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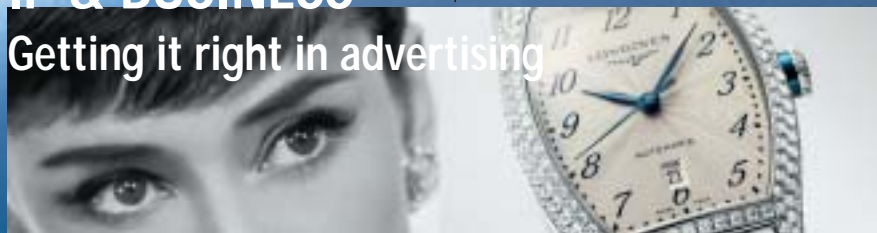
FOCUS ON TRADEMARKS

Bumper year for Madrid system



IP & BUSINESS

Getting it right in advertising

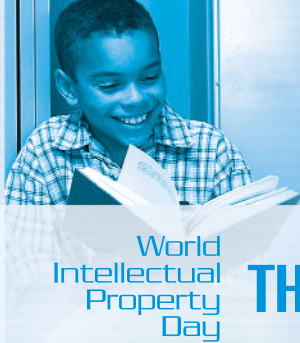


BLAZING GHANA'S TECHNOLOGY TRAIL

theSOFTtribe story



26 APRIL



World
Intellectual
Property
Day

THINK, IMAGINE, CREATE

World
Intellectual
Property
Organization

**Message from Dr. Kamil Idris,
Director General of the World Intellectual
Property Organization (WIPO),
on World Intellectual Property Day,
April 26, 2005**

World Intellectual Property Day is an occasion to reflect on how human creativity and innovation help provide a better world for everyone.

Our message this year, *Think, Imagine, Create*, is directed particularly towards young people.

Mankind's capacity to create and to innovate is limitless. It is a fundamental, human resource with endless potential. Nowhere is this more apparent than in young people. No matter what country or community they are born into, the young share certain striking characteristics: Their curiosity about whatever is new, different, or novel. Their unfettered imagination. Their readiness to play and experiment – with everyday objects, with ideas, with technology. Their talent for finding unconventional solutions.

Our goal for World Intellectual Property Day and beyond should be to encourage young people everywhere to recognize the creator, the problem-solver, the artist within themselves. For innovation and creativity are the natural resources on which future prosperity depends. From the classrooms of today will come the entrepreneurs, the scientists, the designers, the artists of tomorrow.

WIPO is committed to promoting a culture in which young people can realize this potential. Through well-balanced IP systems and structures, WIPO seeks to help creators across the globe generate economic value from their creations, and so to contribute to the social, cultural and economic advancement of their own societies and of the wider world.

Think, imagine, create. These are words to inspire young people to follow their dreams to the fullest.

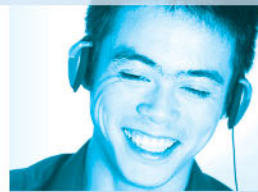


Table of Contents

Editor's note – The Message from Director General Kamil Idris at left serves as a reminder that April 26 is World Intellectual Property Day. As the WIPO Magazine went to press, many Member States, observer organizations and other groups had notified WIPO of activities planned for the event (please see www.wipo.int for details). We will provide coverage of these activities in the next issue. In the meantime, we urge all readers to take a moment on the occasion of World Intellectual Property Day to consider the value and importance of human creativity and innovation in building a better world.

That value is very much in evidence in the article on the SOFTtribe (p.16), a true IP success story about software development in Ghana. This month's issue also provides a focus on the importance of trademarks to business – both past and present – as well as recent developments in the Madrid system. Coverage begins on page 2.

- 2 ▶ **Trademarks: Bumper Year for Madrid System**
- 6 ▶ **Longines Watch Company: Madrid's Oldest Mark**
- 8 ▶ **Trademarks Past and Present**
- 10 ▶ **Trademarks in the news: pride of place**
 - New York, new mark
 - Branding Bulgaria
 - Vietnam Value Inside
 - Flying the flag for Swiss products
 - Venice builds its trademark
- 12 ▶ **IP and Business**
 - IP in Advertising
- 16 ▶ **IP & Development: the SOFTTribes**
- 20 ▶ **International Women's Day: Inventive Women**
- 22 ▶ **A Common Patent Processing Manual for the Andean Region**
- 23 ▶ **Committees**
 - International Patent Classification System Upgraded
 - Casablanca Consultations on Future Work of the SCP
- 24 ▶ **News Summary**
 - Pirates losing ground to digital music sales
 - WIPO joint work program with ECLAC
 - New courses at the WIPO Academy
 - Fighting for orange
- 27 ▶ **Calendar of Meetings**
- 28 ▶ **New Products**



Geneva,
March - April 2005

TRADEMARKS: BUMPER YEAR FOR MADRID SYSTEM

"The biggest advantage is cost, especially with assignments, changes of names, etc. This prompts us to use Madrid even if we plan to designate two countries." -

Jane Collins, Head of Trademarks for Swiss-based agrochemical giant, Syngenta Crop Protection AG

Faster, simpler, cheaper

The reputation of the Madrid system is spreading as a *cost-effective, flexible and administratively efficient* alternative to multiple national applications. A single international Madrid application has the same legal effect as a national application in as many of the 77 contracting states as the applicant designates. No need to pay local agents to file applications in each country. No translation of the paperwork into several languages. A fixed (12 or 18 month) deadline for refusals. Time and cost savings begin from the outset. A typical applicant, designating 12 countries for registration, can expect to find a Madrid application more than six times cheaper than the alternative¹. Further down the line, the administration of renewals, amendments, transfers and so on, is also massively simplified: a single renewal date; a single transaction to change company details. The same, typical applicant stands to save over 20 times the cost of filing a change in ownership.

For Member States, too, the benefits are significant. Accession to the Madrid system stimulates overall trademark activity. The number of foreign marks filed as designations usually far exceeds any reduction in filings via the national route. Easier access to trademark protection in other countries helps national enterprises to market themselves abroad. The national trademark office is spared the tasks of formally exam-

After years of only modest growth, WIPO's international trademark registration system, the Madrid system, shifted gear in 2004 to record a 23.5 percent increase in trademark applications. The up-turn appears set to continue as the snowball effect of significant new country accessions gathers momentum.

Why the surge? Success is now breeding success. With the newest members taking the total number of contracting states to 77, the Madrid system is becoming an increasingly attractive option for companies seeking trademark registration in multiple countries. This is all the more so following three major advances within the past 18 months:

- ▶ The *accession of the United States of America* (U.S.) to the Madrid Protocol in November 2003 has brought a big influx of new users. These include not only U.S.-based companies able to use the system for the first time, but also users from the rest of the world who can now take advantage of the Madrid system to seek trademark protection in the U.S. market. Within 12 months of joining, the U.S. had filed over 1,700 international applications, making it already the 6th biggest user in 2004.
- ▶ The introduction of *Spanish as the third filing language* under the Madrid Protocol in April 2004 has made the system more accessible to a much broader range of users. It should, moreover, smooth the path for what WIPO hopes will be a succession of new members from the currently under-represented Latin American region.
- ▶ The *accession of the 25-country European Community* bloc in October 2004, together with the link to the Community Trademark (CTM), increased use and gave added flexibility to users of both the Madrid and the CTM systems.

Top user-countries (2004)

Germany*	5,393
France	3,503
Italy	2,499
Benelux	2,482
Switzerland	2,133

* German multinational Henkel has the greatest number of trademarks in force in the International Register.

¹ WIPO statistics, calculated on the model of Morocco-based applicant seeking protection in Austria, Benelux, Germany, Italy, Hungary, France, Spain, Czech Republic, Romania, United Kingdom, Slovenia and Switzerland.

ining, classifying and publishing international applications, all of which is handled by WIPO, but is compensated for the work it undertakes by the distribution of *designation fees*.

The multilingual staff of the WIPO International Bureau have a wealth of experience in processing applications and answering inquiries. Through seminars, newsletters, website, and direct contacts, they provide detailed information services to users and trademark offices. The *Madrid Express* provides free electronic access to details of trademarks recorded in the International Register. The new, improved *ROMARIN* (see page 5) offers a more sophisticated, subscription-based database.

Users and would-be users

"Speedy registration means more business certainty." Jane Collins, Head of Trademarks for Swiss-based agrochemical giant, Syngenta Crop Protection AG, speaks of multiple advantages of the Madrid system for Syngenta, owner of some 32,000 trademarks in 140 countries. She highlights corporate restructuring examples, in which the Madrid's central administration for recording changes saved millions of Swiss Francs.

"(The Madrid) is good for the price and quick. It is particularly quick and simple to claim priority, as no extra papers are needed. Another advantage is the simplicity of recording transfers and licenses. It is... very

convenient, really fantastic". An enthusiastic François Griesmar of the French-based *Groupe Danone* has been using the Madrid system for 30 years to manage the company's portfolio of international brands in the food industry.

