



WIPO MAGAZINE

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2



A TALE OF TWO COFFEES

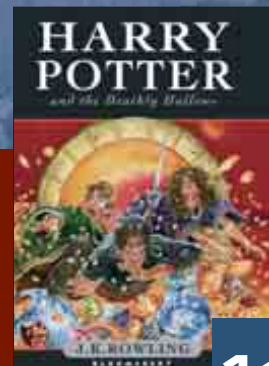
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TELLING THE IP STORY

Outreach
in the Philippines

HARRY POTTER and the IP Bonanza



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Are you involved in outreach? Then we'd like to hear from you.

IP outreach is a challenge for IP offices and industry groups alike. WIPO has developed a range of materials – outreach planning guides on the web, targeted articles in the WIPO Magazine, press releases, publications for young people and SMEs – to assist those involved in IP outreach with their task.

Annexed to this issue of the WIPO Magazine is a survey aimed at improving WIPO's understanding of the outreach needs and capacities of its Member States and stakeholders. The information obtained from this questionnaire will be used to improve the quality and range of WIPO outreach products and activities, and to identify possible opportunities of outreach cooperation between Member States.



If you are involved in IP outreach – or would like to be more involved – we invite you to take a few minutes to complete the questionnaire at www.wipo.int/ip-outreach/en/, or to fill the annexed copy and return it to us by October 21, 2007.

Calendar of Meetings

SEPTEMBER 24 TO OCTOBER 3 ■ GENEVA

■ *Assemblies of the Member States of WIPO (Forty-third Series of Meetings)*

All Bodies of the Assemblies of the Member States of WIPO will meet in their ordinary sessions.

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

OCTOBER 15 ■ GENEVA

■ *Domain Name Panelists' Meeting*

A meeting of WIPO panelists to exchange information on precedents and procedures in WIPO domain name dispute resolution.

Invitations: Restricted to WIPO domain name panelists.

OCTOBER 16 AND 17 ■ GENEVA

■ *WIPO Arbitration Workshop*

An annual event for all persons interested in WIPO arbitration procedures, both as potential arbitrators and as potential party representatives.

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

OCTOBER 18 AND 19 ■ GENEVA

■ *WIPO Advanced Workshop on Domain Name Dispute Resolution: Update on Practices and Precedents*

An event for all persons interested in receiving up-to-date information about the trends in WIPO domain name panel decisions.

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

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MAKING THE ORIGIN COUNT

Two Coffees

Coffee is the second most traded commodity in the world after oil. Altogether, we drink over 400 billion cups each year. To retailers in wealthy countries, coffee means consumers willing to pay US\$4 for a cappuccino. To many farmers in developing countries, it means hard toil to earn less than a dollar a day. Seeking to narrow this gap, growers and governments in coffee producing countries are using a range of intellectual property rights to differentiate their coffee in the market place and so achieve higher returns.

Representatives from two of the world's great coffee-producing nations, Ethiopia and Colombia, told their stories at WIPO's 2007 International Symposium on Geographical Indications in June. In this second article in our series on geographical indications, WIPO Magazine follows their experiences and the different paths they have explored in pursuit of similar goals.

Ethiopia and the Starbucks Story



"People used to ask: Oh, does Ethiopia produce coffee?" Getachew Mengistie outlines Ethiopia's Fine Coffee Trademarking and Licensing Initiative at WIPO's 2007 GI Symposium.

Few readers can have missed the headlines which peppered the international press late last year: "Starbucks in Ethiopia coffee row – U.S. coffee chain is denying Ethiopia earnings of US\$88m a year, according to Oxfam" (*BBC*); "A Hot Cup of Money – Starbucks, Ethiopia, and the Coffee Branding Wars" (*Spiegel online*) and "Storm in a Coffee cup" (*The Economist*). The image of coffees growers from one of the world's poorest countries struggling to defend their interests against the mighty American

chain – whose revenues in 2005 equaled two thirds of Ethiopia's GDP – fired public sympathies and sparked a major lobbying campaign by Oxfam and other development organizations.

But Getachew Mengistie, the dynamic Director General of the Ethiopian Intellectual Property Office (EIPO) offers a more nuanced account than that of the show-down evoked in the press headlines. "It was not a matter of us winning against them, or them against us," he said in an interview on the margins of the WIPO Symposium. "We always stressed that our strategy was intended to allow Ethiopia to work *with* the industry to build the value of these coffee brands. This was in the interests of the farmers, the importers, the coffee roasters, the distributors, as well as the consumers."

The story began in 2004, when the EIPO began working with partners to identify a mechanism which would lead to a greater share for Ethiopia's coffee growers of the high retail prices fetched by their Harrar, Sidamo and Yirgacheffe coffees. Following extensive studies and consultations, a project proposal was developed to capture the intangible value of selected fine coffees. A consortium of stakeholders led by Mr. Mengistie was formed, including representatives of farmers' cooperatives, coffee exporters and government bodies. The key, they agreed, was to achieve wider recognition of the distinctive qualities of these coffees as brands and so position them strategically in the expanding specialty coffee market; while at the same time to protect Ethiopia's ownership of the names so as to prevent their misappropriation. The project secured financial support from the U.K.'s Department for International Development (DFID), technical advice from a Washington-based NGO, Light Years IP, and legal assistance from U.S. law firm, Arnold and Porter.

Sharing a bigger pie

The stakeholders opted for a trademark-based solution. The EIPO began filing applications to register the names Harrar/Harar, Sidamo and Yirgacheffe as trademarks in key market countries. In a novel move, this was to be combined with the offer of royalty-free licenses to foreign coffee companies to create a network of licensed distributors, who, in return would actively promote Harrar, Sidamo and Yirgacheffe to consumers in the specialty coffee market. "The theory is: make the pie bigger. Let the market pay," explained Mr. Mengistie. "Rather than

“Harnessing market forces and allowing poor countries to benefit from IP rights are keys to creating fairer and more equitable trade.”

Raymond C. Offenheiser, president of Oxfam America, which campaigned in support of Ethiopia’s cause.

focusing on short term gain, this way we can enlist the big companies to do what we don’t have the skills or financial means for – that is, building recognition of our brands in international markets and so increasing long term demand for them.”

The first hurdle was the high cost of legal services for foreign trademark registration. (Ethiopia, moreover, is not a member of the Madrid System for the international registration of marks.) This was overcome by support from law firms which agreed to provide their services *pro bono*. From 2005-2007 EIPO filed trademark applications for Harrar, Sidamo and Yirgacheffe in 34 countries, with 28 titles granted by mid 2007, including in Canada, the European Union, Japan and the U.S.

Objections

But in summer 2006 the strategy had threatened to unravel. The U.S. Patent and Trademark Office (USPTO) had approved the application to register Yirgacheffe. But the National Coffee Association (NCA), representing U.S. coffee roasters, objected to the EIPO’s applications to trademark first Harrar, then Sidamo. The grounds for opposition in both cases were that the name had become too generic a description of coffee, and as such was not eligible for registration under U.S. trademark law. The USPTO turned down the application for Harrar in October 2005 and for Sidamo in August 2006.

Starbucks, which was widely held in media reporting to have been a driving force behind the objection, publicly offered to assist the EIPO in setting up a national system of certification marks to enable the farmers to protect and market their coffee as “robust” geographical indications. “These systems are far more effective than registering trademarks for geographically descriptive terms, which is actually contrary to general trademark law and customs,” said the company in a statement. But the EIPO and its advisors disagreed. The designations, they argued, referred not to geographical locations but to distinctive coffee types. Moreover, appropriate intellectual property tools had to be chosen to meet specific needs and situations. “You have to understand the situation in Ethiopia,” Mr. Mengistie explained. “Our coffee is grown on four million very



Some 15 million people in Ethiopia depend on the coffee sector, which generates 60 percent of the country’s export earnings.

small plots of land. Setting up a certification system would have been impracticable and too expensive. Trademarking was more appropriate to our needs. It was a more direct route offering more control.”

Through the impasse

The EIPO filed rebuttals against the USPTO decisions with supporting evidence to demonstrate that the terms Harrar and Sidamo had acquired distinctiveness. Meanwhile, both Starbucks and the Ethiopian government were keen to resolve their differences quickly and find a flexible way forward. Their joint efforts led to an announcement in June that they had reached a mutually satisfactory agreement regarding the distribution, marketing and licensing of Ethiopia’s specialty coffee designations, which provided a framework for cooperation to promote recognition of Harrar, Sidamo and Yirgacheffe. Ethiopia’s ambassador to the U.S., Samuel Assefa praised Starbucks for its corporate citizenship. “This alliance,” he said, “highlights the significance of visionary entrepreneurs in creating space for win-win engagement between [global] corporations and developing countries.”

So what was the solution? In essence, Starbucks agreed to sign voluntary licensing agreements which immediately acknowledge Ethiopia’s ownership of the Harrar, Sidamo and Yirgacheffe names, *regardless* of whether or not a trademark has been granted. Legal commentators have homed in on the use of the term “designation” in the agreement as a means of circumventing the obstacle caused by the status of the Harrar and Sidamo applications. “Yes,” acknowledges Mr. Mengistie, “designation is used here as a broader term than trademark, to encompass some of the trademarks that are still pending registration. It is not related to certification.”



Sweetener

On August 21, the USPTO informed the EIPO that their rebuttal in the case of Harar had been successful. (The Sidamo application is still pending.) And even before its successful resolution, the high profile dispute with Starbucks proved not to be without a sweeter side. The media coverage has

had the effect of greatly increasing public knowledge of, and interest in, Ethiopia's coffees. "Partly because of this recognition, we have begun to see increases in their price," says Mr. Mengistie. "I learned from the coffee farmers' cooperatives and exporters just three months ago that the price of Yirgacheffe had already increased by US\$0.60 cents to US\$2 a pound." ■

Colombia - 50 Years of Evolving Strategies

Colombia's coffee growers have a long history of developing strategies to protect and promote their coffee. Luis Fernando Samper, Intellectual Property Director of the National Federation of Coffee Growers of Colombia (FNC) which represents the interests of 560,000 small coffee growers, offers this instructive account of the road they have traveled.

During the late 1950s, the price of Colombian coffee plummeted from US\$0.85 to 0.45 per pound due to an excessive supply of coffee on the world market. The market was dominated by the coffee roasters, who would blend coffee beans from various unspecified origins in their products in order to give themselves the flexibility that would maximize their profit margins. As a result, public awareness of the origin of coffees was low. Only 4 percent of consumers in the U.S., the largest coffee market at the time, were aware that Colombia produced coffee. This, the federation of growers felt, had to change. "The FNC thought: Our coffee is good," said Mr. Samper. "We have to tell consumers where it comes from." So Colombia became the first coffee producing country to embark on an active strategy of differentiating and marketing its product.

