

WIPO



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RECENT ACTIVITIES AND FUTURE WORK OF WIPO IN THE FIELD OF INTELLECTUAL PROPERTY ENFORCEMENT

prepared by the Secretariat

I. THE IPEIS FORUM AND THE WIPO ENFORCEMENT WEBSITE

1. At its first session held in Geneva from June 11 to 13, 2003, the Advisory Committee on Enforcement (ACE) noted the establishment, in January 2003, of the Electronic Forum on Intellectual Property Enforcement Issues and Strategies (herein referred to as “the IPEIS Forum”) and considered it to provide an excellent mechanism for the exchange of information in this field¹. The Committee expressed its great appreciation for the activities of WIPO carried out in connection with the IPEIS Forum, and generally agreed with the proposals made by the Secretariat to further enhance the IPEIS Forum as a useful tool for the exchange of information in the field of intellectual property enforcement². These proposals concerned, in particular, the kind of documents to be prepared and published, the participation in, and the access to, the IPEIS Forum, as well as the integration of the IPEIS Forum into the general WIPO website. Moreover, the Committee encouraged the Secretariat to structure available information on the IPEIS Forum in such a way that different categories of information would be easily accessible.

¹ See paragraph 6 of document WIPO/ACE/1/7 Rev.

² See paragraph 8 of document WIPO/ACE/1/5.

A. New WIPO enforcement website

2. Subsequent to the first session of the ACE, the Secretariat prepared a new website dedicated to intellectual property enforcement issues (WIPO enforcement website). The English version of this website was launched on March 31, 2004. This site is an integral part of the general WIPO website. The WIPO enforcement website contains, *inter alia*, information on the activities of WIPO in the field of intellectual property enforcement, including training and coordination activities, on the first session of the ACE and preceding meetings related to intellectual property enforcement, as well as on answers to frequently asked questions pertaining to intellectual property enforcement. With a view to the theme selected for presentations in the second session of the ACE, namely the role of the judiciary, quasi-judicial authorities and the prosecution in the enforcement of intellectual property rights³, a considerable part of this question and answer part refers to matters related to intellectual property litigation. The WIPO enforcement website also reflects the close cooperation of WIPO with other organizations, both from the intergovernmental and the non-governmental sector, by providing information on cooperating organizations and joint activities in the field of intellectual property enforcement.

B. Integration into website and structure of the IPEIS Forum

3. The IPEIS Forum has been integrated into this new WIPO website and participants can now enter the Forum directly from the WIPO enforcement website.

4. The former version of the Forum had been designed, in compliance with a corresponding decision by the Consultation Meeting on Enforcement in 2002, according to an electronic format used for Standing Committees with a mandate to engage in norm-setting activities, which requires a more complex structure⁴. For the purposes of the IPEIS Forum, which are: (a) the exchange of information pertaining to intellectual property enforcement, and (b) the facilitation of collecting information related to work to be undertaken by the Secretariat in this field, through providing for the electronic distribution of requests for information and receipt of responses thereto, a more straightforward structure became necessary. In order to make the information in the IPEIS Forum easily accessible and searchable, the structure has been simplified and the information has been regrouped as follow:

First, replies to previous and future requests for information prepared by the Secretariat will exclusively appear under "Request for Information"; other information submitted by users will be accessible under "Information Exchange." In future, depending on the use being made of these platforms, it is intended to further sub-categorize the information submitted by participants, according to the topic the information refers to, in order to continue to make available the information in an easily accessible and searchable way.

Second, the information that had been submitted to the former IPEIS Forum by the International Bureau has been shifted to a newly created part of the website, entitled "News". This area will be used by the Secretariat to inform users on emerging developments in the field of intellectual property enforcement, and on some central activities of WIPO in this

³ See paragraphs 16 to 18 of document WIPO/ACE/1/7 Rev.

⁴ See paragraphs 4 and 5 of document WIPO/ACE/1/5.

field. This part thus aims at providing information to users on emerging trends in global intellectual property enforcement, both on the legislative and the administrative side.

