

**Major Trends of Development of International Protection of
Intellectual Property
WIPO's perspective**

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Dear Mrs. President Adamczak,
Distinguished guests,
Ladies and Gentlemen,

The 85th anniversary of the establishment of the Patent Office of the Republic of Poland is a very significant event, which I am happy to celebrate with you.

It is a pleasure for me, on behalf of the Director General of the World Intellectual Property Organization (WIPO), Dr. Kamil Idris, to extend our warmest greetings to you and wish you every success with this Conference. I am pleased to be here today in Warsaw, this great European city, resurrected from World War II as Poland is being resurrected from a dark past, and looking into the future. I feel privileged to participate in these celebrations along with eminent guests and to present you with a short overview about the most important trends of development of international protection of intellectual property from WIPO's perspective.

Poland acceded as soon as November 10, 1919, to the Paris Convention on patents, one of the ancestors of WIPO, and became, in March 1975, a member of the Convention Establishing WIPO. Thus, Poland has been contributing, as an active member, to the fulfillment of WIPO's mandate concerning the promotion and protection of intellectual property rights. WIPO, as you know, is a UN specialized Agency with 179 Member States.

It has three major responsibilities:

- The first main dimension is to gather representatives of the Member States to work on consensual developments of intellectual property standards and rules, to prepare new treaties and find solutions to new problems like protection of copyright on the Internet or protection of traditional knowledge and folklore.
- The second main dimension is management of the international mechanisms of patents and trademarks facilitating the acquisition and maintenance of intellectual property rights directly administered by WIPO, like the PCT system and the Madrid and the Hague Agreements for marks and industrial designs.

- The third main dimension, is technical assistance to developing countries and countries with economy in transition, to help them in improving their own intellectual property rules, systems and institutions so that they should be in a position to benefit, as well as other countries, of the protection of their own intellectual assets.

I would like to tell you:

1. How intellectual property is now widely recognized as a power tool for economic growth, and what WIPO is doing for that.
 2. That there still are critics or opposition.
 3. What are the new trends and WIPO's orientations for the future.
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1. Today, perceptions of the role of intellectual property, in both international and national affairs, have changed.

Intellectual property is no longer taken as an inert set of legal titles, but as an economic asset that realizes the potential of knowledge and creativity, an asset that embodies the longer-term interests and developmental potential of each WIPO Member State.

Today, a country's potential well being is measured by its capacity to create, introduce, manage and exploit intellectual assets, more than by its endowment of natural resources, labor and capital alone. A well-functioning intellectual property system offers a tool of great potential to lay the groundwork for future economic, social and cultural development and prosperity.

Government and business leaders, and public policy analysts, widely acknowledge the pivotal role of balanced and effective intellectual protection in the knowledge economy as a power tool. But a major challenge remains for many countries: how to realize this insight in practice; how to deliver on the promise of intellectual property as a power tool for development for those countries which are still working on reshaping, adapting and refining the intellectual property strategies that correspond to their specific needs and interests. WIPO does assist its Member States in meeting this challenge.

WIPO will leverage the achievements of the demystification campaign, which has already provided a sound basis for further work, and will also enhance its support for Member States efforts in developing intellectual property systems and promoting the strategic use of Intellectual Property Rights. The chief evidence of progress in this direction will be the accumulation and effective exploitation of national intellectual property assets by a wide range of economies. This should progressively foster more productive investment,

cooperative research and development, technology exchange, national brand-making, and leverage of traditional industries into distinctive enterprises in the global market, leading in turn to job creation and the defense and enhancement of cultural diversity and intellectual human capital: in short, poverty reduction and more equitable prosperity in a globalizing economy, while reinforcing distinctive local characteristics and effectively valuing economic and cultural diversity.

The greater value attached to judicious intellectual property management has fuelled increased demand for WIPO's global protection services under the Patent Cooperation Treaty, Madrid system and the Hague system.

Patent laws differ from country to country, creating difficulties for patent applicants and owners, in particular in terms of the complexity and cost of obtaining patent protection in multiple countries. In addition, an increasing workload faces patent offices throughout the world, due to raising numbers of patent applications and duplication of work.

The Patent Law Treaty (PLT), adopted in 2000, simplifies formalities and streamlines procedures for national and regional patent applications and patents. The PLT does not complete the work of WIPO in the area of patent law harmonization. On the contrary, it constitutes only the first step in a hopefully productive series of efforts to be undertaken by WIPO.