"The ideal for our Group and for the industrial sector would be Brazil's accession to the Madrid Protocol... It would allow us to expand our trademark... and reduce our costs for obtaining such protection. The management of our trademark portfolio would be simpler, easier and more efficient." – Natan Baril, IP Counsel of The Boticário Group. Boticário, specializing in beauty products, is one of the largest trademark owners in Brazil, selling more than 650 of its trademarked products around the world. Mr. Baril was interviewed in *Managing IP (MIP, www.managingip.com, December 2004/January 2005)*.

Big or small - a flexible system for all

The above testimonials make clear the advantages for multinational businesses handling large, multiple trademark portfolios. But the Madrid system is far from the preserve of the big leagues. For small businesses, the cost and administrative savings, as well as the ease of access to foreign jurisdictions, are proportionally even more critical to profit margins. It is not surprising, therefore, that of the 138,280 companies with trademarks currently in force in the International Register, only 21 compa-

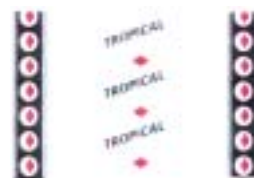
nies have over 500 marks registered; whereas a striking **96 percent** of users have registered one to ten trademarks, the majority being small and medium-sized enterprises (SMEs).

A browse through the International Register quickly gives a feel for the diversity of the users. Here is a selection:

China shot into the top 10 country-users in 2004 with a 115 percent increase in applications. Among the latest raft of applicants are the *Zhejiang Zhuoling Shoes Co., Ltd.* of Munan Village, Zhejiang; and top foodstuffs exporter the *China National Cereals, Oils and Foodstuffs Import and Export Corporation*. The latter designated over 80 countries for protection of its *Greatwall Brand*.



The first published trademark application from *Kenya* following accession to the Madrid system was *Tropical*, filed in 2004 by *Kenya Sweets Ltd.*



The *Republic of Korea* joined the Madrid system in 2003. But *Samsung Electronics Co. Ltd.*, now the System's biggest Korean user, have used their German subsidiary to access the Madrid route since 1989. Here is Samsung's *Natural Color* trademark for computer monitors, filed in 2003 for protection in 20 countries.



Iran also joined in 2003. The food and soft drink company, *Zam Zam Iran Co.*, have registered internationally their *Zam Zam* trademark, named after the spring water at the Islamic holy site of Mecca in Saudi Arabia.



Australian-based companies are becoming enthusiastic Madrid users, filing twice as many applications in 2004 as in the previous year. The *Australian Rugby Union Ltd.* registered their *Wallabies* logo within the first year of Australia's 2001 accession to the Protocol.



Users from the *Baltic States* include Latvian tinned fish producer, *Brivais Vilnis*, and *Air Lithuania*, whose elegant mark was registered in 2004.



Companies from the *Netherlands*, one of the Benelux founding members of the original Madrid Agreement in 1891, have been filing for over 100 years. *Friesland Brands' Victoria* mark for Dutch Edam and Gouda cheeses will have something to crow about as it celebrates its 50th year in the international register next year.



Agreement and Protocol

The **Madrid system** is governed by two international treaties: the Madrid Agreement and the Madrid Protocol, which together make up the Madrid Union. The Madrid Protocol, which became operational in 1996, introduced greater flexibility and the option of English language filing, which made the system more widely attractive. Membership of the Union has risen rapidly since the Protocol came into effect. For users, the terms of access to the system depend on which of the Treaties their national government has joined.

Future challenges

The Madrid system is beginning to come into its own. WIPO will continue in 2005 to encourage new accessions – particularly in under-represented regions - in order to ensure that user-interests are served through an optimal geographical spread. Meanwhile, WIPO's International Bureau is working with users to maintain the efficiency of its services within an expanded system.

◆
For further information and guidance on how to file an international registration see www.wipo.int/madrid

New ROMARIN - improved database

Among major improvements to Madrid user-services is a powerful new version of the international trademark database, ROMARIN. The subscription-based database gives access to details of the more than **427,000** internationally registered **trademarks** currently in force in the International Register. It is available both on-line and on DVD, in English, French and Spanish. ROMARIN offers a more sophisticated service and access to greater detail than WIPO's alternative, free-of-charge database, the Madrid Express.



The old ROMARIN (**R**ead-**O**nly **M**emory of **M**adrid **A**ctive **R**egistry **I**nformation), set up in 1992, was available to subscribers on CD-ROM only. Increasingly expensive to maintain, it had clearly had its day by the time the need arose in 2003 and 2004 to implement a raft of software changes following the introduction of new regulations and Spanish as a third working language into the Madrid system. WIPO took the opportunity to canvas subscribers and refine the requirements. In response to overwhelming user-demand for an online version, the new ROMARIN, using web-based technology, was launched in October 2004.

Users immediately felt the benefit with **subscription fees slashed** by 25 percent for the DVD, and subscription to the online version for well under half the price of the old service. The online version is **updated daily**, giving users access to details of the latest registrations and amendments well before their publication in the *WIPO Gazette of International Marks*. Other improvements include a **search choice** between a simple search, and a powerful, advanced search of all the indexes. Users can also select different **display options** (full, summary or countries) according to their needs.

For fees and how to subscribe see: www.wipo.int/madrid/en/romarin/index.htm

LONGINES WATCH COMPANY: Madrid's Oldest Mark

Never modified, continually used, the winged hourglass logo of the Longines watch-making company is the oldest valid trademark in the International Registry at WIPO.



The original trademark, which still appears on the back of Longines watches

Originally registered in Switzerland in 1889, the Longines trademark was filed under the Madrid Agreement Concerning the International Registration of Marks in 1893. Then in its infancy, the Madrid Agreement counted only six member States: Belgium, France, the Netherlands, Portugal, Spain and Switzerland. The Longines trademark was the fourteenth application filed in the Registry, but the preceding thirteen marks have lapsed in the intervening years.



An updated version of the trademark, registered in 1942, which appears on the face of Longines watches

The company adopted the name Longines in 1867 when Mr. Ernest Francillon brought his family's watch-making skills together under one roof in a new factory in Les Longines, Switzerland. From then on, the Longines winged hourglass was engraved on all timepieces made by the company to ensure brand recognition. Today each

Longines watch bears the original trademark on the back, and an updated version on the face.

The Longines story, however, is about more than its trademark. It is about brand building by continually innovating and creating unique designs; and about business acumen in using the intellectual property system to protect and market the product. Longines is an instructive case study in the successful exploitation of multiple forms of intellectual property – patents for invention, design, trademarks and geographical indications.

Ticking off the innovations

The company reports some 160 patents for new watch movements and technical innovations in Switzerland. Longines also figures among users of the of the WIPO-administered Patent Cooperation Treaty (PCT) system, which simplifies patent applications in multiple countries.

From the start, Longines placed a premium on innovation. Watches used to be wound by means of a key. Longines invented the now ubiquitous, integrated crown mechanism for winding and setting the time when the company produced its first watch, at Les Longines. Mr. Francillon presented the watch, already bearing the hourglass trademark, at the 1867 Universal Exhibition in Paris, where he received a bronze medal for the invention.

When watches went from waistcoats to wrists, Longines was the first to produce a wristwatch mechanically in 1905. In 1979 the Longines "*Feuille d'Or*" model became the world's thinnest watch, measuring only 1.98 mm. The secret: a quartz movement totally integrated into the case. In 1984, the company claimed another innovation with the VHP (Very High Precision) movement – a system of thermo-compensation, five to ten times more precise than quartz watches.

Design

Technical innovations went hand-in-hand with changes to the aesthetic appearance of the watches. This led to a string of design awards over the years.

During the 1920s and '30s, Longines produced a new generation of watches inspired by the synthesis of organic form and structural geometry in the *Art Deco* style. Four Diamond Academy (New York) Oscars followed for Longines' designs during the sixties. In 1980, the creation of a tiny watch movement for a ladies model presented the design department with a new challenge, resulting in a silver medal at the



Bijhorca in Paris. Longines added the prestigious Swiss Watch of the Year award to its collection in 2001.

Longines' marketing campaigns over the years have also reflected this interplay of stylish design, technical innovation and strong brand image, as for example in their 1953 cam-



Audrey Hepburn

campaign entitled **Science and Elegance**. Long before life-style advertising campaigns became commonplace in the 1980s and '90s, Longines used cinema icons, such as Humphrey Bogart and Audrey Hepburn, as **Ambassadors of Elegance** to promote the desired brand image. Longines coined – and registered – the phrase “Elegance is an attitude” for the publicity featuring Bogart and Hepburn.

Longines is now part of the Swatch Group, which is the biggest user of the WIPO-administered Hague System for the International Registration of Industrial Designs.

Swiss made

Longines watches carry the geographical indication, “Swiss made”. Strict laws, dating from 1971, regulate the use of the Swiss indication on watches, which has come to embody a concept of quality recognized the world over. According to the *Fédération de l'industrie horlogère suisse* this includes “the technical quality of watches (accuracy, reliability, water-resistance and shock-resistance), as well as their aesthetic quality (elegance and originality in design).” Longines has taken advantage of the Swiss made indication to convey a further quality guarantee to customers.

