\$1.5 million per day. Items available for sale include clothing, avatar hair and skin texture, vehicles, furniture and, of course, homes – most sold using in-world brands. As financial and physical barriers to entry are non-existent, the only parameters for success are design quality and brand reputation. Anyone can compete with the biggest, most successful and luxurious real world brands that have in-world presence.

But there are threats to the virtual market place. At the end of 2006, CopyBot, a program put up for sale by the avatar Prim Revolution, caused an uproar among Second Life residents. CopyBot can clone any virtual good without paying for it – threatening the in-world economy and real world revenues. Linden Labs has banned the program and residents can file an Abuse Report and a complaint for infringement under the DMCA, but it is a difficult process.

Ailin Graef's revenues, however, may be safe. She created a real-life spin off corporation, based in China, called Anshe Chung Studios. The company develops immersive 3D environments for applications ranging from education to business conferencing and product prototyping.

* This article was adapted by the WIPO Magazine from an article which first appeared in the *INTA Bulletin*, Vol. 62, No. 17 – September 15, 2007, written by: **Susan D. Rector**, Schottenstein Zox & Dunn Co., Columbus, Ohio, USA; **Peter Giddens**, Lang Michener LLP, Toronto, Ontario, Canada; **Ron Klagsbald**, Price-Klagsbald Law Offices, Ramat-Gan, Israel; **Dinisa Hardley Folmar**, The Coca-Cola Company, Atlanta, Georgia, USA, **Thomas LaPerle**, Apple Inc., Cupertino, California, USA, **Ellen Shankman**, Ellen Shankman & Associates, Rehovot, Israel.

Policing infringement

Second Life's creation ownership policy and its in-world currency exchangeable for real-world money have stimulated a real consumer economy in the virtual world; however, that economy has predictably given rise to many instances of IP infringement. Avatars can, for example, purchase from "enterprising" residents virtual NIKE shoes bearing the distinctive Swoosh Design or virtual IPOD music players loaded with the latest hits, notwithstanding that Nike, Apple and the recording artists may not have consented to the creation and sale of the virtual property exploiting their trademarks, copyright, designs and other valuable intellectual property.

This activity is prohibited by Second Life's Terms of Service; however, as in the real world, policing infringement most often falls to the right holder.

Although many IP owners appear to be taking a wait and see approach in these early days of Second Life's popularity, brand owners should be aware of both the marketing potential and the possibilities of infringement that Second Life presents. And at least one real-world lawsuit has been initiated: Eros, LLC alleges copyright infringement, trademark infringement and misrepresentation for unauthorized reproduction and sale of a virtual adult-themed bed.

CULTURE SHOCK

Comparing Consumer Attitudes to Counterfeiting

Counterfeit in the fashion industry is rife the world over. Industry associations and governments spend millions on campaigns to deter consumers from buying fakes. But a message which works in one part of the world may fall flat elsewhere. Understanding consumer attitudes and cultural influences is critical to developing an effective campaign. Journalist **JO BOWMAN** has worked with market researchers in Hong Kong and in Italy in surveying consumer attitudes. In this article, she takes a look at contrasting attitudes in these two very different cultures, and the implications for developing effective messages.

Take two identical Louis Vuitton bags. Both are counterfeit, and both were picked up by fashion-savvy shoppers out for a bargain. Yet for the buyer of one of them, their designer fake is a badge of honour; for the other it's a tightly held secret.

What's the difference? One was bought in Italy, where looking good is *numero uno* and breaking the rules is often seen as harmless fun. The other in Hong Kong, where consumerism and Confucianism fuel a desire for luxury goods which bring their owners dignity and respect.

Photo: J. Bowman



Peddlers of fake designer bags appeal to bargain hunters in the stylish shopping streets of Venice.

Stereotypes certainly. But which reflect two very different markets, and two very different consumer mindsets to work with if you're trying to determine what sort of message would convince one or other of them not to buy fakes.

Shopping "smart"

In Italy, home of countless world-leading luxury design houses, fashion is a mainstay of the national economy – and a way of life.

"Fashion is very, very important to Italians," says designer Gabriella Tinelli from Milan. "It's in our blood to want to look good." The traditional evening *passage*

giata down the main street of even the smallest of Italian towns is all about dressing to impress; throwing on an old tracksuit to drop the kids at school is a definite no-no.

What consumers are prepared to pay to look stylish is another matter, complicated by the notion of being *furbo*, or cunning, an attribute that is admired. A perceived bargain, therefore, is a magnet for "smart" shoppers, hence the brisk trade for beach-side peddlers of copycat bags and belts.

So how do you deter the bargain hunters? Buyers of counterfeit goods in Italy are liable for a fine of up to Euro10,000. But no-one believes they will ever face it. Nor do messages that counterfeit is a crime hold much sway. For many Italians – as for other Europeans – buying a fake is seen as providing the same "harmless" kick as speeding or under-declaring on a tax return.

"We park where there are 'No Parking' signs," Silvio Paschi, secretary-general of the Italian anti-counterfeit trade association Indicam, says of his countrymen. No one wants to buy what they think is the real thing and discover it's a fake. But knowingly buying a cut-price designer knock-off can make people feel clever. "They know the quality is poorer, but it's a way of pretending. That's not particularly different from other parts of Western Europe."

Price is only part of it. A Prada spokesman says while some people buy fakes simply because they can't afford the originals, in Italy it's also seen as fun. "You're on the beach, bored, and here comes a guy with a fake Rolex. You bargain a bit and it's a game," he says. "You go home and say 'look at my new E30 Rolex'. There's a playfulness about it." Sometimes the well-heeled will even mix in a fake with their originals for a laugh.

Re-educating consumers, so that such playfulness is outweighed by an awareness of economic consequences, is no small challenge. The Italian Govern-

ment has appointed a High Commissioner for Anti-Counterfeiting and has been strengthening the laws protecting IP. Laurent Manderieux, IP law professor at Milan's Bocconi University, says the police, customs and IP offices have been doing a "remarkable" job to counter the industry in fakes.