C. Participation in the IPEIS Forum

5. In the first session of the ACE, the Committee agreed, in principle, with the proposals made by the Secretariat that broader participation in the IPEIS Forum should be encouraged by inviting other stakeholders involved in the enforcement of industrial property rights and copyright and related rights, that participation in the IPEIS Forum would no longer be restricted, and that registration would no longer be required as a pre-condition for access to the IPEIS Forum⁵. The Forum 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 216 representatives from 106 Member States, 17 representatives of 11 intergovernmental organizations (IGOs) and 44 representatives of 34 non-governmental organizations (NGOs).

6. For re-consideration by the ACE, the Secretariat has maintained, for the time being, in connection with the restructuring of the IPEIS Forum and its integration in the WIPO website, the limitation to registered participants for participation in the IPEIS Forum and access to the information submitted so far, in order to enable the Committee to review the new structure and purpose of the IPEIS Forum, and its current content, and to consider the necessity for protection mechanisms to the different parts for the future. In this context, it may be recalled that the two parts of the IPEIS Forum aim at different purposes: whereas the ‘information exchange’ has the objective to serve as discussion platform which involves a wide variety of stakeholders, the ‘request for information’ part aims at the facilitation of collecting information by the Secretariat and disseminating same to Members of the Committee, and the agencies or stakeholders nominated by them. Based on these considerations, the following is proposed:

(i) *Information Exchange*: Participation in this part of the IPEIS Forum, through submitting information and comments, would be opened to a larger audience of stakeholders concerned with the enforcement of intellectual property rights. Registration would no longer be required as pre-condition to submit information to, or to access information contained in the databases of, this platform. Participants in the Committee are encouraged to invite further stakeholders to contribute to the information exchange, including enforcement agencies, right holder associations, and copyright collective management organizations. The Secretariat of WIPO reserves the right to decide, on a case-by case basis, whether information should be excluded from publication in whole or in part, or be published in an amended form, taking into due account the comments made by Members of the Committee in the first session⁶.

(ii) *Request for information*: In order to realize the full potential of this second part of the IPEIS Forum, participants should be encouraged to provide also more sensitive information by ensuring a certain level of confidentiality through an adequate protection mechanisms. It is therefore suggested that access to information submitted in conjunction with WIPO requests for information would continue to be limited to registered participants.

⁵ See paragraphs 12 to 14 of document WIPO/ACE/1/7 Rev.

⁶ See paragraph 15 of document WIPO/ACE/1/7 Rev.

For this purpose, the Secretariat would maintain a list of registered participants, and persons on the list would be informed whenever information is posted on this part of the IPEIS Forum.

II. OTHER RECENT ACTIVITIES OF WIPO IN THE FIELD OF INTELLECTUAL PROPERTY ENFORCEMENT

7. At its first session, the ACE noted with particular satisfaction the considerable number of training activities in the form of WIPO expert missions, study visits, seminars and workshops, and the participation of WIPO in other activities, undertaken in the period of review⁷. In addition, the ACE reiterated its support for the activities of WIPO in seeking cooperation with other intergovernmental and non-governmental organizations that are undertaking activities in the field of intellectual property enforcement.

8. Subsequent to the first session of the ACE, WIPO, through its Enforcement and Special Projects Division, which serves as a focal point for enforcement activities in the International Bureau, and the other sectors concerned continued to make available considerable resources for intellectual property enforcement, in particular by providing technical assistance and intensifying international cooperation in various areas pertaining to intellectual property enforcement.

9. The activities in the field of technical assistance included study and training visits, expert missions, workshops and seminars as well as legislative advice on enforcement provisions in existing legislation or draft laws, respectively. In addition, WIPO provided assistance in, and coordination of, the setting up, or improving, of adequate and effective enforcement mechanisms and developing strategies on a national or regional level, at the request of Member States.

10. Moreover, WIPO built upon and further intensified existing cooperation with a number of intergovernmental partner organizations, such as, *inter alia*, the World Health Organization (WHO), the World Customs Organization (WCO), the United Nations Economic Commission for Europe (UNECE), Interpol, the Hague Conference on Private International Law, and the European Commission, in particular its Directorate-General Enlargement, Technical Assistance Information Exchange Office (TAIEX). WIPO also continued to closely cooperate with a number of non-governmental organizations which have a considerable expertise in the field of intellectual property enforcement and combating counterfeiting and piracy, such as, among others, the Global Anti-Counterfeiting Group (GACG), the International Federation of the Phonographic Industry (IFPI), and the European Brands Association (AIM).