They began by putting a face on Colombian coffee – literally. With the help of a New York advertising



Colombia's coffee growing territory – one of the largest in the world – stretches over three cordilleras of the Andes Mountains and 86 microclimates. The resulting high quality Arabica coffees are harvested all year round.

agency, the FNC created the character of Juan Valdez®, to represent the archetypal Colombian coffee grower. Television commercials shown in North America in the 1960s featured Juan Valdez in the coffee fields with his faithful mule, painstakingly selecting and hand-picking the ripest beans. Consumers began to respond to the message that Colombian beans are grown and harvested with great care, with little help from machines, in ideal climatic conditions with plenty of rain, sun and fertile volcanic soil. Demand grew. Many coffee roasters began marketing their products as Colombian coffee. And a number launched high end products consisting exclusively of Colombian coffee.

From branded ingredient to certification mark

Having established the reputation of Colombia's coffee beans and created demand, the next challenge was how to let consumers know which of the brands they saw on the shop shelves contained genuine 100 percent Colombian coffee. Registering the term Colombian coffee itself as a trademark was not an option, since the term is a description of a geographical origin. Instead, during the early 1980s, the FNC designed and registered the now familiar Juan Valdez logo. The plan was to license this mark

to roasters for use on their own branded products which contained exclusively Colombian coffee. “We developed a trademark-based *ingredient branded* strategy,” explained Mr. Samper, “much like the use of the “Intel inside” sign on computers today.”

While the principle was sound, this trademark-based approach could not, of course, oblige roasters interested in selling Colombian coffee to license the logo. A number of coffee roasters and marketers proved unwilling to fulfill the conditions of the trademark license agreement that would allow them to use the Juan Valdez ingredient brand alongside their own product brand. So a complementary strategy was devised to capture this segment. Working with the FNC, the Republic of Colombia registered the word “Colombian,” in relation to coffee, as a certification mark in the U.S. and Canada. The formal standards attached to these certification marks now provided a guarantee that the actors in the market place would meet minimum quality standards when selling Colombian coffee, thereby protecting its hard-earned reputation.

By 2004, surveys conducted by KRC Research showed that consumer awareness of Colombia as a coffee growing country had climbed to 91 percent or more in key markets such as the U.S., Canada and Spain, and had reached very high levels in other major consumer markets. As far afield as China, awareness had risen to 72 percent. Yet the certification mark route was not proving an easy ride. The FNC found enforcing their certification marks in North America difficult and expensive, and their lawyers had to make regular presentations to the USPTO so as to prevent registrations of trademarks containing the word Colombian which would give brand owners the right to sell products containing little or no Colombian coffee. “We had to oppose a substantial number of trademark applications,” explained Mr. Samper, “and make sure that coffee marketed as Colombian was indeed 100 percent Colombian. Not an easy job! Each test could cost us US\$500 to carry out, and complementary chemical tests to analyze the composition of the coffee were even more expensive. We ended up investing in the technologies to perform the tests ourselves.”

Moreover, neither trademarks nor certification marks necessarily protected against the use of the words *Colombian blend* or *Colombian type*. “After living this

situation for some years,” said Mr. Samper, “we needed another alternative to help us defend and protect the Colombian origin.”

Stepping forward – Geographical indications

The way forward, the FNC concluded, lay in the use of geographical indications (GIs). Colombia already had in place the same legislation as Peru for the protection of GIs, and in December 2004 the FNC presented the Colombian government with an application to recognize *Café de Colombia* as a GI. Within three months it was ratified. In 2005, the FNC broke new ground by applying to protect *Café de Colombia* as a Protected Geographical Indication under the European Union (EU) system – the first time this had ever been done for a product from a country outside the EU following the opening of the EU system for non-European GI products. After some ups and downs along the way, the EU procedure concluded successfully in June this year when the two-year period of opposition expired and the formal recognition of *Café de Colombia* as a Protected Geographical Indication under the EU system became official in September.

Summing up, Mr. Samper highlighted the attraction of GIs for the Colombian coffee industry, where origin is a key tool for differentiating and adding value to the product, but where coffee marketers prefer to downplay origin in order to gain flexibility. Unlike trademarks and certification marks, GIs are *intrinsically* linked to attributes and quality standards related to origin. GI systems, which guarantee origin and methods of production, he concluded, are set to flourish in today’s climate of increasing demand from consumers for more and better information about the products they consume.



Café de Colombia

To obtain a license to use the Juan Valdez trademark, a product must consist of 100% Colombian coffee and meet quality standards stipulated by the coffee growers' federation.

...AND A TEA

"The Rooibos case was our wake-up call," Dr. Dirk Troskie of South Africa's Western Cape Department of Agriculture told participants at the 2007 Geographical Indications Symposium.

Photos: Maya Leclercq



Rooibos (*Aspalathus linearis*). Rich in anti-oxidants, South Africa's national drink has become famous for its health giving properties.

Often dubbed the national drink, South Africans have been drinking Rooibos tea for generations. The Rooibos (literally "red bush") plant thrives only in certain arid areas of western South Africa in very particular soil conditions. While Rooibos production only involves about 350 farmers, it plays an essential role in the culture and economy of certain rural communities in the Wupperthal and Heiveld regions. But word about the health-giving properties of Rooibos tea has spread like wildfire in recent years, leading to a worldwide boom in its popularity.

Back in 1992 a South African company, *Forever Young*, registered Rooibos as a trademark in the U.S. for use on skincare products. When the company's owner retired in 2001, she sold the trademark

for ten dollars to her American business partner, *Burke International*. While the major Rooibos processor in South Africa, *Rooibos Ltd.*, had started procedures to get the trademark cancelled soon after its registration, the full implications only hit the popular press when a cooperative representing resource-poor Wupperthal farmers ran into legal problems trying to export their Rooibos to the U.S. Adding insult to injury, *Burke International* demanded royalties from South African companies for using the term Rooibos in the U.S. Fortunately for the South Africans, a number of U.S. coffee houses threw their weight behind the litigation process, as they too wanted to be able to sell Rooibos tea, and the case was settled out of court following a ruling in February 2005 by a district court in Missouri – but not before costing the industry US\$1 million.

The case led to the establishment of the Rooibos Council, and prompted the government and the industry to look with renewed urgency into how to protect products such as Rooibos, which are perceived as part of the country's heritage.

The options under consideration include the use of geographical indications (GIs). South Africa currently has two institutional systems for protecting GIs. The system for wines and spirits is long established and successful. The system for protecting non-alcoholic products, however, is described by Dr. Troskie as a mix of trademark, unfair competition and consumer protection laws, driven primarily by South Africa's obligations to comply with international commitments, notably under the



TRIPS Agreement. "The result," he laments, "is that the system is geared more towards protecting foreign GIs than domestic GIs."

The Rooibos case has boosted the momentum for institutional change. Together with other stakeholders, South African government departments are now involved in a number of major collaborative research projects centered on understanding how GIs could be used to protect products other than wines and spirits. Rooibos tea has been included as one of six case studies from Southern Africa. To this end, detailed specifications have been drawn up – based both on consensus and on scientific evidence of the requirements for the production of quality Rooibos tea – covering geographical conditions, production practices, harvesting, biodiversity and processing standards.

If successful, registration will not only safeguard South African ownership of an emblematic product, but will also benefit the South African producers by adding value at the point of production, instead of only after export.

NO SHORT CUTS

Raising Awareness of IP in the Philippines



The need to raise public awareness of IP is a challenge shared by all IP offices. What should be their goal? Promoting the IP system to potential users? Or anti-counterfeiting and enforcement initiatives? How do they define and reach target audiences? How can they gauge the impact of their efforts? In this article for WIPO Magazine, Mr. **ADRIEN S. CRISTOBAL JR.**, Director General of the Intellectual Property Office of the Philippines, recounts the Filipino experience in developing an outreach program to promote use of their patent and trademark registration systems.

Raising public awareness of the importance of intellectual property (IP) and of how the IP system works is a critical function of an IP office. Performing this basic task is indispensable to strengthening all aspects of the IP system and facilitating its contribution to socio-economic development. Awareness-raising designed to encourage the public to use the products and services provided by IP offices is also a crucial step in ensuring the financial sustainability of those offices, as the IP office of the Philippines found when it stopped receiving government subsidies in 2006.

The Intellectual Property Office of the Philippines – rebranded “IP Philippines” in 2005 as part of the office’s new image – has been working to improve its public outreach programs. With a staff of 300 responsible for administering the IP system in a country of 88 million people across an archipelago of over 7,000 islands, IP Philippines faces enormous challenges in reaching the public. Meeting these challenges has been a central feature of the organization’s new business plan over the past two years.

A challenging task

Educating the public about IP is a formidable task for any developing country. With scarce government resources available to tackle urgent problems – such as poverty, health, education and law and order – it can seem difficult to justify investing in communications about IP. The challenge is made more difficult by widespread public ignorance or indifference toward IP, among both consumers and creators. Not only does the subject seem too technical for the layman, but it is also a relatively new field of knowledge. An even more serious obstacle is consumer hostility and ideological opposition to IP laws. Controversy surrounds such questions as how IP rights affect access to knowledge and medicines. And large segments of the public perceive the IP system only as a means for foreign multinationals to protect their own economic interests in the country.

Finally, there is the lack of relevant experience and skills in government bureaucracies, IP offices included, which are not generally adept at marketing and communications. Although this can be solved by outsourcing, these experts have no experience in “selling” IP. Marketing IP is not as simple as selling a bar of soap.

In preparation for the cessation of government subsidies, IP Philippines commissioned a Resource Audit and Management Report (RAMP), and in 2005, with the assistance of the European Patent Office (EPO), began implementing changes which the Report recommended were needed for IP Philippines to become a self-sustaining organization. This included extending the functions of the organization beyond administering IP regulations.

Some facets of the change management arising out of the new business plan were within the organization’s control, such as streamlining operations, investing in human resources, redefining functions, and developing the IT infrastructure. In such areas, performance indicators were easier to define (e.g. backlog reduction and turn-around time) and to measure within a relatively short period. Public outreach, however, deals with the external environment, thus making it more complicated to measure results. Performance indicators tend to be elusive and it takes more time to gauge the impact of a project.

Revitalizing outreach

Before the new business plan, IP Philippines participated only in a handful of significant public outreach activities, such as seminars and conferences, co-sponsored by WIPO, EPO and other partners; or product trade fairs, where the office would set up information booths and distribute basic information materials.



“Intellectual Property,” “Trademarks” and “Patents” – New brochures developed by the public relations team.





The Alab Art Space, with exhibitions and performances by local artists, has attracted an influx of new visitors to the IP Philippines office.