Brand building

From horse races to gymnastics, from downhill skiing to world record sprints, Longines further built its brand reputation by linking its name to the precision timing demanded in sport events. Longines was the official timekeeper for the first modern Olympic Games in 1896. Longines timed the first non-stop transatlan-

tic flight from New York to Paris by Charles A. Lindbergh in 1927, and the first Tour de France in 1951. In 1912 Longines introduced the principle of an electric wire which, at the start and finish of a race, activated and stopped the timing mechanism. Thus it clinched the position of official timekeeper for many international sports events for years to come.

The Swiss watch industry, which was threatened by inexpensive Japanese exports flooding the market in the 1970s, saw exports grow by 10.9 percent in 2003.¹ Vintage watches, such as Longines' prize-winning models, are also now selling at premium prices in auction houses. Marketing savvy and the intellectual property system have enabled the Swiss watch industry to compete successfully. Longines' complementary use of patents, trademarks, industrial designs and geographical indications created an image, which appeals to its target market and retains brand loyalty.



Charles A. Lindbergh

¹ “What makes them tick?” by Sarah Raper Larenaudie, TIME Style&Design Winter 2004 Supplement.

TRADEMARKS PAST AND PRESENT

The use of trademarks dates back thousands of years. The first marks – the branding of livestock depicted in Stone Age cave paintings – identified personal property to prevent theft. Egyptian masonry from some six thousand years ago shows quarry marks and stonecutters signs, which named the source of the stone and the laborer who carried out the work. The practice of marking goods with a graphic design to certify its origin and quality spread throughout the ancient world as the scale of commerce increased and goods became more sophisticated. Some of the marks used by trade guilds in the middle ages – such as the hall-mark for gold purity – are still in use today although the guilds no longer exist.

Over the years these marks evolved into today's system of trademark registration and protection. The earliest trademark legislation was the Bakers' Marking Law, obliging every baker to put his mark on the bread he baked, enacted by the British Parliament in 1266. Merchants' marks – personal marks used from the 13th to 16th century – could be considered the predecessors of modern trademarks in that they bore names of traders and served as a guarantee that the goods sold were of the expected quality.

The two items below, written by Mr. Patrick J. Gallagher of Fulbright & Jaworski L.L.P (Minneapolis, Minnesota) for the International Trademark Association (INTA) Bulletin,

trace the story behind two successful modern trademarks: Swedish furniture retailer, IKEA, and Australian swimwear, SPEEDO.

IKEA

From a very early age, Ingvar Kamprad showed great promise as an entrepreneur. He began selling matches to neighbors from his bicycle in his southern Swedish village. After successfully completing his studies at 17, his father gave Kamprad a gift that he used to establish a business selling pens, wallets, picture frames, table runners, watches, jewelry and nylon stockings. He named his company "IKEA" – IK for the initials of his first and last names, E for Elmtaryd, the farm where he grew up, and A for Agunnaryd, the village where he grew up.



In 1947, IKEA began selling furniture manufactured locally from the forests close to his home. Swedish consumers responded positively to the furniture, and in 1951 IKEA published its first furniture catalog. Soon after, Kamprad made the decision to discontinue the sale of all other products.

In 1953, IKEA opened its first showroom in Älmhult, Sweden. The showroom was important to IKEA's success

and growth because it was the first time customers could touch IKEA's furnishings before ordering them. Also important to IKEA's success was a supplier boycott, because it resulted in IKEA's decision to design and manufacture its own furniture.

In the 1960s, IKEA expanded outside Sweden by opening stores in Norway and Denmark. In the 1970s and 80s, IKEA opened stores in several European countries, including Switzerland, Germany, Australia, France, the Netherlands and Belgium, and in countries outside Europe, such as the United States, Canada, Singapore, Saudi Arabia and Australia. IKEA's expansion continued in the 1990s to China, Poland, the Czech Republic and the United Arab Emirates. Throughout those decades, IKEA continued to design and manufacture innovative and award-winning home furnishings. Today, IKEA has more than 190 stores in more than 30 countries on four continents. – INTA Bulletin Vol. 59, No. 13

The company owns over 1200 registrations for IKEA and IKEA variants in more than 70 countries around the world, including some under the Madrid system.

From Knitting to SPEEDO

In 1928, the company responsible for the legendary SPEEDO swimwear brand was founded on Bondi Beach in Sydney, Australia. The company, originally known as MacRae Knitting Mills and also

called "The Great Aussie Cossie," was able to build on Australia's active beach lifestyle and the growing acceptance of swimming as a competitive sport.

MacRae Knitting Mills began by producing a racer-back swimming "costume" for men and women. The original marketing slogan was "Speed on in your SPEEDOs." The phrase was so popular that the company's name was permanently changed to Speedo. Inspired by its owner's country of origin, the SPEEDO logo is called the "boomerang" and has become an Australian sporting icon.



In 1932, Swede Ame Borg became the first swimmer to earn an Olympic gold medal wearing a SPEEDO swimsuit. SPEEDO swimsuits made even a bigger splash in 1956 when the Australian team, led by legends John Devitt and Dawn Fraser, dominated the Melbourne Olympics. In fact, the team won so many medals that other nations joked that there must have been motors in the SPEEDO swimsuits. To date, more Olympic gold medals have been won in SPEEDO apparel than any other apparel brand.

Speedo has always been willing to experiment with product development. In the early days, Speedo was the force behind the swimwear

High Impact Brands of 2004

The trade magazine *Brandchannel* has published the results of a survey aimed at determining which brand names had the most influence worldwide in 2004. Topping the list in the global category was **Apple**, displacing the 2003 winner, Internet search engine **Google**, to second place. Swedish furniture retailer, **IKEA**, took third place, followed by the US coffee-shop chain **Starbucks Coffee**. More unexpected was the appearance – for the first time in *Brandchannel's* annual reader survey – of the Qatar-based news channel, **Al-Jazeera**, voted the fifth most influential brand of 2004.

Close to 2000 readers (most associated with marketing or advertising activities) in 75 countries voted in the poll, which also had regional categories. Japan's **Sony** topped the Asia-Pacific category, while Mexican cement giant **Cemex** headed the list for Latin America.

industry's move from wool to silk to cotton to even mosquito netting. Since the 1930s, Speedo designers actively sought feedback from athletes and thus have pushed swimwear garment engineering to new heights. – INTA Bulletin Vol. 58, No. 15.

Today, the credibility of the brand continues to be underpinned by technology, design and innovation. Four years of research on how water travels over the over the body led Speedo to create the Fastskin FSII swimsuit, which acts in a way similar to shark skin to reduce friction in water. Michael Phelps broke five world records in the 'shark' swimsuit at the 2003 Barcelona FINA World Championship, and won gold at the 2004 summer Olympics in Athens.*

In 2004 Speedo signed an exclusive four-year sponsorship agreement with FINA. Speedo branding will appear in the official printed material of each event, and Speedo will work with FINA on global marketing campaigns.

Speedo Holdings Company in the Netherlands registered its first international trademarks under the Madrid system in November 1989. There are now some 50 SPEEDO marks in the International Register.



* La Fédération Internationale de Natation

TRADEMARKS IN THE NEWS: PRIDE OF PLACE

New York, new mark

New York City is rebranding itself. City lawyers have filed an application for trademark registration of the slogan *The World's Second Home*. If approved by the U.S. Patent and Trademark Office, the city will have an exclusive right to use the mark on a list of some 200 products and services, ranging from postcards to baby bibs to walking sticks. It is perhaps not as catchy as "The Big Apple" nickname, which itself replaced "Fun City", and played an important role in the 1970s campaign to revive New York's tourist economy. But the city's administration is hoping that it will prove as popular as the *I ♥ NY* sign.



The new slogan is designed to reflect the city's cultural diversity and the multiplicity of its immigrant communities. It is already being actively used to promote New York's bid to host the 2012 Olympic Games, as in these words from the mayor of New York, Michael Bloomberg: "In New York's public schools, immigrant students hail from 199 [...] nations! We are the world's second home, a five-borough Olympic village where all ethnic and racial groups excel."

Branding Bulgaria

A positive image campaign run by the Bulgarian Economy Ministry has resulted in agreement on a trademark for use on Bulgarian exports. Bulgarian companies voted for the country's sunny logo as the sign they would most like to use on their products for export. Companies which choose to help promote Bulgaria through their goods will receive instructions from the Ministry as to how to use the logo.



Vietnam Value Inside

Vietnam's Trade Ministry is also planning a new national trademark strategy as part of a program to build a national identity for Vietnamese products in domestic and overseas markets. The Ministry has been working to raise awareness among local businesses as to the value of strong trademarks. A recent survey conducted by the Ministry showed a basic lack of recognition of Viet-

n a m e s e
b r a n d s
among fore-
ign visi-
tors and
residents –
including
of big
names in
the domes-

tic market, such as Thai Tuan textiles or Vinamilk. Indeed, until two years ago, only 1.6 percent of the trademarks registered in Vietnam were owned by Vietnamese companies. The Ministry is proposing incentives for businesses which use the *Vietnam Value Inside* label, including half-price advertising in domestic media outlets. Vietnamese enterprises will also be offered expert help with building their brands and registering their trademarks abroad. (Note: Vietnam has been a member of the Madrid Agreement since 1949, but is not yet party to the Protocol).



