



WORLD  
INTELLECTUAL  
PROPERTY  
ORGANIZATION

# WIPO MAGAZINE

GENEVA - OCTOBER 2006 - No.5

2



## A FRAGRANT CHALLENGE

12

## IP IN UNIVERSITIES POLICY AND PRACTICE

## OUTREACH

4



FROM BELARUS  
TO BRAZIL

Pirata:  
tô fora!  
Só uso original

## New WIPO Website

The redesigned and updated WIPO website was launched at the end of August. The new site makes it easier for our users to find the information they are seeking in just a few clicks. The changes will also help to keep pace with future technical developments.



New features include:

- a dynamic news portal, which highlights recent decisions and forthcoming events;
- an IP LIVE feature, designed to show intellectual property in action;
- an expanded navigation bar with drop down menus reflecting the principal areas of WIPO's work;
- rapid gateways to all WIPO information and activities relating to patents, trademarks, designs and copyright;
- a new integrated gateway to information and activities concerning the use of intellectual property for economic development;
- "resources for..." pages, presenting a cross-section of available information of potential interest to specific groups of users;
- simplified and updated "About WIPO" pages;
- a more contemporary look.

Visit the website at [www.wipo.int](http://www.wipo.int). WIPO welcomes comments and feedback.

### WIPO MAGAZINE ISSUE 2006/5

#### Editorial team

John Tarpey  
Elizabeth March  
Sylvie Castonguay

#### WIPO staff contributors

Cynthia Cannady: *Technology Transfer and Development*  
Yumiko Hamano: *WIPO University Initiative*  
Anja Von Der Ropp,  
Tony Taubman: *Bioethics and Patent Law*  
Christopher Kalanje: *Managing Patent Costs*

#### Acknowledgements

- National Council against Piracy and Intellectual Property Crimes (CNCP), Brazil
- National Center of Intellectual Property, Belarus
- IP Australia

#### Graphic design

Sheyda Navab

# CONTENTS

- 2 **CASE LAW**  
COPYRIGHT IN THE COURTS:  
**PERFUME AS ARTISTIC EXPRESSION?**
- 4 **OUTREACH**  
PLANNING AN **OUTREACH** CAMPAIGN -  
**THE WIPO MINI-GUIDES**
- 5 **COUNTRY FOCUS**  
COMBATING PIRACY: **BRAZIL** FIGHTS BACK  
INTELLECTUAL PROPERTY EDUCATION IN **BELARUS**
- 10 **TECHNOLOGY TRANSFER AND DEVELOPMENT**
- 12 **IP IN UNIVERSITIES:** PUTTING POLICIES IN PLACE -  
PROFESSOR TOM OGADA
- 15 **WIPO UNIVERSITY INITIATIVE**
- 16 BIOETHICS AND **PATENT LAW**  
The Cases of Moore and the Hagahai People
- 18 **PCT PORTRAITS**  
**ECO-INVENTORS**
- 20 **IP AND BUSINESS**  
MANAGING PATENT COSTS
- 23 AUSTRALIA'S FAVORITE **TRADEMARKS**
- 24 **NEWS ROUNDUP**  
G8 Commit to Combat Counterfeiting  
Google - What's in a Verb?  
Kazaa Settles Lawsuit  
IDEA: Asian Industrial Designers Excel  
The Thrill of IP Law
- 26 **LETTERS** AND COMMENT
- 27 **WIPO AWARDS**  
**CALENDAR** OF MEETINGS  
NEW **PRODUCTS**

# Copyright in the Courts

## PERFUME AS ARTISTIC EXPRESSION?

by Professor Kamiel Koelman

*In a landmark case in June, the Dutch High Court ruled that the smell of a perfume may, in principle, be copyrightable. The following account of the case and its possible implications was written for WIPO Magazine by Kamiel Koelman, associate professor at the Vrije Universiteit in Amsterdam, Holland. Professor Koelman, an expert in the intersection between technology and IP law, sits on the board of editors of the main Dutch law journals on copyright and computer law.*



Lancôme's publicity describes the *Trésor* fragrance as "bringing together the essence of love with a hint of laughter."

### Disputed treasures

The French cosmetics company, Lancôme, sells an exclusive perfume under the name *Trésor* (Treasure). Kecofa, a small Dutch firm, sells its *Female Treasure* perfume at a tenth of the price. Lancôme had previously tried to stop Kecofa by invoking its trademark right to the word *Trésor*, but failed, because the courts found that consumers were unlikely to confuse the brands. In 2000, after the Dutch Trademark act was updated, Lancôme tried again, but this time also claimed infringement of its copyright in the perfume. The trademark claim failed once more, but – probably to Lancôme's surprise – the copyright claim succeeded and was further sanctioned by the Dutch High Court.<sup>1</sup>

Coincidentally, just three days before, the French Supreme Court had ruled that a perfume – Dior's

*Dune* – was not copyrightable. The French court likened *parfumeurs* to mere craftsmen, like carpenters or plumbers, rather than artists, and as such found their works not eligible for copyright protection.<sup>2</sup>

### License to smell

The Dutch Copyright Act does not contain an exhaustive list of subject matter that can be protected. Basically, anything can qualify for protection as long as it is **perceptible** and **original**. The High Court ruled that the smell of a perfume may fulfil these requirements, even if only perceptible through the nose. The Court distinguished the scent of a perfume from its recipe or the liquid containing it, comparing the latter to the paper of a book, which is not subject matter of copyright, whereas the content of the book is. This distinction implies that a perfume that contains completely different ingredients but smells the same may be infringing, while a perfume with a similar formula but a different scent would not be.

The High Court acknowledged that the protection of smells could have some awkward consequences. For one thing, copyright permits the rights-holder to prevent the unauthorized "making available to the public" of his work. This could mean that anyone wearing a perfume in public – for instance, in a theatre or to work – would need a license in order to avoid performing an infringing act. But the High Court added that, even if this were true, a user could not be denied the ordinary usage of a perfume. The Advocate General, who advises the High Court, suggested that some exceptions should be added to the Dutch Copyright Act to address such problems if the Court were to consider scents copyrightable.

1. HR, June 16, 2006, LJN AU8940, *Kecofa/Lancôme*.

2. CdC, Arrêt No.1006, June 13, 2006, *Nejla X c. Soc. Haarmann & Reimer*.

## The High Court acknowledged that the protection of smells could have some awkward consequences.

The fact that smells hardly fit in the copyright system, and that the legislature clearly did not think of odors when it drew up copyright law, was not sufficient for the High Court to refuse to confer protection. The Court simply focused on the open-ended requirements for protection: like any other perceptible expression, if a smell is original it could in principle be copyrightable. The originality requirement means that a perfume that exactly replicates, say, the smell of roses, cannot be protected – just as an accurate 3D scale model of the Matterhorn mountain would be denied protection. Similarly, a scent that resembles some classic perfume may not fulfil the requirement. But if a *parfumeur* gives his own twist to a smell, it may qualify for protection.

### Impact

One worrying aspect of the protection of perfumes is the risk that it could lead to undue monopolies. Most humans do not have a highly developed sense of smell and can only distinguish a limited palette of scents. Thus, different perfumes may readily be held to be alike, and infringements quickly found. As such, the protection of perfumes could undermine competition to an undesirable extent, allowing only a few perfumes to exist lawfully side-by-side.

That said, just as similarity could easily be found between a claimant's and an allegedly infringing smell, so too could similarity between a claimant's and pre-existing scents. This in fact could render the protection of smells meaningless in practice, as most manufactured scents would be deemed not original anyway. In this context, it should be noted that the High Court did not hold that *Trésor* is copyrightable – the Dutch High Court does not decide as to the facts of a case – rather, it stated that smells could, in principle and in general, be considered protected subject matter.