Losing face

In Hong Kong, meanwhile, big-name European luxury brands are similarly sought after. The city is known for having the highest *per capita* consumption of Rolls Royces and cognac. Former Chinese leader Deng Xiaoping said famously that "to get rich is glorious," and while Hong Kong was only reunited with the mainland 10 years ago, its people have always taken this message to heart. Displaying the trappings of wealth is to win the approval of the community.

"It ties in with conformity and conspicuous consumption," says Gerard P. Prendergast, Professor of Marketing at Hong Kong Baptist University and author of numerous research studies into consumer attitudes and anti-counterfeit campaigns. "It's the desire to be seen with the right brand, and the right brand is the one that others have."

There's also pride in being smart with money, so a bargain appeals here as much as anywhere. What's different is that no-one wants to be found out – not for fear of the law – in fact, there is no penalty for individuals buying counterfeit goods – but for fear of losing face.

"In Hong Kong people show their success by showing they can buy Mercedes cars and Louis Vuitton bags ... and if you're found to be faking your sign of success, you're not successful," says Doris Wong, Hong Kong Director of market research company, Synovate.

It is not a problem of awareness. Public opinion surveys conducted by the Intellectual Property Department of the Government of the Hong Kong Special Administrative Region show that 95 percent of people believe it is necessary to protect IP rights. Yet almost half of them at least occasionally buy pirated or counterfeit goods.

What's revealing is that nearly three-quarters of the people buying fakes tend to buy CDs, DVDs and software – things that no one else will see. Only 12 percent say they buy counterfeit clothes and accessories, and less than 1 percent a replica watch.

Ben Houston, Deputy Trade Marks Manager at Manchester United football club in the U.K., says that fakes seem to be less in demand in the more developed Asian economies. The club seized more



Fashion police. Hong Kong's custom officers search for fake brands.

than £500,000 (US\$ 1 million) worth of counterfeit ManU replica shirts and other merchandise during the team's tour of Asia this summer; only about 4 percent of that was from Hong Kong.

"In Hong Kong there's kudos associated with having something authentic that's come from the club itself," he says. "These fans are thousands of miles away from us but this allows them to have something that's close to the club they support, and they're extremely passionate about the club."

Tailoring messages

The importance of face is used in Hong Kong's anti-counterfeit campaigns. "People buy fashion and accessories because of peer pressure, so that's a good tool to use in the other direction," says Stephen Selby, Hong Kong's director of IP. "We say 'You are what you wear'; if you wear fake clothes you're a fake person."

Campaigns also appeal to the importance of family in Chinese culture. "People can be sold all sorts of things on the basis that it's good for their children," says Mr. Selby. "We say, Hong Kong is a creative centre and their kids could be working in creative industries in the future. And we could say 'the people who gain from selling counterfeits could be using that money to peddle drugs to your children.'"

In Italy, says Silvio Paschi, messages intended to scare or shame just don't work. Instead, "the focus is on public education, saying 'you're ruining the Italian economy and supporting crime'."

Changing consumers' minds, Mr. Paschi believes, takes more carrot than stick. "They can listen to the slogan and repeat it, but in the end either you scare them or you educate them. People don't really know about how the economy works; it is very possible to educate them, but it's a very long exercise."

HOLDING THE LANDLORD LIABLE

New Tools for the Counterfeit Crackdown in China

Groundbreaking decisions issued by courts in Beijing over the past two years, which have been hailed by the Supreme Peoples' Court as among the Top Ten IP cases of 2006, point to new strategies for tackling the problems of counterfeiting in China's retail and wholesale markets. The cases, involving leading fashion brands, confirm the right of trademark owners to pursue civil and administrative liability against the landlords of street markets who provide premises to vendors known to be dealing in counterfeits. In this article for WIPO Magazine, **JOSEPH SIMONE**, a partner with Baker & McKenzie, which assisted the fashion brands, explains the decisions and outlines related developments.



Photo: WIPO/EM
Tourists flock to Beijing's Silk Market each day in search of bargains.

Brand owners in the fashion and clothing industries have for many years been concerned that standard approaches to combating anti-counterfeiting in Chinese markets have not been sufficient in deterring further violations. Working closely with the Chinese authorities, a group of luxury brand owners in the fashion industry have adopted new strategies which aim to encourage landlords to become partners in anti-counterfeiting work, or else risk civil actions for contributory liability.

Litigation

Trademark legislation in China – and indeed all countries – does not specify the conditions under which landlords may be held liable for contributory infringement. It has therefore been up to the courts to do so.

The first round of test cases in China was filed in September 2005 by the brand owners of Burberry, Chanel, Gucci, Louis Vuitton and Prada against the landlord of the Xiushui Market – also known as the "Silk Market" – together with five individual vendors. Each of these vendors had been identified as selling the plaintiffs' brands on at least two occasions. The plaintiffs issued warning letters to the landlord seeking assistance in stopping the infringements. The landlord had ignored the letters.

The decisions of the Beijing No. 2 Intermediate People's Court in these cases confirmed that, after receiving notice of violations by particular vendors, the landlord must take prompt and effective measures to stop the infringements. The court also ruled that the landlord and vendors should be jointly and severally liable to pay compensation for losses, plus enforcement costs, totalling around US\$2,500.

The landlord appealed. But in final decisions issued in April 2006 the Beijing Higher People's Court rejected the appeals. In April 2007, the Supreme People's Court (SPC) recognized the case as among the "Top Ten" of all IP cases decided in China during the previous year.¹

While these civil actions were taking place, the Beijing Municipal Administration for Industry and Commerce (AIC) also began to encourage district-level administrations to impose fines against landlords. The first such decisions were issued in Xicheng District in March 2005, and decisions against several other markets have followed. The Silk Market itself was fined by the Chaoyang District AIC in April 2006. Following two appeals filed by the landlord, a final decision issued by the Beijing No. 2 Intermediate Court in December 2006 upheld the AIC's penalty.

Building on the court decisions, the Chaoyang District AIC also sought to regulate the use of trademarks in local markets by issuing regulations in early 2006 to clarify the landlord's responsibility to control counterfeiting. The Chaoyang rules specifically require landlords to monitor which brands vendors are using, require vendors to obtain authorization to use the brands from the trademark owner or its authorized distributor, or failing that, require vendors to maintain written records indicating the source of their goods.

