

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP)

Third Session
Geneva, April 27 to May 1, 2009

RECOMMENDATIONS 12, 20, 22 AND 23

prepared by the Secretariat

1. At the Second Session of the Committee on Development and Intellectual Property (CDIP) held from July 7 to 11, 2008, the Committee discussed recommendation 12, and requested the Secretariat to update the information on activities for implementation of the adopted recommendation to reflect the discussions in the Committee. Annex I to this document provides the updated text as requested. A progress report on the implementation of recommendation 12 is contained in document CDIP/3/5.

2. With regard to recommendations 20, 22 and 23, following discussions on these recommendations, the Committee requested the Secretariat to revise the proposed activities and to assess the human and financial resource requirements for their implementation. Accordingly, the revised proposed activities for recommendations 20, 22 and 23, are contained in Annex II.

3. The proposed activities for implementation of recommendations 20 and 23 have been included in the proposed thematic projects on "IP and the Public Domain" and "IP and Competition Policy" respectively, as contained in Annexes I and II of document CDIP/3/4.

4. As for the implementation of recommendation 22, the activities in the approved work program will be included in the regular activities of the Organization.

5. *The CDIP is invited to note the contents of this document and its Annexes.*

[Annex I follows]

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ANNEX I

RECOMMENDATION	INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS
<p>12. To further mainstream development considerations into WIPO's substantive and technical assistance activities and debates, in accordance with its mandate.</p>	<p>In accordance with the mandate given by the Member States, WIPO has been consistently and methodically orienting its technical assistance programs and activities including legislative advice to incorporate development considerations and priorities in close consultations with the Member States. High level and specialized fora are organized at the international, regional and national levels to promote dialogue and deliberation on further mainstreaming development considerations in WIPO's programs and activities.</p> <p>Specific programs have been initiated to mainstream development considerations into WIPO activities and debates. In the years 2006, 2007 and 2008, WIPO organized a series of seminars entitled "WIPO International Seminar on the Strategic Use of Intellectual Property for Economic and Social Development" to facilitate dialogues at the inter-regional level to debate policy issues of common concern on IP and development and develop cross regional synergies. The main objective was to enhance the capacity of policy-makers to make decisions on issues of policy concern.</p> <p>Legislative assistance on the use of legal options and flexibilities, within rights and obligations, available in the international legal framework to implement public policies would continue to focus on specific public policies in response to requests from individual Member States, such as access to pharmaceutical products, promotion of a competitive environment, encouragement of small incremental inventions (which could be protected as utility models), etc.</p> <p>This issue of mainstreaming development consideration into substantive activities was also addressed in the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder ("the Singapore Resolution").</p> <p>Future activities will involve enhancing cooperation with the Regional Integration/Economic Groupings in IP, trade and development matters.</p> <p>Assistance would also be provided to enhance the ability of countries to analyze the potential impacts of proposed norms on the economies and cultures of developing countries.</p>

RECOMMENDATION	INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS
	In addition, high level national, regional and international policy fora would be organized to assist the LDCs in mainstreaming development considerations into their national policies and strategies.

[Annex II follows]

ANNEX II

RECOMMENDATION	PROPOSED ACTIVITIES	ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY		
		HUMAN	FINANCIAL	
20.	<p>To promote norm-setting activities related to IP that support a robust public domain in WIPO's Member States, including the possibility of preparing guidelines which could assist interested Member States in identifying subject matters that have fallen into the public domain within their respective jurisdictions.</p>	<p>In order to implement this recommendation as well as recommendation 16, it is proposed that the Secretariat undertake a project that would include four main components, covering four substantive areas, namely, trademarks, copyright, patents and traditional knowledge (see relevant project document contained in Annex I of CDIP/3/4 for more information on each component).</p> <p>1) With respect to trademarks, a study on bad faith appropriation of distinctive signs and possibilities to prevent such practices would be conducted. Examples for such practices are bad faith registration of trademarks, incorporating signs that are considered to be in the public domain, such as descriptive terms, or the appropriation of signs that are part of a common communal heritage or patrimony, such as sacred signs or geographically descriptive signs. The study could research actual and potential problems, as well as mechanisms for the prevention of such practices, and present conclusions.</p> <p>2) In the field of copyright and related rights, three activities are proposed that would contribute to understanding ways in which it may be possible to better identify subject matter that has fallen into the public domain, namely:</p> <ul style="list-style-type: none"> (i) To undertake a Second Survey on Voluntary Registration Systems that would build on and expand the survey conducted in 2005; (ii) To undertake a Survey of Private Copyright Documentation Systems and Practices, including in the form of Rights Management Information by entities such as collective management organizations and others, and examine how these systems contribute to identifying content that is in the public domain; (iii) To undertake a Scoping Study on Copyright and the Public Domain that would include a comparative analysis of national legislation and relevant international treaties that directly, or indirectly, define the public domain, and a survey of initiatives and tools, technical and legal, which facilitate access, use, identification and location of public domain material. 	<p>Information included in the thematic project on IP and the Public Domain (Annex I of Document CDIP/3/4).</p>	<p>Information included in the thematic project on IP and the Public Domain (Annex I of Document CDIP/3/4).</p>