### Proving originality

Kecofa sought to challenge the originality of *Trésor*, as merely built upon a long tradition of perfumes, and thus similar to some pre-existing perfumes. In response, the High Court specified that the originality requirement does not mean that a product has to be absolutely new, but, instead, that the maker must have put some of his own creativity into it. As Lancôme had provided voluminous reports of the development track of *Trésor*, it was up to Kecofa to demonstrate that Lancôme had actually copied an existing product, and that its perfume therefore lacked originality.

The defendant has an additional procedural disadvantage. Dutch copyright law protects only against direct imitation. But if there is a high degree of similarity, the alleged infringer is assumed to have copied the original, and has the burden of proving that he created his product independently. Thus, if the defendant's product resembles the plaintiff's the *presumption of imitation* kicks in; whereas it does not if there is similarity between the plaintiff's and pre-existing products. This factor could tip the balance towards the emergence of broad monopolies.

### A word of advice

Lastly, some free advice: document the development of your perfume extensively, just in case it happens to smell like a fragrance that is already on the market. The documentation may help prove that the similarity is coincidental. And if you stand on the other side and sue someone else for infringement, it ensures that he has the burden of trying to prove that you copied a pre-existing scent. The same applies if you produce wines or run a restaurant. Be prepared for a competitor claiming that you infringed his rights to the *bouquet* of his *Grand Cru*, or to the exquisite smells of his culinary creations. Of course, for now this is necessary only in Holland.



# PLANNING AN **OUTREACH** CAMPAIGN

## The WIPO Mini-Guides



Is Anybody LISTENING?

Everybody is doing it. But how many do it well?

Outreach encompasses the countless forms of activity intended to raise awareness and understanding of different aspects of intellectual property (IP): Anti-piracy commercials designed to strike fear into the hearts of teenage down-loaders; award schemes to promote aspiring inventors; glossy publications to guide small businesses through the patenting maze. On World Intellectual Property Day, IP offices run competitions and conferences. And all year round, industry groups spend huge sums to deter shoppers from buying fake brands. But which of these resources are being best spent? What sort of outreach activities have the most impact?

Relatively little information is available on how to plan an effective IP outreach campaign. So in response to many requests for guidance from IP offices and organizations, WIPO has created a set of online mini-guides. Now available in the new Outreach area of the WIPO website, the guides offer information to help IP managers to plan and imple-

ment outreach campaigns.

Guides such as this cannot, of course, replace the services of local communications professionals. Moreover, local customs and culture have an enormous impact on how messages are worded and promoted in publicity campaigns around the world. With this in mind, the WIPO guides have been stripped to the essentials.

### Getting the right message to the right audience

An effective outreach campaign or activity is one that succeeds in getting a message across to a particular audience, which influences the behavior of that audience. Easier said than done. Shouting loudly is not enough to make people listen. Research, reflection and careful planning will increase the chances of reaching the intended audience – and having an impact.

The WIPO guides are divided into two main sections. These break down the questions which need to be addressed at each stage, and then set out a series of steps to put the answers into action.

The first part, *Planning a Public Outreach Campaign*, covers how to:

- establish the strategic goals,
- identify the target audience,
- use research in formulating an effective message – including tapping into pre-existing research, and
- develop a communications program.

The second part, *Using Communications Tool Effectively*, provides an introduction to using different communications media, such as Internet, film, television, brochures, celebrity spokespeople, the press and special events.

The guides will shortly be expanded to include a database of links to interesting IP outreach materials from around the world. This will include examples of well-planned campaigns, such as Brazil's anti-piracy campaign (see page 5), eye-catching posters, effective websites, and more. Readers are invited to recommend their favorite examples for eventual inclusion in this resource.

# COMBATING PIRACY: BRAZIL FIGHTS BACK

Brazil is waging war against piracy – and on multiple fronts. Alliances have been formed, weapons selected and battles begun. The National Council against Piracy and Intellectual Property Crimes (CNCIP), a public/private body created within the framework of the Ministry of Justice in October 2004, leads the fight. The Council's strategy and tactics are defined in the National Plan for Combating Piracy. The action spans four fronts: enforcement, education, economic and institutional policies.

Photos: CNCIP



The original campaign slogan, *O barato sai caro* (Cheap can be costly), was dropped when market research showed that the "Pirates out!" slogan had more impact on consumers.

## Strategy and tactics

The National Plan for Combating Piracy includes 99 guidelines for short, medium and long-term action. The Council regularly assesses work in progress to identify what is working and what is not, and amends the guidelines accordingly.

Effective communication is essential to ensure that the Council's strategy is understood by all sectors of society and to maximize its impact. Communication is two way, so that any interested parties can voice their opinions in workshops, meetings and through Internet and telephone channels. *Clíquedenúncia* (which translates roughly as "click 'n tell") is an open line for members of the public to file complaints, transmit information on pirated goods or new methods of counterfeiting, report new counterfeit sales outlets, etc.

## Intelligence-led enforcement

Under the heading of repressive action, the National Plan defines the strategy of broadening and coordinating intelligence work within all the government departments involved in combating piracy, counterfeiting and other IP-related crime. The government has invested significant resources in this area, and the resulting actions receive high profile media attention.

A first priority was to shut down entry points of counterfeit goods into the country by stepping up controls at strategic border points, such as the Ponte da Amizade between Brazil and Paraguay. This alone led to the seizure of 33 million illegal

CDs and DVDs in 2005, almost double the amount seized in 2004. At the seaport of Santos in Sao Paulo more than 120 containers of illegal merchandise were impounded. In another operation, a six-month investigation led to the seizure of 204 million counterfeited surgical gloves, which contravened health and safety standards. But the perpetrators keep becoming more creative in finding new ways to circumvent controls.

Successful efforts to intensify repressive measures at points-of-sale included *Operation Sagitarius*. This was carried out at popular retail outlets for cheap goods in São Paulo, Belo Horizonte, Pernambuco, Rio de Janeiro and Brasilia.

Such headline-grabbing seizures of illegal goods represented months of painstaking investigation and joint operations between the Federal and Highway Police, Federal Revenue Department and regional law enforcement agencies. Nor did enforcement action end with the seizures. Approximately 1,200 people were arrested in 2005 for smuggling, illegal commerce and other IP-related crime – an increase of 3,076 percent over 2004, when only 39 smugglers were arrested in the year. This included arrests for cybercrimes, such as advertising pirated software, music and movies on the Internet.

## The "Pirates Out!" campaign

While repressive action is aimed at the supply side of the counterfeit problem, the Council's educational activities aim to tackle the demand. The educational program is designed not only to alert people



to the risks inherent in buying pirated goods but, more broadly, to promote an IP culture in Brazil, encouraging consumers to prefer genuine products.

*Pirata: tô fora! Só uso original!* (Pirates out! Use originals only!) a joint initiative with the National Union of Federal Revenue Agents (SINDIRECEITA), is a major outreach campaign. Launched in February at the Salvador de Bahia Carnival, the slogan appeared everywhere – on posters, caps, T-shirts, pens and so on. The Council even distributed pocket-sized

Council members recognized that the price difference is the real reason why consumers buy counterfeit products. So in parallel with the above outreach campaigns, they set about tackling pricing issues. Their solution was to promote the creation of alternative lines of original products at more affordable prices. The Council encouraged the public and private sector to come up with initiatives in this direction, offering producers and industry free publicity and government incentives to develop inexpensive branded products.

Photos: CNCP



**Media coverage of police raids reinforces the message that piracy doesn't pay.**

schedules of the 2006 World Cup championship, a key advertising medium in football-crazy Brazil. The schedules bore the anti-piracy slogan and the national team's trademark yellow and green colors. The campaign is continuing in fairs and popular events around the country, and will soon be extended to primary and secondary schools, colleges and universities.