1. www.court.gov.cn/news/bulletin/release/200704260020.htm
 (announcement in Chinese only)

Dialogue

Luxury brand owners and industry associations had since 2004 been discussing with the Beijing municipal government possible measures to combat the problems of counterfeiting in the fashion, jewellery, footwear, and apparel markets in Beijing. The dialogue resulted in the Beijing AIC introducing several new measures during 2004 and 2005.

First, notices were issued to all major fashion markets in the city, putting vendors and landlords on notice that counterfeit sales of 48 brands would be prohibited. The AIC also announced significantly higher fines for vendors who were second offenders. Pressure from these measures led the landlords in several markets, including the Silk Market, to begin actively monitoring the sale of fakes and to deal more sternly with infringers. Landlords reported having suspended or terminated the leases of hundreds of outlets found selling the 48 protected brands.

These positive developments encouraged the original five brand owners to create a coalition with 23 other major apparel brands in order to engage in more cost-effective enforcement work. The Beijing mayor's office encouraged the coalition to liaise with the Beijing Intellectual Property Office to co-ordinate government enforcement efforts aimed at targeting problem markets.

Landlord partnership

The main goal of the brand coalition has been to establish a co-operative working relationship with landlords as they go about policing their markets. Key to this is a proposed "two-strike" rule for lease agreements, under which landlords would have the explicit right to suspend the operations of an outlet after a first offence and to terminate the lease after a second offence.

Landlords of three Beijing markets, including the Silk Market and the Hongqiao Market, agreed in June 2006 to adopt the two-strike rule, to respond quickly to information supplied by intellectual property owners, and to monitor their markets proactively for violations. This has been relatively successful in the Hongqiao market. In the Silk Market,



Photo: WIPO/EIM

A "two-strike" rule, under which landlords have the right to terminate a vendor's lease after a second offence, has had success in the Hongqiao (Pearl) Market.



Photo: Feng Chao

China's Supreme People's Court included the test case against the landlord of the Silk Market (above) among its 2006 top ten IP cases.

however, an industry survey conducted in February 2007 still revealed infringements of over 130 well-known brands by two-thirds of the outlets.

Criminal enforcement

The coalition has begun expanding the program to Shanghai, Shenzhen and Guangzhou, with some results so far. But the experience with the Silk Market demonstrates the continuing limitations of existing civil and administrative enforcement tools in deterring counterfeiting without the police resources needed for criminal enforcement.

Aside from the difficulties of bringing criminal actions against the smaller-scale and more clever vendors of fakes under the current legal requirements, criminal actions against landlords present even greater difficulties. Some experts argue that criminal action can be justified only if there is evidence that a landlord has actively conspired with infringing vendors in promoting trade in counterfeits. Proving this to the satisfaction of prosecutors and judges would require evidence that could best be gathered by local police, rather than private investigators hired by trademark owners.

Notwithstanding the challenges, there is little doubt that the national and local governments are committed to solving anti-counterfeiting problems in the longer term. In the meantime, IP owners, encouraged by the progress to date, are continuing their constructive engagement with the authorities and with landlords in order to expand on the positive momentum generated in the last few years.

HEALTH RESEARCH IN AFRICA

Sharing IP Resources to Deliver Results

In September 2004, WIPO announced the launch of an innovative interdisciplinary project in six countries of the Central Africa Economic and Monetary Community (CEMAC) and in Colombia. The project aimed to develop a sustainable model to support health research institutions in developing countries in protecting and commercializing their research results. Three years on, Rwandan science journalist, **AIMABLE TWAHIRWA**,¹ spoke to some of the scientists involved in coordinating the project in Cameroon and Gabon. He filed this report for WIPO Magazine.

"The move came after the observation that research institutions in most sub-Saharan countries took no – or little – consideration of intellectual property (IP) in their scientific research processes," said Dr. Alphonse Emadak, head of the inorganic chemistry department at Yaoundé University in Cameroon.

As a consequence of not using the IP system, Dr. Emadak explained, developing country researchers did not "own" the results of their research, and were unable to benefit from their commercial exploitation. High quality results generated by African research institutions, he said, were siphoned off into developed countries, with practically no "feedback" and no income generated by the research.

In order to survive, research institutions needed to be able to adapt to the newly emerging environment, characterized by Dr. Emadak as liberalization at the national level, and globalization at the international stage.

Networks and hubs

The WIPO project, funded by the Geneva International Academic Network (GIAN) and other organizations, developed a model to address the lack of IP-related capacity in these countries. It was based on creating networks of R&D institutions supported by shared "hubs" of IP services. By pooling resources and using economies of scale, costs could be kept affordable.

As a result, 22 health research institutions in Cameroon, Gabon, Republic of Congo, Chad, Gabon and Equatorial Guinea established a set of common policies to enable them to share IP services and to become an R&D network. A parallel project was also set up in Colombia in Latin America.

"Through this R&D network, central African institutions participating in this initiative are now sharing

resources to process patent applications and commercialize research results," Dr Emadak said.

The project includes four main phases. It began with audits of the situation and needs in the participating institutions. In the second phase WIPO developed and provided training to key staff in the institutions, covering patent drafting; technology transfer and licensing; and health research management and marketing. In the third phase the networks and IP hubs came into operation. The fourth phase will be the evaluation of the project and a strategy to ensure sustainability.

Not all was plain sailing, however. Dr. Mesmin Ndong Biyo'o, a researcher from the genetically modified organisms laboratory at the National Research Institute on Agro-forestry (IRAF – CENAREST) in Libreville, Gabon, is one of the three IP hub "agents," together with Dr. Emadak. During the ten months since the shared hub began operating, he said, it had not been easy to convince other researchers from central African nations about the importance of protecting their research results. Many researchers had no idea about IP when the project was launched, and for most researchers success was measured not in patents but in the number of scientific papers published. The project, Dr. Biyo'o explained, was now encouraging researchers to protect their research results first before publishing.