The need for patent law harmonization beyond formalities has led the Standing Committee on the Law of Patents (SCP) to decide to initiate work on substantive harmonization of patent law.

The discussion on substantive harmonization has opened the door also for the reform of the PCT aiming at the emergence of a new vision of a more simple and more effective PCT in the digital age. The general objectives of PCT reform include simplifying the system and streamlining of procedures, reducing costs for applicants, maintaining balance between workload of PCT Authorities and quality of services provided, aligning PCT provisions with those of the Patent Law Treaty (PLT), and ensuring that the system works to the advantage of all Offices, irrespective of their size.

It has to be noted that the Dutch electronics giant Philips became the first this year to file a fully electronic international application under WIPO's Patent Cooperation Treaty with WIPO as Receiving Office, using the PCT "Secure Applications Filed Electronically" software. The availability of this upgraded secure electronic filing facility within the WIPO Receiving Office means that Patent Cooperation Treaty users can now file their international applications either on-line or using physical media such as CD-R. This heralds a new era in the operations of the Patent Cooperation Treaty, the cornerstone treaty of the international patent system.

Another important development is that WIPO and the so-called Trilateral Offices - the European Patent Office, the Japan Patent Office and the U.S. Patent and Trademark Office - have agreed to reinforce collaboration to ensure delivery of more efficient services to users and to promote the benefits of the patent system.

In the constantly changing business environment, trademarks, industrial designs and geographical indications are powerful tools for the promotion of domestic and international trade, which in turn contributes to national sustainable economic growth. In the business world, they are an integral part of marketing strategy to promote the sale of goods (and services) by identifying them from other competing goods. The joint efforts of the public and private

sector to use these types of intellectual property rights have successfully given a solid position in open market competition and comparative advantage in economic growth.

The Madrid Agreement system, which currently has a membership of 73 countries, gives a trademark owner the possibility of protecting a trademark in several countries by simply filing one application, in one language, with one set of fees in one currency (Swiss francs). It is a cost-effective and efficient way for trademark holders to ensure protection for their marks in multiple countries through the filing of a single application.

As of November 2, 2003, the process of registering trademarks in multiple countries has been greatly enhanced because this international treaty administered by WIPO has also entered into force in the United States of America. This means that a trademark owner who is a citizen of the USA, or has a domicile or commercial establishment in the USA, and who has a valid registration or pending application at the United States Patent and Trademark Office, may file an international application with the United States Patent and Trademark Office designating one or more of the other 72 countries that are party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol). This also means that trademark owners similarly entitled to file in the other countries party to the

Madrid Protocol will be able to file, directly with those national offices, international applications which include a designation of the United States of America.

During the last WIPO Assemblies Member States also decided to amend the Common Regulations under the Madrid Agreement and Protocol in order to make the Madrid system fully compatible with the European Community trademark system. In view of these changes, the European Community delegate said that it was likely that the European Community would submit its instrument of accession to the Madrid Protocol within one year. The accession of the European Community to the Madrid Protocol will be the first time that the European Community, as a regional body, adheres to a WIPO treaty.

WIPO will seek to progressively develop international law in the area of trademarks, industrial designs, geographical indications and unfair competition through meetings of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT). The uncertainty and difficulties for intellectual property rights holders to market their products and services derive from the difference in laws and administrative practices in various countries. The evolution of technology, such as the Internet, also poses new challenges to procedures in this domain. The progressive development of international law can contribute to reduce such differences and respond to new

challenges in this area. Since the adoption of the Trademark Law Treaty (TLT) in 1994, many developments have taken place calling for the revision and modernization of that Treaty, such as the growth of electronic commerce, or the possibility to file applications for registration of trademarks and related communications electronically.

The Hague System for the International Deposit of Industrial Designs facilitates the acquisition and maintenance of protection for industrial designs at the international level through the filing of a single application and the management of a single registration.

The Lisbon System for the International Registration of Appellations of Origin is aimed at facilitating the protection of appellations of origin at the international level through the filing of a single application for registration.

I seize this opportunity to encourage the Patent Office of the Republic of Poland along with the relevant Polish authorities to consider the accession to both the Hague and Lisbon Systems.