Flying the flag for Swiss products

In Switzerland, businesses have no doubt that the Swiss name sells. *White on Red: The United Colours of Switzerland*, an exhibition running until summer 2005 at the Museum of Communication, Berne, portrays the widespread use of the Swiss flag to market products and services. Qualities commonly associated with Switzerland range from the precision and reliability of its craftsmanship, to the purity and health-giving properties of its Alpine environment. Small wonder, then, that ever greater numbers of businesses use the Swiss “brand” to boost the market value of their products, from watches and cheese to t-shirts and insurance services. Museum Director, Jakob Mersserli, notes: “Companies use the cross [of the Swiss flag] in their marketing and they convey values through it, that may or may not actually be part of the product.” Such use of the flag should not be confused with the mark *Swiss made*. - This well known geographical indication, used by the Swiss watch industry, is highly regulated to ensure strict quality control (see *Longines*, page 6).



Venice builds its trademark

References to Italy's Venice help to sell everything under the sun – from blinds and tiles to foods and cosmetics. But two years ago Venice set about reclaiming its name and designed a trademark for that purpose. The city signed on Philippe Starck, one of the best-known contemporary designers in the world, as project leader for the selection of the trademark. The winning project, from a young designer in Lyon, France, was presented officially in Rome, New York and Tokyo in 2003. The city registered the trademark internationally under the Madrid system.

The implementation of Venice's trademark strategy is now in full swing. The city authorities are pursuing a twofold objective. The first is to promote the city's innovative projects and communicate big events. One example is the 'ecobag' that the city is now selling for a symbolic one Euro fee to tourists at all the city's entry points. The bag carries the city trademark and reminds tourist not to drop litter. The second objective is to earn revenue for the upkeep of the city's historic heritage by licensing out the trademark for use both in communication campaigns and on products.

Used in corporate communications, the trademark defines partner companies – such as Mazda Motor Italia – as friends of the city, helping to rebuild



and maintain its historical sites. Used on existing and new products, the mark acts as a merchandising tool. Applications are now coming in to use the logo on souvenirs, accessories and luxury goods. Naloni, an Italian watchmaking company, licensed the trademark for use on gold watches that it will create specifically to carry the city logo; another company, the Casa Vinicola Canella S.p.A., for a new cocktail. A fundamental requirement for licensees is the ability to reflect the city's mission and the values on which Venice prides itself – uniqueness, progress and quality.

Advertising is as old as commerce. Some 3,000 years ago, shoemakers and scribes promulgated their services on clay tablets. Ancient Greeks used town criers to proclaim the arrival of ships laden with wine and spices. Today, businesses beacon potential customers with attractive signs, brochures, billboards, radio and television commercials, telemarketing, text messages, e-mails, Internet banners and pop-ups, rich media advertisements¹ and more. For a number of online business models, receipts from advertising are the main or sole source of income.²

To be effective, an advertisement must be first noticed, and then remembered long enough to communicate persuasively the unique selling points of a product or service. Thus, advertisers race to create new and enticing ways of communicating information to customers to influence their buying decisions. This article deals with intellectual property (IP) issues in the creative process of advertising, from how advertisers can protect their exclusive rights in their creations, to the dangers of violating the IP rights of others.

Which IP rights?

The elements of a good advertisement are likely to be imitated or copied by others. So, businesses need to be aware of the various IP rights that can come into play when creating content for an advertise-

ment or running an advertising campaign. These are summarized in the table on the following page.

Businesses are finding ever more inventive ways to advertise their products and services. Each level of increased sophistication will occasion additional IP rights. The simplest advertisement may involve only the copyright and/or trademark rights associated with a logo; whereas advanced audio-visual works may raise many complex IP issues.

Protection strategies

Creating a successful advertising campaign often requires significant investment of time and money. Competitors are likely to try to free ride upon an innovative company's creativity, skills and efforts. Businesses need therefore to devise appropriate strategies to protect their advertising creations by using the legal tools at their disposal in the IP system. Such strategies may include:

- ▶ **registering the advertisement** and other copyright protected material (including a website) with the national copyright office in countries which provide this option;
- ▶ alerting the public that advertising material is legally protected by copyright law. This may be done simply by means of a **copyright notice**;
- ▶ **registering trademarks**. Trademarks are typically words, numerals and/or logos. However, technological developments

have given rise to new and more creative marks. Animated image marks and sounds, for example, are particularly suitable for advertising in the Internet environment;

- ▶ **registering trademarks as domain names**. A trademark and a domain name may be inseparably linked. It is frustrating for customers when they cannot find a business's website easily, and frustrating for a business when customers end up on the website of a competitor. So it is worth registering trademarks as domain names before someone else does;
- ▶ **using trademarks consistently and properly** in all promotional material. Use only the specific font, color, size or other features that are part of the trademark. This will enhance the distinctiveness and value of the trademark over time. Mark all trademarks with a **trademark notice**: ®, ™, SM or equivalent symbols (see *Trademark Usage, Getting the Basics Right*, WIPO Magazine March/April 2004);
- ▶ **patenting innovative advertising technologies** and online business methods in countries where such protection is available;
- ▶ **preventing inadvertent disclosure of trade secrets**. Any confidential business information that gives a business a competitive advantage, such as sales methods, consumer profiles, lists of suppliers, manufacturing processes, marketing plans, a great idea for an advertising campaign,



¹ Rich media advertisement is Internet advertising which uses advanced technology to allow user interaction and special effects. Rich media advertisements often contain streaming video, audio, fill-in forms, pull-down menus, search boxes and other visual or interactive elements that are more elaborate than traditional images and text.

² According to JupiterResearch, Internet advertising increased 37 percent worldwide in 2004, rising to US\$ 8.4 billion. Approximately 85 percent of Yahoo!'s total revenues comes from advertising. (Source: Le Temps, 20/01/2005).

IP Rights and Advertising

Elements of advertising	Possible means of protection (depending on national legislation and other factors)
Creative content , such as written material, photographs, art, graphics, music and videos	Copyright
Slogans and sounds	Copyright and/or trademark law
Signs , including business names, logos, product names, domain names	Trademarks
Geographical Indications	Laws against unfair competition; consumer protection laws; laws for the protection of certification marks; special laws for the protection of geographical indications or appellations of origin
Computer-generated graphic symbols, screen displays, graphic user interfaces (GUIs) and even web pages	Industrial design law
Website design	Copyright
Software to create digital advertisements, such as computer generated imagery (CGI)	Copyright and/or patents, depending on the national laws
Some advertising techniques or means of doing business	Patents or utility models
Distinctive packaging , such as the shape of a container	Trademark, industrial design or, in some countries trade dress
A person's identity , such as name, photograph, image, voice or signature	Publicity or privacy rights
Databases , for example of consumer profiles	Copyright or by <i>sui generis</i> database laws

Note. Unfair advertising methods, including false advertising claims, false endorsement of products, deceptive packaging, dishonest promotions or marketing, are prohibited by unfair competition laws.

etc., can be protected by trade secret law or laws on unfair competition. However, once a trade secret is disclosed to the public, even accidentally, it will no longer be possible to protect the information. (See *Trade Secrets are Gold Nuggets: Protect Them*, WIPO Magazine April 2002 and *Policy Framework for Protecting Trade Secrets*, WIPO Magazine May 2002);

- ▶ **not disclosing patent related information.** If a business wishes to obtain a patent on a new product, it must not disclose the product's innovative qualities in any advertising or marketing, as this can bar it from the "novelty" requirement for obtaining patent protection, unless the national patent law provides for a 'grace period.'

Using other people's IP

Current technology makes it easy to use material created by others, such as film and television clips, music, graphics, photographs, software, text, etc. However, the use of IP protected material without authorization from the rights owner can have dire consequences. The same rules apply for making an advertisement

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as for creating a website. These issues are covered in detail in *IP Issues in Creating an Internet Site*, WIPO Magazine Nov/Dec 2004, which also deals with the use of other companies' trademarks.



Famous faces

Golf star Tiger Woods appears in Buick car commercials, Nicole Kidman is the new face of Chanel No 5 perfume, while Humphrey Bogart and Audrey Hepburn have been "Ambassadors of elegance" for Longines watches since the 1950s (page 6). Businesses have long appreciated the value that celebrities bring to the promotion of their wares. A celebrity image can grab consumer attention and create a perception of high value and credibility for a product or service. But businesses must proceed with caution if planning to use a celebrity's identity in an advertisement. In many countries the name, face, image, voice and likeness of an indi-

vidual are protected by privacy and publicity rights. The *right of privacy* gives a person the right to protect their image from certain uses by others. The *right of publicity* recognizes that a person's image has an economic value that is presumed to be the result of the person's own effort, and gives each person the right to exploit their own image.