Despite the difficulties, the hub, known as SECOVIPI (*Service commun virtuel en propriété intellectuelle – Virtual Shared IP Service*) has been up and running since January. Among the services it offers are advice on which research results could be patentable, support in drafting and filing patents, advice on negotiating licensing agreements, and on how to use IP to market health research. WIPO describes the full range of services envisaged as also including support to encourage public-private partnerships; marketing the R&D network and its IP assets; and negotiating funding.

1. Aimable Twahirwa is also a participant in the peer-to-peer mentoring scheme of the International Federation of Science Journalist (WFSJ).

Gabon – First patents filed

Photo: Dr. Mesmin Ndong Biyo'o



Mme Lyne Mengome of the Institute of Pharmacology and Traditional Medicine, whose research led to the first patent filing through the IP hub in Gabon.

Already, there have been results. In July this year Gabon's Institute of Pharmacology and Traditional Medicine (IPHAMETRA) used the IP hub to file patents on cancer-fighting extracts and compounds derived from vegetables such as onion, pepper and tomato. Four more patent applications are expected to be filed by institutes in the region in the near future.

In Cameroon, researchers are, for example, testing an ointment, based on extracts from the bark of a local plant which is known in Cameroon traditional medicine to heal burn wounds very rapidly. They are also developing a product which can be used

externally on the skin as an antiseptic or swallowed to cure stomach wounds.

Dr. Biyo'o is convinced that this is the way forward for African research institutes. "The utilization of research products [with the added] value of intellectual property is the only way to ensure ... that the sector can really contribute to the development of African states," he said.

Dr. Emadak agrees: "It is encouraging to see that researchers from Cameroon and other developing country institutions can get their right to protect, own and exploit their research results using the IP system."

There is still a long way to go. Dr. Emadak notes that the IP hub has yet to deliver the full range of services for the whole CEMAC region, especially in terms of licensing and commercialization. "We hope that will be achieved if the project is extended," he said.

Meanwhile, the needs remain acute. Millions of people in developing countries continue to suffer from malaria, tuberculosis, sleeping sickness, sickle cell anemia, ebola and other tropical diseases. Affordable therapies based on research by developing country institutions are not reaching enough of the people who need them. Health research management, marketing, economics, law and policy must all come together if realistic models are to be sustained.

The Research Ownership-Exploitation (ROE) Challenge

The *ROE* Challenge is caused by three interrelated factors:

- Many R&D institutions in developing countries lack the awareness, resources and access to professional services required to protect their ownership of their research results as IP, or to exploit these as economic assets.
- They also lack IP policies to address such issues as ownership of research results, public-private partnerships, IP clauses in sponsored research projects, invention disclosure and economic incentives for researchers.
- Under-investment in R&D impacts negatively on levels of research output, making it difficult in turn to attract and retain research talent.

As a consequence, these health research institutions have limited ability to exploit their research results commercially; there is little economic return on R&D investment; and governments may be discouraged from investing in research to solve pressing health problems.

It would be misleading to suggest that a university could generate sufficient revenue streams from its IP to finance its research programs sustainably – or that this could be a substitute for adequate public funding. But the WIPO-GIAN Networks and Hubs model directly addresses some of the key elements of the ROE challenge. It boosts the capacity of developing country research institutions to benefit from the global environment, and enables them to establish fair legal frameworks with institutions in industrialized countries.

Since the launch of the WIPO project in central Africa and Colombia, more than 1,600 scientists and university managers have attended introductory workshops on IP; over 130 scientists, lawyers and managers of research institutions have received practical training in IP skills; three patents have been filed and six more are being drafted. A full evaluation study of the project will shortly be published by WIPO.

WIPO AWARD WINNERS

The WIPO Awards Program continues to grow and to highlight special groups of inventors and creators, such as young people, women and the disabled, with the objective of demonstrating the inclusiveness of innovation and creativity. Many of these events receive broad press coverage, helping to promote innovators and bring them recognition. The WIPO Magazine takes this opportunity to highlight a few of the events that took place in September and October.

ARGENTINA



13-year old Alex was named Argentina's Best Inventor of 2007.

In September the Biro Foundation prize for Argentina's Best Inventor of 2007 went to 13-year old Alex Pacagnini. "Despite his age, he has a very good track record and is very prolific," said the judges. His many inventions include a pocket heater, a container for dispensing mayonnaise and mustard on hamburgers, an organic gas generator and improvements to oscilloscopes that measure variations in tension on the screen of a cathode ray tube. The 13-year old also received a WIPO gold medal for Best Young Inventor of the year. Alex started participating in the Inventors' Forum five years ago, at the age of eight.

The third National Competition for Innovative Products, INNOVAR, held in Buenos Aires in October, attracted hundreds of entries in the four competition categories: innovative product, industrial design, applied research and agro-innovation. A WIPO Medal for the best overall project went to Messrs. Gabriel Bilmes and Oscar Eduardo Martínez, co-inventors of a laser device that measures the cleanliness of any surface.

The list below includes all the winners from July to October 2007 to the extent that the names were made available to WIPO before this issue of the Magazine went into print. We congratulate the winners and wish them continued success.

AZERBAIJAN

In cooperation with the Heydar Aliyev Foundation and the Ministry of Labor and Social protection of Population of Azerbaijan, WIPO honored the creative and innovative achievements of 15 disabled inven-

tors, innovators and artists at an exceptional ceremony held in Baku, Azerbaijan, in October. The event highlighted the fact that intellectual property is an important national asset, and that all members of society should have an equal right and equal opportunities to contribute to the inventive, technological and creative development of their countries, and to have their contributions recognized. Through the awards to these disabled scientists and artists – whose achievements span fields as diverse as poetry, engraving and geophysics – WIPO hopes to further the recognition of inventors, innovators and artists around the world, able-bodied or disabled, regardless of age, gender and nationality.



15 disabled innovators and artists in Azerbaijan won WIPO Awards for achievements spanning poetry and geo-physics.

VIET NAM

Viet Nam's third Nationwide Creativity Competition for Youth, held in September, attracted some 1000 young inventors bursting with ideas. The event, which aims to promote and encourage the inventors of tomorrow, was broadcast live on national television and abroad. The government actively supports the Competition and many government ministers, including Viet Nam's Vice-President, participated in the ceremony. WIPO was pleased to support the event by awarding three WIPO gold medals for Best Young Inventor. ■



Winners of Viet Nam's Nationwide Creativity Competition for Youth.