There was also the painting and essay writing contest held

during the official Filipino IP Rights Week each year. But these events attracted low audience participation due to a lack of publicity. And after seven years in existence, the IP office remained an obscure agency, known only to a select group of people – IP lawyers (mainly representing large Filipino corporations and multinational firms), a segment of the business sector (such as franchisers), some academics, the pharmaceutical sector and inventors. The low level of public awareness was so obvious that it was not even necessary to conduct expensive surveys to quantify it.

Defining clearly the role of IP Philippines in society was the precondition before relaunching public outreach projects. With its new vision, the organization aimed to establish itself as the leader in all aspects of the IP system – policymaking, public education, coordinating enforcement, training and other areas – and to project this image to the community.

IP Philippines implemented several strategic actions:

- **Public Relations.** After initially hiring an external public relations (PR) firm, this was quickly replaced by an in-house team, composed of specialists, including professional writers and graphic designers, under the direct supervision of the Director General. The PR team issues weekly press and photo releases on enforcement events and other activities of the Office, and creates new information materials.
- **Advertising.** The Office hired an advertising firm to create a full-blown advertising campaign, to complement its re-branding and promote its products and services.
- **Exhibition areas.** Two exhibition spaces were opened on the Office's ground floor: the Alab Art Space, which offers local artists an opportunity to exhibit works and performances at a very low cost compared to most galleries; and the Innovation Area, with displays featuring well-known trademarks and patents. The Innovation Area can also be used for establishing or strengthening relationships with small and medium-sized enterprises (SMEs), inventors and industrial designers. The Office earns a small commission on sales from the art works, which is used for maintenance. Both exhibit areas act as direct contact points between the public and IP Philippines.
- **Seminars, workshops, and conferences.** All the basic orientation and advanced seminars con-

“Marketing IP is not as simple as selling a bar of soap.”

ducted by the Office were reworked as “sales pitches” to convince audiences to register their IP, rather than merely informing them about IP. This meant re-training speakers and overhauling all modules to incorporate, for instance, workshops on how to register trademarks or file patents. Custom-designed seminars were developed for the different target market segments, such as universities, artists and writers and SMEs. IP Philippines also established networks with prominent associations within these sectors.

- **Customer Service Area.** The Office's customer service area was renovated to make it more customer-friendly. Customer Service Desks, with two full time staff, were set up to provide information and explain the registration processes.
- **Active promotions.** For trade fairs, the IP Philippines exhibit booth was converted into a “sales mission,” where customer service personnel would give mini lectures and assist visitors in filling in application forms. The Office invested in attractive modern booths, complete with Internet access to the IP Philippines website.
- **Partnerships.** The Office partnered with the private sector for special events and activities, such as awards, lively contests for arts and designs and radio or television segments or features.

Results

The new corporate logo and business plan were launched late in 2005 in a consultative forum with stakeholders in the IP community. Within a year of its implementation, results were already palpable. Media coverage increased dramatically in print, radio and television, as the IP Philippines press releases were disseminated informing the public about the Office's activities, its policy positions on pending bills in Congress, and data on patents and trademarks that served as indicators on the state of the economy. The press releases always include a statement from the Director General or other cabinet officers reinforcing the message about the importance of IP for local creativity, innovation and economic development.

Improved public relations also resulted in more invitations for IP Philippines representatives to speak in different fora, radio and TV shows. Several universities organized their own IP seminars for faculty and administrators. The new trade fair exhibits yielded completed applications for trademarks, and follow-up customer calls were made to potential patent and trademark applicants.

The public also started taking notice of the new physical structures and fresh image of IP Philippines; and the Alab Art Space and Innovation Area created an influx of new visitors.



The Innovation Area, which opened in July, features outstanding Philippine trademarks, inventions, and industrial designs.

Advertising, on the other hand, was not accepted immediately by the Office. This proved too great a change of approach for an organization that, having grown up as a monopoly and a regulatory agency, had never felt the need to advertise its services. Moreover, with the emphasis on efficiencies and cost recovery during the first year of the transition plan, such a large investment in advertising did not sit well with many employees, most of whom were looking forward to a new salary structure and performance based incentives. There were also concerns that the volume of calls and queries following a successful advertising campaign would overwhelm the Office at this stage. Without adequate preparation to enable the Office to handle such increased demand efficiently – for example, by setting up enough phone lines and training people on how to handle customer calls – there could be a risk of backlash against the organization. The advertising campaign was therefore postponed, while the Office focused on direct marketing and public relations.

Lessons

One fundamental lesson IP Philippines learned when formulating and implementing public awareness and education programs is that a comprehensive strategy is essential. This does not merely mean adopting new communication strategies, tactics and tools, but ensuring that the entire organization understands and shares the corporate vision, mission and strategic objectives. The organization has to understand its role in society before it can start communicating effectively to the public.

The process IP Philippines went through in implementing the RAMP recommendations and the new business plan may not have converted 100 percent of the organization's personnel to the new state of affairs, but it did send a clear message that things would be different. The new vision of "fostering a creative and competitive Philippines that uses IP for national development" meant nothing less than a dynamic IP Philippines playing a leadership role in all facets of the IP system and reaching out proactively to the public.

Outsourcing services for marketing, advertising and public relations is always an option. But educating the service provider on what the organization is about requires a lot of time and resources, since few private firms will have previously

handled an IP office. By setting up its own public relations group, IP Philippines had a dedicated team immersed in the organization, continuously learning about IP, and constantly refining its messages.

Finally, before embarking on a full scale marketing and advertising strategy, it is essential to put one's house in order. Go back to the basics: since the product should speak for itself, services have to be improved – no amount of advertising or marketing can sell a lousy product. Moreover, the organization must be ready to absorb the flood of customers after an advertising campaign. Without the necessary infrastructure, the investment in marketing would not only go to waste, but would cause a backlash against the organization due to undelivered promises, unanswered calls and disappointing answers.

Public awareness and education programs are an integral part of a broader, deeper and comprehensive organizational strategy. Before embarking on an aggressive public outreach campaign, the foundation must be strengthened. Though it is easy to fall prey to the lure of the sound bite, there are simply no short cuts.

The Philippines

Area: 300,000 km²

Capital: Manila

Population: 88 million

Languages: Tagalog, English

Main industries: Agriculture, Chemicals, Fishing, Food Processing, Forestry, Mining, Textiles

An archipelago of over 7,000 islands in Southeast Asia, the Philippines is one of the richest reservoirs of plant and animal life on earth – containing 60 percent of the species found on the planet. From mountain plateaus to fertile plains, from rugged, active volcanoes to long coastlines, the Philippines have something for everyone.

Source: Critical Ecosystem Partnership Fund

2006 IPR Week



Student models on the catwalk during the Jazz-Up Your Denims fashion design contest for students.



Customer service personnel attend to visitors during the IP Philippines Open House.

WHY DOES INTELLECTUAL PROPERTY MANAGEMENT MATTER FOR THE PUBLIC SECTOR?



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Almost every country around the world updated and revised its laws related to intellectual property (IP) rights over the last decade or so. Nearly every bilateral trade agreement includes IP clauses. As stated by WIPO Deputy Director Francis Gurry in his foreword to *Intellectual Property Management in Health and Agricultural Innovation: A Handbook of Best Practices* a true “explosion of IP legislation at the international level” has occurred with ten new multilateral IP treaties having been concluded in the last 15 years alone.¹ It is not surprising therefore that IP rights are often viewed as something complicated and controversial. Because of its feared impact on low- and middle-income countries, the most discussed treaty in the context of health research and development has been the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Whether or not, and to what extent, TRIPS will impact the pricing and availability of health and agricultural innovations, are certainly legitimate concerns. But access to health and agricultural products depends on many factors.

The *Handbook* recognizes that IP rights are sometimes viewed as creating barriers to access to innovations in health and agriculture, but argues that it is not IP, *per se*, that raises barriers, but rather *how* IP is used and managed, particularly by public sector institutions (such as universities, national research institutions, and non-profit organizations). The *Handbook* discusses all major aspects of IP management but views IP management as but one of six closely connected and inter-related components of innovation. And intellectual property is rarely the most important. Efforts to meet the needs of the poor must also:

- support R&D;
- adopt policies and develop safe and effective regulatory systems (for drug and vaccine registration; biosafety and food safety for applications of biotechnology in food, feed and fiber; and seed quality certifications);
- encourage high-quality manufacturing of drugs and vaccines and investments in high-quality seed production and that of other agricultural inputs;
- develop national health programs and agricultural extension systems that are sustaining domestic markets, including distribution systems in both the public and private sectors; and
- be conducive to facilitating trade in health and agricultural products and technologies.

Indeed, much of the impact of TRIPS, for example, will depend on how countries and institutions respond to five components of innovation listed above, in addition to the evolving IP regime. There is every indication that IP management skills appear to be one of the crucial elements for harnessing the positive potential of TRIPS, and mitigating the negative ones, and such skills will allow developing countries to gain access to emerging tools, technologies, and resources that can dramatically improve the health and welfare of their citizens. For example, private industry in India is not automatically channeling its resources into the R&D of drugs for diseases that dominate in developing countries; instead, it is focusing on robust markets for new health technologies in developed countries. Therefore, in India the public sector should advance health solutions for diseases that predominantly afflict the poor, focusing on innovations that could eventually be brought

1. These are: Madrid Protocol (1989), Washington Treaty on Integrated Circuits and the Film Register Treaty (1989), UPOV 1991 Act (1991), TRIPs (1994), Trademark Law Treaty (1994), WIPO Copyright Treaty, WIPO Performances Treaty (1996), WIPO Phonograms Treaty (1996), Geneva Act of the Hague Convention (1999), and the Patent Law Treaty (2000).



TSV-affected

Unaffected

Photo: ICRISAT

Photo: Drs. Reddy, DDPSC/USA & Sharma, ICRISAT/India

Case Study

India's Groundnut Program

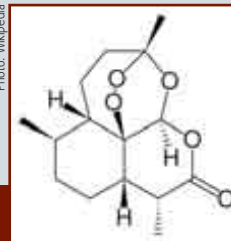
In agriculture, a recent example involves Agricultural Biotechnology Support Project II (ABSP II), the International Crops Research Institute for the Semi-Arid Tropics (ICRISAT), Acharya N. G. Ranga Agricultural University (ANGRAU) in India, and Sathguru Management Consultants (Sathguru), also of India, with licenses from the Donald Danforth Plant Science Center (the Danforth Center) and Monsanto Company, both in St. Louis, USA. The project deals with groundnut, or peanut, which is a staple oilseed crop grown for food and for forage in India. It is cultivated on a vast 7.5 million hectares in India with annual production of about 8 million tons. More than 5 million small-scale and marginal farming families depend on this crop for their viability. A new virus emerged that caused more than US\$65 million in losses and seriously threatening the livelihoods of farmers. Yet food biotechnology applications have demonstrated elsewhere that the devastating disease can be prevented with proven coat protein (CP) technology. ABSP II therefore brokered a project, described in Table 2, which is leading to the development of virus-resistant groundnut for small-scale farmers, initially in India, and subsequently in neighboring countries as well.