Acceding to Treaties and adopting national legislation is a very useful and positive step. But this legislation has also to be implemented.

The development of appropriate enforcement has been an area of concern to WIPO, the World Trade Organisation, other organizations, as well as to countries in transition, and - in recent years - to the private sector which has been cooperating with such organizations.

WIPO will increase its attention to the areas of Enforcement Issues and Special Projects focusing on legislation for the protection of intellectual property rights and effective mechanisms to deal with counterfeiting, piracy and all other forms of intellectual property infringement.

Capacity building may be the best way to improve enforcement of intellectual property legislation.

Founded in 1998, the WIPO Worldwide Academy has now completed more than five years of service to Member States and the intellectual property community. It is devoted to training, teaching and research in intellectual property, aimed at human resource development and capacity building. Its mandate is to support WIPO's mission of the promotion and protection of intellectual property worldwide and its use as a tool for economic, social and cultural development. The Academy will continue to strengthen its Professional Training Program to develop professional skills in intellectual property in developing countries and countries in transition to a market economy.

Let me say one word about regional cooperation.

Poland, together with nine other countries of Central Europe and the Baltic area, will officially become member of the European Union in May next year. In this respect, we have held consultations with the European Commission. We intend to further increase our cooperation and coordination of activities with the European Patent Office and the European Commission in order to join our efforts in providing further assistance and support for improved IPRS to countries in the region.

In other areas of regional cooperation, the role of intellectual property in promoting economic development has been also officially acknowledged, as it was the case, recently, for Heads of State and Government of the African Union.

We are now in a situation where intellectual property has been recognized by governments all over the world as a positive element for economic growth as well as social and cultural development.

Nevertheless, new critics are being opposed to intellectual property rights.

2. Critics and opposition

These new critics are mainly due to two reasons.

The first reason is the debates taking place in WTO. With the TRIPS Agreement, WTO is able to sanction violations of intellectual property rights on goods subject to international trade.

You know how tense the debate was, which took place in WTO on the price of medicines. It gave the impression that intellectual property rights are contrary to equality of treatment, an obstacle for people in poor countries to cure themselves, denying their right to health. This debate has harmed the cause of promoting innovation, creation for all, to which WIPO is attached.

Several NGOs are now criticizing WIPO because, in their eyes, intellectual property rights do not appear to be in conformity with the millennium targets of United Nations (on health issues).

Fortunately, a solution has been found in WTO, allowing emerging countries which are able to use compulsory licenses to produce low cost, low price medicines not only for themselves, but also for less developed countries which are not able to manufacture them.

Nevertheless some NGOs, followed by some scholars, continue their critics, which may make it more difficult for WIPO to promote protection of intellectual property rights also in favor of developing countries.

The second reason for criticism comes from the development of digital communication, which gives to many people a feeling of total freedom, without owing anything to creators, authors and composers.

Many, amongst young people, but also amongst Internet Service Providers, affirm that free flow of information, freedom of copying, reproducing, transmitting any piece of information, of music, of art, is their right. They forget to consider the situation of authors, innovators, composers, artists, whose work is stolen, and who will have the biggest difficulties to create and compose without any reward. The result may be a fast and complete uniformisation at a very low quality level of music and art freely communicated on the web.

While WIPO makes efforts to define the right balance between the rightholders and the public at large, some pressure groups would like to push the balance completely on the side of consumers, and forget creators.

So it seems that among the new trends of intellectual property, we should take these new factors into consideration.

3. New trends in intellectual property

To meet these challenges, WIPO will have the strategic goal of the creation of an intellectual property culture, able to constitute a favorable environment for intellectual property. A dynamic intellectual property culture is founded on the maintenance of an effective, balanced intellectual property system, but also requires active, well-informed and diverse users of the system, taking advantage of user-friendly systems, thus allowing a successful use of Intellectual Property Rights by a much wider range of constituencies.

At the beginning of the second term of WIPO's Director General, Dr. Idris, Member States have endorsed his strategy and mid-term plan for the next six years in which the development of an intellectual property culture was underlined as the strategic goal to enable all stakeholders to play their roles and to realize the potential of intellectual property as a tool for economic, social and cultural development. The plan affirms that the economic health of a country and its success in meeting development challenges such as bridging the knowledge divide and reducing poverty will depend on the ability to develop, utilize and protect its national creativity and innovation. An effective and well-balanced intellectual property system allied to pro-active intellectual property policy-making and focused strategic planning, will help nations to

promote and protect intellectual assets, drive economic growth and generate wealth.

