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Standing Committee on the Law of Patents

Thirty-Fifth Session
Geneva, October 16 to 20, 2023

ANNOTATED DRAFT AGENDA AND PROPOSED TIME TABLE

Document prepared by the Secretariat

1. This information document contains an annotated draft agenda and a proposed timetable of the thirty-fifth session of the Standing Committee on the Law of Patents (SCP), which will be held in Geneva from October 16 to 20, 2023, in hybrid format. The Committee will meet each day from 10.00 a.m. to 1.00 p.m. and 3.00 p.m. to 6.00 p.m., Geneva time (CET). Created in 1998, the SCP serves as a forum to discuss issues, facilitate coordination and provide guidance concerning the progressive international development of patent law.
2. The document is prepared for the convenience of all participants as requested by Member States. Annex I to this document contains an annotated draft agenda which was prepared on the basis of the future work adopted at the thirty-fourth session of the SCP, held from September 26 to 30, 2022 (see document SCP/34/8, paragraph 25).
3. Annex II presents an indicative provisional timetable for the thirty-fifth session of the SCP. Taking into account the progress of the discussions and preferences expressed by delegations during the session, the Chair may propose changes to the timing of discussions on agenda items, as appropriate.

[Annexes follow]

ANNOTATED DRAFT AGENDA

1. Opening of the session

The Director General of WIPO (or his representative) will open the session and deliver his welcoming remarks.

2. Adoption of the agenda

See document SCP/35/1 Prov.

3. Special Rules of Procedure

See document SCP/35/2.

This document proposes minor alterations to the existing Special Rules of Procedure of the SCP (SCP Special RoP) applied to the election of officers in the SCP. They take into account the relevant amendment of the WIPO General Rules of Procedure and the needs of the SCP as a technical committee in the field of patent law. The first proposal concerns an amendment of the SCP Special RoP relating to changing the term of elected officers from a calendar-based to a session-based approach, and the second one consists of a one-time transitional arrangement for the officers to be elected during the thirty-fifth session of the SCP.

4. Election of a Chair and two Vice-Chairs

5. Report on the international patent system: Certain aspects of national/regional patent laws

See document SCP/35/3.

This document provides the status of the updates on the SCP electronic forum website that contains information concerning certain aspects of national/regional patent laws. Member States and regional patent offices may share information on recent developments of national/regional patent laws with respect to various aspects, such as patentability requirements and related matters as well as exceptions and limitations.

6. Exceptions and limitations to patent rights

See document SCP/35/4.

This document contains a Draft reference document on the exception regarding the use of articles on foreign vessels, aircraft and land vehicles. It covers the objectives and goals of this exception, the international legal framework of the exception, as well as provisions relating to the exception in regional instruments and national laws, including court cases. In addition, the document illustrates challenges faced by Member States in implementing this exception under the national laws and the results of their implementation. In its Appendix, legal provisions relating to this exception in national and regional legislations are compiled.

Other related documents: SCP/14/7 and SCP/19/6.

7. Quality of patents, including opposition systems

See documents SCP/35/5, 5 SUMMARY, 6, 6 SUMMARY, 7, 7 SUMMARY and 8.

Document SCP/35/5 contains a second part of the further study on the sufficiency of disclosure. The document covers the issues relating to inventions having an experimental nature in unpredictable art, such as chemistry and biotechnology, and of any other areas that deserve special attention, as proposed in document SCP/31/8 Rev. Due to its volume, document SCP/35/5 SUMMARY is produced and made available in six languages.

Document SCP/35/6 compiles information relating to the expedited examination programs of Intellectual Property Offices (IPOs), including information on Prioritized Examination of COVID-19 related patent applications. It presents various initiatives carried out by IPOs, including the Patent Prosecution Highway (PPH) and other collaborative initiatives among IPOs. Due to its volume, document SCP/35/6 SUMMARY is produced and made available in six languages.

Document SCP/35/7 provides a compilation on how jurisdictions around the world address the issue of AI inventorship, through jurisprudence, legislation and practice. It provides information regarding the history of inventorship, international, regional and national laws and practices relating to inventorship, decisions of IPOs and courts with respect to the DABUS case and the concept of inventorship in relation to AI inventions. Due to its volume, document SCP/35/7 SUMMARY is produced and made available in six languages.

Document SCP/35/8 contains a report of the information sharing session on patentability of inventions using AI and by AI, which was held during the thirty-fourth session of the SCP (September 26 to 30, 2022).

- Presentation by technical experts on the on the state of play regarding AI generated inventions.

Technical experts are invited to update the Committee on the state of play regarding AI generated inventions including AI technology capabilities and application.

- Sharing session on the use of artificial intelligence for patent examination procedures.

Experiences and information on the use of AI for patent examination procedures within national and regional patent offices will be shared within the Committee.

