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THE IMPORTANCE OF IPR ENFORCEMENT AND PROTECTION
AND LINKS WITH THE WIPO DEVELOPMENT AGENDA

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* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

The Advisory Committee on Enforcement has a long history of meeting here in Geneva, a wonderful city that represents global cooperation and diplomacy. As we begin, I would like to thank Francis Gurry and the World Intellectual Property Organization (WIPO) for the outstanding commitment to protecting intellectual property and consumers around the world. WIPO's work is critical to the development and enforcement of the intellectual property rights that help ensure the stable and responsible growth of developed and developing markets. I also want to thank Deputy Director General Michael Keplinger for his kind invitation in asking me to address the 5th session of the ACE here in Geneva this week.

We find ourselves in a constantly changing and, today, a particularly challenging global economy. While we are hopeful that we are close to a meaningful economic recovery, the timing and extent of any such recovery remains unclear. The economic downturn has only underscored the dangerous combination of increasing intellectual property infringements and decreasing resources to combat them. Our collective intellectual property enforcement efforts face the challenging task that all of you are so familiar with in your respective positions – that is, trying to do more with less.

Today, I have come to speak to you about the private sector perspective on the importance of IPR protection and enforcement and the strong links to the WIPO Development Agenda, in particular Recommendation 45 and the contribution and costs to rights holders in that regard. This naturally includes the threat to intellectual property and the impact of our joint resolution in the fight against counterfeiting and piracy.

Firstly, we should look at the overall economic impact of intellectual property which is paramount in understanding the problem:

The impact is at least as great in developing and emerging economies as it is in the developed world, possibly even more so.

Creativity and innovation are at the heart of any modern, knowledge based economies and are doubly important in manufacturing and consumer markets, including those in developing economies.

According to the recently appointed U.S. Secretary of Commerce, Gary Locke, intellectual property is estimated to be worth some 5 trillion dollars in the United States alone, and it accounts for more than half of all its exports. In addition to its dollar value, intellectual property also drives an estimated 40% of economic activity and employs more than 18 million people in the United States alone.

Extrapolate those figures worldwide and you begin to understand what we mean by economic impact and it puts the recent enormous fiscal stimulus packages into sharp perspective.

Intellectual property drives legitimate business, employment and revenue, along with the fundamentals of consumer choice and safety, but it remains under heavy attack by those who would illicitly profit from the ideas and investments of others.

“So, secondly, we should examine, albeit briefly, the significant harms caused by counterfeiting and piracy.”

Counterfeit and pirated goods can be found in every country and every industrial sector of the global economy – nothing and nowhere is immune. They are unregulated and therefore escape normal taxes and tariffs. They expose consumers to health, safety and quality risks that impose costs to society at large in terms of employment, crime and social services thereby hindering economic growth and development, thereby diverting Government resources, especially in developing economies where they have even greater impact.

The contribution and costs to rights holders are an important factor here. The costs of appointing anti-counterfeiting and brand protection staff, investigators, the legal costs of enforcement, storage and destruction costs, the running of training and capacity building programmes for law enforcement agencies, all divert costs that might otherwise be invested in community projects and sustainability initiatives.

My own company's sector – Fast Moving Consumer Goods or FMCG – may be at the lower end of the dollar-value spectrum but we are equally badly affected in everything from soap to shampoo, toothpaste to deodorants and foodstuffs as well, where the health and safety risks are even greater.

Thanks to our joint work, and the commitment and cooperation with organizations like WIPO and others around the globe, we have made some progress against counterfeiters and pirates, and there are now significant contributions by rights holders in providing assistance, training and capacity building to law enforcement officials, intelligence gathering initiatives, and co-operation through public-private partnerships, but the counterfeiters have responded by moving into developing markets where the enforcement framework is weak and are becoming even more active on the Internet.

Clearly, there is much work to be done.

The goal remains the same in developing and developed countries alike - to create an environment that promotes respect for intellectual property rights, while rewarding entrepreneurship and safeguarding against the criminal production and distribution of counterfeit and pirated goods.

It has been estimated that counterfeiting and piracy cost the G-20 economies 70 billion Euros in reduced tax revenues and increased social services spending, 20 billion Euros in the increased costs of crime, 14.5 billion Euros in economic losses from deaths and another 100 billion Euros in additional health care costs due to injuries from low-quality products and ineffective or harmful medicines. These economies lose 1.2 million jobs annually to counterfeiting and piracy – an especially painful statistic in the current global recession.

Developing economies may not yet see losses on this scale, but they are proportionately the same and they encounter the same threats, so we must work to ensure that strong intellectual property rights enforcement policies are in place. Developing countries thrive on investment by foreign companies, including Unilever, as well as providing an economic environment where local companies can grow and thrive. Protection of intellectual property rights can go a long way in encouraging that investment and the employment and tax revenue it generates.

Improved IP protection also allows for enhanced investment by rights holders in local community projects and humanitarian relief assistance. For example our own “LIFBUOY Health & Hygiene” hand-washing initiative in India and Indonesia is helping to reduce or

eliminate infant mortality and promote the benefits of cleanliness in both countries and throughout the developing world. Contributions to emergency relief efforts such as occurred with the SE Asian Tsunami a few years ago are also affected.