Comparing the competition

We see it everywhere: Coca-Cola and Pepsi challenge each other in taste tests, mobile phone companies compare each other's tariffs, and car manufacturers challenge the effectiveness of each others products. Can a company compare the relative qualities of its products and services with those of named competitors without running foul of trademark laws or unfair competition laws?

Countries throughout the world take different, and sometimes conflicting, approaches to comparative advertising. The legislation in certain countries, for example in the United States of America, broadly supports comparative advertising and considers that truthful comparisons are valid consumer information and beneficial to competition. Other countries, for example in Europe, allow comparative advertising as a general principle, but lay down specific requirements for it to be considered legitimate. Some countries ban comparative advertising in general or for specific products.

Caution must be taken to avoid the following, which are not permitted:

- ▶ *derogatory* or *defamatory* comparisons;
- ▶ *deceptive* comparisons. Comparisons must be true and accurate, and should never express opinion as fact;
- ▶ comparisons that are *likely to cause confusion* with the competitor's products or services.

Comparative advertising by its very nature can mislead consumers, and can unfairly discredit the identified competitors. This is why many countries place severe legal restrictions on it. Businesses must check the applicable laws and regulations carefully when using comparisons in advertising as the risk of making legal mistakes is much high, especially if a competitor is named.

Who owns the rights?

In most countries, if an advertisement has been developed by an employee who is employed for this purpose, then the company (as the employer) would own the copyright over the advertisement, unless agreed otherwise with the employee.

However, many companies which outsource the creation of their advertising campaigns to an *agency or contractor* assume they own the IP rights, simply because they paid for the work. Beware – unlike employees, independent contractors usually own all IP

rights in the works they create – even if they were paid for it – unless otherwise stipulated in a written contract. (For further guidelines see *IP Ownership: Avoiding Disputes*, WIPO Magazine Nov/Dec 2002). A business should always, therefore, have a written agreement with its advertising agent and other independent contractors, which specifies the IP ownership of each element of the work that will be created.

Proceed with care

Advertising depends upon creativity. Major technological breakthroughs and the Internet have facilitated the spread of new marketing techniques. Advertising is a powerful medium of influence, but as such carries the potential for misuse and abuse. This is why in many countries advertising practices are heavily regulated. When launching an advertising campaign, businesses may need to comply with a range of laws and regulations governing, for example, labeling, use of children,

sensitive product categories such as tobacco and alcohol, broadcast time restrictions, etc. These laws differ from country to country and depending on the content of the advertisement. Today, it is impossible to be a successful advertiser without understanding the legal framework surrounding the business of advertising. A lack of caution can lead to the loss of a company's own IP rights or liability for infringing the IP rights of others. To avoid costly mistakes, businesses should conduct rigorous checks both from the general legal perspective and from an IP perspective before launching a new advertising campaign.



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

The next article in the IP and Business series will discuss "Creativity and Intellectual Property in the Fashion Industry."



BLAZING THE TECHNOLOGY TRAIL IN WEST AFRICA: theSOFTtribe



Biodata

Born: 1963, Ireland.

Nationality: Ghanaian.

Education: Schooling in Ghana; Bachelors degree in Industrial Technology, Texas State University, United States of America (U.S.).

Employment: Manufacturing engineer, Cape Boards Ltd., United Kingdom (U.K.) (1988 – 90); freelance work writing business software applications and teaching computer programming, London, U.K. (1990); founder and chairman of theSOFTtribe (1991 – present).

Awards: Millennium Excellence Award for software innovation (Ghana, 1999); Ghana Professional Achievers International Award for entrepreneurial excellence (U.K., 2004).

“Technology is the only way for Africa to get rich. We don’t have a proper infrastructure and we can’t compete in manufacturing...But if you put me behind a PC and tell me to write software for a Chinese customer, then I can compete brain for brain with anyone trying to do the same thing in the U.S.” – Hermann Chinery-Hesse¹.

These are the words of an independent software developer, who over the past fifteen years has blazed a trail for the information technology sector in Ghana. Drawing on this experience, Mr. Chinery-Hesse has become a compelling advocate for intellectual property as a means for creators in developing countries to leverage their creativity and ingenuity. As thousands of delegates gathered in Accra in February for the 2005 African Regional Conference of the World Summit on the Information Society (WSIS), *WIPO Magazine* sought out Mr. Chinery-Hesse to learn more of his story.

TheSOFTtribe story

Hermann Chinery-Hesse does not balk at a challenge. Fifteen years ago he left a comfortable life as a software developer in London, and set out to prove to skeptical friends what he had always maintained, namely that his native Ghana was a land of opportunity waiting for entrepreneurs with innovative business ideas.

With no start-up capital beyond a few personal savings, no infrastructure, and no equipment other than his old computer, it was clear to the young Hermann that he had to rely on the only resources available to him: his determination and his creative talent for writing software programs. “I knew I was no genius,” says Mr. Chinery-Hesse, “but I had seen for myself in the U.S. how it was possible to take a good idea and turn it into a good business.” And so was born S.O.F.T. Company Ltd., at a time when the Ghanaian software industry was non-existent.

On the basis of a single software package, which he had developed when freelancing in the U.K., Mr. Chinery-Hesse landed his first contract with a Ghanaian travel firm while still *en route* to Accra. The payment enabled him and his founding partner, Kojo Gyakyee, to buy a second computer. Yet by the time they won their first contract to write a network application, the company still did not possess a network of its own on which to run the program. They had an early breakthrough when the Swiss-based multinational,

¹ BBC News On-line report, 3 June 2003.

Nestle, contracted S.O.F.T. to provide production management software for their operation in Ghana. Mr. Chinery-Hesse laughs as he remembers the bemused expressions on the faces of the visiting Nestle executives when he finally let them see the S.O.F.T. business premises – a couple of desks in his bedroom in his parent's home. "But by then it was safe to show them," he recalls. "The project was near completion and we had won their confidence in our ability to deliver."

Today, renamed theSOFTtribe, the company is the market leader in Ghana. Their systems include payroll management, cyber café billing, airline reservation and ticketing, micro-finance fund management, plantation management, and bespoke software, such as they developed for the Ghanaian timber industry. TheSOFTtribe employs over 70 staff, including the largest collection of code writers in Ghana not purely devoted to the internal demands of a single organization. It serves over 250 clients, prominent among which are major multinationals such as Pepsi, Unilever and oil giant Total S.A. It exports to nine other countries in the region. All this has been accomplished without having had access to business loan financing. With an international investment group now taking a stake in the company, Mr. Chinery-Hesse is justifiably proud: "Everything that we have been able to achieve, [including attracting] international investors, has been based on creating and selling our own IP."

Tropically tolerant solutions

As an African start-up company, theSOFTtribe had to persuade each potential new client that they were a better choice than the international, big-name competition. Their strategy was to offer systems specifically designed to be more reliable in the African operating environment, and to back these up with a professional support service better than that provided by the competitors.

Key to theSOFTtribe's success is their innovative, core concept of tropically tolerant software solutions. This was born from Mr. Chinery-Hesse's conviction that Africa could "leapfrog decades of obsolete development in telecommunications and IT, [using] systems appropriate for the African environment." He describes how theSOFTtribe's systems are designed to meet the more challenging conditions of the developing world:

- ▶ **People tolerant.** "The training process and documentation cannot assume any prior exposure or IT skill. Making the software easy to use is the first challenge, but it is also critical to make sure that unqualified staff can maintain the system. A tropical tolerant system will work without a qualified database administrator".
- ▶ **Communications tolerant.** "There are only about 2 main telephone lines per 100 persons in Africa. African countries generally have less total Internet bandwidth than most office blocks in the U.S. So software systems need to be designed to keep working when the phone lines are down. Due to the small amount of available bandwidth, systems also need to be economical with the amount of transmitted information."
- ▶ **Power tolerant.** "In Ghana, three power failures a week, lasting over two hours are common.



Courtesy: theSOFTtribe

Creative thinking and the ability to improvise solutions enable theSOFTtribe team to overcome constraints

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A system in this scenario that can recover immediately from a power failure will save over 13 days in extra downtime per year."

- ▶ **Capital tolerant:** "Our systems need to be low budget and cost effective. Systems also need to be highly modular so that an enterprise solution need not be installed all at once but rather as capital is available over a medium to long term."

The strategy has worked. TheSOFTtribe has been able to win what Mr. Chinery-Hesse estimates as a 60 to 70 percent market share in competition with some of the world's best known companies. For customers such as the British High Commission in Accra, which uses the *Akatua* payroll package to manage its locally engaged staff salaries, the reasons for choosing theSOFTtribe's product were clear-cut: "It met our needs and local technical support was readily available," says the systems administrator.

