

WIPO/ECTK/SOF/01/1.5

ORIGINAL:English

DATE:May2001



THE PRESIDENT OF THE  
REPUBLIC OF BULGARIA



WORLD INTELLECTUAL  
PROPERTY ORGANIZATION

**INTERNATIONAL CONFERENCE ON  
INTELLECTUAL PROPERTY, THE INTERNET,  
ELECTRONIC COMMERCE AND TRADITIONAL KNOWLEDGE**

organized  
under the auspices of  
His Excellency Mr. Petar Stoyanov, President of the Republic of Bulgaria

by  
the World Intellectual Property Organization (WIPO)  
in cooperation with  
the National Intellectual Property Association of Bulgaria

**Boyana Government Residence  
Sofia, May 29 to 31, 2001**

INTELLECTUAL PROPERTY, THE INTERNET AND ELECTRONIC COMMERCE  
INTELLECTUAL PROPERTY AND ELECTRONIC COMMERCE  
THE CARIBBEAN EXPERIENCE

*Document prepared by Ms. Nicole Foga, Legal Advisor, Ministry of Industry, Commerce and  
Technology, Kingston*

## INTRODUCTION

1. The convergence of telecommunications, information technology and broadcasting which is transforming our world and creating a Global Information Society (GIS) is having a tremendous impact on Caribbean countries. Convergence is seen as opening a window of opportunity to enable Caribbean countries to more fully participate in the global economy through the Internet and Electronic Commerce<sup>1</sup>. Small to medium size enterprises (SMEs) with high quality products and services that could not afford to penetrate the global market now have an opportunity to effectively compete globally at minimal costs.
2. In the Information Society “content” is king and intellectual property rights is a primary mechanism for content protection. The Caribbean abounds in content, manifested in such areas as music, poetry, art, and traditional knowledge. The challenge facing Governments in the Caribbean is to create appropriate policies, which act as a catalyst for this creativity, and enable Caribbean content to contribute to both the economic and social development of the countries in the region.
3. In addressing this challenge, the Governments in the Caribbean have articulated policies that seek to facilitate the creation of a National Information Infrastructure (NII). It is only a NII which can give rise to and support an indigenous information society.
4. Fortunately, through the advances in information and communication technologies, the critical infrastructure necessary for electronic commerce and the dissemination of information related to Intellectual Property (IP) can quickly and relatively inexpensively be put in place throughout the region. Accompanying the deployment of the infrastructure is the strengthening of IP protection through the:
  - (i) passage of modern IP laws and regulations; and
  - (ii) augmentation of the administration of IP by modernizing the national IP Office (IPO).

## POLICY

5. Caribbean policymakers view Electronic Commerce and IP as critical to achieving sustainable development, generating employment and raising social welfare. Electronic Commerce is considered to be a tool to attract increased foreign direct investment in the Region and as a catalyst for the development of indigenous SMEs particularly in the music, agriculture and craft sectors.
6. Each Government is developing policies to promote Electronic Commerce and is mindful that the only way that Electronic Commerce can enable the region to be an net exporter of services and content is if the people of the Caribbean have affordable access to the necessary technology.
7. The digital divide within Caribbean territories is a major concern given the relatively low tele densities (phones per 100 persons) and limited numbers of computer users in the

---

<sup>1</sup> Electronic Commerce as used in this paper refers to digital transactions facilitated by the Internet falling into any of the following categories: Business to Consumer; Business to Business; Government to Business and Government to Consumer.

Region. In Jamaica for example, the teledensity is 18 and the number of computer users has been estimated at 2% of the Jamaican population.

8. The Governments view the strategic liberalization of their telecommunications markets as a way to encourage investment in the information and communication sector.

9. Special programs have been established to provide computers to schools and libraries.

10. In Jamaica post offices have been targeted as e-commerce access points to enable farmers and merchants to sell their goods and services online at minimal costs.

11. E-Government is considered a very desirable goal and a way in which the public sector can lead the private sector by example. Although most Governments have websites many are moving away from mere "brochureware" to more interactive service delivery. Indeed, a number of Government agencies are delivering their services online.

### THE LEGAL FRAMEWORK

12. IP protection in a digital environment is considered of paramount importance in maintaining a safe and predictable environment in which to achieve growth and development of electronic commerce. Accordingly, laws are being amended to allow the necessary protection. Some countries in the region are already signatories to the WIPO Digital Treaties and most have expressed their intention to accede to the treaties.