Other examples from another leading company, Sara Lee, who also invests heavily in developing markets, are shown in the slides and include a KIWI school can collection and arts and craft program, an employee lead joint project with the Red Cross, and the highly successful Malaki second hand shoe project, launched in 2006 and now extended to Kenya, Tanzania, Malawi, Zambia, Rwanda, South Africa and Cameroon where over 100,000 pairs of shoes have been distributed in rural areas. All of these are examples of investment which are a direct result of the value of IP protection, specifically brands and trade marks.

To illustrate the level the problem has reached though, even shampoos which we sell in very low value single-use sachets in many developing markets have been copied by counterfeiters thereby defrauding the poor as much as the better off, again illustrating that nothing is off-limits to the fraudsters.

Let's look at two examples of the harms of counterfeiting and piracy on the economies of both a developed and a developing market:

In the United Kingdom, where I am based and live, in a recent study across just four representative sectors – pharmaceuticals, food & beverages, computer software and luxury goods - 200,000 jobs have been estimated to have been lost with a permanent workforce reduction of nearly 16,000 representing those unable to find alternative employment, solely down to the activities of counterfeiters and pirates. Additionally, 5 billion Euros have been lost in unpaid taxes and higher welfare spending. Overall, we see 1.7 billion Euros lost for every 1% increase in crime caused by counterfeits. These numbers are dramatic in even prosperous economic times, let alone in the midst of the global crisis in which we find ourselves today.

Losses of this magnitude are not limited to the UK. In Mexico, a very different market, we see similar figures.

There, 240,000 jobs are estimated to have been lost in the same four sectors with a permanent reduction of 13,000 jobs due to the effects of counterfeiting and other intellectual property rights infringements. Mexico has also lost more than 900 million Euros when reduced tax revenue is added increased spending on social services and another estimated 670 million Euros in potential tax revenue from forgone Foreign Direct Investments. It is reported that its losses amount to 290 million Euros for every 1% increase in crime caused by counterfeits.

These numbers are clearly disturbing, and will be applicable in any market you care to choose to do the economic analysis, as we continue to see a rapid expansion in the production and distribution of all types of fake goods, all sub-standard and many downright dangerous that threaten the health and safety of consumers worldwide. Extrapolating these numbers globally across all sectors therefore presents us with a frightening scenario.

Not long ago, counterfeiting was confined to luxury goods; now, significant profits are being made by counterfeiting all products that are made en masse and quickly consumed by society, including our own FMCG sector as I have already mentioned.

Strikingly, these consumer goods are disproportionately more widespread in developing and emerging markets, almost regarded as staple products for everyday life, but are responsible for some of the greatest health and safety risks while offering criminals an increasingly lucrative opportunity.

Along with tangible goods, technologically intensive sectors and therefore Governments, also lose out on key knowledge transfer, licensing and trading opportunities all facilitated by the Internet. Like all crimes, counterfeiting and piracy spread throughout market channels, and the online marketplace, as the most modern manifestation of global commerce, is painfully feeling that reality today.

Lastly, and arguably most importantly, we must close the gap between the laws on the books and IPR enforcement, particularly with respect to counterfeiting and piracy. It is our common goal, indeed it is the common goal of this advisory committee, because without strong enforcement it is impossible to tackle the supply-side of fake and knock-off merchandise – the worst and often dangerous form of unfair competition.

In both developed and developing markets, lack of effective enforcement leads to choked creativity and stagnant innovation, which results in a decline in both inward and outward investment, especially in research and development, thereby triggering a systemic decline in economic activity. Taken as a whole, these factors exacerbate job losses, depress economic growth and erode consumer confidence.

These downside factors can then lead to a massive business investment void which is often filled with illegal activities, especially crimes that have comparably light penalties and sparse enforcement, unless more is done to harmonize criminal sanctions.

New partnerships, and others still to be forged, will foster a greater awareness and a shared sense of collective responsibility to underline the importance of intellectual property and expose the dangers of counterfeits and parasitic copying to consumers, governments and the economy.

As we look at the work we are doing here this week, let us firmly recommit ourselves to the task at hand.

Experience shows us that alignment of global, regional and national initiatives is essential to achieve lasting and effective changes to the legislative agenda. Governments around the world have always listened to consistency of reason, but understandably stop listening if they hear too many discordant voices.

WIPO, working with organizations like INTA and other like-minded associations and alliances around the world, and being aware of development oriented issues, can take the lead in the fight against counterfeiting, piracy and other intellectual property crimes, by stimulating the use of the IP system as a basis for sustainable development.

Creativity and innovation are the pillars of modern day knowledge economies, and without sufficient protection for the intellectual property that underpins them, we will not see a return to sustainable and stable economic conditions any time soon.

So, as we move ahead and continue our work, let us be mindful of the benefits of meeting here and the lasting importance of intellectual property rights enforcement. Your enthusiasm

and commitment are among the Advisory Committee on Enforcement's greatest assets, and your good work here will no doubt affect economies and consumers across the globe.

Thank you for your attention today, and we look forward to a very successful meeting and some clear outcomes and objectives to take forward to the 6th session of the ACE, next time we meet.

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