

WIPO



WO/GA/36/10

ORIGINAL: English

DATE: August 15, 2008

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

WIPO GENERAL ASSEMBLY

Thirty-Sixth (18th Extraordinary) Session Geneva, September 22 to 30, 2008

REPORT ON THE WORK OF THE STANDING COMMITTEE ON THE LAW OF PATENTS

document prepared by the Secretariat

1. At its thirty-fourth (18th ordinary) session from September 24 to October 3, 2007, the General Assembly of the World Intellectual Property Organization (WIPO) unanimously adopted the following recommendation by the then Chair of the General Assembly, which concluded a process of informal consultations for the establishment of a work program for the Standing Committee on the Law of Patents (SCP) in Geneva with the group coordinators, all the regional groups and China and with all the WIPO Member States during the months of May and June 2007 (Annex of document WO/GA/34/5):

“With respect to the future work program of the Standing Committee on the Law of Patents (SCP), the Chair of the WIPO General Assembly recommends the establishment, by the WIPO Secretariat, of a report on issues relating to the international patent system covering the different needs and interests of all Member States, which would constitute the working document for a session of the SCP to be held in the first half of 2008.

“The report will contextualize the existing situation of the international patent system, including references to the WIPO Development Agenda process, and will contain no conclusions.

“An outline for such a report, on which Member States already had the opportunity to make comments, is contained in the Appendix.

“The report itself will be made available to all members and observers of the SCP by the end of March 2008.”

2. The report (document SCP/12/3), which provides an overview of current international patent issues and aims to cover the different needs and interests of all Member States, was released in April 2008 and formed the basis for the discussions at the twelfth session of the SCP held from June 23 to 26, 2008, which can be summarized as follows:¹

(a) Many delegations recognized that the report covered a wide range of issues relating to the patent system and constituted a good basis for discussion. The SCP identified a non-exhaustive list of issues for further elaboration and discussion (Annex of the Annex to the present document) and also agreed that the report should remain open for written comments until the end of October 2008 and for discussion at the next session of the SCP in early 2009.

(b) The SCP further requested that the WIPO Secretariat prepare preliminary studies on four issues for discussion at its next session. The studies, which are not to be considered prioritized over the other issues identified in the above-mentioned non-exhaustive list are the following: dissemination of patent information (including, *inter alia*, the establishment of a database on search and examination reports); exceptions from patentable subject matter and limitations to the rights, *inter alia*, research exemption and compulsory licenses; patents and standards and client-attorney privilege.

(c) The Committee finally recommended that the Director General consider including provision in the revised Program and Budget for 2009 for a Conference on issues relating to the implications, including public policy implications, of patents on certain areas of public policy, such as health, the environment, climate change and food security.

3. *The General Assembly is invited to take note of the contents of this document.*

[Annex follows]

¹ The full Summary by the Chair (document SCP/12/4 Rev.) of the session is contained in the Annex to this document.

WIPO



SCP/12/4 Rev.

ORIGINAL: English

DATE: June 26, 2008

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

STANDING COMMITTEE ON THE LAW OF PATENTS

Twelfth Session
Geneva, June 23 to 27, 2008

SUMMARY BY THE CHAIR

Agenda Item 1: Opening of the Session

1. The twelfth session of the Standing Committee on the Law of Patents (SCP) was opened, on behalf of the Director General, by Mr. Francis Gurry, Deputy Director General, who welcomed the participants. Mr. Philippe Baechtold (WIPO) acted as Secretary.

Agenda Item 2: Election of a Chair and Two Vice-Chairs

2. The SCP unanimously elected, for one year, Mr. Maximiliano Santa Cruz (Chile) as Chair and Mrs. Bucura Ionescu (Romania) and Mr. Yin Xintian (China) as Vice-Chairs.

Agenda Item 3: Adoption of the Draft Agenda

3. The SCP adopted the draft agenda as proposed in document SCP/12/1 Prov.

[SCP/12/4 Rev.
page 2]

Agenda Item 4: Accreditation of Observers

4. The SCP approved the accreditation of the Institute for Trade Standards and Sustainable Development, Inc. (ITSSD) as *ad hoc* observer (document SCP/12/2).

Agenda Item 5: Adoption of the Draft Report of the Eleventh Session

5. The Committee adopted the draft report of its eleventh session (document SCP/11/6 Prov.2) as proposed.

Agenda Item 6: Report on the International Patent System

6. The discussions were based document SCP/12/3.
7. Many delegations recognized that that document was covering a wide range of issues relating to the patent system and constituted a good basis for discussion. Mindful of the mandate given to it by the WIPO General Assembly in 2007, and thus working towards a work program, the SCP identified a non-exhaustive list of issues for further elaboration and discussion in the future, which appears in the Annex to this document.
8. Following a proposal by the Chair, the Committee
 - (a) agreed that document SCP/12/3 would remain open for further discussion at the next session of the SCP and be open for written comments to the WIPO Secretariat until the end of October 2008, which would reflect those comments in footnotes or annexes to document SCP/12/3;
 - (b) decided that the list of issues referred to in paragraph 7 would remain open for further elaboration and discussion at the next session of the SCP;
 - (c) asked the WIPO Secretariat to establish, for the next session of the SCP, preliminary studies on four issues. These four issues, which are not to be considered prioritized over the other issues contained on the list referred to in paragraph 7, are the following:
 - Dissemination of patent information (*inter alia* the issue of a database on search and examination reports);
 - Exceptions from patentable subject matter and limitations to the rights, *inter alia* research exemption and compulsory licenses;
 - Patents and standards;
 - Client-attorney privilege;

[SCP/12/4 Rev.
page 3]

(d) suggested that, in the framework of the SCP and, where relevant, also with other WIPO bodies, the Director General consider including in the revised Program and Budget for 2009, provision for a Conference on issues relating to the implications, including public policy implications, of patents on certain areas of public policy, such as health, the environment, climate change or food security;

(e) decided that the members of the SCP could submit suggestions on the future work program of the SCP to the Secretariat.

Agenda Item 7: Future Work

9. The International Bureau informed the SCP that its thirteenth session was tentatively scheduled to be held during the first quarter of 2009, in Geneva.

10. The SCP noted that the present document was a summary established under the responsibility of the Chair and that the official record would be contained in the report of the session. The report would reflect all the interventions made during the meeting, and would be adopted in accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), which provided for the members of the SCP to comment on the draft report made available on the SCP Electronic Forum. The Committee would then be invited to adopt the draft report, including the comments received, at its following session.

11. The SCP noted the contents of this summary by the Chair.

[Annex follows]

[SCP/12/4 Rev.

ANNEX]

LIST OF ISSUES

(in the order of their appearance in document SCP/12/3)

Economic impact of the patent system

Transfer of technology

Competition policy and anti-competitive practices

Dissemination of patent information (including the registration of licenses)

Standards and patents

Alternative models for innovation

Harmonization of basic notions of substantive patentability requirements (e.g. prior art, novelty, inventive step, industrial applicability, disclosure)

Disclosure of inventions

Database on search and examination reports

Opposition system

Exceptions from patentable subject matter

Limitations to the rights

Research exemption

Compulsory licenses

Client-attorney privilege

Patents and health (including exhaustion, the Doha Declaration and other WTO instruments, patent landscaping)

Relationship between the patent system and the CBD (Genetic resources/Traditional knowledge/disclosure of origin)

Relation of patents with other public policy issues

[End of Annex and of document]