

Topic 1(a)

WIPO and the International Patent System

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WIPO in Cooperation with the Government of Kenya
**Regional Forum on the Role of Patents and
the PCT in Research in Developing Countries**
March 30 to April 1, 2009, Nairobi

WIPO

- **Mission:** To promote the protection of intellectual property (IP) rights worldwide and extend the benefits of the international IP system to all
- **Status:** An international intergovernmental organization, established by the WIPO Convention (a multilateral treaty)
- **Member States:** 184
- **Staff:** ≈1,300 from ≈100 countries
- **Treaties administered:** 24
- **Decisions by:** Member States in the General Assembly and other bodies

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Intellectual property

- Creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.
- Industrial property: inventions (patents), trademarks, industrial designs, and geographic indications of source
- Copyright: literary and artistic works (novels, poems, plays), films, musical works, artistic works (drawings, paintings, photographs and sculptures), and architectural designs.
 - Related rights: performing rights, phonogram recordings, and broadcasters rights (radio and television)

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WIPO's strategic goals

- I. Balanced evolution of the international normative framework for IP
- II. Provision of premier global IP services
- III. Facilitating the use of IP for development
- IV. Coordination and development of global IP infrastructure
- V. World reference source for IP information and analysis
- VI. International cooperation on building respect for IP
- VII. Addressing IP in relation to global policy issues
- VIII. Responsive communications interface between WIPO, its member states and all stakeholders
- IX. Efficient administrative and financial support structure to enable WIPO to deliver its programs

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Aims of the international patent system

- The system should effectively serve the public interest (both right holders and society)
- Fundamental features
 - Credible
 - timely grant and improved quality/validity of patents
 - Functional
 - rational use of resources
 - improved access to patent system, including access to patent information (costs)
 - Acceptable
 - accommodate different economic and social conditions and interests, without foreclosing further development

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The broader policy arena

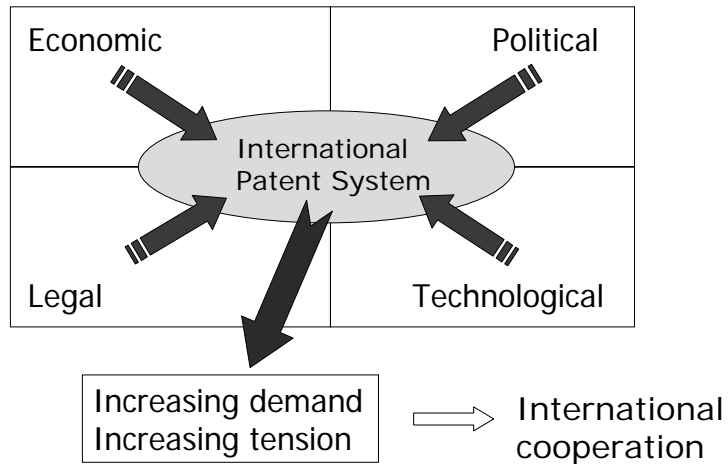
- Patent policy has been recognized as integral part of national trade, economic, development, public health, science and research policies
 - increasing number of international fora
 - enlarged participation in policy discussions
 - coordination necessary both nationally and internationally
 - new technology and new economic reality may provoke new policy debates
 - biotechnology and ethics
 - transition to knowledge-based economy

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Global IP environment



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Treaties administered by WIPO

Establishment of WIPO

- WIPO Convention

IP Protection (14)

- Berne Convention (copyright)
- Brussels Convention (transmission of satellite signals)
- Film Register Treaty
- Madrid Agreement (indications of source)
- Nairobi Treaty (Olympic symbol)
- Paris Convention (general IP principles)
- Patent Law Treaty
- Phonograms Convention
- Rome Convention (rights of performers, phonogram producers and broadcasting organizations)
- Singapore Treaty on the Law of Trademarks
- Trademark Law Treaty
- Washington Treaty (integrated circuits)

- WCT (copyright in computer programs and databases)
- WPPT (performers' and phonogram producers' rights)

Global Protection System (6)

- Budapest Treaty (microorganism deposits)
- Hague Agreement (industrial designs)
- Lisbon Agreement (appellations of origin)
- Madrid Agreement (marks)
- Madrid Protocol (marks)
- PCT (patent applications)

Classification (4)

- Locarno Agreement (industrial designs)
- Nice Agreement (marks: goods and services)
- Strasbourg Agreement (patent classification)
- Vienna Agreement (marks: figurative elements)

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Patent-related treaties

WIPO-administered treaties	Member States
• Paris Convention (concluded 1883)	173
• Patent Cooperation Treaty (1970)	141
• Strasbourg Agreement (1971)	59
• Budapest Treaty (1977)	72
• Patent Law Treaty (2000)	19

Treaties outside WIPO

- WTO TRIPS Agreement (1994)
- Regional treaties

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Paris Convention

- Covers patents, trademarks, service marks, trade names, industrial designs, utility models, indication of source, appellation of origin, repression of unfair competition
- Sets out certain basic principles that Member States must abide by
 - other aspects are left to national law

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Paris Convention: Basic principles (patents)

- National treatment: national law must afford patent protection to foreigners the same as locals
- Right of priority up to 12 months from date of first application for the same invention filed in a Member State
- Territoriality, independence of patents granted in different Member States
- Inventors' right to be named as such
- Patent not invalid because of restrictions on sale or use of invention under national law
- Compulsory licenses for non-working, on limited grounds only

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Patent Law Treaty (PLT)

- Entered into force on April 28, 2005
- (Presently) 19 Contracting States
- Streamlines and simplifies formal requirements for national and regional patent applications and patents (e.g. filing date requirements)
 - in general, a maximum set of requirements that Offices may apply
 - model international forms
 - request form, change in name or address, change in applicant or owner, power of attorney etc.
 - avoidance of unintentional loss of rights
 - extension of time limit / continued processing
 - restoration of rights

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Patent Cooperation Treaty (PCT)

- International patent application filing system (see Topic 2(d))
- Patent information database (see Topic 4(d))

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Regional treaties

- African Regional Intellectual Property Organization (ARIPO)
- Eurasian Patent Office (EAPO)
- European Patent Office (EPO)
- Gulf Cooperation Council (GCC)
- Organisation africaine de la propriété intellectuelle (OAPI)

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Work on patent law issues

- **Standing Committee on the Law of Patents (SCP)**
 - established in 1998
 - deal with clusters of interlocking issues
 - discussion on the draft Patent Law Treaty (concluded 2000)
 - discussion on the draft Substantive Patent Law Treaty (SPLT) (2001-2005)
 - working towards the establishment of the work program

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Improving the PCT

- Build confidence in international search and preliminary examination work
- Reduce “reservations” resulting from differences between national procedures
- Encourage applicants to gain a “clean” IPRP in the international phase and follow these results through into the national phase

- Reduce unnecessary duplicative work by national and regional Offices
- Reduce costs and delays

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Beyond the PCT and the PLT

- Rapid growth of patent applications filed in foreign countries (globalization vs. territoriality)
 - applicants: expanding demand; costs; legal uncertainty
 - patent offices: duplication of work; resources
- Better platform for international cooperation
- Better access to international patent system
- Ensure validity of patents (quality)

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Thank you

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