WIPO Gold Medal for Inventors

ARGENTINA

Inventor's Day (*Escuela Argentina de Inventores, EAI*)

- Alex Pacagnini
- Third Edition Concurso Innovar** (Ministry of Education, Sciences & Technology)
- Messrs. Gabriel Bilmes and Oscar Eduardo Martínez, co-authors on a laser device that measures the cleanliness of any surface

AZERBAIJAN

Special event for inventors with a disability (Institute for Support of Iranian Researchers, Inventors and Innovators)

- Mr. Asadzadeh Azad Ibrahimadjar, for his improvements for the efficient exploitation of oil-gas fields
- Mr. Huseynov Oqtay Jamal, for his outstanding achievements in oil deposit research, earthquake prognosis and geophysical methods
- Mr. Rzayev Salman Qadim, in recognition of his outstanding achievements in physics and mathematics

INDIA

Best Invention for 2006 (National Research and Development Corporation of India)

- Dr. R. P. Verma and his associates, for their novel technological process for the removal of H₂S and mercaptans from LPG through continuous film contactor (CFC)

KOREA (REP OF)

Korea Student Invention Exhibiton (Korean Intellectual Property Office)

- Mrs. Kwon Ye-seul, for her sand filter

ROMANIA

Inventika 2007 (Ministry of Education, Research and Youth)

- Mr. Vergil Gângu, for a trailed fodder

UKRAINE

Inventors and Innovators Day organize (State Department of Intellectual Property)

- Mmes. Lyudmyla Ladygyna and Ganna Pirkova, Best Inventors – Women, co-author of the Method of growing the giant oyster *Crassostrea gigas* in the Black Sea
- Mr. Andriy Khodurs' kyy, Best Young Inventor, for his design for an "Additional side headlight"

VIET NAM

Third Viet Nam Nationwide Creativity Competition for Youth Children (Center for Promotion of Inventions and Innovations)

- Mr. Giang Thien Phu, Best Young Inventor, for his microscope made from a webcam
- Mr. Truong Ngoc Dai, Best Young Inventor, for his Safe Traffic E3s Software
- Ha Hoai Nam, Best Young Inventor, for his Cinnamon Splitting machine

WIPO Creativity Award

AZERBAIJAN

Special event for inventors with a disability (Institute for Support of Iranian Researchers, Inventors and Innovators)

- Mmes. Emirova Aysel Alimirza and Salmanova Samire Ramiz and Mr. Quliyev Rustam Huseyn, each in recognition of their outstanding achievements as artists
- Mrs. Abilova Ganira Nuru, in recognition of her outstanding achievements in carpet-sewing, hand-weaving and sewing

- Messrs. Aliyev Fariz Manaf and Cafarov Ilqar Vaqif, in recognition of his outstanding achievements in engraving on wood

- Mrs. Efendiyeva Tinatin Efendi, in recognition of her outstanding achievements in sewing, engraving and poetry

- Mr. Habibov Etibar Qulam, in recognition of his outstanding achievements in ship modeling

- Mrs. Nasirova Aybeniz Nasir, in recognition of her outstanding achievements in weaving and carpet-weaving

- Mrs. Samedova Ulduz Geray, in recognition of her outstanding achievements in carpet-making

- Mrs. Tagiyeva Metanet Rafiq, in recognition of her outstanding achievements as a composer

- Mr. Huseynov Nijat Zeki, in recognition of his outstanding achievements in house and building models

NICARAGUA

- Mr. Otto de la Rocha, in recognition of his significant contribution as an author

WIPO Trophy (Innovative Enterprise)

UKRAINE

Inventors and Innovators Day (State Department of Intellectual Property)

- Inmasters Ltd.
- Arton Enterprise

More information on the WIPO Awards Program is available at: www.wipo.int/innovation/en/wipo_awards/.

Copies of the free brochure "WIPO Awards Program" (No. 923, available in English, French and Spanish), are available from Publications.Mail@wipo.int

FUNDS IN TRUST - DONOR UPDATES

In the previous edition of the WIPO Magazine, we presented some of the mechanisms through which WIPO is able to mobilize additional resources for technical assistance and capacity-building projects, notably through the voluntary funds-in-trust arrangements with donor countries. The following is an update from two major donors, Italy and France.

New contributions from Italy

Contributions by the Government of Italy in the framework of a recently concluded funds-in-trust (FIT) agreement with WIPO have reached 600,000 Euros.

The most recent contribution of 300,000 Euros was communicated to WIPO in October, and comes from the Directorate General for Development Cooperation at the Ministry for Foreign Affairs. This follows an agreement signed in September by WIPO Director General, Dr. Kamil Idris, and Italy's Deputy Prime Minister and Minister for Foreign Affairs, Mr. Massimo D'Alema, which formalizes Italy's long-standing support for WIPO's activities relating to economic development. It makes Italy one of the largest contributors of extra budgetary resources to WIPO.

The FIT program prioritizes activities which promote:

- the relationship between IP and technological development,
- the development of creative industries,
- the use of IP by small and medium-sized enterprises,

- the protection of geographical indications and industrial designs,
- IP training, and
- the fight against counterfeiting and audiovisual piracy.

While the FIT agreement extends to all developing and transition countries, it places special emphasis on assistance to least developed countries and to countries in the Mediterranean area.

An additional 300,000 Euros contributed earlier in the year in the context of this FIT has helped to finance a post-graduate program in IP, which is run jointly by the WIPO Academy, the University of Turin and the International Training Center of the International Labour Organisation.

France - The first FIT donor

France's National Institute for Industrial Property (INPI) first began contributing to WIPO's FIT programs in 1980, making France the longest established of all WIPO's FIT donor countries. The level of these voluntary contributions has increased from 200,000 to 300,000 Swiss francs per year.

INPI conducts an active bilateral cooperation policy in support of developing and transition countries. The doubling of the overall budget dedicated by INPI to bilateral cooperation between 2004 and 2006 illustrates the high priority accorded to this work. Collaboration with WIPO through the FIT program is an integral part of this broader policy, through which INPI builds on the synergies offered by partnerships pursuing shared development objectives.