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	<p>3) In the field of patents, the Secretariat is preparing a preliminary study on dissemination of patent information that addresses, <i>inter alia</i>, access to and use of related public domain materials, for the Standing Committee of Patents (SCP) in its session in March 2009. A follow up study focusing entirely on the public domain issue has been included in the Project Document on “IP and the Public Domain” in Annex I of CDIP/3/4.</p> <p>4) With respect to traditional knowledge and genetic resources, the Secretariat would create practical guidelines and mechanisms to facilitate access to information on traditional knowledge – once disclosed with the consent of its holders – by patent search and examination authorities. One such methodology, for the creation of national traditional knowledge databases, has been included in the Project Document on “IP and the Public Domain” in Annex I of CDIP/3/4.</p>		

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22.	<p>WIPO's norm-setting activities should be supportive of the development goals agreed within the UN system, including those contained in the Millennium Declaration.</p> <p>The WIPO Secretariat, without prejudice to the outcome of Member States considerations, should address in its working documents for norm-setting activities, as appropriate and as directed by Member States, issues such as: a) safeguarding national implementation of intellectual property rules b) links between IP and competition c) IP-related transfer of technology d) potential flexibilities, exceptions and limitations for Member States and e) the possibility of additional special provisions for developing countries and LDCs.</p>	<p>Working documents in the norm-setting areas are prepared at the request of the competent Member States' bodies only, and follow the guidelines of Member States in the context of each norm-setting activity.</p> <p>The Secretariat will continue to hold open events, such as colloquia and open fora, where appropriate, in order to contribute to a better understanding of the various issues of relevance to the work of WIPO's norm-setting activities. The possibility of holding a Global Forum on IP and Development is also envisaged.</p> <p>In addition, in relation to the links between IP and competition, it is proposed to commission a series of studies on IP and competition issues (please see activities for recommendation 23 and the relevant Project document).</p> <p>With respect to the contribution of WIPO (past and future) to the achievement of the UN Millennium Development Goals, a report will be prepared and submitted to the fifth session of the CDIP.</p>	<p>No additional human resources required.</p>	<p>Financial resource requirements for organizing the Conference would be included in the Program and Budget for 2010/11.</p>

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23.	<p>To consider how to better promote pro-competitive IP licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs.</p> <p>Activities for implementation of this recommendation, as well as recommendations 7 and 32, have been included in the relevant thematic project (see project document on “IP and Competition Policy” contained in Annex II of CDIP/3/4). These include, <i>inter alia</i>,:</p> <p>Organization of a global meeting on Emerging Copyright Licensing Modalities in Geneva in 2010. A series of awareness-raising activities concerning new approaches to copyright licensing will also be envisaged;</p> <p>In the field of patents, WIPO would introduce a component on IP and Competition in WIPO’s training programs on technology licensing. WIPO would also develop an innovation and technology transfer portal and make available various modules on licensing and other material on innovation and technology transfer (see project for recommendation 10, which contains the development of the portal);</p> <p>In addition, it is proposed to commission a series of studies on IP and competition issues (more details provided in the relevant Project Document in CDIP/3/4) and to organize a series of symposia on the interface between IP and competition law and policy in Geneva;</p> <p>On request, WIPO can also provide legal and technical advice to promote pro-competitive provisions on IP licensing instruments;</p> <p>It is proposed to also update the WIPO guide on franchising;</p>	Information included in the thematic project on IP and Competition Policy (Annex II of Document CDIP/3/4).	Information included in the thematic project on IP and Competition Policy (Annex II of Document CDIP/3/4).

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	<p>The organization of regional seminars for the exchange of national experiences in this area, as also requested in recommendation 32, has been included in the Project Document contained in Annex II of CDIP/3/4;</p> <p>Subject to the approval of the Committee, experts on the interface between IP and Competition would be invited to address the Committee.</p>		

[End of Annexes and of document]