Table 2: Key license terms of the Groundnut Program involving ABSP II, ICRISAT, ANGRAU, Sathguru, the Danforth Center, and Monsanto Company²

Licensor	Licensee	Key terms
Monsanto	Non-Assertion Agreement	A nonassertion agreement for all related patents necessary for the CP technology was issued by Monsanto and applicable to all non-profit uses.
Danforth Center	Satguru and ICRISAT	Royalty-free license agreement for all Danforth Center technology related to the virus resistant groundnuts for use in public sector varieties used by small-scale farmers. Royalty-bearing license for use of the technology in hybrid varieties grown by commercial farmers.
Satguru and ICRISAT	ANGRAU	Royalty-free, non-exclusive, sub-license for all technology related to the virus resistant groundnuts for use in public sector varieties used by small-scale farmers.
Satguru	Various in discussion	Nonexclusive licensing arrangements are being discussed with private plant breeding companies for the development of hybrid groundnut varieties. These licenses will include upfront and royalty payments. Proceeds will be invested in the further development of varieties for small-scale farmers' use.

2. Medakker A. and V. Vijayaraghavan. 2007. The Groundnut Story: A Public-Private Initiative focused on India. Case Study 2. In *Executive Guide to Intellectual Property Management in Health and Agricultural Innovation: A Handbook of Best Practices* (A Krattiger, RT Mahoney, L Nelsen, et al.). MIHR: Oxford, U.K., and PIPRA: Davis, U.S.A. Page CS9. Available online at www.ipHandbook.org.





Case Study

Reducing cost for Malaria treatment

In the area of health, the Institute for OneWorld Health (iOWH), a nonprofit entity, created a unique three-way partnership between iOWH, the University of California (UC) at Berkeley, and Amyris Biotechnologies, Inc. (a UC spinout company). The goal of this project is to significantly reduce the cost of artemisinin, a key precursor in the production of Artemisinin Combination Therapies (ACT), through synthetic biology, industrial fermentation, and chemical synthesis. Artemisinin is chemically converted to one of several derivatives and then combined with other drugs to make an ACT for the treatment of malaria. Malaria inflicts as many as 500 million people annually of which 1.5 million people die each year, primarily children in Africa and Asia. Studies in Vietnam have shown that the botanically derived medicine, artemisinin derivatives, can reduce deaths from the illness by 97 percent. However, the current cost of a three-day course of drugs containing artemisinin is US\$2.40, which places it out of reach for people in many nations where the disease is most prevalent. For this reason, the Bill and Melinda Gates Foundation funded the project to eliminate the need for plant extraction by utilizing a synthetic biology platform technology. UC Berkeley continued with basic research, Amyris conducts applied research on the fermentation and chemical processes, and iOWH performs the required regulatory work, leads the implementation of the product development strategy for the developing world, and develops a commercialization strategy based on a thorough understanding of the worldwide regulatory requirements and an analysis of the current manufacturing supply-chain and distribution models.

To ensure accessibility and affordability, the partners have committed to reduced returns in the malaria field with creative licensing arrangements that will make the product available to the developing world at the lowest possible price. The specific terms are described in Table 1. This arrangement has benefits for all the parties: the university benefits from the research funding as well as from any royalties that may be realized on profit earned from sales by Amyris in areas outside the developing world; as a for-profit company, Amyris can apply the innovations developed for the artemisinin project to other projects that rely on the same platform technology; as a non-profit, iOWH is able to make malaria treatments more affordable for people in the developing world which constitutes one of its mission.

Table 2: Key license terms of the UC Berkeley, iOWH and Amyris agreement for the production of Artemisinin Combination Therapies (ACT) for Developing Countries³

Licensor	Licensee	Key terms
UC Berkeley	iOWH	Royalty-free license for the manufacture of artemisinin-based malaria treatments used in the developing world. Royalty-free licenses to iOWH for IP developed under the three-party collaboration agreement for use in manufacturing artemisinin-based malaria treatments used in the developing world.
UC Berkeley	Amyris	License to develop the manufacturing process: royalty-free for the developing-world malaria market; royalty-bearing for the developed-world malaria market, nonmalaria indications of artemisinin, and alternative uses of the platform worldwide. Option to grant similar licenses to Amyris for IP developed under the three-part collaboration agreement.
iOWH/Amyris	Manufacturers	To be determined; on royalty-free basis for manufacture and distribution in developing countries, possibly with appropriate milestones, supply agreements to public sector, limitations on price (cost plus), and quality controls.

3. Source: MIHR/PIpra. 2007. Improved Production of a Natural Product Treatment for Malaria: OneWorld Health, Amyris, and the University of California at Berkeley. Case Study 20. In *Executive Guide to Intellectual Property Management in Health and Agricultural Innovation: A Handbook of Best Practices* (eds. A Krattiger, RT Mahoney, L Nelsen, et al.). MIHR: Oxford, U.K., and PIPRA: Davis, U.S.A. Page CS46. Available online at www.ipHandbook.org.

to market by the private sector. Effective IP management can allow public research institutions to use their own research products to benefit the poor and to enter into public-private partnerships that can direct the power of industry to the needs of the poor. Without knowledge of sophisticated IP management techniques, however, such efforts – and their benefits – will be impossible.



Similarly, each country needs to take advantage of the freedoms granted by TRIPS and formulate and implement policies and practices that best meet its own needs. Short-cut solutions to technology needs in medicine and health, such as compulsory licenses, are unlikely to be as effective or sustainable as are collaborative efforts between the public and private sectors. Countries would benefit substantially from developing their internal IP management capabilities, strengthening their IP court systems and patent offices, and according priority to meeting the needs of the poor.

Hence the evolving global IP regime should not merely be seen as an evolution in laws and legislation; rather, IP rights are, first and foremost, about the encouragement of investments in innovation. Second, the IP rights systems were created to regulate access to and sharing of intellectual property. IP rights, therefore, are not primarily about preventing others from using one's intellectual property, but IP rights are strategic tools to determine the best course of action to get intellectual property used. Unless intellectual property "finds" its way into the marketplace, it is useless. And the marketplace can be commercial or humanitarian.

With sound strategies and best practices in IP management, the public sector in particular has tremendous power to put intellectual property to work as a component of a broader strategy aimed at accelerating access – especially access by developing countries – to life-saving and poverty-alleviating innovations in health and agriculture. IP management is an essential element in the quest for a more equitable world, especially when seen as a tool to be used for public sector goals and by the public sector. Unfortunately, the historical trend has been for intellectual property to benefit mostly the affluent. This is due, in part, to the fact that insufficient attention has been paid by the public sector to managing intellectual property. This lack of focused attention must be corrected. Public sector IP management is a rather

young discipline, and there have been enormous changes in the public sector's involvement in health research since the 1970s and in agri-biotechnology since the 1990s. But the public sector is only now beginning to appreciate how it can use its own intellectual property – and leverage that of others – to help meet its social mission, including its responsibilities to the poor. With growing interest within both the public and private sectors in using intellectual property for

public benefit has come the realization that the public sector lacks knowledge and capacity to put intellectual property to work. The *Handbook* is designed to help address these needs together with many initiatives of WIPO and other institutions.

Surely, IP rights are an imperfect solution and a compromise. They represent the search for balance between making all knowledge freely available within the public domain and granting ownership of valuable discoveries to the inventors. Historically, we have seen that this balance encourages investment – and reinvestment – in innovation, although this innovation too infrequently is directed toward the needs of the poor. Reaching an appropriate balance requires continuous, sound IP management, and fortunately, numerous case studies have shown that the public sector can craft effective solutions that can achieve, or at least approach, a suitable balance. This can be accomplished by using the existing IP system, especially as it addresses situations in which companies agree to donate or otherwise share their intellectual property. But the approach requires a fundamental reconceptualization of what IP rights are for and how they can be used by the public sector.

When it comes to increasing developing countries' access to fundamental innovations in health and agriculture, success requires knowledge, capacity, active engagement, and strategic management of intellectual property by the public sector. This should be coupled with improved institutional IP management capabilities, the formulation of comprehensive national IP policies, and the strengthening of IP court systems and patent offices. This is what best practices in IP management are all about: promoting public welfare – especially those people who have, until now, been unable to partake in technology's benefits – and that this will contribute to building a healthier and more equitable world.

HARRY POTTER AND THE IP BONANZA

As this edition of the WIPO Magazine began to take shape, Harry Potter fever was sweeping the planet with the publication of the seventh and final book in the wildly popular adventures of the eponymous boy wizard. As midnight struck on the July 21st release date for *Harry Potter and the Deathly Hallows*, throngs of black-cloaked figures were seen waiting impatiently outside bookshops from London to Hong Kong. The fate of young Harry, with whom countless children have grown up since his first appearance nine years ago, had been kept a tightly guarded secret by author J.K. Rowling and her publishers. The suspense was spellbinding.

From rights to riches

The success of her creative works has brought J.K. Rowling enough wealth to pack the vaults of Gringotts Bank. It has, moreover, created huge revenues for license and rights holders throughout the copyright-based industries. The figures are dizzying:

- The first six books sold over 325 million copies worldwide. The seventh made publishing history in the U.K., selling over 2.6 million copies within the first 24 hours for publisher Bloomsbury. First day sales in the U.S. topped 8.3 million. According to U.S. publisher Scholastic, during a Harry Potter release year, sales of the book account for 8 percent of the company's revenue. The translations in over 65 languages include Icelandic, Swahili, Serbian and ancient Greek.
- Five Hollywood **film** adaptations of the books have earned some US\$4 billion in ticket sales for Warner Bros., who hold the film rights, and have shot a new generation of young actors to fame. The first film, *Harry Potter and the Philosopher's Stone* (or *Sorcerer's Stone* in U.S.), ranked fourth on the worldwide list of all-time highest grossing films. When the ABC **television** network broadcast *Harry Potter and the Sorcerer's Stone* in April this year, it still netted approximately 4.2 million U.S. viewers. The haunting **music** soundtracks from the first four movies, composed by John Williams, sold over 1.1 million copies in the U.S.
- Warner Bros. also own the worldwide merchandising rights to the Harry Potter **trademarks**, including characters, themes and other elements. The company divided the rights among its licensees for use on some 400 different products, so mutually reinforcing the brand: Toymakers Hasbro, for example, are licensed to distribute Harry Potter sweets – such as Cockroach Clusters, Chocolate Frogs and Fizzing Whizbees – on which U.S. consumers have spent more than

US\$11.8 million since 2001. Mattel acquired the right to make Harry Potter action figures, games and puzzles, and saw the company's shares rise by 13.5 percent. Electronic Arts gained the rights to manufacture Harry Potter computer and video games; and Coca Cola secured rights in marketing the film together with its products. Estimates of the global worth of the Harry Potter brand range from US\$4 billion to twice that figure.

