

Advisory Committee on Enforcement

Tenth Session

Geneva, November 23 to 25, 2015

FUTURE WORK OF THE ADVISORY COMMITTEE ON ENFORCEMENT

prepared by the Secretariat

1. In its first session, held in 2003, the Advisory Committee on Enforcement (ACE) agreed on the principle of a thematic approach to its work and the inclusion of expert presentations in the respective sessions.¹
2. Paragraph 45 of the Draft Summary by the Chair of the ninth session² lists three proposals that remain on the table for future consideration, namely: “A Review of Awareness-Building Activities as a Means of Building Respect for Intellectual Property Rights, Especially Among School-Age Children and Students” (set out in Annex I); “A Discussion on How to Intensify and Improve WIPO’s Enforcement-Related Technical Assistance” (set out in Annex II); and “The Specialization of the Judiciary and Intellectual Property Courts” (set out in Annex III).
3. By circular C. 8423 of April 23, 2015, the Secretariat invited Member States to submit proposals for future work of the ACE, for consideration at the tenth session. Proposals have been received from Chile, the Philippines, the European Union and its Member States and a statement of support from Mexico (set out in Annex IV).

¹ Paragraph 16 of document WIPO/ACE/1/7 Rev., available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=17452.

² WIPO/ACE/9/29 Prov., available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=272197.

4. It is also recalled that the Secretariat had prepared, for the eighth session of the ACE, a compilation of future work proposals made from the second through the seventh sessions, with an informal assessment of the extent to which they had been addressed through the ACE.³

5. The Committee is invited to take note of the content of this document and its Annexes.

[Annexes follow]

³ WIPO/ACE/8/3 on “Analysis of Proposals for the Future Work of the ACE”, available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=216331.

A Review of Awareness-Building Activities as a Means of Building Respect for Intellectual Property Rights, Especially among School-Age Children and Students

Proposal by Group B

1. With regard to developing a work program for the tenth session of the Advisory Committee on Enforcement (ACE), Group B sees a benefit to returning to a theme that was first suggested by the Secretariat at the First Session of the ACE (Paragraph 13 of document WIPO/ACE/1/1): “education and awareness-building activities.” The issue of education and awareness building was adopted as the theme for the third session in 2005 (Paragraph 21 of document WIPO/ACE/2/13), and among the conclusions adopted was stressing the importance of continued education and awareness raising. (Paragraph 11 of document WIPO/ACE/4/2).
2. At the thirty-second session of the WIPO General Assembly, Member States unanimously expressed their appreciation of the choice of this theme for the Third Session of the ACE, and encouraged the Committee to continue its work. (Paragraph 2 of document WIPO/ACE/3/2; Document WO/GA/32/13). Accordingly, we believe it is timely for us to re-visit this theme.
3. As noted in responses from Member States and Organizations collected by the International Bureau, to a survey proposed at the first session of the Advisory Committee on the Enforcement of Industrial Property Rights (Paragraph 1 of document WIPO/ACE/1/4/Annex): “a perceptible heightening of awareness among the general public and government agencies as to the importance of adequate intellectual property rights protection for the economic development and well-being of the country” is crucial “to achieve results in the fight against counterfeiting and piracy.” In this respect, intellectual property education and awareness programs can serve to educate and inform the public about the benefits that a strong intellectual property system can have for their economy. (Paragraph 23 of document WIPO/ACE/1/4/ Annex). The survey further noted that: “[t]o achieve this goal, Member States could work with private sector partners to create outreach enforcement programs, involving the media and using the Internet, street presentations, and the like.” (Paragraph 25 of document WIPO/ACE/1/4 Annex).
4. One area in particular that is likely to reap benefits in the short and long term is awareness raising among school-age children and students of the importance of intellectual property in achieving developmental goals and the harm – economic and health and safety – to societies that counterfeiting and piracy can pose. Accordingly, we propose that the International Bureau undertake a study that identifies the existing initiatives targeted at school-age students, and present said study at the tenth session of the ACE.
5. Moreover, we recognize that Member States have continued to work in this field of awareness raising, and we believe it would be valuable to have an interchange regarding such efforts for the tenth session of the ACE, which could complement the findings of the study.

[Annex II follows]

A Discussion on How to Intensify and Improve WIPO's Enforcement-Related Technical Assistance

Proposal by the Development Agenda Group

A discussion on how to intensify and improve WIPO's enforcement-related technical assistance, including:

- (i) an evaluation of how WIPO has been promoting the concept of "building respect for IP" in its technical and legislative assistance activities;
- (ii) an inventory of "success stories" of technical assistance and capacity building in this area;
- (iii) legislative assistance with a view to preventing the abuse of enforcement procedures such as "sham litigation"; and
- (iv) legislative assistance in drafting national laws of enforcement that take into account the use of flexibilities as well as the different socio-economic realities and the differences in the legal tradition of each country.