Each year, WIPO and INPI establish an action plan for approval by INPI's Director General. This is based on proposals submitted by WIPO's different regional bureaus, and any other proposed activities which may be considered appropriate for financing by the FIT.

As a result of the activities led by WIPO and financed by the French fund in recent years many developing and emerging countries have been able to -

- benefit from the expertise of top IP specialists;
- put in place more efficient procedures;
- to enhance their legislation, including for adapting to the TRIPS Agreement, and
- provide industrial property training for their officials.

France was, for example, the first country to set up training workshops for customs officials in member states of the African Intellectual Property Organization (OAPI) following the Marrakech agreements. And magistrates from Asia, Africa, Latin America and Eastern European countries, have similarly benefited from IP training delivered by French magistrates, enabling participants to share experiences with respect to IP litigation and to discuss problem areas, such as compensation for damages.

Seeking to build further on this success, INPI and WIPO plan to formalize their collaboration in a new agreement, to be signed soon by Dr. Idris and INPI Director General, M. Benoît Battistelli.

IN THE NEWS

Rwanda and Canada First to Use Public Health Measure under WTO TRIPS Agreement

In September, Canada became the first country to use the waiver from the TRIPS Agreement provisions to issue a compulsory license authorizing a company to make a generic version of a patented drug for export. The Canadian government authorized Apotex to export 260,000 packs of Apo-Triavar – enough to treat 21,000 AIDS patients for a year – to be delivered to Rwanda.

TRIPS Agreement provisions allow governments to issue compulsory licenses to manufacture generic versions of patented drugs predominantly for domestic use. However, as many developing countries lack the manufacturing capacity to make their own generic drugs, WTO members decided in August 2003 to create a way to allow countries to issue compulsory licenses to allow the export of generic

version of patented drugs to countries unable to produce them and in turn to allow their import by such countries.

Canada was the first exporting country that transposed the waiver into its national laws, through initial legislation in 2004 and the Canadian Access to Medicine Regime (CAMR) in 2005. However it took another two years to complete the required notifications as well as negotiating with the patent holder before issuing the first compulsory license.

Apotex announced that the drug would initially cost US\$0.405 per tablet, compared to US\$20 per tablet for the brand-name equivalent, and would drop in price further once production of the active pharmaceutical ingredients increased. ■

Introducing the Cat Magnet



Courtesy of USPTO

And the winner is... the United States Patent and Trademark Office (USPTO) for *The Cat Magnet*. Some mistake surely? No. *The Cat Magnet*, a humorous public service film that encourages young people to be inventive and to protect their inventions, won the New York Advertising Week Dove Award at the Advertising Community Together (ACT) Responsible Exhibition in September.

The Cat Magnet is part of the Inspiring Invention publicity campaign launched by the USPTO in April 2007. All the ads feature ingenious inventions by young creators. The inventions are made with everyday objects, and offer solutions to those little challenges which kids face. *The Bandage Puller*, for example, distracts the inventor's younger brother so that he does not notice the pain when a plaster is pulled off his leg.

inventor's younger brother so that he does not notice the pain when a plaster is pulled off his leg.

The USPTO produced the television spot in collaboration with the National Inventors Hall of Fame Foundation and the Advertising Council. The Campaign was created by Publicis and the Hal Riney Advertising Agency. ACT promotes advertising that tackles social and environmental issues. ■ To see the ads visit www.prnewswire.com/mnr/adcouncil/27612/.

Lindt's Chocolate Shape Marks

The Swiss Federal Court ruled in October that the round ball shape of the Lindt & Sprüngli AG's Lindor™ chocolates cannot be granted a three-dimensional (3D) mark. The court decided that marbles, balls and all other round spherical shapes belong to the public domain and thus cannot be granted protection as 3D marks.



Photo: WIPO

Lindt showed the court that the public did identify the shape and packaging with the Lindor chocolate, but the court ruled that this did not remove the requirement that a mark be distinctive. Lindt was successful at proving distinctiveness in an earlier case in June. On that occasion, the court accepted to grant Lindt a 3D >



> mark for their reindeer shaped chocolate.

Last year, Lindt won a suit in the German Federal Supreme Court against the chocolate manufacturer Hans Riegelein & Sohn GmbH & Co KG for marketing a chocolate similar to the Lindt *Goldhase*

(Golden rabbit). The German Court's ruling "that the shape and color must be considered when assessing the similarity of signs because elements of increased distinctiveness have relevant meaning for the overall impression" strengthened the position of 3D mark owners.

The registry of the Office for Harmonisation in the Internal Market shows that of the non-traditional marks – shape (3D), sound, color per se – 3D is the most used. ■

Cracking Ideas

Photo: Gavin Fogge



East Allington Primary School students Ellis Naylor, Emily Baker and Tom Morris with their winning invention, the Waker-Upper.

Mr. Nick Park, the creator of *Wallace & Gromit*, selected the Waker-Upper 3000, designed by nine and ten-year-olds from the East Allington Primary School in

Devon, U.K., as the winner of the 2007 Cracking Ideas project. The Waker-Upper uses a mallet, headphones, a water jet and eyelid openers to keep people awake during boring activities such as homework. Mr. Park said the Waker-Upper triumphed because it tackled a problem faced by all children.

The pupils from East Allington were presented with an original trophy created by Mr. Park's studio, Aardman Animations, at the award ceremony on November 20 and each of the six regional finalists received a laptop computer.

Cracking Ideas uses lesson plans, a nationwide competition, teaching resources and a dedicated website – www.crackingideas.com – to bring innovation into classroom lessons as a part of the national curriculum. Wallace and Gromit are the front characters for the project. Students are encouraged to walk in their footsteps by creating inventions from everyday objects. Cracking Ideas is a project of the UK Intellectual Property Office. ■

Source: UK Intellectual Property Office (www.ipo.gov.uk/press/)

The London Agreement Reducing Translation Costs for Granted European Patents

Translation costs are often estimated to be between 20 to 40 percent of the total cost of filing a patent. The good news for inventors is that post-grant translation costs of European patents will significantly reduce when the London Agreement enters into force in the first half of 2008, following the ratification on September 26 by the French National Assembly.