Defence against the dark arts

Success, however, brings free-riders seeking to profit from – or help themselves to – the creative output of others. J.K. Rowling's lawyers have had their hands full defending her copyright against infringers.

The infringements have taken more different forms than Rowling's shape-shifting boggart. Entire scanned copies of the books have been uploaded and distributed across the Internet. J.K. Rowling launched several legal actions against users of the e-Bay online auction site this year, alleging that they were selling illegal e-books of her work.

In India, legitimate book sellers bewailed the proliferation of pirated print copies in the streets of Mumbai and Bangalore, despite concerted action by police and vigilance officials. "We estimate 50 percent of sales lost due to piracy," Himali Sodhi, head of marketing for Penguin India, told Asia Times Online. Akash Chittranshi of the New Delhi-based firm, ACA-Law, added with a smile: "Some of the pirated books use such cheap paper that they turn into pulp if some water drops on to them."

Infringing versions of the books in China were in a league of their own. From 2002, entire fake sequels – bearing J.K. Rowling's name, photo and even copyright notices – began *apparating* in book shops

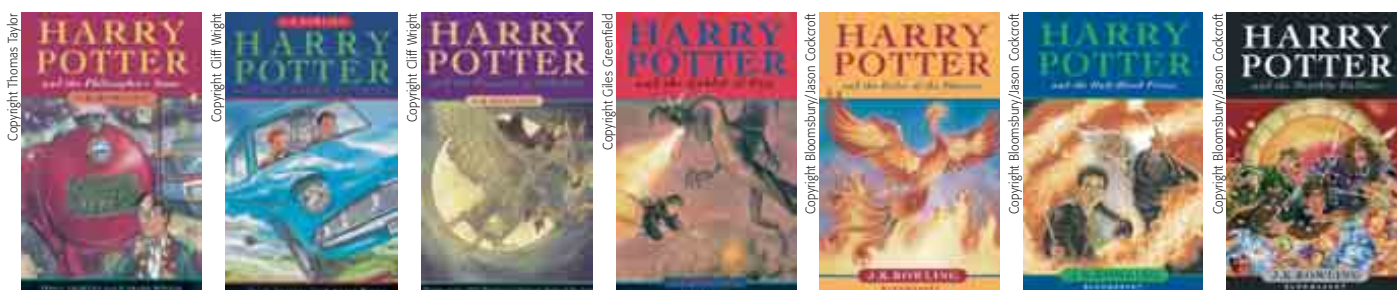
Muggle Magic in the PCT?

"Any sufficiently advanced technology is indistinguishable from magic." – Science fiction novelist, Arthur C. Clarke (1961).

"First demonstration of a working invisibility cloak," announced a press release last year from Duke University, in North Carolina. The break-through by researchers in the electrical and computer engineering department, published in the journal, *Science*, seemed to herald a fantasy come true.

The device works by deflecting microwave light around an object with so little distortion as to make it seem to an observer almost as if it were not there. "The wave's movement is similar to river water flowing around a smooth rock," explained the designer, David Schurig. The researchers created the cloaking device using "metamaterials" – artificial composites that can be made to interact with light and other electromagnetic waves in ways that natural materials cannot – which were arranged in a precise series of concentric circles that confer specific electromagnetic properties. David Schurig is named as a co-inventor on PCT patent applications, including WO/2006/023195 for Metamaterials.

But sadly for the would-be wizards among us, there is a long way to go. The device cannot hide an object from a human eye but only, as the *New Scientist* explains, from the "eyes" of a microwave detector. And for the moment it only works in two dimensions. Undeterred, the team is already at work on a 3D version.



under such fantastical titles as "Harry Potter and the Filler of Big" and "Harry Potter and Leopard-Walk-up-to-Dragon." Readers of the latter were less than enchanted to find their young hero apparently more preoccupied by personal hygiene than by the fight against the Evil Lord, ("Harry wipes sticky cake from his face... For a civilised young man, it is disgusting to have dirt on any part of his body"); before being teleported into J.R. Tolkien's *The Hobbit*, with the names changed to Harry Potter characters. Prompt legal action by J.K. Rowling's lawyers saw the infringing book removed, with a fine and an apology from the Chengdu-based publishing house.

A French teenager was detained by police in August this year, having translated all 759 pages of the final book just days after its release and posted it on the Internet. Apparently not having sought commercial gain, he was released without charge, having learned a sharp lesson about copyright.

Parody and plagiarism

The books have spawned a range of other unauthorized derivative works and imitations. The Tanya Grotter books by Russian author Dmitry Yemets, featuring a magical teenager with round glasses at the

Abacadabra school for witches, have gained a loyal following in Russia. J.K. Rowling and her publishers brought a successful legal action in the Dutch courts in 2003 to prevent the distribution outside Russia of a Dutch translation of *Tanya Grotter and the Magical Double Bass*. The Dutch courts rejected the arguments put forward by Mr. Yemets and his Moscow-based publishers, who claimed that the books constituted a parody, permissible under copyright law exemptions. A number of Harry Potter parodies are, however, currently in circulation, and have not faced legal injunction, including Michael Gerber's *Barry Trotter and the Shameless Parody*, which has sold over 700,000 copies.

J.K. Rowling's creative talents have made her one of the wealthiest women in the world. Yet it was through the international system of IP rights that she was able to plug that creativity into the global publishing and entertainment networks which propelled her from poverty to plenty. Harry Potter is not just a children's story. It is a magical tale of the transformative powers of creativity and intellectual property.

MOBILIZING EXTRA RESOURCES FOR DEVELOPMENT

In 2006 and 2007, nearly 80 million Swiss francs of WIPO's regular budget (mostly funded by income from WIPO's services to the private sector) will have been dedicated to work in support of developing countries and of countries in transition. Each year, however, additional technical assistance and capacity building projects are made possible thanks to funding from voluntary contributions. These contributions are anticipated to provide 12.9 million Swiss francs in 2006 and 2007, and a similar amount in the next biennium. WIPO has begun to take a more proactive approach to mobilizing donor funding for development projects and recent discussions within the framework of the Development Agenda have given added impetus to these efforts. This article outlines the new approach and highlights a few examples of projects which are ripe for support from new partners.

WIPO has enjoyed long-term relationships with a number of key donor countries, which provide what are known as Funds-in-Trust (FIT), to finance technical assistance projects. WIPO's FIT arrangements with France and Japan, for example, began as far back as 1981 and 1987 respectively. Currently, WIPO also has FIT agreements with the Republic of Korea (see page 19), Finland, Spain, the United States, and the European Union, and on September 10 signed a new agreement with the government of Italy. Most of these are managed by staff in WIPO's Technical Assistance and Capacity Building Sector.

WIPO's work also benefits in many other ways from donor support, such as through direct financial support for activities, and through a number of cost-sharing and co-hosting arrangements. One recent innovation is the WIPO Voluntary Fund for Accredited Indigenous and Local Communities, which was set

up to enable representatives of indigenous and local communities to participate in the meetings of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). The Fund, which began operating last year, has received contributions from, the Swedish International Biodiversity Programme (SwedBio/CBM), the Christensen Foundation, the Swiss Federal Institute of Intellectual Property, as well as the governments of France and South Africa.

Reaching out

As demand from developing countries evolves, so WIPO's activities have expanded from offering advice on how to modernize IP laws and administration to helping countries build up their national capacity for creating, managing and exploiting IP assets. Increasing recognition of the role of IP in

Digitizing Cultural Heritage

Digital technologies offer unprecedented opportunities to promote, protect and revitalize intangible cultural heritage, such as folklore and traditional art forms. When recorded and disseminated in digital form, traditional music, designs and art can reach new audiences in niche markets, so promoting development of the community which creates them. But it can also lead to their misappropriation and misuse. Efforts to preserve culturally sensitive materials have sometimes unwittingly led to their unauthorized commercial exploitation. Indigenous organizations, museums, archives and researchers have therefore called for guidelines on the IP issues and options which arise in this area.

The WIPO Creative Heritage Project is developing such guidelines in consultation with indigenous communities and cultural institutions. The Project offers advice on managing the IP options, as well as IT support to help communities and institutions record and digitize their cultural expressions and establish websites through which to make these available, should they so wish, on their own terms.

Pilot projects are now underway with a Maasai community in Kenya – shown here working in partnership with the International Labour Organization (ILO) – with museums and archives in Sudan and with the IP Office of Mongolia.



The Maasai Voices of Heritage Project is among the first pilot recording projects.

Patent Information and Patent Landscaping

Patent information is the sum total of the technical information contained in every patent document ever published. It is the largest most up-to-date and well-classified repository of technical knowledge in the world, amounting to tens of millions of patent documents, with some 1.6 million added each year. This treasure trove can be accessed through many free patent databases, such as WIPO's PatentScope search service, the database of the United States Patent and Trademark Office (USPTO) and the European Patent Office's esp@cenet.

Some of the technologies described in patent information are freely available for use by entrepreneurs and innovators; others may be used through licensing agreements with the rights holder. Patent information has also become a strategic tool for businesses. As well as being used to evaluate "freedom to operate" questions, it may help a business to forecast the direction of technical change, or to assess a company's relative technological strength in a marketplace. Analyzing trends revealed by patent information helps identify potentially profitable areas for R&D, key technologies and market opportunities.

Public disclosure of the new technology in inventions is a fundamental element of the *quid pro quo* on which the patent system is based. Yet knowledge of the availability of this resource, let alone how to use it, remains very limited. WIPO works with developing countries to enhance knowledge of how to access and use patent information in order to realize its economic and commercial benefits.

promoting economic growth within the knowledge economy has brought with it increased interest and potential new partners for WIPO's work with developing countries. At the same time, the UN system as a whole has been exploring the potential synergies offered by broader partnerships in enabling the international community to meet the Millennium Development Goals.

Recognizing the potential benefits of such partnerships and of expanding available resources for developing country needs, Director General Kamil

Idris decided in 2005 that WIPO should adopt a more proactive approach to partnerships and resource mobilization. In late 2006, WIPO established a dedicated Section for the Mobilization of Extrabudgetary Resources.