The Council's active participation in more than 30 awareness raising events in 2005 helped to stimulate many private sector institutions to get involved. As a result, newspapers, magazines, TV channels and radio stations began spontaneously to publicize IP-related news topics.

### Economic action: tackling pricing issues

An on-going campaign warns consumers not to be lured by low prices into buying shoddy goods. The message is that buying a cheap product is only worthwhile if that product is legal and of decent quality. But when drawing up the National Plan, the

The response was positive:

- Some department stores and supermarket chains began selling CDs and DVDs at R\$8.90 (US\$4).
- A new technology, the Semi-Metallic Disc (SMD),<sup>1</sup> invented by the Brazilian singer Ralf, provided a low cost alternative to CDs. With a final retail price of R\$4.50 (US\$2), street vendors were given the opportunity to sell SMDs legally at prices comparable to pirated CDs, but on which they could still make a profit.
- NIKE, which holds the IP rights to the official team shirts of the Brazilian national football team, began manufacturing a simpler version of the shirts which retails at R\$39.90 (US\$18) instead of R\$170 (US\$78). Although still twice the price of the average fake version, the successful sales figures show that consumers will choose quality when the price is within their budget.
- The Clube Atlético Paranaense adopted a policy of incorporating street vendors into their merchandizing program, and created products specially for them to sell to lower income groups.

## Brazil Lists Reasons to Fight Piracy

- Piracy means unfair competition, damaging national industry and commerce;
- It damages the national image, leading to investment and job losses;
- It erodes tax revenues;
- It feeds international organized crime, and aids money-laundering;
- It circumvents the protection of traditional knowledge and natural resources;
- It undermines respect for labor rights, creating illegal employment and exploiting child labor;
- It threatens the health and safety of consumers;
- It poses environmental concerns, undermining sustainable development.

1. [www.portalsmd.com.br/ingles/index.htm](http://www.portalsmd.com.br/ingles/index.htm)



## National Council against Piracy and Intellectual Property Crimes (CNCP)

CNCP is a government initiative in which public and private sector representatives carry equal weight.

### Government Ministries:

- Justice
- Finance
- External Relations
- Science and Technology
- Culture;
- Development, Industry and Foreign Trade
- Labor and Employment

### Private Sector:

- Audiovisual industry association (film)
- Phonograms association (music)
- Software associations
- Publishing association
- Tobacco, beverages and fuel association
- Brazilian Intellectual Property Association
- National Confederation of Industry

The Council also has representatives from the Federal Senate, the Chamber of Deputies, the Federal Police, the Federal Highway Police and the Federal Revenue Department.



Photo: CNCP

Photos: CNCP



Launched at the Salvador de Bahia Carnival, the campaign has proved a big hit.

In parallel, the government cut taxes in several sectors. Legislation introduced in November 21, 2005, for example, granted tax benefits for computer products to be sold at popular prices.

### Institutional measures

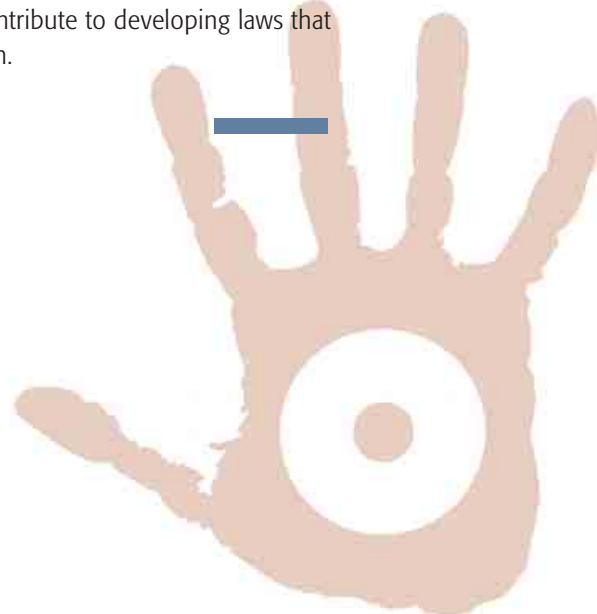
Even though Brazil has modern IP protection laws, legal texts relating to emerging technologies require regular updating. Discussion is also ongoing on amending the procedural component of Brazilian laws with a view to lightening judicial formalities. This calls for a high degree of coordination among the executive, legislative and judiciary bodies involved in the process.

One bill currently being processed by the Brazilian Congress concerns the destruction of pirated products. This is designed to address a problem caused by the current law, which requires that counterfeit goods be stored in depositories until the case is tried. The sheer volume of pirated products seized has made this a financial burden for both the au-

thorities and legitimate companies. Vigorous debates on various proposals for legislative change are taking place in the Council's Legislative Issues Working Group, to ensure that proposed amendments take into account the interests of all sectors and find the best solution for Brazil.

### Effective communication

On all four fronts, effective communication is the key to successful implementation of Brazil's anti-piracy strategies. Media coverage of enforcement action informs the public that piracy does not pay and will not go unpunished. The Council's education program reinforces this message, while encouraging consumers to choose quality over cheap fakes. Publicizing the economic measures spreads awareness of low-cost legal alternatives. And good communication among the judicial, legislative and executive bodies contribute to developing laws that address the problem.



# INTELLECTUAL PROPERTY EDUCATION IN BELARUS

"Statistics show that up to 80 percent of the increase in the gross domestic product of developed countries over the last few years was achieved through innovation and the effective use of intellectual property (IP)," says Mr. Leonid Voronetsky, the Director General of Belarus' National Center of Intellectual Property (NCIP). With this in mind, Belarus has undertaken a series of IP-related educational initiatives aimed at boosting the economic return from innovation-based research.

## Training Center opens its doors

In 2004, by order of the President of the Republic, the Training Center of Intellectual Property was created within the NCIP structure. From the start, the Training Center worked closely with the WIPO Worldwide Academy. In November 2004 WIPO Deputy Director General Philippe Petit and NCIP Director General Leonid Voronetsky signed a Protocol on Cooperation, setting out details of the technical assistance which WIPO would provide. This included modern computer hardware and software, IP teaching materials and methods, and free access to distance learning courses.

In 2005 alone, some 2,000 people participated in the courses, seminars and workshops offered by the Training Center. A consultation service within the Training Center caters for the increasing demand for more specialized courses, offering applicants expert advice and information. The consultation service, which is also used by applicants from neighboring countries such as Latvia, Poland, Russia and Ukraine, proved so popular that the NCIP has now initiated a similar service on the premises of the Scientific and Technical Library. In the next few years, a network of consultation services will be developed in all major regions of Belarus.

To address the problems related to the management of IP in the corporate sector, courses on the "Fundamentals of Intellectual Property Management," are being introduced in higher education and specialized secondary-education institutions for the 2006/2007 academic year. The curriculum, designed to complement students' professional skills, covers both theoretical and practical aspects, including na-

Over the last five years, studies by the Ministry of Education have shown a steady rise in the volume of research performed in state funded universities. Each year 700 to 800 technological innovations come out of Belarus' institutions of higher education, spanning all the major sectors of the economy, and educational institutions are now filing one in four of all national applications for inventions

and utility models. But these statistics hide a problem, namely a comparative lack of vigorous innovation in the corporate sector.

Analysis of research and production facilities in Belarus demonstrated that problems relating to legal protection and, in particular, management of IP at the corporate level were eroding the competitive advantages of Belarus' enterprises. The government has therefore focused on human resources training in the area of IP as a key component in its efforts to stimulate innovative activities in Belarus.