Contracting States of the European Patent Organisation (EPO) which have a national language in common with one of the EPO official languages (English, French and Spanish), such as Germany or Switzerland, will no longer be entitled to request a translation of European patents for validation in their country. EPO contracting States which do not have a national language in common with one of the EPO official languages will have to choose one official language of the EPO in which European patents have to be filed with their office, but will be entitled to request a translation of the claims into a national language. ■

SME Workshop on IP in the Franchising Sector

Photo: WIPO



At an intensive workshop in Singapore in September, 26 participants from 15 countries in Asia and the Pacific region explored the effective exploitation of intellectual property (IP) rights in the franchising sector for business growth and commercial benefit. The workshop, the first of its kind to be held by WIPO, was organized in cooperation with the Intellectual Property Office of Singapore (IPOS), and was timed to coincide with Franchising Asia 2007, a major regional event also taking place in Singapore.

Franchising is still a relatively new business model for many countries in Asia and the Pacific region, and the wide variety of franchising laws and regulations in the region reflects the lack of common approach and consensus about the best legal framework to support it. The participants reported on the situation in their own countries and on the challenges and opportunities faced by national authorities in promoting the effective use of the IP system by small and medium-sized enterprises (SMEs) in the franchising sector. The meeting resulted in a five-point action plan aimed at improving the franchising environment. This included: developing a legal template or model law on franchising; conducting a feasibility study on the potential of franchising in the region; carrying out capacity-

building programs to develop greater expertise and know-how on franchising; organizing national franchising exhibitions to increase awareness among SMEs; and setting up financial support institutions and infrastructures to facilitate business expansion in franchising.

Following the workshop, WIPO created a web-based discussion group, thus providing a forum for the participants, speakers and organizers to keep in contact and share further views and information. Participants in future events on the same subject will also be invited to join the group in order to expand the membership over time. The workshop also resulted in the production of a guide for SMEs on the effective use of IP in the franchising sector. ■

Traditional Knowledge and IP Take Center Stage in Yemen

African, Asian, Arab and European representatives from 35 countries participated in the WIPO/ISESCO* Inter-Regional Forum on the Protection of Genetic Resources, Traditional Knowledge and Folklore, hosted in Sana'a by the Government of Yemen from November 4 to 6. The Forum addressed four main topics: policy development; legislation; capacity building; and the documentation of traditional knowledge (TK) and traditional cultural expressions. Egypt, India, Peru, Tunisia and Yemen shared their national and regional experiences.

The Yemeni Prime Minister Ali Mujawar stated that inclusion of the national, Islamic and international dimensions in the forum contributed to a serious dialogue. "Culture is the most powerful and important thing that does not succumb to the laws of the market, but which spreads with the surging winds of globalization," said the Prime Minister. He hoped



Courtesy of Yemen Ministry of Culture

the event would lead to a united Arab vision on the protection of traditional knowledge and folklore.

But the road is a long one. WIPO Deputy Director General Francis Gurry commented, "This is not an easy task. WIPO has been working on these issues for more than 10

years and we have not yet reached a quick and satisfactory result for the protection of cultural heritage."

Participants in the event included representatives of the League of Arab States; the Patent Office of the Cooperation Council for the Arab States of the Gulf; the Islamic Center for Trade and Development; and the Research Center for Islamic History, Art and Culture. The Forum adopted an action plan and recommendations encouraging the member states of the Organization of the Islamic Conference to build coherent strategies and establish relevant national policies.

*Islamic Educational Scientific and Cultural Organization

LETTERS AND COMMENT

WIPO Magazine welcomes comments on issues raised in our articles or on other developments in intellectual property. Letters should be sent to The Editor at WipoMagazine@wipo.int or to the postal/fax address on the back cover. Please include your postal address. We regret that it is not possible to publish all the letters we receive. The editor reserves the right to edit or shorten letters. (The author will be consulted if substantial editing is required.)

Geographic certification marks – common misperceptions

*From Amy Cotton,
Attorney-Advisor,
Office of Intellectual
Property Policy and
Enforcement, USPTO.*

As an Attorney-Advisor at the United States Patent and Trademark Office (USPTO), I read with interest your feature on the Ethiopian and Colombian coffee stories (*Making the Origin Count: Two Coffees*, Issue No. 5/2007). In that story, and in press reports surrounding the Ethiopian coffee initiative, I find serious misperceptions of the U.S. certification mark system – even among our own stakeholders. I would like to put the record straight here on some common misperceptions:

- *Anyone meeting the standards can use the mark, so there is less control over a geographic term with certification marks than with trademarks.*

No. It is true that if a producer meets the standards, the certification mark owner cannot refuse to certify that producer's goods. This provides fairness in the system and enables producers throughout the region to benefit. However, just because you think you meet the standards in the registration certificate on the USPTO website, it does not mean you can use the mark. In order to get permission your goods have to go through the owner's certification process, which, depending how this process is set up, is analogous to a licensing situation.

- *Certified parties can register composite marks containing the registered certification mark since the use is 'accurate.'*

No. Once registered, these geographic certification marks are private property rights – they are no longer just descriptive terms. As such, the certification mark owner has the duty to control the use of the term by certified parties so as to preserve the ability of the mark to signify goods meeting certain quality standards or possessing other characteristics. USPTO policy precludes approval of subsequent applications for the same goods for composite marks that contain a registered certification mark without the certification mark owner's consent.

- *Geographic certification marks do not protect against use with "blend," "type," or "style."*

Wrong. A geographic certification mark, if properly controlled down the distribution chain, can provide grounds to foreclose use of the term with "blend," "type" or "style." Any such use by competitors suggests that they are unaware of the certification mark owner's claim of exclusive rights to the mark. This could be caused by (a) a registration that contains additional, non-geographic elements in the mark, making it unclear that the geographic term is the dominant element in the mark and is therefore by itself actionable as to infringing uses; (b) the lack of a certification process with agreements spelling out how the mark may and may not be used; or (c) bad faith. The first two can be addressed by increased communication with certified parties and tighter controls over the use of the mark; the third by cease and desist letters, threats of litigation and, if necessary, legal action.