11. In order for the Committee to review the activities of WIPO in the field of enforcement, the Secretariat prepared the following overview of activities from May 2003 to April 2004. The activities mentioned in sub-paragraphs 11.1 to 11.5, below, which were undertaken by, or with the participation of, the Secretariat, also include activities with enforcement components which are not reflected in the titles of the respective activities.

11.1 WIPO Expert Missions:

⁷ See paragraph 10 of document WIPO/ACE/1/7 Rev.

- Consultation Meeting on an Enforcement Strategy for Intellectual Property Rights with the Department of Trade and Industry, the South African Revenue Services and the South African Police Services and representatives of national and regional IGOs and NGOs, Pretoria, November 17 to 19, 2003.

11.2 WIPO Training, Seminars and Workshops:

- Master of Laws in Intellectual Property (WIPO Worldwide Academy), Turin, March to September 2003;
- Practical Training on Copyright for the staff of *the Instituto Mexicano de la Propiedad Industrial (IMPI)* and of the *Instituto Nacional del Derecho de Autor (INDAUTOR)*, Mexico City, May 12 to 16, 2003;
- *Seminario nacional de la OMPI sobre los derechos de los organismos de radiodifusión*, Santiago, Chile, May 27 and 28, 2004;
- *CEMAC (Communauté Économique et Monétaire de l'Afrique Centrale): Subregional Seminar on Enforcement of Intellectual Property Rights for Customs Officers and Magistrates from CEMAC*, Congo, June 3 and 4, 2003;
- Interregional Intermediate Seminar on Industrial Property, WIPO Worldwide Academy, Geneva, June 4 to 6, 2003;
- WIPO National Seminar on the Enforcement of Intellectual Property Rights for the Judiciary, Public Prosecutors, Lawyers and Customs Officials, Damascus, Syria, June 18 and 19, 2003;
- *Seminario nacional sobre propiedad intelectual y desarrollo económico*, La Paz, Bolivia, June 24 and 25, 2003;
- National Seminar on Combating Piracy in the Field of Copyright and Related Rights, Minsk, Belarus, June 25 and 26, 2003;
- *Seminario regional sobre el derecho de autor en el contexto digital: avances y retos*, Panama City, July 1 and 2, 2003;
- WIPO Asia Pacific Program for the Judiciary on Enforcement of Intellectual Property Rights, Geneva, July 9 to 11; Washington D.C., July 14 to 18, 2003;
- National Seminar on the Enforcement of Intellectual Property Rights, Thimphu, Bhutan, July 24 and 25, 2003;
- *Curso intensivo de postgrado en derecho de autor y derechos conexos de la Universidad de Buenos Aires*, Buenos Aires, July 29 and 30;
- *IV Curso intensivo en propiedad industrial (Facultad de Derecho, Universidad de Buenos Aires)*, Buenos Aires, July 31, 2003;
- National Seminar on Intellectual Property in the Digital Era, Santiago, August 12 to 14, 2003;
- *Taller nacional de la OMPI sobre propiedad intelectual para las autoridades de la Universidad de Guayaquil*, Guayaquil, Ecuador, August 25, 2003;
- *Seminario nacional de la OMPI sobre propiedad intelectual para estudiantes de la Universidad Católica de Guayaquil*, Guayaquil, August 26, 2003;
- *Participation de l'OMPI au programme de renforcement des capacités des Etats membres sur le commerce intérieur de la CEMAC*, Central African Republic, August 25 to 30, 2003;
- National Seminar on Enforcement of IP Rights for Members of the Judiciary, Santiago, September 3 and 4, 2003;
- National Seminar on the Enforcement of Intellectual Property Rights for Customs Officials, Valparaiso, Chile, September 5, 2003;