## Belarus

**Area:** 207,600 km<sup>2</sup>

**Capital:** Minsk

**Population:** 10.3 million

**Languages:** Belarusian and Russian

**Main Industries:** heavy machinery and tools, motorcycles, televisions, chemical fibers, textiles

Belarus is a landlocked independent republic of Eastern Europe. Belarus' economy in 2005 posted an 8 percent growth and the government has been successful in lowering inflation over the past few years. Belarus is currently ne-

gotiating with Russia, its biggest trade partner, to better integrate the two nation's economies.

(Source [www.wikipedia.com](http://www.wikipedia.com))



**The new National Library symbolizes Belarus' drive for innovation in education, design and technology.**

## Science in School - The Sky's the Limit

Belarus launched a program in the mid-1990s to attract young people to scientific research. Alexey Kolos, a young astronomy enthusiast from Minsk, is a beneficiary of this program. Alexey was given the opportunity to spend several years working with the astronomer Evgeniy Tchaykovky on a basic idea for a new telescope which he began to develop during his fourth year of school.

In a normal telescope only five percent of the instrument is required for observation. The rest consists of the lifting bar and pipe, which ensure the fine movement necessary to observe objects in space. Alexey discovered previously unknown characteristics of a mirror that could function simultaneously as a telescope and a coelostat, which is an optical device used to follow the path of a celestial body and reflect its light into a telescope.

Jointly they designed the Kolos-Tchaykovky Telescope-Coelostat. The new telescope needs neither pipe nor lifting bar, and weighs 100 times less than a conventional telescope of the same strength. A Belarusian patent application (BY20030032) was filed for the new instrument, which can be used to observe both astronomical and terrestrial objects at any geographical latitude. The telescope was tested by experts at the Pulkovo Observatory in Russia, who noted that Alexey's discovery would allow the creation of a range of simple, multi-purpose, inexpensive telescopes for use by amateurs and scientific researchers alike.

tional and international IP legislation; how to obtain IP rights in Belarus and abroad; patent information and search methods; infringement and enforcement of IP rights; and IP valuation and licensing.

### Coordinating efforts across sectors

In order to ensure coordination of efforts to improve IP training, the government set up the Interagency Advisory Board on IP education in 2005. It is composed of representatives from various state agencies, educational institutions, the National Academy of Sciences, well-known researchers and IP professionals. The main objectives of the Advisory Board are to improve the "Fundamentals of Intellectual Property Management" curriculum; to develop improved methods and materials for teaching IP; and to coordinate the activities of all interested parties in solving the problems related to IP teaching and training.

### Fresh impetus

The joint IP education programs developed by WIPO and NCIP received fresh impetus in May when WIPO and the Eurasian Patent Organization held an international conference on IP education and training in Minsk. The event attracted 300 participants from more than 20 countries to discuss the development of human resources as a means of stimulating innovative activity and the current state of IP education and training. The conference defined the new standards required in IP education



**Roundtable discussions at the International Conference on IP Education and Training held in May.**

and training to guarantee quality, accessibility and effectiveness. It highlighted the need to popularize IP through outreach activities, such as national competitions among young people. Further steps were taken to enhance cooperation between NCIP and the Russian State Educational Institute of Intellectual Property, in coordination with the WIPO Worldwide Academy, with a view to creating a regional IP training center in Belarus.

The expanding demand from both business and academia testifies to the need for well-focused IP training programs in Belarus to help keep pace with the global market. Working with the Interagency Board, the Training Center at NCIP will create more courses and seminars targeted at specific groups as well as new services for IP stakeholders.

# TECHNOLOGY TRANSFER AND DEVELOPMENT

*"Give a man a fish and you feed him for a day.  
Give a man a fishing rod, and he feeds himself and  
his family for as long as the rod lasts.  
Help a man develop the knowledge and means to  
improve the fishing rod and to design and produce  
new ones, and he may feed himself and his society  
for years to come." – A new take on an old proverb.*

Technology transfer is much discussed but is defined in different ways depending on the context. This article focuses on technology transfer in universities and research institutions, and describes WIPO's practical approach in the context of the Organization's work to promote the strategic use of IP for economic development.

For most universities and research institutions technology transfer is defined in the words of the Association of University Technology Managers (AUTM) as "the process of transferring scientific findings from one organization to another for the purpose of further development and commercialization." This transfer is generally effected by means of IP licensing agreements between universities and private companies or public commercialization agencies.

In the licensing agreement, the university or research center grants a permission (license) to use the IP in a newly developed technology to a private sector licensee or a "spin off" company in exchange for royalties or other payments. IP rights permit the university to own and control the use of its research results, and so are the basis for technology transfer in this sense.

Universities receive a revenue stream from such technology transfers which, according to the AUTM Annual Licensing Survey, amounts to more than US\$ 1 billion a year for U.S. institutions alone. Recent years have seen a rapid expansion in the number of technology transfer offices set up by universities to manage this process. In some cases, the technology transfer is reciprocal, and the research institution and licensee exchange and co-develop technologies.

## The multilateral context

As of 2003, more than 80 international instruments contained provisions on transfer of technology,<sup>1</sup> and this number is increasing.

In the context of UN and other multilateral agreements, technology transfer has often been viewed as a "transfer in" process by which developing countries seek to gain access to technical goods and know-how imported from the developed world. The idea of licensing intangible assets like IP is often not addressed, nor is the potential for reciprocal exchange. Yet the intangible asset, like the fishing rod design in the re-visited proverb above, can be the key to sustainability.

But this one-way, "transfer in" view of technology transfer is changing. As developing countries introduce systems to stimulate innovation and IP strategies to support their research activities – often combining new research with traditional knowledge – it is being complemented by a new vision of knowledge-led growth in which IP plays a central role.

## Focus on successful technology licensing

WIPO has been producing materials for use by Member States on the practical application of technology transfer since 1979, when the Organization published its first detailed guide to licensing. From 2002 to the present, WIPO has, at the request of its Member States, focused its technology transfer work on programs designed to help developing countries to build capacity in IP asset development and in technology licensing.

WIPO's four-day training workshop, *Successful Technology Licensing* (STL), has been conducted in Brazil, Cameroon, Colombia, India, Indonesia, Jordan, Malaysia, Senegal, Serbia, Singapore and Zimbabwe. Training sessions will also take place in Tunisia and Ghana this year.

1. Compendium of International Arrangements on Transfer of Technology UNCTAD/ITE/IPC/Misc.5 (2003)

**Sustainability and follow-up** are essential elements of the STL course. Participating Member States are provided with an STL Kit, i.e. a set of materials (available in French, Spanish, English, Portuguese and Serbian), which enables each country to repeat and improve the program. Brazil, for example, has now trained 20 trainers in order to be able to run the course independently of WIPO.

The kit includes a manual, presentations, detailed role-play scenarios, a guide to procedure, coaching and test sheets. The scenarios are based on hypothetical but realistic stories about researchers in developing countries: The Anansi Story deals with traditional knowledge and pharmaceutical technologies; the Ziggurat Story focuses on information technology; the Nanolin Story is based on bioinformatics and nanotechnology; and the Smart Turbine Story on renewable energy.

Photos: WIPO



**Teams review the licensing deals they have struck in Successful Technology Licensing training exercises in Geneva and Dakar, Senegal.**

grams include assistance to developing country universities seeking to put in place IP policy frameworks (see also pages 12-14); training in patent drafting to plug critical skills gaps; and studies, such as those commissioned by WIPO in seven Asian countries, to help analyze how issues of technology

## Standardizing IP Policies in Malaysian Universities

The Malaysian government has instructed that all 17 of its public universities should establish a Research, Development and Commercialization Unit. This unit handles the allocation of funding for R&D and for patent applications on R&D outputs. The universities will have a standard procedure with regard to the ownership of – and the share in the return from – the commercialization of research outputs. This will usually be divided 50-50 between the university and the researcher(s), with some universities allowing up to a 75 percent share to be given the researcher.