13. Throughout the Caribbean, Governments have evinced an intention to pass legislation which promotes electronic commerce, addresses privacy issues and recognises the validity of data as evidence.

### THE ROLE OF THE NATIONAL IPO

14. Respect for the rights of the eIP creator online and the support of mechanisms to ensure that these rights are protected must become part of the modus operandi of national IPOs in this new century. IPOs have been instructed to be active players in the thrashing out of the issues related to IP and Electronic Commerce and ultimately to be part of the solution that emerge.

### REGIONAL COOPERATION

15. In each country committees have been established with public sector and private sector involvement to examine electronic commerce. However in relation to the overlapping of IP and Electronic Commerce issues, the governments have taken a regional approach.

16. When WIPO organised a Caribbean regional consultation in 1999 in Jamaica on electronic commerce and intellectual property as part of a series of consultations which also took place in the African, Asian, and Latin American regions in order to:

- generate greater awareness of the ways in which electronic commerce is affecting intellectual property; and
- assist in formulating a timely and swift response to those issues.

the consultation in the Caribbean was so successful that Caribbean Minister's responsible for IP agreed to create a Regional Committee on Electronic Commerce and Intellectual Property.

17. When the Governments formed the E-commerce and Intellectual property committee the Governments agreed to do the following:

- (i) develop and implement policies which create a National Information Infrastructure which integrates with the Global Information Infrastructure and ensure that a wide cross-section of the population have greater access to computers and the Internet and that computers and internet access are available in public institutions such as post offices and schools.
- (ii) develop and implement modern telecommunications policies which liberalize the telecommunications sector, ensure universal telephone access, develop a modern telecommunications infrastructure and enable full participation by the Caribbean in the WIPO's Global Information Network.
- (iii) develop a regional strategy for the maximization of the contribution of Intellectual Property to Caribbean economies in this Information Age.
- (iv) ensure appropriate representation at international forums where critical issues relating to Intellectual Property and Electronic Commerce are to be determined.
- (v) mandate regional Intellectual Property Offices to act as a vanguard in embracing technology, maximizing on the benefits of the Internet and in collaboration with WIPO disseminating information to the public on both the value of Intellectual Property to national development and the means of protecting Intellectual Property.

18. Since the meeting in Jamaica, the Regional Committee has met and made further recommendations on IP and E-Commerce. The Committee with the assistance of WIPO has raised awareness among IP Administrators and Domain Name Administrators of the rapid confluence of IP issues that affect them both. Domain Name Registrars in the region are now working more closely with IPOs especially the Registrars of Trademarks, to minimise conflicts between Domain Names and Trademarks.

19. The Governments have with the assistance of WIPO developed public education campaigns on Internet use which respects the Intellectual Property of Rights Holders. In addition regional seminars on the Internet and Electronic Commerce have been held which have targeted businesses, educational institutions, Intellectual Property Rights Holders and legal practitioners.

20. Today, all the Governments are working assiduously at developing policies and strategies for dealing with IP issues that have arisen from the phenomenal growth of the Internet and are supportive of WIPO digital agenda.

21. At the last meeting of Ministers with responsibility for IP in the Caribbean, organized through WIPO in St. Lucia in October 2000, it was decided that there was the need for a Secretariat to focus on IP issues that are being created or affected by the digital revolution for the benefit of IPOs, Policymakers and IP Stakeholders.

22. The Regional Committee through the Secretariat has been mandated to prepare position papers and conduct consultations which focus on the following for the Region:

- Technological Protection (encryption & watermarking) of IP;
- Electronic Copyright Management Systems;
- Domain Name Dispute Resolution including practical online dispute resolution procedures;
- Legislative enactments at the national level which create and facilitate a safe environment for e-commerce transactions;
- Content Regulation;
- Ratification and implementation of the WIPO Digital treaties;
- Patentability of certain subject matter (inventions related to financial services, electronics, sales, advertising and business methods);
- Access to the global infrastructure (internet access, web hosting, a Caribbean IP Internet portal);
- Education;
- E-Government Digital Delivery of IP Services;
- Security and privacy of transactions.

23. We in the Caribbean recognize that the Internet and Electronic Commerce which have arisen out of the convergence of telecommunications, information technology and broadcasting are significantly impacting IP and raising new policy and regulatory issues which must be expeditiously addressed if we are to achieve sustainable economic and social development in the 21<sup>st</sup> century.

[End of document]