

WIPO



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ADVISORY COMMITTEE ON ENFORCEMENT

First Session

Geneva, June 11 to 13, 2003

SYNTHESIS OF ISSUES PERTAINING TO THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Document prepared by the Secretariat

1. At the session of the WIPO General Assembly, held in Geneva from September 23 to October 1, 2002, the General Assembly decided to establish a single Advisory Committee on Enforcement, in charge of global enforcement issues, covering both industrial property and copyright and related rights. The mandate of the Committee, which excludes norm-setting activities, was limited to technical assistance and coordination. The Committee has the following objectives: coordinating with certain organizations and the private sector to combat counterfeiting and piracy; public education; assistance; coordination to undertake national and regional training programs for all relevant stakeholders and exchange of information on enforcement issues through the establishment of an Electronic Forum.

2. Subsequent to the session of the General Assembly, the Director General established the Enforcement and Special Projects Division to serve as a focal point for enforcement activities in the International Bureau. The Division is actively cooperating with intergovernmental organizations in the area of enforcement and in contact with the competent authorities in Member States as well as with non-governmental organizations. It also plays a pivotal role in the coordination of enforcement activities within the International Bureau. More information on the activities of the Enforcement and Special Projects Division may be found in document WIPO/ACE/1/4 “*Coordination, Training and Development of Enforcement Strategies.*”

3. It is recalled that during the first session of the Advisory Committee on the Enforcement of Industrial Property Rights (ACE/IP), held in Geneva on October 19 and 20, 2000, the ACE/IP proposed that the Secretariat of WIPO initiate four studies, as set forth in paragraph 8(a)(i) to (iv) of document ACE/IP/1/3 (*Summary by the Chair*). Pursuant to that proposal, the Secretariat of WIPO submitted a questionnaire, entitled Request for Information,¹ to members and observers of the above Committee.

4. The Secretariat of WIPO received replies from 24 Member States, two intergovernmental and 11 non-governmental organizations in response to the said request. Document WIPO/CME/3 “*Synthesis of Issues Concerning Difficulties and Practices in the Field of Enforcement*” was established by the Secretariat of WIPO on the basis of these responses.

5. This document was presented to the Consultation Meeting on Enforcement (CME), held in Geneva from September 11 to 13, 2002, which was attended by Member States, intergovernmental organizations and non-governmental organizations. The Meeting unanimously agreed that the issue of enforcement of intellectual property rights was of great importance and that WIPO was in an eminently appropriate position to provide technical assistance and education and contribute to the creation of awareness in this field. It also encouraged WIPO to assist, and coordinate with relevant organizations, in the setting up of, or improving, adequate and effective enforcement mechanisms. The Meeting noted the concerns expressed about the effects of counterfeiting and piracy on domestic industries and stressed that the fight against these phenomena was a global concern. It was also noted, however, that only a limited number of States and organizations had replied to the questionnaire forming the basis for document WIPO/CME/3. The Meeting therefore encouraged those States and organizations that had not already done so to submit information, by January 15, 2003, to the Secretariat of WIPO with the view to discussing the synthesis of issues pertaining to the enforcement of intellectual property rights in the next meeting of the future Committee in more detail once a number of additional responses were received.

6. Pursuant to the proposal by the CME to encourage all Member States and observers to submit further information pertaining to the issues raised in document WIPO/CME/3, the Secretariat of WIPO once again requested² Member States and observers to respond to the said questionnaire. In addition, Member States and observers were invited, *inter alia*, to submit information, where appropriate, on the amount of damages awarded and criminal sentences imposed in intellectual property cases. On this occasion, the Secretariat also announced that it intended to make the information so received available on the Intellectual Property Enforcement Issues and Strategies (IPEIS) Electronic Forum.

¹ WIPO Circular Letter No. 6562 dated July 17, 2001.

² Circular Letters Nos. 6815 and 6816 dated December 17, 2002. The request for information was subsequently also made available on the Intellectual Property Enforcement Issues and Strategies Electronic Forum and registered participants were informed that the deadline for submission of information for inclusion in working documents was extended to February 21, 2003, and that submissions would equally be welcomed at a later stage and made available on the Electronic Forum.

7. The Secretariat of WIPO received 16 responses from 15 Member States³ and seven non-governmental organizations⁴ to its renewed and extended request for information. In view of the limited number of additional responses received at the time of preparation of this document, the information received was not sufficient for a substantial revision of the working document prepared for the Consultation Meeting on Enforcement. For this reason, the Secretariat decided not to incorporate amendments into document WIPO/CME/3 and not to make an attempt to present same as an updated working document to this Meeting. Instead, the responses to the renewed request for information are being made available on the Intellectual Property Enforcement Issues and Strategies (IPEIS) Electronic Forum.

8. In order to facilitate the envisaged discussions (see paragraph 3, above), and for the ease of reference, document WIPO/CME/3 is included for consideration by the Committee in the annex to this document. The former annex to document WIPO/CME/3, containing the list of contact points pertaining to the ACE/IP -ACMEC meeting held in Geneva from December 18 to 20, 2001, has been removed and the most recent list of contact points, taking also into account participation in the Consultation Meeting on Enforcement (Geneva, September 11 to 13, 2002) and registration to the IPEIS Electronic Forum, is contained in the annex to document WIPO/ACE/1/5 "*Matters Concerning the Electronic Exchange of Information.*"

9. *The Committee is invited to take note and comment on the contents as contained in this document and its Annex.*

[Annex follows]

³ Burundi, Colombia, France, Gabon, Honduras, Hungary, India, Kazakhstan, Nigeria, Portugal, Republic of Korea, Spain, Switzerland, the Russian Federation, and the United Kingdom.

⁴ International Federation of the Phonographic Industry (IFPI), also on behalf of the Business Software Alliance (BSA), International Federation of Film Producers' Associations (FIAPF), International Federation of the Phonographic Industry (IFPI), International Publishers Association (IPA), International Video Federation (IVF), and Motion Picture Association (MPA).