Participants spend the first two days receiving training from experts in licensing and negotiation skills, after which they use the role-play “games” to put their newly-acquired skills into practice.

Follow up to the STL program will include a web-based network, to be operational by end of 2006. WIPO works closely with the Licensing Executives Society (LES) International as well as LES local chapters in Brazil, the Andean Community, India, Malaysia, and South Africa, to support local follow up and continuity.

### A range of programs

Courses offered by the WIPO Worldwide Academy also include technology transfer sessions, and WIPO conducts a number of other relevant workshops and seminars for research institutions, often in conjunction with local small and medium-sized enterprises. The range of technology transfer programs is complemented by new programs, all of which set technology transfer within the context of promoting and exploiting innovation. Such pro-

grams include assistance to developing country universities seeking to put in place IP policy frameworks (see also pages 12-14); training in patent drafting to plug critical skills gaps; and studies, such as those commissioned by WIPO in seven Asian countries, to help analyze how issues of technology transfer and university-industry partnerships are dealt with successfully in practice.

### A practical approach

Increasing numbers of Member States are requesting programs that facilitate technology transfer. WIPO’s work in this area is based on a practical approach to using IP for economic development, which requires funding, pilot projects, and capacity-building to become a reality. WIPO is also committed to working with other United Nations agencies whose mandates include subjects related to technology transfer – such as UNESCO, UNCTAD, and UNIDO – in order to optimize the effectiveness of these programs.

For more information on WIPO’s Successful Technology Licensing program, IP policy drafting, and other skills training relating to technology transfer, see [www.wipo.int/ip-development/en/strategies/](http://www.wipo.int/ip-development/en/strategies/) or contact the IP and New Technologies Division.

# IP IN UNIVERSITIES: PUTTING **POLICIES** IN PLACE



Courtesy, T. Ogada

*Tom Ogada is an Associate Professor of Energy and Environmental Engineering at Moi University, Kenya, and was head of the University's technology transfer office until his appointment this year as Director of the Kenya Industrial Research and Development Institute. He has worked closely with WIPO on a number of publications, as a trainer in intellectual property (IP) strategy workshops, and as a coordinator in the WIPO University Initiative. In 2004 he led the Kenyan team on the WIPO-sponsored National IP Audit.*

*In our interview he describes how Moi University addressed the need for a policy framework for dealing with IP issues, and he talks about patenting in African research institutes.*

**Professor Ogada, you were instrumental in putting in place a formal policy for dealing with IP issues in Moi University. Why is this important?**

Any policy provides its users with guidelines and means of making decisions. In a university or research institution, an institutional IP policy serves to promote the generation, protection and commercialization of IP rights. Universities and R&D institutions are key generators of IP assets, but there are many stakeholders involved in the process – researchers, students, private sponsors, technology transfer units, national patent offices, the public – and so on. An IP policy is important to harmonize conflicting interests of the various stakeholders.

**What do think a university's IP policy should aim to achieve?**

Many things. It should create an environment that encourages and expedites the dissemination of new knowledge for the greatest public benefit, while protecting the traditional rights of scholars to control the products of their scholarly work. It should ensure that the financial or other benefits of commercialization are distributed in a fair and equitable manner that recognizes the contributions of the inventors and the institution as well as other stakeholders. It should promote, preserve, encourage and aid scientific investigation and research. It should sensitize students to IP and tap the creativity of the young. It should create incentives for researchers to

conduct research and provide rewards for intellectual capital. In developing country universities, it should also stimulate research efforts to find solutions for pressing problems, such as medicines, clean water and energy.

**How did you start?**

We began in 2002, following a meeting at which vice chancellors from universities all over Kenya pledged to develop IP policies. We appointed a committee, which I chaired, to spearhead the process. We were supported by a team of experts from the Kenya Industrial Property Institute. We started by sensitizing the faculty and creating awareness on IP.

**And what kind of reactions did you meet from the research staff and faculty members?**

Initially the researchers were not enthusiastic about IP policy. Most scientists associated IP rights with law and copyright, and could not see its relevance to their R&D activities. Some saw the exercise as meant to take control of their IP. In particular, the issues of delaying the publication of research results for the sake of patentability did not go down well with many researchers. They were also concerned about questions of ownership, benefit distribution and conflict of interest and commitments. To overcome these challenges, we organized IP awareness exercises and debates at various faculties. Consensus building was very important.

### Not easy! So what, for you, is key to ensuring that an IP policy is accepted by the people for whom it is intended?

I learned a lot during the process. For example, the choice of the right team and team leader to draft the policy is crucial as they must command the confidence of the faculties. The team should include respected staff members and outside experts. The team needs to spend time understanding why an IP policy is required, so that they can define the objectives and the issues to be covered. The policy should be written in a simple language, easy to understand. This is because the main users are scientists, who are easily put off by legal language.

All the stakeholders must feel that they have contributed towards the development of the policy. It is therefore important that the draft is presented for discussion to all levels of management, working upwards. At each stage, whenever a revision is made after discussion, the draft must be re-presented for approval before going to the next higher level. This back and forward strategy may seem tedious, but it will enhance ownership of the document as well as create IP awareness.

### Do you see any differences for developing country universities compared with their counterparts in, say, the U.S. or Japan?

In general, the process would be the same in terms of the need to educate, to create awareness among the faculty on IP and build consensus in key issues related to IP policies. And the general objectives of the IP policy would also be more or less the same. But universities in developed countries often have more experience in interacting with industries. And they are likely already to have other policies and legal frameworks to manage consultancy and contract research, which are important instruments for consideration in IP policies. So the process of developing IP policies could be shorter.

Also, the emphasis in IP policies in developing countries may include issues which are of less significance to universities in developed countries – for

Courtesy of Moi University Holdings Ltd.



**The biogas project at Moi University Holdings Ltd. aims to treat waste and waste water from the agricultural sector in order to generate energy for heating and lighting. The treated water can also be used for irrigation.**

example, providing incentives to R&D researchers as a way of reducing brain drain.

### Tell us about the first patent application filed by Moi University in 2004.

The patent was developed by a professor from the department of Wood Science and Technology. It covers a color removal technology from waste water and has potential application in several industries including tea, coffee and pulp and paper industry. The filing of this first patent generated a lot of interest and excitement in the University, which led to increased awareness of staff about IP rights. Unfortunately, the process has been slow and communication between the relevant processing offices and Moi University has not been good. This has disappointed the inventor and several potential applicants.

### You were at that time director of Moi University Holdings Ltd. What role did it play?

Moi University Holdings Ltd. acts as the commercial arm of the university. It was instrumental during the filing of the first patent. The company provided an environment which enabled the inventor freely to disclose his invention. It undertook the preliminary examination, drafted the patent application, filed the application, paid the application fees and communicated with the various offices to monitor the progress. These are activities, which cannot be





Courtesy of Moi University Holdings Ltd.

**Moi University's IP policy aims to create incentives for scientific researchers, and ensure an equitable distribution of revenues from commercialization.**

undertaken by researchers themselves because they are time consuming and can be frustrating.

**There is as yet relatively little patenting going on in African universities. Why do you think this is?**

The low numbers of filed patents in African countries compared to other countries should not be in-

terpreted as an indication of low levels of innovation and pioneering research and engineering activities. There is quite a lot of innovation being undertaken by African scientists and engineers in R&D institutions and universities. Most of these innovations go unnoticed because of lack of IP awareness. The barriers to patenting include the low funding of R&D activities by African Governments (currently less than 1 percent of the GDP); a lack of funds to finance patent applications and maintenance; a lack of IP professionals, such as patent agents; the lack of institutional framework, such as technology management offices in our universities and R&D institutions; and a low level of IP awareness.