- *European-style geographical indications (GIs) are better than certification marks.*

If by "better," you mean there is wider protection against any evocation of the mark (potentially even against comparative advertising – in possible conflict with U.S. First Amendment case law), and that there is government enforcement (paid for by the European taxpayer), then yes, Europe offers that. However, after nearly 15 years there are perhaps three foreign GIs protected in the European system. There is little incentive for a European taxpayer to accept financial responsibility for protecting foreign private property rights from use by European industry. And since enforcement is left up to the member states, it is difficult to see how effective it would be for foreign GI holders to rely on purely *ex officio* enforcement efforts, without having to pay for civil litigation. ■



Photo: Patricia Rincón © FNC

TRIPS flexibilities have not yet met development objectives

I found your article, *Flexibilities in the Patent System: WIPO Patent Colloquium* (Issue no. 2/2007), and Professor Zorina Khan's article on *IP Rights and Economic Development* (Issue no. 3/2007), to be very pertinent. I agree with the conclusions reached at the Colloquium with regard to the need to achieve an optimum balance between protecting the rights of IP owners and adopting public policies designed to achieve the development of societies. Nevertheless, I consider that the "marriage of convenience" which should have resulted from the TRIPS Agreement has not been fully realized, inasmuch as the claimed objectives of promoting social well-being and achieving greater technology transfer to developing countries (Articles 7 and 8) have not met expectations. The demands of the Group of Friends of Development within the WIPO Development Agenda are an example of this. It is true that certain developing country economies, such as those cited in the article, have "expanded at a healthy rate," but it is also true that an increase in GDP is not synonymous with development. Mention should also be made of the free trade agreements that the U.S. has signed with different countries – or of investment protection agreements – which contain different standards of protection from those set out in the TRIPS Agreement, and which restrict the flexibilities envisaged in it.

From Orbel Machado González, Lawyer, Office of Industrial Property, Cuba

As Professor Khan said, "The framers of early American patent policy were convinced that individuals responded to incentives." If the incentive of obtaining economic benefit through the grant of exclusive rights in exchange for disclosing their knowledge is attractive for the owners of patent rights, then equally the incentive of achieving greater development for society at the global level should be attractive for states. ■

From Orbel Machado González, Lawyer, Office of Industrial Property, Cuba

Measuring Gross Domestic Innovation

I follow closely the work of WIPO and of the *WIPO Magazine* in promoting creativity and innovation. Humankind has been applying its creative abilities since time immemorial. Man's creativity has brought about major industrial revolutions, resulting in a modern society with advanced amenities. Now, globalization has made innovation all the more important for industrialized countries in light of the explosive growth rates and the growing army of knowledge-based workers in certain developing countries. A new global economy has arrived with a village of workers catering to the service and technological needs of the rich countries. In the foreseeable future, increasing numbers of emerging economies will also be-

come technology savvy, and developed economies will have to engage in even more innovation to adapt to the new reality.

Against this backdrop, a new economic barometer is needed to measure creativity. I propose¹ to call this *Gross Domestic Innovation* (GDI) – defined as the total number of innovations generated by a country in a given period of time. The GDI of a country would quantify innovations in all fields of human endeavor, not only novel scientific efforts, but also, for example, ingenious financial products or any new idea that increases national revenues and employment. The aggregate GDI figures could be derived from sources such as patents, other

registered IP rights, and publications. The collective GDI should help track innovations from different sectors and from individual entities, such as companies or universities – whose contribution to industry and the betterment of mankind are paramount. The correlation of GDI with traditional economic measures like GDP would reveal the positive impact of innovation, would help in the fight against inflation, in the greening of developed economies, and in encouraging businesses to enhance their intrinsic value through innovation.

From Dr. Balkrishna Rao, Research Associate, School of Industrial Engineering, Purdue University, West Lafayette, Indiana, U.S.A.

1. *Economic Recognition of Innovation*, by Balkrishna Rao (<http://mpr.ub.uni-muenchen.de/2781/>)

Calendar of Meetings

NOVEMBER 26 TO 30 ■ GENEVA

■ *Preparatory Working Group of the Committee of Experts of the Nice Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks (Twenty-sixth session)*

The Preparatory Working Group will consider and make recommendations on proposals for changes to the ninth edition of the Nice Classification, which will subsequently be submitted for adoption to the twenty-first session of the Committee of Experts of the Nice Union.

Invitations: As members, the States members of the Preparatory Working Group of the Committee of Experts of the Nice Union; as observers, the States members of the Paris Union, which are not members of the Preparatory Working Group, and certain organizations.

NOVEMBER 26 TO 30 ■ GENEVA

■ *IPC Revision Working Group of the IPC Union (Eighteenth session)*

The Working Group will continue preparation of revision amendments to the eighth edition of the IPC and implementation of results of IPC reform and will complete preparation of IPC training examples. The Working Group will also discuss amendments to the Guide to the IPC and the preparation of the ninth edition of the IPC.

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.

FEBRUARY 4 AND 5, 2008 ■ GENEVA

■ *Workshop on the Use of the IPC*

The Workshop will consider matters related to the implementation of the IPC Reform.

Invitations: Open to interested parties, in particular users and providers of patent information and patent offices.

FEBRUARY 4 TO 8, 2008 ■ GENEVA

■ *Committee of Experts of the IPC Union (Fortieth session)*

The Committee of Experts will consider amendments to the eighth edition of the IPC; will consider the composition of the advanced level subcommittee, will amend the Guide to the IPC and will prepare the publication of the ninth edition of the IPC.

Invitations: As members, the States members of the IPC Union; as observers, the States members of the Paris Union which are not members of the IPC Union and certain organizations.

FEBRUARY 18 TO 22, 2008 ■ GENEVA

■ *Standing Committee on Information Technologies (SCIT) – Standards and Documentation Working Group (SDWG) (Ninth session)*

The Working Group will continue its work in the adoption of new WIPO standards and the revision of existing WIPO standards, as well as in related matters, and will receive reports from the different SDWG task forces that have been established for that purpose.

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

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