WIPO is now broadening its donor base by developing relations with potential new donors, and strengthening links with both the multilateral and bilateral donor community. This involves identifying synergies between the needs of developing countries, WIPO's work, and the priorities of different

Technology Transfer, Licensing and Patent Drafting

Developing country researchers and scientists are achieving valuable research results in scientific fields, including renewable energy, medicines, agriculture, water and waste management. Most of this innovation takes place in universities and publicly funded R&D institutions, providing potential new technologies for local businesses, in particular small and medium-sized enterprises. Given support and assistance to help build innovation systems, these research institutions and businesses may play a seminal role in knowledge-led economic growth. But they face many challenges, not least a shortage of trained professionals able to draft patents, manage IP assets and negotiate technology transfer contracts.

WIPO's Successful Technology Licensing (STL) Training Program, already used for more than 30 countries, combines theory with practical role-play exercises to teach the knowledge and skills required. The Program is offered at both basic and advanced levels. The latter can be customized to meet the specific needs of the participants, such as focusing on advanced licensing issues. To ensure sustainability, the program can also be organised as training for trainers. It comes complete with all the necessary materials for on-going use and reference by participants.

In response to demand from Member States, WIPO has also introduced a comprehensive 10-day patent drafting training program, designed specifically for scientists and researchers. The program is adapted to trainees' particular field of expertise, whether this be in mechanical engineering, biotechnology, chemistry, electrical or computer technology, etc., and the complete training kit includes a copy of the WIPO Patent Drafting Manual. The course can also be followed as a distance learning program, with supervision by WIPO appointed tutors.

If you are interested in discussing ways you might partner on these or other projects or would like further information on WIPO's resource mobilization and partnership initiatives, please contact smer@wipo.int; tel. +41 (0)22 338 8038



Protecting Plant Varieties

WIPO's sister organization, the International Union for the Protection of New Varieties of Plants (UPOV), is similarly seeking to mobilize resources for projects in developing countries. Close cooperation between WIPO and UPOV helps provide both potential beneficiaries and donors with a full range of IP solutions.



Courtesy of UPOV

Mexico is actively developing breeding programs and protecting its plant varieties. The Aztec Lily, originally known as *Atzcalxóchitl* (Red splendor flower) was used by the Aztecs for religious ceremonies.

UPOV encourages countries to introduce IP systems to protect new plant varieties, with the aim of promoting the development of improved plant varieties for the benefit of farmers, growers and consumers. Effective plant variety protection (PVP) plus UPOV membership can open a door to economic development, particularly in the rural sector, providing an incentive for plant breeding in many different situations. The UPOV system offers possibilities for cooperation to facilitate the rapid implementation of PVP. But many UPOV members also consider it beneficial to develop the facilities and expertise to undertake the examination of new varieties on their own behalf. In response, UPOV runs programs offering new members extensive practical assistance, with financial support provided by donors.

The key elements of the technical assistance offered by UPOV include: distance learning programs for officials and experts; practical training of examiners; technological support, such as the supply of specialist software packages and technical guidance documents and financial support for participation in UPOV technical meetings. The UPOV program

therefore also provides support for seminars to raise awareness of PVP among stakeholders at the national or regional level.

The vitamin and mineral-rich fruit of this Hawthorne is used in candies, jam and drinks; its wood for handcrafts and firewood; and its leaves in medical infusions for hypertension and insomnia.



Courtesy of UPOV

“Mobilizing extra-budgetary resources to support WIPO’s technical assistance and capacity building work is core to our ability to deliver results in this area of ever increasing demand for WIPO’s expertise. This is why we are reaching out to the donor community and other potential partners” – **WIPO Assistant Director General Geoffrey Onyeama.**

donors or potential partners. Working on a thematic basis, the new section is developing a portfolio of WIPO's projects and activities suitable for this purpose – some examples of which are highlighted in the boxes on these pages.

Annual donor meetings, new interactive pages on the WIPO website and other dedicated information resources will help to improve communication with new and existing donors. The information tools will include an extrabudgetary resources and partnerships database, details of WIPO's resource mobilization policies, reports on the funds mobilized and case studies demonstrating the benefits resulting from extra-budgetary resources.

Match-making

The expertise required to attract support from new donors and partners resides first and foremost with

the WIPO staff engaged in carrying out the relevant activities. The new Section will play the role of match-maker, circulating donor profiles to WIPO program managers and discussing the needs expressed by their network of contacts in developing countries, putting donors in touch with the right people in WIPO, coordinating approaches and helping to formulate donor or partnership agreements.

Successful partnerships depend on good communication and transparency – partners and beneficiaries understanding each other's priorities and constraints; agreeing what they want to achieve and how best to achieve it; and being able to show the positive impact that the partnership has been able to bring about. WIPO's resource mobilization efforts aim to bring together the right partners for the right projects to achieve the right results.

FUNDS-IN-TRUST

KOREA

The Funds-in-Trust (FIT) provided by the government of the Republic of Korea (ROK) are one example which illustrate the value that partnerships can add to WIPO's work with developing countries. Projects funded by some other major FIT donors will be highlighted in forthcoming editions of the *WIPO Magazine*.



Photo: WIPO/N. Hopkins-Hall

At the annual evaluation and programming meetings in July, WIPO and the Korean representatives reviewed activities and renewed the work plan.

The Republic of Korea (ROK) is party to two cooperation arrangements with WIPO under the FIT scheme: the first, covering industrial property-related projects, was set up by the Korean Intellectual Property Office (KIPO) in 2004; the second, covering copyright-related activities, by the Ministry of Culture and Tourism (MCT) last year. Since their inception, these funds have financed a total of 28 activities in support of 50 developing and least developed countries (LDCs).

Sharing experience

A distinctive feature of the activities funded under the Korean FIT agreements is the opportunity they provide for developing countries to share the experience and achievements of the Republic of

Korea over the last 20 years in using IP as a tool to achieve national development objectives. The Korean arrangements are also notable for their flexibility. – No geographical limitations are imposed on the use of the KIPO funds, which are open to proposals from any Member States that would contribute toward the effective deployment of the resources.

The FIT arrangement with KIPO places special emphasis on support for LDCs in all regions. Projects last year, for example, included setting up an IP information center in Tanzania; with a similar center currently being established in Cambodia. It has also funded a workshop on public outreach strategies for LDCs.

Other major activities included:

- Deploying PCT-ROAD software to facilitate the procedures of PCT receiving offices in developing countries.
- Supporting SMEs by translating and customizing IP-related materials and providing expert consultations.
- Providing workshops and materials to encourage the use of patent information.
- Arranging consultations with experts on IP valuation, innovation promotion, commercialization and IP asset management.
- Running interactive sessions on the use of the PCT and the Madrid System.
- Holding international seminars and workshops on emerging IP issues in cooperation with KIPO's training arm, the International Intellectual Property Training Institute (IIPTI).



Courtesy of IIPTI

A sub-regional workshop on arbitration and mediation of IP disputes at the KIPO training institute, IIPTI – formally designated in 2006 as a WIPO partner institution for international IP training.

The MCT-sponsored FIT has undertaken several new initiatives, such as developing an in-service course on the economics of creative industries and creating on CD-ROM a guide to establishing a collecting society, including model contracts and guidelines.

Next phase

The 2007-2008 work plans of the FIT arrangements include, on the industrial property side, workshops, advisory missions and studies aimed at helping IP offices to increase the efficiency of their services, with expanded support to African and Eastern European countries. On the copyright side, the work plan includes a regional symposium on user generated content, a project aimed at compiling case law in music copyright, a sub-regional workshop on the development of copyright based industries and the production of audiovisual information material.

TUNISIA – DEVELOPING A KNOWLEDGE ECONOMY

Oil is a dwindling resource in Tunisia. Production from the country's two main fields is declining and, though ongoing exploration has yielded small fields, supplies are expected to last only about a decade at the current rate of production. To offset the blow to the economy when the wells dry, and to increase the competitiveness of its other industries, the Tunisian government's Development Plans X (2002-2006) and XI (2007-2011) are geared toward building a knowledge-based economy. The government believes that Tunisia's cultural and geographical proximity to Europe gives it certain advantages over Asian countries, which will attract investors once necessary structures are put in place.

Plans X and XI focus on policy reform in education, stimulating research and development through the creation of technology poles, increasing access to the Internet and strengthening the country's intellectual property (IP) system.

Tunisia has a long IP history: It was one of the first countries to sign the Bern and Paris Conventions; and the first pan-African copyright law was signed in Tunisia and named after the country. Tunisia has modernized and reformed its IP system over the last ten years, bringing it up to date with international standards.

Technology poles

With the IP infrastructure in place, Plan X reformed the secondary education system to strengthen teaching in technology, economics and management, math, sciences and the arts. A growing number of high school graduates now go on to higher education, which is producing over 50,000 graduates a year. The government hopes to attract them to work in the country's technology poles/parks (called techno-poles) rather than seek employment abroad.

Tunisia's techno-poles aim to promote and accelerate innovation by linking enterprises, universities and research centers. Each techno-pole has an area of specialization which depends on the region in which it is established. The Borj Cédria pole, for ex-

ample, deals with renewable energy and vegetal biotechnology, the Sidi Thabet pole biotechnology and pharmaceuticals, the Sfax pole computer systems and multi media, etc.

How do they work? Take, for example, the El-Ghazala technology and communication park, which opened in 2001. The services of the El-Ghazala are available to all companies involved in technology and communication, whether or not they are located in the park or even in Tunisia. Its objectives are to help set up technology companies in the park by providing all the resources they need on site; to stimulate cooperation between universities researchers and private enterprise to bring research products to market; to promote the development and distribution of telecommunication services that respond to business needs locally and abroad; and to participate in economic development by working with public authorities. The El-Ghazala techno-pole also offers incentives to businesses to promote innovation in technology and information.

The Tunisian *Institut d'économie quantitative* conducted a survey of the 51 companies installed in the 65-hectar El-Ghazala park in 2005 to gauge how they had benefited from the services of the techno-pole. Almost 50 percent said the techno-pole had contributed to the development and expansion of their export market, 90 percent reported an increase in R&D – 30 percent of those had done so in collaboration with local universities – and 50 percent reported that 10 to 40 percent of their investments were now in intangible assets. As a result over 40 percent had developed at least two new products during the previous five years and 46 percent had patent applications pending. Some 53 percent reported that they had attracted foreign capital investment.

Cultural industries

Technology is not the only area in which Tunisia is seeking to improve the economic future for its people. The government is also investing in its cultural industries – cinematography, publishing, handicrafts and cultural heritage – as a means of con-

Analyzing strengths and weaknesses

In 2007, at the start of Plan XI, the Tunisian government requested assistance from WIPO in conducting a SWOT analysis (Strengths, Weaknesses, Opportunities, Threats) of the country's IP system. The results of the analysis highlighted the following:

Strengths	Weaknesses
political will to leverage IP as a key to economic growth	need for greater coordination and communication among government, private sector and academic stakeholders
availability of financial resources and of a highly educated work force	shortage of IP service providers (patent drafters, negotiators for licenses and other IP-related contracts, technology managers)
incentive programs to encourage innovation	identifying innovation areas in which Tunisia has a competitive advantage
the national R&D system	identifying potential markets for the commercialization of research results
modern legislative system	reticence by the banks to invest in projects based on IP assets
existence of an IP valuation system	

Focusing on the areas of weakness highlighted by the SWOT analysis, WIPO and the Tunisian government signed a cooperation agreement on July 12, 2007, which will determine a new program of technical assistance and capacity building to be provided by WIPO.

tributing to the country's sustainable development.