**Will this change?**

The situation is changing as universities and R&D institutions in Africa become more IP aware, and as the decision-makers start to see the need for increased funding of R&D in science, technology and innovation.

## IP Policies: Ten Questions

Professor Ogada is currently working with WIPO on *Choices in Developing IP Policies*, a short guide for managers of universities and research institutes. It is based around the following key questions that IP policies should address.

- Who owns the IP generated by government-funded research activities?
- How will **revenues/benefits** from the commercialization of IP be shared *e.g.* between the researcher/inventors, the department, the institution, government funding providers etc.?
- Are any **government rights/stipulations** attached to the commercialization of IP generated under government funded research?
- In the case of **privately funded research**, who will own any resulting IP?
- Will **spin-off companies** or licensing contracts be used to transfer technology to the private sector for commercialization?
- Who will **manage IP assets**, including negotiation of licenses and royalty-sharing?
- To what extent will the institution encourage **research commercialization** through entrepreneurial activity?
- How will the **costs** of IP protection and maintenance be paid?
- How should any **invention disclosure procedure** be managed?
- How will **conflicts of interest** between teaching/research duties and commercially-driven projects be handled?



# WIPO UNIVERSITY INITIATIVE



**A poster campaign by the University of Costa Rica's PROINNOVA office, a participant in the WIPO University Initiative program, encourages researchers to think IP.**

The WIPO University Initiative is one of several WIPO programs which encourages universities and R&D institutions in developing countries to create, protect and exploit IP assets. Participating institutions are provided with a set of IP reference materials, and a University IP Coordinator is designated in each institution to disseminate information and advice on IP matters to students and staff.

The coordinators liaise with WIPO and with a contact in the national IP office, and are given access to training.

The program now counts almost 90 participating universities and R&D institutions worldwide. This enables the coordinators to become part of a network to facilitate the exchange of information and experience.

## Close-up on Croatia

Universities in Croatia have embraced the scheme with enthusiasm. Three research institutions – the University of Zagreb, the Rudjer Boskovic Institute, and the Brodarski Institute – each appointed an IP coordinator in 2005. The three coordinators, assisted by the State Intellectual Property office of the Republic of Croatia (SIPO), are working together to increase understanding in their science and technology departments of how to use IP to capitalize on research results.

The coordinators have participated in regional workshops organized by WIPO in partnership with the CARDS (Community Assistance for Reconstruction, Development and Stabilisation) regional IP program of the European Patent Office. They

have received training on IP management in universities, and on how to search IP information in online databases. Together with SIPO, two of the institutes are hosting further workshops this year, and all three will participate later this year in a national seminar on IP Infrastructure for the Croatian R&D Sector under the CARDS program.

The coordinators have worked jointly to put together a set of IP teaching materials and guidelines, drawing on the information package provided by WIPO. At the Rudjer Boskovic Institute, a coordination mechanism has been established between the technical faculties and commercial and legal departments in order to improve information and assistance available to scientific staff.



**At a workshop in Skopje, University IP Coordinators from Macedonia, Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro discover how to use free online databases to conduct basic patent searches.**

In May 2006, the Rudjer Boskovic Institute set up Rudjer Innovations Ltd. The agency manages the evaluation, protection and exploitation of IP generated by the Institute's researchers, and aims to become a center of excellence of IP in Croatia. Similar arrangements are planned in other R&D institutes and universities in Croatia.

For more information on the University Initiative program see [www.wipo.int/uipc/en/](http://www.wipo.int/uipc/en/)

# BIOETHICS AND PATENT LAW

## The Cases of Moore and the Hagahai People

*This is the final article in the WIPO Magazine series on intellectual property and bioethics. It looks at questions raised by the Moore and the Hagahai cases, where patents resulting from research based on human genetic material were challenged because prior informed consent had not been sought from the donors.*

### Informed consent

The doctrine of *prior informed consent* derives from medical ethics, where it concerns the patient's right to agree to, or refuse, certain medical treatment after being informed by the practitioner about the risks and benefits. The concept extends increasingly to other fields, notably to medical research using human tissue. The 2005 UNESCO Declaration on Bioethics and Human Rights provides that both scientific research and medical interventions "should only be carried out with the prior, free, express and informed consent of the person concerned." This approach would appear to require a patient's express consent in the event that samples taken in the course of the medical intervention are used for research purposes.

But a further issue then arises. What if genetic materials, taken from the human body and used as inputs for research, subsequently lead to biotechnological inventions, which are then patented? Should consent over use of research inputs also extend to the patenting of research outputs? Should separate consent then be obtained for each stage?

### John Moore's spleen

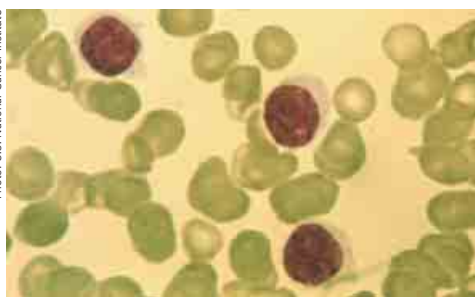
Mr. John Moore suffered from hairy-cell leukemia. In 1976, Dr. David Golde of the University of California Medical Center recommended that his spleen be removed in order to slow the progress of the disease. Mr. Moore signed a written consent form authorizing a splenectomy, and surgeons removed his spleen. Dr. Golde and his research assistants extracted tissue from the discarded

spleen, having recognized its value for research to develop possible anti-cancer treatments. In the next three years they established a cell line from the extracted T-lymphocytes. Mr. Moore was not informed about the research work or the potential of the cell line. In 1984 Dr. Golde was granted US patent 4438032 on the cell line, which generated substantial revenue through commercial arrangements with two biotech firms.

John Moore sued, claiming an ownership interest in the patent, as well as redress from Dr. Golde for breach of his professional obligations. On appeal, the Supreme Court of California rejected Mr. Moore's claim to ownership interest in the patent – he was not one of the inventors. Nor, it concluded, could a patient exercise property rights over discarded body tissues. But the Court did rule that a physician has a "fiduciary duty" to inform a patient of any economic or personal interest in using or studying his tissues; and that if the fiduciary bond of trust is broken, the patient may sue for breach of that duty. This decision notably drew a distinction between the legal context of access to the genetic material, and the legal context of patenting a subsequent invention which made use of that material.

But debate continues over the legal and bioethical linkages between access to genetic resources and downstream patenting on derivative research. If an individual gives consent for basic research, can that consent be assumed to extend to patenting and commercialization activity resulting from the research? Should specific prior information be required as to the researcher's future inventions? And who exactly should be able to give – or withhold – consent? This question becomes even more complex when the same genetic resources (e.g. a particular gene mutation) are shared between members of a family or community, or even neighboring countries.

Photo: U.S. National Cancer Institute



**Hairy cell leukemia. Dr. Golde patented a cell line established from Mr. Moore's discarded spleen tissues. Should he have sought consent?**

surgeons removed his spleen. Dr. Golde and his research assistants extracted tissue from the discarded

## The Hagahai case – genetic resources from indigenous peoples

The Hagahai are an indigenous group in Papua New Guinea. They lived an isolated existence until 1984, when they sought help because of a disease that was afflicting the community. Researchers found that the members of the tribe carried a gene that predisposes humans to leukemia, yet they did not themselves manifest symptoms of the illness. Further analysis of blood samples identified a T-lymphotropic virus, with potential for develop-

ment into a vaccine for certain types of leukemia. In 1991, the National Institutes of Health in the U.S. sought patent protection for a cell line developed from the DNA of a Hagahai donor (US patent 5397696). The invention related to a cell line infected with a Papua New Guinea Human T-Lymphotropic Virus (HTLV) variant, and to vaccines for humans against infection with and diseases caused by HTLV-I and related viruses.

material of human origin, to plant and animal resources, and to biological resources linked with community-held traditional knowledge. Relevant international legal instruments include the *Convention on Biological Diversity* (CBD), which makes informed consent a condition of access to genetic material of plant or animal origin. A number of countries have introduced specific legal measures that draw a direct linkage between prior informed consent and subsequent patenting activities. The Andean Community has developed regional rules to the same effect. Some countries have proposed a revision of the WTO TRIPS

## *If an individual gives consent for basic research, can that consent be assumed to extend to patenting and commercialization activity resulting from the research?*

The patent – which was later abandoned – sparked controversy over whether the Hagahai donor's consent had, or should have, been obtained before the resulting cell line was patented. Reports of what actually happened vary greatly. But the fact that the genetic material came from an indigenous group made the case particularly sensitive, and gave rise to accusations of biopiracy. Nor was it ever determined whether in this case consent should have been obtained solely from the individual, or from the Hagahai people, or from the state.