- Workshop on Vision of the Turkish Patent Institute (TPE), Ankara, Turkey, September 15 to 17, 2003;
- WIPO-World Association for Small and Medium Enterprises (WASME) Special Program on Practical Intellectual Property Rights Issues for Entrepreneurs, Economists, Bankers, Lawyers and Accountants, Geneva, October 6 to 9, 2003;
- WIPO National Seminar on the Enforcement of Intellectual Property Rights, Managua, Nicaragua, October 13 and 14, 2003;
- WIPO/USPTO Academy on Enforcement of Intellectual Property Rights, Washington D.C., October 14 to 17, 2003;
- WIPO National Seminar on the Enforcement of Intellectual Property Rights, Guatemala City, October 16 to 18, 2003;
- WIPO National Seminar on the Enforcement of Intellectual Property Rights, San José, Costa Rica, October 20 and 21, 2003;
- Interregional Intermediate Seminar on Copyright and Related Rights, WIPO Academy, Geneva, October 29 to 31, 2003;
- *Séminaire national de l'OMPI pour juges, procureurs et avocats sur l'observance des droits de propriété intellectuelle*, Port-au-Prince, Haiti, November 3 and 4, 2004;
- *Séminaire national de l'OMPI sur l'observance des droits de propriété intellectuelle*, Port-au-Prince, November 5 and 6, 2003;
- WIPO Seminar on the Enforcement of Intellectual Property Rights for Police and Custom Officers, St. Lucia, November 10 and 11, 2003;
- WIPO National Seminar on the Substantive and Procedural Aspects of Intellectual Property, Colombia, November 10 and 11, 2003;
- WIPO-Chinese Ministry of Science and Technology (MOST) Intermediate Training Course on Practical IP Issues in Business, Geneva, November 10 to 14, 2003;
- *Segundo Seminario Regional Sobre Propiedad Intelectual Para Jueces y Fiscales de América Latina*, Madrid, November 25 to 28; Munich, December 1 to 5, 2003;
- Meeting on Enforcement of IP Rights for Representatives of Countries of the Southern Common Market, Bolivia, Chile and Brazil, November 26 and 27, 2003;
- Regional Seminar on Enforcement of IP Rights, Brasilia, November 28, 2003;
- WIPO National Seminar on Enforcement of Intellectual Property Rights for General Prosecutors, Muscat, Sultanate of Oman, December 1 and 2, 2003;
- WIPO Subregional Seminar on Enforcement of Intellectual Property Rights, Maseru, Lesotho, December 3 to 5, 2003;
- WIPO Workshop on Enforcement, Tatranske Matliare, Slovakia, March 25 and 26, 2004;
- Colloquium on the Protection and Enforcement of Intellectual Property, Lusaka, The Zambia, March 29 to 31, 2004;
- Presentations in the Intensive Seminar on Intellectual Property for Law Students, WIPO Academy, Geneva, April 19 to 23, 2004.

11.3 Joint Activities with IGOs, NGOs and National Offices:

- Attended the meeting of the IPR Strategic Group of World Customs Organization (WCO) to discuss the WCO Model Provisions on Effective Border Measures, Stuttgart, June 17, 2003;
- Participation in the Fourth Meeting of the Interpol Intellectual Property Crime Action Group (IIPCAG), Washington D.C., June 23 to 25, 2003;

- Presentations at the Multi-Country Workshop on Consumer Risks from Fraudulent Misrepresentation of Goods by the Technical Assistance Information Exchange Office (“TAIEX”) of the European Commission, DG Enlargement, Brussels, October 30, 2003;
- Chairing a session on IP enforcement at the Patinnova/Epidos Conference of the European Patent Office and the European Commission, Luxembourg, November 11, 2003;
- Presentation at the UNECE Advisory Group Training Seminar on the Protection and Implementation of Intellectual Property Rights for Investment, Kiev, Ukraine, November 11 to 13, 2003;
- Participation in the Fifth Meeting of the Interpol IP Action Crime Group (IIPACG), Lyon, France, December 2 and 3, 2003;
- Presentations on the Enforcement of Intellectual Property Rights in a National Workshop by the European Commission under the “TAIEX” program, Bucharest, Romania, February 9, 2004;
- Participation in a discussion panel “Combatting counterfeit drugs: international organizations’ perspective” of the Pre-Eleventh International Conference of Drug Regulatory Authorities (11th ICDRA) Satellite Workshop on Counterfeit Medicines, which was co-sponsored by the Government of Spain and the WHO, Madrid, February 13 and 14, 2004;
- Presentations on enforcement at the The Multi-Country Workshop for Judges and Prosecutors on the Enforcement of Intellectual Property Rights, by the European Commission under the TAIEX program, Brussels, March 8 and 9, 2004;
- Presentation at the IP Crime Day(April 15) during the Second International Conference on Financial Crime by the Interpol Secretariat, Lyon, April 14 to 16, 2004.