Protecting IP

TheSOFTtribe have sought to work out as they go along how best to protect and develop the company's IP assets. They note that under-developed IP protection structures in Ghana have increased transaction costs for the company. "In a poor country like this, IP protection is still minimal, and illegal copying of software is the norm," explains Mr. Chinery-Hesse. "Seeking legal en-



forcement action against individuals is not worth our while. We have tended to protect our products through technological means, e.g. by writing custom software that is difficult to copy and needs theSOFTtribe support to install it. But the bigger we get, the more we will need effective IP legal structures."

In order to develop a more distinctive brand name, the company changed its name last year. The former S.O.F.T. had been too prone to potential confusion with other businesses, products and imitators, registered – deliberately or not – under similar variants. By retaining the "soft" element while adding a more African feel, they created theSOFTtribe's brand logo, now a familiar sight in offices and hotels around Ghana.

"This is the future"

Mr. Chinery-Hesse is adamant: "The experience of industry in the West and in the emerging economies shows that the only way forward for Ghana is to make our IP work for us. [Information and Communications Technology (ICT)] makes this achievable."

And Ghana looks set to make this a reality. President John Agyekum Kufuor recently launched the government's *Ghana ICT for Accel-*

erated Development Policy. In his opening address to the WSIS Conference he held up the example of the *Kofi Annan ICT Center of Excellence* which, based on a Ghana-India partnership, had become IT "trainer of trainers" for the West African sub-region. (Mr. Chinery-Hesse sits on the Center's board of governors.)

Meanwhile, *BusyInternet*, Ghana's second great IT success story, is thriving. Now billed as the largest privately owned and operated ICT center in Africa "with a unique mission to provide both commercial services and social development," this joint venture was set up in 2001 by Ghanaian and U.S. investors to provide an incubator for small businesses and tech pioneers, combined with immensely popular, 24-hour Internet café facilities. In a mutually reinforcing partnership, BusyInternet uses theSOFTtribe software. Some 1,800 visitors per day use BusyInternet's facilities.

The Ghanaian population is gaining a reputation for being highly IT-savvy, and Ghana has been hailed in some quarters as Africa's future Silicon Valley. But Mr. Chinery-Hesse cautions against premature trumpet blowing. "Yes, it's true that the Internet cafés are bursting. But using the Internet to e-mail relatives [overseas] is not what I call using technology. For me, the Internet is

working when one good teacher in Accra gives a lecture that can be shared with thousands. Or when a drum-maker in the bush can sell his drums online”.

Between them, theSOFTtribe and BusyInternet have put Ghana squarely on the African IT map. Yet more ventures must follow before real impact, in terms of wealth and job creation, is felt on Ghana's economic development. Mr. Chinery-Hesse cites factors, which he feels have hitherto hampered potential growth for aspiring ICT entrepreneurs in Ghana. He speaks of a highly theoretical education system, oriented towards fact-based learning rather than enquiry, (theSOFTtribe's first task with new recruits, however gifted, is to train them to think creatively); of a perceived reluctance to award public sector contracts to local enterprises

“Everything that we have been able to achieve...has been based on creating and selling our own IP”

for fear of alienating businesses from donor countries; and of a lack of credit or tax breaks to enable enterprises to expand into export markets.

Ghana is one of five countries in which WIPO is currently carrying out an IP audit, designed to examine IP use in the country and to evaluate the benefit to the economy. The data collected will be used to prepare a national IP strategy, which the Government will be able to draw on in its development plan. WIPO is also providing practical support to computerize the Ghanaian national IP Office. As well as increasing efficiency, this will facilitate the use of IT to disseminate technologi-

cal information. Meanwhile, Mr. Chinery-Hesse was appointed last year to the National Board on Intellectual Property. As he works to highlight action needed to liberate the full economic potential for IP-based industries in Ghana, WIPO Magazine looks forward to watching the momentum build.



Further information:

- www.softtribe.com – for details of the company's products and services.
- www.busyinternet.com – for more on busyInternet.
- <http://news.bbc.co.uk/1/hi/business/2935210.stm> – for BBC News Online report.



Courtesy of BusyInternet

BusyInternet's cybercafés are packed day and night. TheSOFTtribe developed the Limpopo software to run Busy's accounts.

INTERNATIONAL WOMEN'S DAY: INVENTIVE WOMEN

"Women's inventiveness is as old as feeling cold and feeling hungry." –

Jette Sandah, Director of the Women's Museum, Denmark



Hypatia of Alexandria

Women have been inventing solutions to the problems around them for as long as they have lived. Social and historical factors, however, meant that until recently relatively little of this was recorded. Scholars single out the 4th century Egyptian mathematician and natural philosopher, Hypatia of Alexandria, as one of the first known women inventors. Hypatia is credited with the invention of several scientific instruments including the astrolabe for astronomical measurements, and a hydrometer to measure the specific gravity of liquids. On the occasion of International Women's Day, March 8, *WIPO Magazine* took a somewhat less scholarly look at inventive women.

Many such women figure in Deborah Jaffe's book, *Ingenious Women: From Tincture of Saffron to Flying Machines*. Her lively gallery of inventors and their inventions spans the whimsical to the awe-inspiring, beginning with the first British patent granted to a woman, Amye Everard, in 1637 for Mrs. Ball's Tincture of saffron and essence of roses.

For centuries the achievements of women inventors went largely unrecognized. Sarah Guppy of Bristol, U.K., is a case in point. In 1811 Miss Guppy patented a method "for Bridges and Railroads" based on

sturdy piles or columns from which bridges could be suspended. But the history books do not record her name with those of the famous suspension bridge engineers who followed her lead ten years later. Tracing the women behind inventions is made more difficult by the fact that, until late into the 19th century, married women in the U.K. and the U.S. were legally barred from owning property – including intellectual property. If they filed patents at all, they did so in their husbands' names.

Fighting back

Others had to fight to protect their IP from marauders. In 1870, cotton mill worker Margaret Knight of Massachusetts, U.S., who invented a machine for making flat-bottomed paper bags, brought successful legal action against a man who cop-

ied her design and attempted to patent it as his own. He argued in court that a woman would simply not have been capable of designing the machine. Her bag design is still used today.

Protection of a different kind inspired one Louisa Llewellyn in 1904 to patent her lady's "glove for self defence and other purposes." (The patent does not relate what other purposes she had in mind). Designed for the increasing numbers of women travelling alone by rail, the glove incorporated sharp, steel talons in the fingers to defend the wearer from "thieves and others pursuing evil designs."

From kitchen to Kevlar

The traditional spheres of women's activity within the home spawned numerous domestic innovations, sparing succeeding generations from hours of household drudgery. A London metal-worker, Elizabeth Merrell, invented an electric washing machine in 1859, and Josephine



Photo: UNDP

Grace Dotou wearing a hat from her recycled material



Photo: Adrian Pingstone

Clifton Suspension Bridge (built 1864). Sarah Guppy's little-known suspension bridge method predated Brunel's building of this famous bridge in her home town. Suspension bridge cables nowadays are strengthened with Kevlar®.

Cochran a dishwasher in 1872. A hundred years later, Marion Donovan in Indiana, U.S., invented the first disposable diaper. Rejected by manufacturers as too expensive, she set up her own company, which she later sold for US\$ 1 million. Down-to-earth practicality also prompted Mary Anderson to devise the first working windshield wiper while travelling on a New York tram in 1903: "A simple mechanism...for removing snow, rain and sleet from the glass in front of the motorman." Her idea was mocked by people who held that the moving wipers would distract the driver.

Pioneering women in the 20th century pushed back the frontiers of science and technology. The outstanding contribution of France's Marie Curie, winner of Nobel Prizes for both chemistry and physics, is well known. Less so is the fact that in 1942 glamorous Vienna-born film star, Hedy Lamarr, at the height of her Hollywood career, patented a ground-breaking frequency-hopping system for torpedo guidance. Her donation of the patent to help the war effort was turned down by the U.S. Navy at the time. But the technology now lies behind the principal anti-jamming device used in many national defence systems.

One of the most respected chemists of our time is Stephanie Louise Kwolek. Her open mind while experimenting with polymers for the DuPont company in the 1960s led to Kevlar®, an extraordinary new material whose spinnable fibers are five times stronger than steel. Used,

for example, in bulletproof vests, Kevlar® has already saved the lives of thousands.

Meanwhile, an example for today's young inventors is Spanish student Cristina Casadevall of Barcelona. Inspired to find a use for discarded walnut shells, she experimented with shells and resins until she came up with a material she has called Ecocarcris. Having refused offers, she is starting a business to produce her patented product, the flexibility and insulating properties of which should make it suitable for use in buildings as a cheaper alternative to chipboard.

Be it through research in top laboratories, or to meet daily needs in remote communities, inventive women keep finding new solutions. Many we will never hear about. But representative of this spirit is Grâce Dotou of Porto-Novo in Benin. Concerned by the discarded plastic bags littering her town, Ms Dotou developed a means of recuperating, shredding and knitting the bags into handicrafts. She trained local girls and women to fashion and sell these products, enabling them to earn money whilst cleaning the environment. Ms Dotou won a Poverty Eradication Award from the United Nations Development Programme in 2002, having already recycled two million plastic bags.