Agreement to mandate a nexus between consent and the patent system. These measures tend to focus on biodiversity-related genetic resources, rather than genetic material of human origin.

Free, prior and informed consent is a cross-cutting theme, touching biotechnological innovation that ranges from medical research to bioprospecting. While the UNESCO Declaration sets prior informed consent in the context of human dignity and autonomy, the CBD links it to the sovereignty of nations over their resources, and the interests of indigenous and local communities. The appropriate linkages between consent arrangements and the patent system are the subject of intense debate and of several international processes.

As with the other issues discussed in this series of articles, policymakers are weighing the boundaries and linkages between bioethical questions and legal measures, including IP laws. These articles have sought to flag up some of these much-debated issues, while recognizing the diversity of views that are brought to these important, ongoing debates.



**The CBD has commissioned two detailed studies from WIPO.**

## International processes

Bioethical issues of consent are now being considered in a number of different fora and legal contexts. The focus extends beyond the use of genetic

# PCT PORTRAITS

## Eco-Inventors

More than 1.2 million international patent applications covering new technology of every description have been filed since the Patent Cooperation Treaty (PCT) began operating in 1978. Continuing our series of snapshots, WIPO Magazine seeks out the people behind the patents. In this edition, inventions by a Chinese-Canadian chemical engineer, an American construction worker and two Norwegian brothers from the supermarket business, put waste to work for a greener planet.

### Not afraid of the big bad wolf



Courtesy of ASET/StrawJet Project

**The StrawJet Harvester produces as "waste" a straw cable, which is woven into mats and compressed into robust building panels.**

People react differently to bad news. When David Ward, a former construction worker from Oregon, in the U.S., was told by his doctor that exposure to building materials had made his "blood chemistry read like a list of industrial solvents," he did not retire or seek redress, but rather set about finding a less harmful way to build homes.

Knowing that traditional bricks of mud mixed with plant fiber were an effective building material, he began to investigate ways of us-

ing straw, an agricultural waste product, to construct building panels. This in itself was not new. Industrial processes already existed to produce compressed straw building blocks. David Ward's creative vision was to move the process from the factory to the field. This cut out factory overheads. And by using uncut, uncrushed straw straight from the field, he greatly increased the strength of the resulting composite.

By December 2002, with the help of the Oregon State University and a grant from the Environmental Protection Agency, David Ward had completed and field-tested his first *StrawJet* combine-harvester. This produces as "waste" a continuous five centimeter diameter straw cable, held together with a clay and paper-pulp bonding agent. In the next stage a "loom truck" weaves the cable into mats, and then into strong construction panels. Mr. Ward has formed a non-profit corporation,

the Ashland School of Environmental Technology, to take forward the project. His PCT application for the *StrawJet Harvester* was published this year.

It has taken Mr. Ward 13 years to get this far. "At times," he admitted, "I was pretty sure it was never going to work." But perseverance paid off, and the *StrawJet* project is gaining wide recognition after winning the 2006 Modern Marvel of the Year award from the U.S. National Inventors Hall of Fame.

The *Strawjet* technology aims to serve both developed countries as an ecologically sustainable building material, as well as developing countries, where straw or other plant fiber by-products (such as palm fronds or hemp) could provide a plentiful and cheap alternative to conventional materials.

**More information:**  
[www.greeninventor.org/strawjet.shtml](http://www.greeninventor.org/strawjet.shtml)

### Treating Waste with Waste



Courtesy of C. Jia

Oil-sand deposits are an important source of crude oil in Canada and Venezuela. But the potential environmental cost of exploiting them is high. The extraction process can leave behind noxious waste products; and for every barrel of synthetic oil produced from oil-sands in Alberta, Canada, more than 80 kg of greenhouse gases are released into the atmosphere.

Enter Professor Charles Jia – a chemical engineer from China and expert in the environmental applications of sulfur chemistry, now at the University of Toronto in Canada. With his colleague, Professor Don Kirk, he developed the *SOactive* process, which uses sulfur-dioxide to convert oil-sand fluid coke into active *ECOcarbon*, and to remove mercury from industrial waste.

**"To me, this is among the most beautiful pictures." Professor Jia shows a scanning electron microscope image of an ECOcarbon particle, produced from oil-sand waste.**

## Cashing in on Trash

There are estimated to be some 700 billion plastic drinks containers, bottles and cans in circulation in the world, the majority of which still end up in landfill sites. The raw materials and energy consumed in manufacturing ever more bottles exacerbates the depletion of natural resources. In Norway, however, consumers now return 90 percent of their used drinks containers to supermarkets for recycling in return for a cash refund. The success of the Norwegian effort was made possible in part by the ingenuity of two brothers, Petter and Tore Planke, the founders of TOMRA.

Their story began in 1971, when the owner of one of Oslo's biggest supermarkets sought their help: The Norwegian government required shops to refund customers for empty bottles, but supermarkets were unable to cope with the quantities. They needed some kind of automated processing system. Within a year the brothers had devised a prototype

"reverse vending machine," containing a single hole for the return of all types of bottles, and a printer to issue receipts for the amount of the refund due. Tore Planke filed their first patent with the Norwegian Patent Office in December 1971.

From there, the brothers began to develop new products and processes covering the whole process from bottle collection to delivery to the recycling point. Thirty-four years on, TOMRA is a market leader in reverse vending machines for glass and plastic bottles and cans. Under the slogan, *Helping the world recycle*, the company has installed 50,000 machines on four continents.

The company has more than 30 PCT applications, which cover devices for lifting, rotating and conveying empty bottles, as well as sophisticated image recognition technology to identify different sorts of containers. Maintaining the patents is expensive. But, says



Courtesy of TOMRA

**TOMRA has installed 50,000 reverse vending machines worldwide to encourage the recycling of beverage containers.**

TOMRA's chief scientist, Andreas Nordbryhn, without patent rights, "you have no way to calculate the possible losses if you run into problems. It is a lot like insurance. Who would run a business today without appropriate insurance?"

*More information: [www.tomra.com](http://www.tomra.com)*

See also [www.wipo.int/pct/en/inventions/](http://www.wipo.int/pct/en/inventions/) for WIPO's PCT website Gallery of Notable Inventions and Inventors, featuring a selection of other interesting innovations.

"Our biggest problem," Professor Jia told WIPO Magazine, "was the common belief that a waste is a waste. No-one believed that the oil-sand fluid coke, a solid with a dense, layered structure, could be activated." He and Professor Kirk are now securing funding to field-test the effectiveness of *SOactive* and *ECOcarbon* in removing mercury at the site of a company that emits both mercury and sulfur in its industrial waste.

The professors themselves drew up the draft patent application and claims before getting them finalized by a patent attorney. "For me it was a learning process," comments Professor Jia, "and quite demanding in time and money." Their PCT application was published in 2003.

