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WORLD INTELLECTUAL PROPERTY ORGANIZATION
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ADVISORY COMMITTEE ON ENFORCEMENT

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MATTERS CONCERNING THE ELECTRONIC EXCHANGE OF INFORMATION

Document prepared by the Secretariat

1. At the session of the Assemblies of the Member States of WIPO, held in Geneva from September 23 to October 1, 2002, the General Assembly established 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 Assemblies of the Member States of WIPO, the Director General of WIPO established the Enforcement and Special Projects Division to serve as a focal point for enforcement activities in the International Bureau. The Division actively cooperates with the competent authorities in Member States, intergovernmental organizations and non-governmental organizations in the area of enforcement. Furthermore, it plays a pivotal role in the coordination of enforcement activities within the International Bureau. Beyond these and other activities,¹ the Enforcement and Special Projects Division also

¹ See also paragraph 7 of document WIPO/ACE/1/4.

provides administrative support for the maintenance of the Electronic Forum, which is of particular importance for the subject matter of this document.

3. Pursuant to the said decision of the WIPO General Assembly, and in accordance with the recommendation by the Consultation Meeting on Enforcement, held in Geneva from September 11 to 13, 2002, an Electronic Forum on Intellectual Property Enforcement Issues and Strategies (herein referred to as "the Electronic Forum") was established in January 2003. The Electronic Forum² is currently open to registered participants from all Member States and observers, including *ad hoc* observers, to the Advisory Committee on Enforcement. At present this includes 168 representatives of 91 Member States, 17 representatives of 11 intergovernmental organizations and 35 representatives of 28 non-governmental organizations. The list of registered participants is provided in the table attached to this document.

4. The Electronic Forum has been established on the WIPO website. As described in document WIPO/CME/INF/1 Rev. "*Electronic Exchange of Information: Establishment of an Electronic Forum*," the Electronic Forum, in its current form, has been designed to serve three main purposes. First, as in the case of similar forums of the Standing Committee on the Law of Patents (SCP) and the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), the Electronic Forum allows for preliminary versions of draft working documents to be made available to registered participants and provides for the electronic receipt of comments thereon. Second, it facilitates the collection of information related to work to be undertaken by the Secretariat, through providing for the electronic distribution of requests for information and receipt of responses thereto. Third, it provides a forum where by participants can share information as to their respective national experiences in the field of enforcement.

5. The registration procedures and conditions of use of the Electronic Forum³ are similar to those of the SCP and SCT Forums and include, in particular, conditions relating to the type of information to be posted on the Electronic Forum and its accessibility to all participants. However, these procedures were adopted prior to the establishment of the Advisory

² Alternative methods of participation, such as facsimile transmission or post are provided for those who wish to register for, and participate in, the Electronic Forum, but do not have access to the Internet and/or electronic mail.

⁴ Pursuant to the proposal by the Consultation Meeting of Enforcement, to encourage all members and observers to submit further information pertaining to, *inter alia*, the issues raised in documents WIPO/CME/2 Rev. and 3, the Secretariat of WIPO once again invited Member States and observers to respond to the questionnaire (see Circular letters Nos. 6815 and 6816, dated July 17, 2001. Additional invitations with further extensions of the deadline were sent to the participants of the IPEISE Electronic Forum.) Although the Secretariat of WIPO received another 15 responses from 13 Member States and two non-governmental organizations, its renewed request for information, the additional information was not considered to be sufficient to prepare substantive updates of documents WIPO/CME/2 Rev. and 3 (see documents WIPO/ACE/1/3 and 4).

Committee on Enforcement and may be regarded as particularly apt for the needs of a Committee with, *inter alia*, norm-setting functions.

6. In light of the subsequent decision by the General Assembly on the mandate of the Advisory Committee on Enforcement, the main purpose of the Electronic Forum has changed. Taking due account of the mandate of the Advisory Committee on Enforcement, mentioned in paragraph 1 of this document, the most important function of the Electronic Forum is to provide a means to collect, communicate, share and discuss relevant information pertaining to global enforcement issues. For this reason, a broader participation of all relevant stakeholders is desirable.

7. In order to facilitate participation by all relevant stakeholders, the Secretariat had already suggested, in paragraph 12 of document WO/GA/28/4 on "*Matters Concerning the Status of the Advisory Committee on Enforcement*," as a first step, that Member States may wish to consider including in their respective delegations other concerned agencies responsible for the enforcement of industrial property rights and copyright and related rights. This would also facilitate contact with the relevant stakeholders at the national and the international levels. Taking into account the great number of enforcement agencies in Member States and the fact that coordination has been identified as one of the difficulties in the field of enforcement, it is contended that broader participation in the Electronic Forum would help to realize the full potential thereof.⁴

8. In light of the above, and in accordance with paragraph (i) of the annex to document WIPO/CME/INF/1 Rev., which reads: "[T]hese procedures will be reviewed at future meetings, on the basis of experience, and in light of particular needs and developments in the field of enforcement," it is recommended that the procedures pertaining to participation in the Electronic Forum be reviewed, taking into account the decision of the General Assembly that the mandate of the Committee would exclude norm-setting activities, but that the focus will be, *inter alia*, on the exchange of information on enforcement issues through the Electronic Forum. In this context, the Secretariat of WIPO would like to propose the following:

(a) Preliminary draft working documents would not be made available on the Electronic Forum for comments, but working documents would be posted on the Forum in their final form.⁵

(b) Participation in the Electronic Forum would no longer be restricted. In accordance with the objective of promoting the exchange of information on global enforcement issues through the Electronic Forum, as decided by the WIPO General Assembly, this would facilitate access to, and participation in, the Electronic Forum and engender a broader discussion by interested parties and stakeholders of enforcement issues.

(c) Registration would no longer be required as a pre-condition for access to the Electronic Forum. However, registration would result in the participant being notified of new items posted on the Electronic Forum.

⁵ These documents will also be distributed in paper form in the usual manner to all Member States and observers of the Advisory Committee on Enforcement.

- (d) The WIPO website would provide a link to the Electronic Forum.⁶
9. The Enforcement and Special Projects Division would continue to administer and monitor the Electronic Forum and reserve the right to decide, on a case-by-case basis, whether information should be excluded from publication in whole or in part or only published in an amended or neutral form. Although registration would no longer be a pre-requisite to participation in the Forum, the Enforcement and Special Projects Division would continue to maintain a list of registered participants and persons on the list would be alerted, where appropriate, whenever information is posted on the Electronic Forum.
10. States are encouraged to invite officials from enforcement agencies and intellectual property offices in their respective countries to register with the Electronic Forum. An active participation in the information exchange by representatives of Member States and observers, by right holders and by other persons interested in the enforcement of intellectual property rights would be appreciated.

11. The Advisory Committee on Enforcement is invited to consider the proposals contained in paragraph 8 of this document.

[Annex follows]

⁶ In order to give the Electronic Forum wider exposure, interested parties and stakeholders will also be encouraged to provide links thereto on their websites.