If one of the great achievements of the 20th century was that women gained access to all fields of economic, commercial and intellectual activity, a challenge of the 21st cen-



Courtesy: H. Lamarr's son, Anthony Loder

Film star Hedy Lamarr invented a frequency-hopping torpedo guidance system. She was ready to leave Hollywood to work for the National Inventors Council.



Courtesy of DuPont

Stephanie Kwolek's invention of Kevlar® has saved thousands of lives

ture is to ensure that women gain equal opportunities of access, advancement and recognition. As a specialized agency of the United Nations, WIPO is committed to these goals.



"There's something about the mind of the inventor, that sort of creativity, of problem-solving, which I think women do all the time in their lives. They're doing 25 things at once juggling their lives." - Deborah Jaffe, painter, photographer and writer, United Kingdom (U.K.).

A COMMON PATENT PROCESSING MANUAL FOR THE ANDEAN REGION



Industrial property offices in Bolivia, Colombia, Ecuador, Peru and Venezuela have taken an important step toward the harmonization of patent laws in the Andean region by adopting a common manual on the processing of patent applications. The *Andean Patent Manual* was published in December 2004. This is an excellent example of productive, regional cooperation on patent harmonization. The manual goes further than the adoption of a common patent law, in that it is based on agreement on the *interpretation* and *practical application* of the law.

The Manual is the outcome of a meticulous process of consensus building between the industrial property offices of the five Andean countries over a four year period. In 2000, at the request of the Andean Community Secretariat, WIPO, together with the European Patent Office (EPO) and with the contribution of the Mexican Industrial Property Institute, began a regional consultation process, which led to a first draft. While consideration was given to international legislative developments, the manual was drafted strictly according to the Andean law

in force (Decision 486) and following the regional case-law practice, particularly from the Andean Tribunal Court of Justice, the sole body with a mandate to interpret the Andean regional legislation.

Collaboration between all parties was exemplary. The group of experts started with a blank sheet and built the manual from scratch. They first agreed on the structure of the manual, then moved forward step-by-step. All participants proved willing to adjust to interpretations of the law made by the other countries involved in the process. The resulting manual remains open to modification as the offices gain experience working with the manual.

The manual is a non-binding instrument. But some of the industrial property offices will decide in the near future on the way to make the manual mandatory, namely through a decree, instructions or a regulation. The manual is mainly addressed to patent examiners and aims to help harmonize practices and procedures for patent examination among the offices. It will be a useful resource for training new patent examiners as it sets out a detailed approach to the examination of patent applications. It contains easy-to-read flow charts of each step in the examination process; the applicable law is explained along with real examples; model letters and forms are provided; and the guidelines are clear and easy to follow.

WIPO's contribution to this successful project is a good example of the Economic Development Sector's work with developing countries. The resulting manual should have a positive impact on the region's patent offices and users alike.

The manual is available from the industrial property offices in any of the five countries.



INTERNATIONAL PATENT CLASSIFICATION SYSTEM UPGRADED

The Committee of Experts of the International Patent Classification (IPC) system met from February 14 to 18 to endorse a series of reforms to the system. These will provide tools for easier and more efficient retrieval and delivery of patent-related information, which will significantly reduce the patent search workload of industrial property offices. The reforms will ensure that search results are consistent and are mutually recognized by industrial property offices. This marks the successful conclusion of the IPC reform process, launched in 1999 to enhance the usefulness of the system as a global patent information resource.

The IPC is a hierarchical system, which allows every field of technology to be divided into a range of sections, classes, subclasses and groups. It is an indispensable tool for industrial property offices when conducting searches to establish the novelty of an invention or to determine the state of the art in a particular area of technology. IPC reforms have adapted the system to technological developments and the electronic environment; created universal search tools for all industrial property offices; and established a global system for generating, processing and distributing information relating to patent classifications.

This latest reforms introduce fundamental changes as follows:

- ▶ Division of the IPC into two levels – a core and advanced level – to meet the differing needs of small and large offices. Smaller offices will use the relatively simple and stable core level, and larger offices will use the more complex and dynamic advanced level.
- ▶ An enhanced Internet version to facilitate classification and search. This will include definitions of classifications, structured chemical formulae and other images, and definitions of technical terms to illustrate and explain IPC entries.
- ▶ Revision of the core level every three years; and an accelerated procedure for the advanced level, under the supervision of a special subcommittee, to allow the rapid introduction of changes brought about by technological developments.
- ▶ Availability of the most up-to-date version of the IPC for patent searches, as all patent collections will be reclassified on the basis of the changes introduced into that version.
- ▶ Access to the worldwide collection of patent documents through the Master Classification Database (MCD), which is being created using databases of the European Patent Office (EPO). The documents included in the MCD

will be classified according to the current version of the IPC and will be periodically reclassified in line with future revision of the IPC.

The Committee also approved plans for the publication of the new, eighth edition of the IPC. The reformed IPC will enter into force on January 1, 2006. Both the Internet version (including the complete IPC text) and printed versions of the core level of the latest (eighth) edition of the IPC will be available in English and French from June 2005. Additional material, such as catchword indexes and a new version of the IPC:CLASS CD-ROM will also be published later in 2005. Advanced publication of the eighth edition of the IPC will give industrial property offices sufficient time to bring their systems in line with the new IPC structure.



CASABLANCA CONSULTATIONS ON FUTURE WORK OF THE SCP

WIPO Director General Kamil Idris, as part of an ongoing process of discussions with Member States on patent harmonization, convened informal consultations on February 16 in Casablanca, Morocco, to discuss the future work of the *Standing Committee on Patents* (SCP). The SCP is seeking to build consensus on a treaty to harmonize patent laws around the world.

"The Casablanca consultations were very positive and fruitful and resulted in a boost for the whole work program of WIPO, particularly, substantive patent law, traditional knowledge, folklore and issues related to genetic resources and the proposed WIPO Development Agenda," Dr. Idris said. "The constructive approach taken during the consultations will, I believe, go a long way in resolving outstanding issues in all these important areas and demonstrates a commitment to multilateralism."

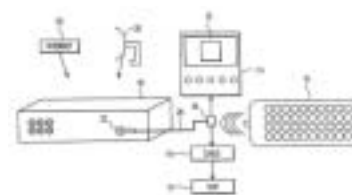
The informal consultations – one aspect of the Director General's continuing efforts to seek consensus on the issue – produced a proposed action plan for the near future. Participants broadly agreed that the objectives of the future work program of the SCP should be to improve the quality of granted patents, thus avoiding unwarranted encroachments on the public domain; and to reduce unnecessary duplication of work among Patent Offices,

which should produce benefits by making the patent system more accessible and cost-effective.

The meeting proposed that six issues be addressed in an accelerated manner within WIPO with a view to progressive development and codification of international IP law: prior art, grace period, novelty, inventive step, sufficiency of disclosure and genetic resources. The first four issues should be addressed in the SCP, while the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) should in parallel address sufficiency of disclosure and genetic resources. The SCP and the IGC would agree on a timetable and keep each other informed of progress.

In the concluding statement, participants underlined "the importance of the continued active pursuit of discussions and work within WIPO on issues related to development and intellectual property so that a robust, effective and actionable WIPO Development Agenda could emerge."

The meeting recommended that the Director General convene the next session of the SCP and of the IGC in May and June 2005 respectively in order to consider the proposals. The decisions of these committees would then be transmitted to the next General Assembly in September 2005.



Pirates losing ground to digital music sales

The *2005 Digital Music Report*, published in January by the International Federation of the Phonographic Industry (IFPI), brought cheering statistics for the music industry, which had seen CD sales fall in recent years as it struggled against digital piracy of epic proportions:

- ▶ legal, paid-for music downloads increased more than tenfold in U.S. and Europe to over 200 million tracks;
- ▶ repertoire of legal services doubled to 1 million tracks;
- ▶ analyst Jupiter estimated that the digital music market was worth US\$330 million in 2004 (about 1.5 percent of record company revenues); with some analysts predicting that digital sales could reach 25 percent of revenues within five years;
- ▶ infringing music files on Peer to Peer (P2P) networks worldwide dropped by an estimated 240 million since April 2003.

Innovative business models such as Apple Computer's iPod and iTunes digital Music Store helped to buck the trend, turning the threat into an opportunity. The number of online services selling music legally quadrupled in 2004 to more than 230 worldwide, offering consumers ever wider choice. Global revenue from (mobile phone) ring tones sales exceeded US\$3 billion by the end of

the year, offering a rapidly expanding new market for music licensing. Meanwhile, the 7,000 legal actions to date brought by record companies against bulk uploaders in Europe and the United States of America drove up consumer awareness of the potential penalties for piracy.



The United Kingdom has the most extensive legal digital market in Europe. Consumer awareness is relatively high, with well-known songwriters taking the anti-piracy message into schools as part of an education campaign backed by British Music Rights. But here too the music industry still has some way to go to win the hearts,

minds and money of an often skeptical youth market. IFPI chairman John Kennedy comments: "The biggest challenge for the digital music business has always been to make music easier to buy than to steal. At the start of 2005, as the legitimate digital music business moves into the mainstream of consumer life, that ambition is turning into reality."