Handicrafts, for example, currently contribute 3.8 percent to Tunisia's GDP and account for 2.66 percent of its exports. But a government conducted economic study showed that the sector had the potential to double its contribution to GDP and more than triple its contribution to exports by 2016. In pursuit of this goal, the government has implemented measures, described below, to revitalize the industry and breathe a new spirit of competition and creativity into Tunisian artisans.

The government is extending the 1999 law relating to appellations of origin, which currently only protects agricultural products, to cover the works of Tunisian artisans, such as Berber carpets, Djerba pottery and ceramics. WIPO is also providing legislative advice to the national IP office, the *Institut national de la normalisation et de la propriété in-*



The elegant Cage de Sidi Bou Saïd (white wrought iron cage above) usually placed in front of homes in the Medina may be made into trademarks for Tunisian handicrafts.

tellectuelle (INNORPI) and to the artisans' association, the *Office national de l'Artisanat*, to assist them in introducing a geographical indications law, which would offer more flexibility than the appellations of origin law for protecting handicrafts. Two new trademarks will also be created: *La cage de Sidi Bousaid* and the *Porte Bleue de Tunis*. Both hold meaning for Tunisia's artisans and are instantly recognizable.

Villages de l'artisanat (handicraft villages) have been created to promote and commercialize the works of artisans and to protect and preserve Tunisia's traditional knowledge and cultural heritage.

Cinema

The Carthage Film Festival, created in 1966 by the Tunisian Minister of culture to showcase films from the Maghreb, Africa and the Middle East, is held every two years in October. The Federation of



World Summit on the Information Society

In November 2005, Tunisia hosted the United Nations World Summit on the Information Society (WSIS), welcoming some 50 heads of states and over 18,000 delegates to Tunis for the three-day event.

The Tunis Summit built on the first WSIS held in Geneva in December 2003 by focusing on financial mechanisms for bridging the digital divide, on Internet governance and related issues, as well as on implementation and follow-up of the Geneva and Tunis decisions. The Summit recognized the positive impact of information and communication technologies (ICTs) as an instrument for sustainable development and urged governments to enhance the ICT capacity of small, medium and micro enterprises as they are the principal source of employment in most economies.

Information technology is one of the key areas in which Tunisia had made huge strides as part of its program for economic development, thus the country has an important role to play in reducing the digital divide between advanced and developing countries.



Tunisia offers diverse scenery for filmmakers as well as inexpensive, highly trained film technicians.

African Film Directors was also born in Tunisia in 1970. Tunisian cinema is rich and diversified, including most genres – action films, social exposés, dramas and comedies – and critically acclaimed films like Ferid Boughedir's "Halfaouine," which featured at the Cannes Film Festival in 1990, and Moufida Tlatli's "The Silences of the Palace," which won a Special Prize at the 1994 Cannes Festival.

Tunisia has also become a popular shooting location for blockbusters requiring exotic locales, beginning with *Star Wars* in the mid-1970s – Anakin's

Skywalker's childhood home on the planet *Tatooine* is a real village in southern Tunisia – and subsequently attracting such films as *The English Patient* and the *Indiana Jones* series.

Tunisia offers diverse scenery for filmmakers as well as inexpensive, highly trained film technicians. A newly created cinematography and audiovisuals technopole is set to open this year. Young trainees have returned from hands-on training in production and post-production processes in France, as well as with Tunisian film companies, and have already taken possession of the premises, eager to practice their skills.

Building a solid future

Having developed a comprehensive strategy to build a knowledge-based economy, Tunisia's Plan X reformed the educational system, modernized the IP infrastructure, and started creating technology poles and incentive programs to stimulate innovation. Plan XI will build on these elements, addressing the weaknesses identified in the WIPO SWOT analysis and focusing more closely on stimulating growth in the cultural industries.

SCHOOL'S OUT FOR SUMMER

Not at WIPO! On July 27, 55 young people participating in the WIPO Summer School on Intellectual Property delivered their final presentations before receiving their certificates from the WIPO Academy and heading back home. They had arrived two weeks earlier from 40 different countries, each with their own ideas on IP and its pertinence to their home countries. But the Summer School program exceeded their expectations. "It was an amazing exchange of experiences. I highly recommend it," said Silvia Saba, a student from Italy. It was a sentiment echoed by many others.

The objective of the WIPO Summer School is to provide an opportunity for senior students and young professionals to acquire deeper knowledge of IP, and to gain an appreciation of IP as a tool for economic, social, cultural and technological development and the role WIPO plays in the global administration of IP. This year's Summer School was held over two weeks, and included lectures, case studies, simulation exercises and group discussions. The lectures were oriented toward the interface between IP and other disciplines, rather than remaining on generalized IP topics. "The course helped me to put all the different aspects of IP together in a framework and see how they interconnect," said András Jókúti of the Hungarian Ministry of Justice and Law Enforcement.



Photos: WIPO/Castagnary

The participants were selected on merit from hundreds of applicants. Of those selected, 33 were students and 22 were young professionals from different backgrounds and diverse fields of study, with a slight predominance of lawyers. But the group also included a teacher, an economist, a life sciences researcher, a biotechnology and genetics engineer and students in economy, geography, physics, computer sciences, engineering, etc. The aim was to encourage discussion and the exchange of views. Dan Shi, an engineer from China with a Masters Degree in IP law, said "The questions students asked taught me a lot. I learned more about what people really think and their attitude on issues such as traditional knowledge and copyright in the digital environment. I realized there were many differences, but that we also had things in common."

Sejeong Kim, a Korean physics student, highlighted the value of the case studies. At the end of the course he said, "I've got a broader outlook. I want to contribute to the harmonization of IP law in Asia



Benny Spiewak, a legal counsel in a Brazilian law firm, put it, "There was a lawyer defending the Maori and another, the big pharmaceutical companies. We were a worldwide community in one room."



Shami Faranisi, a Zimbabwean student of sustainable environmental development, said "If IP is taken seriously, development will happen for real. It is not too late to start to educate to create awareness."

– like it is in Europe." Sevidzem, a PhD student in International Law from Cameroon, took the course to gain an understanding of patent policy in the area of pharmaceuticals and of the question of access to medicine for poorer countries. "I got answers to this question and also found out about other dimensions, such as the traditional knowledge aspect. I will integrate this into my work."

The course also provided a valuable opportunity for networking among participants. Many considered that they had created life-long links on an international level that would serve them well in their future careers.

ROCK 'N' ROLL IN BANGLADESH

Protecting IP Rights across Borders

This is an abridged version of a case study written by **ABUL KALAM AZAD**, Professor of Economics at the University of Chittagong, Bangladesh, and first published by the World Trade Organization (WTO) in "Managing the Challenges of WTO Participation: 45 Case Studies."¹ Professor Azad presents the case as a successful example of how international intellectual property agreements enabled a rock band in Bangladesh to challenge successfully the unauthorized use of one of their songs by a filmmaker in India.

"It's daylight robbery in *Murder*, screamed a cult Bangladeshi rock band – and its plea has been heard," wrote the Telegraph of Calcutta in its front-page story on the Hindi movie, *Murder* (Telegraph, 20 May 2004). *Miles*, a popular Bangladeshi music band had accused music director Anu Malik, a music-mogul of the Mumbai movie world, of pirating one of its original compositions.

Manam, Hamin and other members of *Miles* were alerted by fans that their song *Phiriye Dao Amar Prem* (Give me back my love) had been copied in the soundtrack of Bollywood block-buster movie, *Murder*. When the song *Jana Jane Jana* was played in the movie, the band members could hardly believe their ears. Only the language was different – Hindi. Otherwise, "the lyrics are a shadow of ours, the tune is the same. Even the beat break-ups, the use of guitar and filler notes are the same," guitarist and vocalist, Hamin, told the Bombay Times.

The band composed the song *Phiriye Dao* in Bengali for their 1993 album, *Prathasa* (Hope). The song was also included in their 1997 album 'Best of Miles, Vol. 1' released by the Asha Audio Co. of Calcutta, and became very popular in both Bangladesh and West Bengal, India. "Just as *Santana* cannot leave a concert without performing 'Black Magic Woman,' we cannot conclude a concert without performing *Phiriye Dao*. We had planned to release the Hindi versions of our songs. The offer should have come to us," said Hamin. The violation of intellectual property (IP) rights in the song hurt the business interests of *Miles*, and, by extension, of Bangladesh.

Seeking redress

The band members contacted lawyers well versed in international IP matters and the Ministry of

Commerce. Ministry officials contacted their counterparts in India, who suggested that Miles should seek redress by taking the violators of copyright to court. The main provisions on the international protection of copyright and related rights, the band learned, are contained in the Berne and Rome Conventions and in articles 11 and 14 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). *Miles* decided to go to court.

A Calcutta law firm filed a writ petition on behalf of *Miles* in the Calcutta High Court on 17 May 2004 against the producer, Mahesh Bhat, and the music director, Anu Malik, of the film *Murder*, the singer of the song, Amir Jamal, the recording firm Saregama (India) Ltd and the audio company RPG Global Music (London). It was claimed that the defendants had collaborated on copying core elements from *Phiriye Dao Amar Prem* in the soundtrack *Jana Jane Jana* of the movie *Murder*. It was further claimed that the themes of the two songs were similar and their melodies identical. Even the use of chords was the same in both the songs. "This is gross infringement of the international (intellectual) property rights as well as the Copyright Act," stated Pratap Chatterjee, the lawyer for the petitioners (Telegraph, Calcutta, 20 May 2004).

As compensation for the injury caused to the business interests of the petitioners, they demanded 50 million rupees from Anu Malik, Mahesh Bhat, Saregama India Ltd and RPG Global Music; plus total reimbursement for the expenditure incurred in filing the case. A court order was also sought for appointing a receiver or special officer to seize the entire lot of soundtrack software from Saregama's Dum Dum studio. Besides this, the band's lawyers demanded that the respondents "should be directed to disclose upon oath details of cassettes and CDs distributed by them to various vendors and retailers."