11.4 Participation by WIPO in Activities Organized by IGOs and NGOs:

- Fifth Annual Meeting of the UN Economic Commission for Europe (UNECE) IP Rights Advisory Group, Geneva, September 29, 2003;
- WCO planning meetings at the WCO headquarters for the organization of a Global Congress on Combating Counterfeiting and Piracy to be held on May 25 and 26 in Brussels, October 24, 2003 and January 23, 2004; London, March 3, 2004;
- European Congress on “Tackling Organized Crime in Partnership,” organized on behalf of the Governments of Ireland and the Netherlands, Dublin, Ireland, November 20 and 21, 2003;
- Informal Meeting on IP, Special Commission of the Hague Conference on Jurisdiction, Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters, Washington D.C., March 29 to 31, 2004;
- Special Commission on Jurisdiction, Recognition and Enforcement of Foreign Judgements in Civil in Commercial Matters of the Hague Conference, The Hague, December 1 to 5, 2003; and in the 2nd Session of the Special Commission of the Hague Conference, The Hague, April 21 to 27, 2004.

11.5 Others:

Comments by the Secretariat on the “World Customs Organization Model Provisions for National Legislation to Implement Fair and Effective Border Measures Consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)” were provided in July 2003 upon the request of the WCO.

III. FUTURE WORK

12. In its first session, the ACE agreed with the thematic approach for its sessions and with the inclusion of expert presentations related to the selected theme⁸, as proposed by the Secretariat⁹. For the second session, the role of the judiciary and quasi-judicial authorities, as well as of the prosecution, in enforcement activities (including related issues such as litigation costs) was identified as theme of particular interest for further examination and discussion¹⁰.

13. For the discussions in the third session of the ACE, planned to be held in 2005, the ACE may wish to consider the following three alternatives:

(a) Continue the work on the theme selected for the second session, in order to further develop certain aspects that the Committee may wish to examine in more depth. This approach may take into account that the selected theme, the role of the judiciary and quasi-judicial authorities, as well as of prosecution, in enforcement activities, covers a complex and largely dynamic field of law, which addresses a variety of issues related to civil and criminal procedure and administrative measures. The Committee may therefore wish to engage in a more specialized follow-up process. For that purpose, the Committee may build upon the discussions and presentations held at the second session, and identify particular issues related thereto to be more closely analyzed.

(b) Select a new theme for presentations and discussion at the next session of the ACE. The new topic could be drawn from those referred to at the first session of the ACE, including those suggested by the Secretariat in paragraph 13 of document WIPO/ACE/1/2¹¹, such as:

- (i) the development of national strategies in order to render enforcement of intellectual property rights more effective;
- (ii) successful training as well as education and awareness building activities;
- (iii) examination of the question whether counterfeiting and piracy have a socio-economic impact not only in industrialized but also in developing and transition countries.

⁸ See paragraph 16 of document WIPO/ACE/1/7 Rev.

⁹ See paragraph 13 of document WIPO/ACE/1/2.

¹⁰ See paragraph 18 of document WIPO/ACE/1/7 Rev.

¹¹ See paragraph 13 of documents WIPO/ACE/1/2.

(c) Agree on another theme within the mandate of the ACE.

14. The Advisory Committee is invited to note the information contained in this document and to consider the proposals made in paragraphs 6(i) and (ii) as well as in paragraphs 13(i) and (ii).

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