WIPO joint work program with ECLAC

WIPO and the Economic Commission for Latin America and the Caribbean (ECLAC) have agreed to undertake three joint activities in 2005 related to innovation policy and intellectual property (IP):

- ▶ a policy forum where policymakers will consider what can be learned from IP success stories in the developing world;
- ▶ a comprehensive analysis of factors affecting the systemic environment of technology management and IP, which would favor economic development in the countries of the region; and
- ▶ a high-level training course on technology management and IP aimed at policymakers and experts.

ECLAC, headquartered in Santiago, Chile, is one of the five regional commissions of the United Nations. Its main objective is to contribute to the economic and social development of Latin America. To this end it coordinates action and reinforces economic relationships among the countries of the region and with the other nations of the world.

NEWS ROUNDUP

New Courses at the WIPO Academy



Students and professionals will be able to take advantage of an expanded range of intellectual property (IP) courses offered by the WIPO Academy this year. The 2005 program features enhancements to the distance learning program, as well as the WIPO Summer School. Completion of the Academy's distance learning General Course on Intellectual Property (DL 101), available in Arabic, Chinese, English, French, Portuguese, Spanish and Russian, is a prerequisite for participation in the new courses.

The new courses, offered on a fee basis with reduced charges for participants from certain countries, include:

- ▶ **Advanced Course on Copyright and Related Rights** (DL 201) available in English, French and Spanish. Issues covered include recent developments and trends in international copyright law, and WIPO's role. Course dates: May 1 to July 10;
- ▶ **Advanced course on Electronic Commerce and Intellectual Property** (DL202) available in English. This

covers IP aspects of e-commerce in copyright, trademarks and patents. Course dates: May 1 to June 15.

Three additional courses: *Traditional Knowledge and Intellectual Property* (DL 203), *Biotechnology and Intellectual Property* (DL 204) and the *International Protection of Plant Varieties* (DL-205) are expected to be launched later this year.

The *WIPO Summer School* will resume this year. This is a four-week program in English held in Geneva from July 4 to 29. It consists of lectures and individual or group research on assigned topics. The program is open to candidates from all regions of the world and from all academic backgrounds. For details of fees and how to apply see www.wipo.int/academy.

Some 38,000 students, professionals and government officials from over 180 countries have benefited from the courses offered by the WIPO Academy since it was set up in 1998 to meet the rising demand for IP training and education. ♦

Fighting for orange

The color orange is at the heart of a dispute between two weighty trademark owners.

Stelios Haji-loannou is the founder of easyJet airlines and a string of other easyGroup companies, all of which use the group's strong orange color branding. Orange, a UK-based subsidiary of France Telecom, is one of the world's largest mobile phone companies. Up till now, no problem. But when Mr. Haji-loannou announced plans to launch a new, low-cost mobile phone service, easyMobile, Orange challenged immediately. Orange claims that the easyGroup has infringed its rights

regarding the use of the color orange and could confuse customers if it is allowed to continue.

Orange states: "Our trademark and the rights connected with it are extremely important for us. EasyJet's use of the color orange threatens to introduce the likelihood of confusion."

Mr. Haji-loannou responds: "It is our right to use our own corporate colour for which we have become famous during the last 10 years. We have nothing to be afraid of in this court case." He has added a disclaimer to the easyMobile website stating that the brand has no connection to Orange.

Attempts during the past six months to resolve the dispute amicably having failed, Orange has announced that it will begin legal proceedings for trademark infringement and *passing off* (i.e. misrepresentation causing public confusion). Mr. Haji-loannou says he will contest the case.

Orange and easyMobile are not the first to clash over company colors. In Germany, Kraft Foods Inc. last year won exclusive rights to the lilac color associated with their Milka chocolate following a dispute with a biscuit and waffle manufacturer. ♦

CALENDAR of meetings

APRIL 18 TO 22

GENEVA

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Fourteenth session)

The Committee will work on finalizing the basic proposal to be presented to the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT), to be held in Geneva from March 13 to 31, 2006.

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

APRIL 25 AND 26

GENEVA

Conference on Dispute Resolution in International Science and Technology Collaboration

An event in which speakers from key institutions involved in science and technology collaboration will discuss their experience in structuring collaboration, areas of potential disputes and their approach to dispute resolution.

Invitations: Open to interested parties against payment of a fee, and as members, the States members of WIPO.

APRIL 25 AND 26

GENEVA

Preparatory Meeting for the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT)

The Preparatory Meeting will discuss and adopt the draft Agenda for the Diplomatic Conference, as well as the draft rules of procedure and the draft letters of invitation to the Diplomatic Conference.

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

APRIL 27 TO 29

GENEVA

Program and Budget Committee (Eighth session)

The Committee will consider and discuss proposals with regard to WIPO's Program and Budget for the 2006-2007 biennium.

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

MAY 23 TO 27

GENEVA

Standing Committee on the Law of Patents (SCP) (Eleventh session)

The Committee will continue its discussion on a draft treaty on harmonization of certain provisions of patent law and practice.

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

MAY 30 TO JUNE 3

GENEVA

Working Group on Reform of the PCT (Seventh session)

The meeting will consider proposals for the reform of the PCT system.

Invitations: As members, the States members of the PCT Union and the International Searching and Preliminary Examining Authorities under the PCT; as observers, all States members of the Paris Union which are not members of the PCT Union and certain organizations.

JUNE 6 TO 10

GENEVA

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

The Committee will continue its work based on the renewed mandate established by the General Assembly, and will consider revised texts of policy objectives and principles for the protection of traditional knowledge and traditional cultural expressions/folklore.

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

JUNE 23 & 24 AND JUNE 27 & 28

GENEVA

WIPO Workshops for Mediators in Intellectual Property Disputes

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

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

JUNE 30 AND JULY 1

GENEVA

WIPO Advanced Workshop for Mediators in Intellectual Property Disputes

A new event for all parties who wish to further develop the mediation skills taught by the instructors of the annual WIPO Workshops for Mediators in Intellectual Property Disputes.

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



NEW PRODUCTS

Exchanging Value – Negotiating Technology Licensing Agreements – A Training Manual

English No. 906(E)
30 Swiss francs (plus shipping and handling)

Madrid Agreement Concerning the International Registration of Marks

English No. 204(E), French No. 204(F), Spanish No. 204(S)
20 Swiss francs (plus shipping and handling)

Patent Cooperation Treaty (PCT) and Regulations under the PCT (as in force from January 1, 2004)

Russian No. 274(R)
20 Swiss francs (plus shipping and handling)

The Trademark Law Treaty – Questions and Answers

English No. 908(E), French No. 908(F), Spanish No. 908(S)
Free of charge

Your Own World of IP

Chinese No. 907(C)
Free of charge

General Information 2004

Chinese No. 400(C)
Free of charge

The Madrid System for the International Registration of Marks: Objectives, Main Features, Advantages

Russian No. 418(R)
Free of charge

ROMARIN International Trademark Information Database

Trilingual English/French/Spanish No. DVD103
Price: see www.wipo.int/romarin



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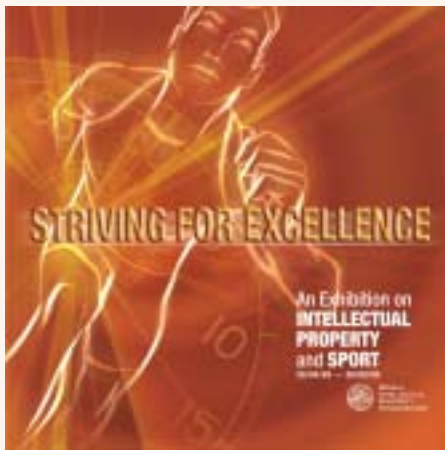
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WIPO EXHIBITION

Striving for Excellence



An exhibition entitled “Striving for Excellence: Intellectual Property and Sport” will open at WIPO’s Information Center in Geneva on April 26, World Intellectual Property Day. The exhibition offers a glimpse of the technological advances that have enhanced sport, both on and off track, by improving the performance of athletes and by enabling broader audiences to share in the spectacle and savor the wonder that comes when ordinary people achieve extraordinary feats. The exhibition will be open until August 26.



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If you are interested in receiving copies, contact:

Design, Marketing and Distribution Section

WIPO
34, chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20,
Switzerland
Fax: 41 22 740 18 12
e-mail: publications.mail@wipo.int

For comments or questions, contact:

The Editor
WIPO Magazine (at the above address)

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For more information contact WIPO at:

Address:
34, chemin des Colombettes
P.O. Box 18
CH-1211 GENEVA 20
Switzerland

Telephone:
41 22 338 91 11
FAX:
41 22 740 18 12

e-mail:
wipo.mail@wipo.int

or its New York Coordination Office at:

Address:
2, United Nations Plaza
Suite 2525
New York, N.Y. 10017
United States of America

Telephone:
1 212 963 6813
Fax:
1 212 963 4801
e-mail:
wipo@un.org

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