Countries will be invited to establish national intellectual property strategies.

Several countries have already adopted national strategies which anchor intellectual property considerations firmly within the national policy-making process, whereas many others need to critically assess their options and to craft and implement intellectual property strategies corresponding to their own needs and economic situation.

WIPO will support, by its advice, the drafting of national intellectual property strategies, as it has already done for some countries.

Through deployment of national strategies and promotion of a global intellectual property culture, involving all layers of populations, WIPO intends to establish the proper climate which will allow every country and everybody to take full advantage of their own knowledge and creative capacity.

In the same spirit, WIPO is going to continue and accelerate its work on genetic resources, traditional knowledge and folklore. There is no reason why traditional communities should be deprived of the benefit of centuries old knowledge. There is no reason why others should make a profit from such knowledge, or genetic resources. Protecting folklore and traditional culture is also to protect cultural identity against exploitation or uniformisation.

WIPO will continue to provide an international forum and technical and legal advice to debate on the protection of traditional knowledge, genetic resources and folklore, without excluding that the process would open the way to one or several international instruments.

WIPO will also develop its action in favor of Small and Medium-Sized Enterprises (SMEs). The Conference which will take place tomorrow in the Patent Office shows that Poland is really on the move. I have no doubt that the exchange of ideas and experience sharing will be extremely profitable.

It is recognized that SMEs have an important capacity of creation and innovation, but that many of them do not know yet how to protect their intellectual assets, which may be lost or taken by others. It is a vein of creativity which is not yet much exploited, and which is able to benefit the owners of these enterprises and the national economy as well.

And finally, WIPO will continue to work on information technologies. Intensive discussions are going on in many circles on protecting or not protecting intellectual property on digital communication, on protecting it by technical or by legal means, etc. Big financial interests are at stake. A neutral playing field is necessary, which WIPO provides and will continue to provide.

WIPO's role in the field of digital communication has increased through the WIPO Arbitration and Mediation Center, which has already administered more than 20,000 domain name disputes, in its capacity of leading ICANN-accredited domain name dispute resolution service provider.

Over the last few years, a growing number of operators of country code top-level domains have designated WIPO as a dispute resolution service provider, including, for example, .PL for Poland.

The Organization is committed to using information technology to both streamline its own procedures and to help bridge the digital divide. A key project is the establishment of WIPONET – a global intellectual property information network between and among all WIPO Member States aimed at facilitating access to, and exchange of, information worldwide and enhancing the use of the intellectual property system to foster economic and cultural growth in all countries.

WIPO will continue efforts to promote formulating of appropriate responses aimed at encouraging the dissemination and exploitation of creative works and knowledge on the Internet, as well as at protecting the rights of their creators.

To conclude, I should like to say that we should not be too much impressed by critics and oppositions. We should open a dialogue with those who have different views on intellectual property.

By and large, it is better understood that intellectual property is not an instrument of exploitation, but on the contrary, a tool for promotion of innovation, creation, to support and stimulate innovators and creators, and an instrument of economic growth.

In fact, countries in transition like Poland are taking bold and efficient steps in order to develop the infrastructure and to increase the awareness in this field.

Ladies and Gentlemen, distinguished guests and colleagues!

We have noted with great pleasure that over the past years Poland has increased its participation in international property cooperation by joining an important number of treaties and conventions. The past years were also successful as for the legislative activity of the Office, which resulted in the adoption and amendment of an important number of laws in the field of the protection of industrial property in Poland. A modern, computerized and efficient administrative structure has been built up with capable staff, appropriate premises and enhanced information system.

The credit for these impressive achievements goes to the relevant authorities of the Government of the Republic of Poland and, may I say, to you President Adamczak, and to your predecessors, in the last 85 years, but more precisely in the most recent period.

I should like to close my address by reiterating our sincere gratitude for the opportunity to participate in this significant celebration of the 85th anniversary of the establishment of the Patent Office of the Republic of Poland, as well as to co-organize the Conference on Intellectual Property and SMEs which will take place tomorrow. Finally, I would like to express, once again, our best wishes to all participants and to reiterate our firm commitment to further expand the cooperation with all of you.

Thank you.

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