[Annex III follows]

The Specialization of the Judiciary and Intellectual Property Courts

Proposal by Poland, the United Kingdom and the United States of America

1. With regard to developing a work program for the tenth session of the Advisory Committee on Enforcement (ACE), Poland, the United Kingdom and the United States propose the theme of specialization of the judiciary and intellectual property courts. The theme is a natural complement to alternative dispute resolution, one of the themes of the current ninth session.
2. The issue of specialized judges and intellectual property courts has been discussed in several past sessions, which demonstrates that there is an ongoing interest in this area that is of particular relevance to intellectual property enforcement.
3. In preparation for the Consultation Meeting on Enforcement held in 2002, the WIPO Secretariat submitted a request for information from Member States, asking they “[i]dentify effective or best practices for enforcement of industrial property in Member States, in particular, less costly and time-consuming practices for effectively enforcing rights” (paragraph 4 of document WIPO/CME/3; WIPO/ACE/1/3, Annex). As noted in the Secretariat’s report of that meeting (“Synthesis of Issues Concerning Difficulties and Practices in the Field of Enforcement”), a large number of the responses favored either establishing specialized intellectual property courts or, alternatively, specialization of judges through training (paragraph 70 of document WIPO/CME/3; WIPO/ACE/1/3, Annex).
4. In 2002, the Secretariat also requested information to assist the Advisory Committee on Enforcement of Industrial Property Rights (ACE/IP) and the Advisory Committee on Management and Enforcement of Copyright and Related Rights in Global Information Networks (ACMEC), which were the progenitor committees of the ACE, to identify issues for discussion and areas where international cooperation in the framework of WIPO appears to be both necessary and realistically achievable (paragraph 4 of document WIPO/CME/2 Rev.). According to the Secretariat’s report, the establishment of specialized courts was raised as a “possible solution to achieving cost effective, efficient and consistent decision making” (paragraph 19 “Creation of Specialized Courts” of document WIPO/CME/2 Rev.).
5. At the second session of the ACE held in 2004, the Committee noted the particular role of the judiciary in the enforcement of intellectual property rights (paragraph 7 of document WIPO/ACE/2/13). The Committee also discussed the issue of specialization of the judiciary and “particular interest was expressed in the different ways in which Member States address this matter” (paragraph 8 of document WIPO/ACE/2/13). Some Member States discussed the necessity of having a specialized judiciary to effectively and cost-efficiently adjudicate upon intellectual property disputes (paragraph 8 of document WIPO/ACE/2/13). It was also suggested that specialization of the judiciary could also be achieved by concentrating intellectual property litigation within existing judicial structures (paragraph 8 of document WIPO/ACE/2/13).
6. At the fourth session of the ACE held in 2007, questions were raised as to “the specialization of the judiciary in both criminal and civil proceedings” (paragraph 9 of document WIPO/ACE/4/10).

7. Member States have been active in either establishing a specialized judiciary or in creating intellectual property courts. Such practices may lead to significant benefits to enforcement such as: improvements in judicial efficiency decision-making, increased consistency and predictability of case outcomes, and reducing costs to enforcement systems. Accordingly, we believe it is timely for the ACE to focus on this theme, as it would be valuable to have an interchange regarding Member States' efforts in this area for the tenth session.

[Annex IV follows]

Capacity Building and Support from WIPO for Training Activities at the National, Regional and International Levels and for Agencies and National Officials with Intellectual Property Enforcement Expertise

Proposal by Chile

This proposal is based on what we see as a lack of systemic implementation of programs to increase the knowledge and improve the work of the authorities with jurisdiction in enforcement, such as judges both in specialized and ordinary courts, specialized police and customs officials.

Strategic Programs on Education Campaigns Aiming to Build Respect for IP Especially for the Youth

Proposal by the Philippines

In the Philippines, we launched in 2013 an IP Youth Camp, and the organization in various schools of Young IP Advocates. This is one way of instilling in the minds of the youth the value and importance of IP. We believe that the ultimate form of IPR enforcement is education, and it would be good if countries can come up with an institutionalized educational program that would shape the perspective or view of the youth on IP.

Sharing Experiences on the Enforcement Functions of National Intellectual Property Offices

Proposal by the Philippines

The Intellectual Property Office of the Philippines (IPOPHL) promulgated rules and implemented various modalities by which enforcement actions can be undertaken by an IP Office without compromising its objectivity.

Voluntary National Presentations of IP Enforcement Regimes

Proposal by the European Union and its Member States

1. With regard to developing a work program for the tenth session of the Advisory Committee of Enforcement, the EU and its Member States propose to add a new state-centric Agenda point which would complement the issue-centric agenda points.
2. The EU proposes an annual Agenda item on voluntary national presentations of IP enforcement regimes.
3. Under this new Agenda item, WIPO Member States who volunteer to step forward would make a concise presentation on the status of their legislative, preventive and enforcement efforts in the field of intellectual property. Based on this presentation, and assisted by documents prepared by the WIPO Secretariat, an interactive dialogue would follow between the Presenting State and other WIPO States, as well as other accredited stakeholders. The presentation, background documents and the outcome of proceedings would be available on the WIPO website and would constitute an invaluable resource for IP practitioners and other international organizations dealing with IP related issues.

4. In presenting their national reviews it would be for Member States to set out the emphasis of their IP enforcement policies (e.g. more emphasis on preventive schemes or certain types of IP infringements, etc). The necessary technical assistance would be made available.
5. The combination of a new state-centric item with issue-centric items allows for a full coverage of all relevant IP enforcement issues and will allow for a broadening of the interesting and stimulating exchanges of views that have typified the working session of this Committee's meetings.
6. This proposal would also contribute to greater predictability for the Agenda, reducing the need for lengthy informal consultations on future topics to be discussed by ACE.

Statement of Support by Mexico:

A Review of Awareness-Building Activities as a means of Building Respect for Intellectual Property Rights, Especially among School-Age Children and Students

The Delegation of Mexico considers that the respect for intellectual property rights should be built and promoted among children and adolescents in order to establish a solid culture on enforcement and prevent piracy.

A Review of the Possibilities to Intensify and Improve WIPO's Enforcement-related Technical Assistance

The Delegation of Mexico grants paramount importance to the strengthening and the improvement of technical assistance provided by the Organisation. This helps to raise awareness among legislators on the role of intellectual property in economic, social and cultural development and supports the adoption of legislation that is compatible with international commitments and standards on enforcement.

[End of Annex IV and of document]