1. The complete case study is available on the WTO website at: http://www.wto.org/English/res_e/booksp_e/casestudies_e/case3_e.htm

Going the Distance

Miles have come a long way. They started out in 1979, playing western hard rock cover versions in hotels around Dhaka, and for twelve years performed only in English. But Bangla pop was rapidly gaining in popularity across Bangladesh. "As a top band, the pressure started mounting on us – from the press, fans, audio companies – to do Bangla pop songs," explained lead guitarist and vocalist, Hamin Ahmed, in an interview for India-today.com. "We knew that we would reach out to a much larger audience once we did songs in Bangla. We decided to do it in a slightly different way and introduced Bangla rock-fusion in our first Bangla album, *Pratisrutti* (1991)." The album was an instant success. The band followed it up with another hit. *Prattasha* (1993) sold around 300,000 copies within a few months of its release, and is still a best selling band album in Bangladesh.

The band has created its own style of music which includes elements of pop, blues, Latino, jazz and techno. "The pop/rock scene in Bangladesh is fantastic," Hamin enthuses. "And the best part is that the audience is mature enough to understand and appreciate each and every instrument played and the intricate vocal works of a good singer. There are 50 to 60 bands in the country, including six or seven very good ones with a huge fan following. So, things are looking up and looking great."

And why the name? "Miles represents distance," explained Hamin. "At the time of naming the band, we knew that our journey through music is going to be a distance that will never end. So, miles and miles of music. You never stop learning, creating and never, ever, stop moving."

Current line-up: Hamin Ahmed (guitar & vocals), Shafin Ahmed (bass guitar & vocals), Manam Ahmed (keyboards & vocals), Iqbal Asif Jewel (guitar & vocals) and Syed Ziaur Rahman Turjo (drums).

Photos: © Onibaan.com



The verdict

On hearing the petition, the Hon. Justice S. K. Mukherjee took *prima facie cognizance* of the matter and passed an interim order on 19 May 2004. In his learned judgment, the justice ordered the respondents to remove the song from the soundtrack of the movie *Murder*. The court order further barred the respondents from manufacturing, selling, distributing or marketing any music cassette or disc containing the song.

Pursuing their IP rights in court involved costs and challenges for the copyright owners in Bangladesh, including money, time, lack of information and uncertainty about the outcome. When this article was written, the band had won only the first round of the battle, and had yet to secure a verdict on the nature and amount of monetary compensation for the damage caused to their business prospects. Nevertheless, the band members were very happy

with the decision of the court. "We were impressed by the promptness with which the first hearing in the Calcutta High Court was completed and the injunction order was passed. We proceeded systematically, organizing everything very carefully. We submitted the technical notations of our song and that of the "copied" song," said the band members (Prothom Alo, 26 May 2004).

The verdict was a triumph of international IP rights treaties, which enable the nationals of one country to defend their rights across national boundaries. The case upholds the fact that IP rights, like other property rights, are inviolable. It simultaneously serves as a warning to would-be violators of IP rights, and as an encouragement to creative people all over the world by reassuring them that their creative works can be defended against piracy.

IN THE NEWS

Get up, Stand up Stand up for your rights

So sang Bob Marley and the Wailers in the 1973 anthem urging their followers to fight for political and economic independence. It now appears that the family of the late reggae master is taking his exhortations to heart in what is heating up as a bitter three-way licensing dispute over the use of Marley's music in ring tones.



At the heart of the struggle is an agreement between Universal Music, which owns the rights to much of Marley's music, and Verizon Wireless, the U.S. cellphone carrier, which apparently gave Verizon exclusive rights to market ring tone versions of many of Marley's best-known songs.

Marley's family (the singer died in 1981) cried foul, saying that the deal implied a Marley endorsement of Verizon's service, and that such a deal required the family's approval. Chris Blackwell, the longtime

family spokesman whose Island Records helped popularize Marley and other reggae stars in the 1970s, threatened legal action against Universal and Verizon. Verizon removed the songs from its site to allow time to work out an agreement; Blackwell said the family would abandon plans to sue, but still criticized both Universal and Verizon for "refusing to give the musicians the respect they deserve."

That was too much for Verizon, which promptly put the songs back up on its site. Blackwell countered with renewed threats to sue; Universal, in an apparently conciliatory move, then announced that other phone carriers would be able to market the tones.

How the conflict is resolved remains to be seen; but it has highlighted the enduring appeal of Marley and the often incendiary music he created during his career, cut short when he died of cancer at the age of 36: in less than two weeks on the Verizon site, Marley's songs were downloaded more than 30,000 times. ■

100 Patents and Counting



Bob Loce, an imaging scientist at the Xerox Corporation, received his 100th U.S. utility patent on June 5 and his 101st on June 21. He has another 40 in the pipeline, and he has not yet turned 50. To spark original or "wacky" ideas, Loce keeps objects like an array lens made with glass bubbles, interesting looking rocks, very large lenses and holograms in his bottom drawer to pull out and examine when he is stumped. A volunteer teacher, he also learns much from his students, "I love the things they tell me. I want to think the way they do, free from the limitations that age and experience place on us. How can I maintain that kind of boundless thinking?" He believes failure is an important part of the invention process. "Unless you are failing 10 to 20 percent of the time, you are probably being too conservative in generating ideas and inventing new technologies. You've got to step over the line sometimes."

Loce is one of many prolific inventors. American Jerome Lemelson, who died ten years ago, held some 500 patents, among them the bar code reader and the Sony Walkman. The record holder is Shunpei Yamazaki, a Japanese inventor with over 3,200 patents in the area of information technology and video screens. ■

YouTube Signs Licensing Deal

YouTube has signed a license agreement for over 10 million pieces of music with a British copyright collective management society. The flat sum paid by YouTube will compensate artists, composers, songwriters and publishers – many of whom have seen their royalty revenues slowly decline since the Internet boom.

Much of the content on YouTube is uploaded directly by its users, so the company is not aware of its content. However YouTube has agreed to the installation of technology that will allow it to identify the music that is being used and report back to the collective management society so that royalties can be appropriately distributed. ■

iPhone Unlocked

A little over a month after its release, hackers have found a key to unlock the Apple iPhone, so that it can be used on networks other than AT&T. Buyers of the new iPhone released in July could sign up for cellular service exclusively with AT&T, but a 17-year old in New Jersey managed to unlock his phone by making few modifications to its software and hardware. CertiCell, in Kentucky, jumped on the opportunity to make a deal with him. But he is not the only one, Uniquephones.com, in Northern

Ireland, and the iphonesimfree.com website have both developed software for unlocking the iPhone that they are ready to launch on the market. The problem? – It may be illegal.

The U.S. Copyright Office issued a statement in 2006 that unlocking cell phones was not a violation of copyright, but that did not stop lawyers representing AT&T from contacting at least one of the firms that was about to release the software to warn them that it

may contain material copyrighted by Apple. It is apparently legal for users to unlock their phones so that they can change their cellular service provider, but it may be another question entirely if it is done for financial gain. ■



Courtesy Apple Inc.

Quantifying the Value of IP

“The creation and adoption of new ideas – in a word, innovation – is a very powerful factor that helps to determine progress of modern economies.” So reads the first sentence of the *Economic Effects of Intellectual Property-Intensive Manufacturing in the United States*, a new study com-

missioned by the NGO World Growth and published in August. The study’s findings, based on figures from the National Science Foundation, conclude that

- some two-thirds of the value of America’s large businesses springs from IP, especially patents and trademarks;

- IP-intensive industries produce 72 percent more value-added per employee than non-IP-intensive industries, create jobs at a rate 140 percent higher and pay much higher wages. ■

Joint Agreement Signed for the Protection of Performers Rights



Photos.com

WIPO signed a cooperation agreement on July 13 with the Societies’ Council for the Collective

Management of Performers Rights (SCAPR), located in Stockholm, and the Association of European Performers’ Organisations (AEPO-ARTIS), in Brussels, which aims at developing further activities related to the protection of performers and to the collective management of their rights worldwide. The agreement reflects the desire of the parties to secure more widespread recognition of these rights

in the WIPO Member States concerned and to deploy adequate structures to protect the interests of this category of rights owners in view of the implementation of the WIPO Performance and Phonograms Treaty.

Over the past 15 years, WIPO has received support from AEPO, in particular through the efforts of its Secretary General, Mr. Xavier Blanc, who contributed to a large number of activities in developing countries. The French performers’ society SPEDIDAM, a member of AEPO, has also assisted WIPO with the delivery and installation of computer software and hardware in many countries.

THE ARTS AND COPYRIGHT

Learning about copyright can be fun. The latest publication in WIPO's popular series for schools shows how.

Aimed at 9 to 14 year-olds, *The Arts and Copyright* weaves a richly informative account of the principles of copyright law around a wealth of colorful examples, which demonstrate how copyright and related rights work in practice to protect and encourage creativity.



Using simple terms and illustrations, the workbook brings the concepts which underpin copyright within easy grasp of young students.

Nor does it shy away from legal substance: after setting out clearly the different rights protected under international copyright law, readers are shown how to look up the provisions for themselves in the Berne Convention on the WIPO website, and to check whether their country is party to the Convention. A central section of the book explains how copyright limitations and the public domain provide a balance between the rights of creators and the public interest in accessing and using their works. The final chapter explores different forms of copyright infringement, from plagiarism to illegal file sharing, touching also on digital rights management.

Throughout the pages, "Young Author" profiles tell the stories of youngsters who have achieved distinction through their creative works – such as the best-selling author of the *Eragon* fantasy stories, Christopher Paolini; and ten year old Indian filmmaker Kisha Shrikanth.

The book encourages young students to view copyright in the round by subtly shifting perspective between sections and casting the readers in different roles – first as creators, then as users of copyrighted works. Their new-found knowledge is put to the test through games and activities, such as "Clear the Rights," "Public Domain Detective," and "Spot the Infringement." A sample letter is provided to enable the readers themselves to seek permission to use a copyrighted work in, for example, a school project.

The Arts and Copyright builds on the success of the first publication in WIPO's *Learn from the Past, Create the Future* series. *Patents and Invention* has received enthusiastic feedback from schools around the world, and has been translated into seven languages. Unlike most other curriculum materials currently available on intellectual property, the WIPO workbooks are designed to be entirely self-sufficient. They can be freely copied for classroom use by teachers or knowledge on the subject; or can be used by individual students without the need for support or access to additional resources.

Today's school children are tomorrow's games creators, graphic designers, writers, record producers, publishers. And already they are avid consumers of music, film, books, software, and all that the Internet has to offer. Equipping young people with a sound knowledge and understanding of intellectual property is critical to developing a positive and sustainable IP culture for future generations. For WIPO, this remains a major goal in its public outreach activities.

Download *The Arts and Copyright* in PDF at: www.wipo.int/freepublications/en/copyright/935/wipo_pub_935.pdf

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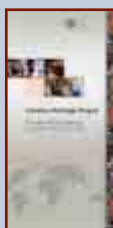
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