Other related documents: SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4, SCP/24/3, SCP/28/8, SCP/30/9, SCP/31/8 Rev. and SCP/33/4.

8. Patents and health

See document SCP/35/9.

This document contains background information regarding a regular update on publicly accessible databases of patent status information concerning medicines and vaccines, which has been carried out in accordance with the proposal by the Delegations of Argentina, Brazil, Chile and Switzerland (document SCP/28/10 Rev.). It is prepared by the

Secretariat in order to assist Member States in reviewing the proposal and deciding whether to extend it.¹

- Sharing session on practices involving licensing of medical technologies for the diagnosis, prevention and treatment of COVID-19, including examples of compulsory and voluntary licensing.

Member States will share practices involving licensing of medical technologies for the diagnosis, prevention and treatment of COVID-19, including examples of compulsory and voluntary licensing.

Other related documents: SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4 and SCP/28/10 Rev.

9. Confidentiality of communications between clients and their patent advisors

- Sharing session on recent developments and experiences concerning confidentiality of communications between clients and their patent advisors.

Focusing on recent developments and experiences concerning confidentiality of communications between clients and their patent advisors, members and observers of the SCP as well as relevant practitioners will share relevant information and experiences.

10. Transfer of technology

- Sharing session on the international cooperation in respect of technology transfer through the patent system.

Member States will share information and their experiences on international cooperation in respect of technology transfer through the patent system, including technical assistance and capacity building, licensing of technology and collaboration involving both the public and private sectors. This session will not be duplicative with the work undertaken under the agenda item, patents and health.

- Sharing session on practical experiences relating to Standard-Essential Patents (SEPs) and Fair, Reasonable and Non-Discriminatory (FRAND) licensing related issues.

Observers of the SCP, intergovernmental organizations and other relevant stakeholders will share their practical experiences on Standard-Essential Patents (SEPs) and Fair, Reasonable and Non-Discriminatory (FRAND) licensing related issues, as proposed in document SCP/34/7 Rev.

11. Future work

12. Summary by the Chair

13. Closing of the session

[Annex II follows]

¹ See document SCP/28/10 Rev., Annex, paragraph 9.

Standing Committee on the Law of Patents (SCP), 35th Session (October 16 to 20, 2023)
TENTATIVE SCHEDULE

	Monday, Oct. 16, 2023	Tuesday, Oct. 17, 2023	Wednesday, Oct. 18, 2023	Thursday, Oct. 19, 2023	Friday, Oct. 20, 2023
Morning Session 10.00-13.00 (CET)	<p>1. Opening of the session</p> <p>2. Adoption of the agenda (SCP/35/1 Prov.)</p> <p>3. Special Rules of Procedure (SCP/35/2)</p> <p>4. Election of a Chair and two Vice-Chairs</p> <p>General statements</p> <p>5. Report on the international patent system (SCP/35/3)</p> <p>6. Exceptions and limitations to patent rights - <i>General statements</i></p>	<p>7. Quality of patents, including opposition systems (continued) - <i>Expedited Examination Programs of IP Offices (SCP/35/6)</i> - <i>Further study on the sufficiency of disclosure (Part II) (SCP/35/5)</i></p>	<p>8. Patents and health - <i>General statements</i> - <i>Review of the regular update on certain publicly accessible databases (SCP/35/9)</i> - <i>Sharing session on practices involving licensing medical technologies for the diagnostics, prevention and treatment of COVID-19, including examples of compulsory and voluntary licenses</i></p>	<p>10. Transfer of technology - <i>General statements</i> - <i>Sharing session on international cooperation in respect of technology transfer through the patent system</i> - <i>Sharing session by SCP observers, IGOs and other stakeholders on their practical experiences on SEPs and FRAND licensing related issues</i></p>	<p>11. Future work (continued)</p>
Afternoon Session 15.00-18.00 (CET)	<p>6. Exceptions and limitations to patent rights (continued) - <i>Draft reference document on the exception regarding the use of articles on foreign vessels, aircrafts and land vehicles (SCP/35/4)</i></p> <p>7. Quality of patents, including opposition systems - <i>General statements</i></p>	<p>7. Quality of patents, including opposition systems (continued) - <i>Report of the sharing session on patentability of inventions using AI and by AI (SCP/35/8)</i> - <i>AI and inventorship (Presentation by technical experts; SCP/35/7)</i> - <i>Sharing session on the use of AI for patent examination procedures</i></p>	<p>8. Patents and health (continued)</p> <p>9. Confidentiality of communications between clients and their patent advisors - <i>General statements</i> - <i>Sharing session on recent developments and experiences concerning confidentiality of communications between clients and their patent advisors</i></p>	<p>11. Future work</p>	<p>12. Summary by the Chair</p> <p>13. Closing of the session</p>