# MANAGING PATENT COSTS

*Many small businesses forego patent protection because they believe the costs of acquiring and maintaining patents prohibitive. This article suggests some practical strategies to minimize the costs associated with managing patents.*

## Be clear about your IP strategy

An important first step is to put in place a clear and focused IP strategy that serves the overall strategic objectives of the business. Patent applications should not be filed for every patentable invention. Such a strategy could send patenting costs spiraling out of control. Businesses should only obtain and maintain patent protection on inventions that will bring sufficient commercial or strategic benefits. Trade secrets and defensive publication offer alternatives to patenting that have a much lower cost than patenting. (See WIPO Magazine articles *Trade Secrets Are Gold Nuggets: Protect Them*, Issue 4/2002, and *Launching a New Product: Freedom To Operate*, Issue 5/2005).

If an enterprise determines that patenting is the best option in terms of their strategic objectives, then the direct costs may be considered from a number of perspectives.

## Search costs

It cannot be assumed that just because a product is not already on the market, it will meet the patentability criteria of novelty and non-obviousness. A professional **prior art search** is an essential part of the process to determine patentability. The search moreover provides the applicant with valuable information that may result in substantial savings in the application process and beyond, by, for example:

- helping to anticipate possible objections at the patent examination stage;
- revealing any potential infringement on other people's patents;
- providing information on other patents in that field, (i.e. the competition), on how useful the granted patent would be from a commercial angle, and whether it would be necessary to license in patents owned by others to practice the invention;
- helping the applicant to decide whether to modify the claims to avoid infringement.

Free patent information database services on the Internet can usually be accessed through national or regional patent offices. These offices may also provide information about subsidies or grant schemes and services that might be available to enterprises. These free services will keep preliminary search costs down, but will probably not suffice. Applicants will eventually have to use a commercial, value-added patent information service provider.



## Cost-saving patenting options

Filing a **provisional patent**, a **petty patent** (short-term patent, innovation patent) or a **utility model** application, if these options are available under the national law, may be a sensible, low-cost, interim solution which delays the decision, and cost, regarding filing a regular patent application.

A provisional patent is a quick, easy, and cheap way to preserve the possibility to file a patent application for an invention while undertaking further technical refinements. It is particularly suitable for an early stage invention, especially if the scope of the patent claims is likely to change. However, when the scope of the claims is clear, the prior art established, and the invention framed in light of this prior art, a regular patent application is clearly preferable.

Although there can only be one invention in a patent application, more than one invention can be covered under the concept of 'unity of invention,' where a group of inventions are linked to form a single 'inventive concept' and there is a technical relationship among the claimed inventions. Thus an alternative cost-saving strategy would be to file a series of related provisional patent applications, then to file a regular patent application claiming multiple priorities, within the due dates to sort out any issues concerning unity of invention or single inventive concept. In fact, it is a popular strategy to file a series of related provisional patent applications after each significant technical or commercial milestone in product development, and to file a formal patent application that incorporates them all, within one year of filing the first provisional patent application.

## Drafting costs

A patent application drafted and prosecuted without professional assistance will save on drafting fees, but risks resulting in a poor quality patent, which lacks the well-drafted claims necessary to cover all the key business applications. There is little point in being "penny wise and pound foolish" when it comes to patent applications covering inventions that protect the core competencies of a business. However, the national or regional patent office may have a list of reliable local patent agents, attorneys or IP law firms that provide *pro bono* (free) or reduced rate IP services, including the drafting of the first patent application, to a new client or to a first time applicant. Ensuring that all pertinent information is provided from the start to the patent drafter will also save time and money.

Governments and funding agencies that provide grants for R&D activities may also allow a portion of the funds to be used on patenting costs, sometimes including enforcement and international filing costs. Inquiries should be made with the ministry or agency responsible for administering such funds.



**Trying to draft a patent application without the services of a professional may prove a false economy.**

## Managing patent office fees

Although some countries have reduced patenting fees for small enterprises, in principle fees are payable in installments throughout the legal life of a patent, often increasing substantially towards the end of the 20-year period. Missing the deadlines for such payments may result in loss of rights or additional, avoidable expenses. An electronic docketing system which sends automatic reminders will aid the efficient management of a patent portfolio.

It is also necessary periodically to review the patent portfolio in order to decide whether to let certain patent applications lapse, or to abandon any granted patents. Questions to consider during the review include the following:

- Is the patent application likely to result in worthwhile patent?
- Does the granted patent have direct or indirect value for the business?
- Can the patent be sold, donated, licensed to others?
- Is the existence of the patent portfolio or a number of pending patent applications a good marketing tactic in relation to funding agencies, venture capitalists, etc.

## Patent Application Costs

The cost of a patent application depends on a number of factors, such as:

- Field of technology
- Nature of the invention
- Length of the application
- Number of claims
- Hourly rate of the patent agent, and total time to prepare and prosecute the application
- Fees charged by the draftsman for preparing any drawings
- Number of countries to be covered
- Route used for filing in other countries
- Translation costs of foreign filings
- Number and nature of objections raised by the patent examiner, and whether there are any opposition proceedings or appeals

## International patenting costs

Patent costs multiply with the number of countries in which protection is sought. Choosing prudently the countries in which to apply is evidently key to keeping down costs.

The Patent Cooperation Treaty (PCT) makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing a single "international" patent application. Use of the PCT route will buy time, and may save costs at a later stage, for example if, based on the results of the international search and opinion, the applicant decides to seek protection in fewer countries than originally planned. The PCT generally postpones all expenses at the national level by an additional 18 months, beyond the 12 months available under the Paris Convention. Nevertheless, the costs of the PCT application have to be factored in as additional to the final costs of obtaining a national or regional patent.

The PCT offers a reduction of 75 percent of certain fees to natural persons who are nationals of and residents in any State with a per capita national income below 3,000 US dollars. This reduction also applies to any applicant from a country classified by the United Nations as a least developed country. If there are several applicants, each must satisfy the criteria.

Applicants filing international patent applications must also consider translation costs. The PCT process does not shield applicants from translation costs incurred during the "national phase". The London Agreement, when ratified, will decrease translations costs in the European Patent Convention (EPC) member states by requiring that applicants submit a translation of the claims only, rather than the full text of the patent at the time of grant.

## Sharing or transferring costs

Another way to reduce costs is to find a partner for licensing the patent or a portfolio of patents. If stipulated in the contract, the partner or licensee may take partial or total responsibility for prosecuting, maintaining and enforcing the patents in the home country or abroad.

Donating patents to a non-profit institution or to a university may provide tax relief in certain countries. The money saved can be used to file or maintain other patents more pertinent to business needs.

There is no getting around the fact that patenting may represent a significant financial investment. A number of the costs associated with filing applications and maintaining granted patents can be reduced or contained with careful management. But cost management must also take into account the need to avoid increasing business risks or lowering the quality of the resulting patents.



# AUSTRALIA'S FAVORITE TRADEMARKS

Australia is celebrating the 100th anniversary of its first federally registered trademark with a call to Australians to vote for their favorite trademark.

panel of Australian personalities from the worlds of sport, art, business, advertising and fashion narrowed these down to their top ten. And from this shortlist,

tellectual property, and an interactive timeline on trademarks to be published on the website. The IP Australia office celebrations kicked off with a staff competition



The panel selected the **ABC** (Australian Broadcasting Company) trade mark as a clever design that had stayed modern and relevant with a few updates, but with its essence unchanged.



**Arnott's** registered its famous parrot as a trade mark in 1907. Legend has it that it was William Arnott's daughter-in-law, Mrs. Leslie Arnott, who first drew the bird that appears on everything from biscuits to trucks.



**Vegemite** dates back to 1922 when the Fred Walker company (which eventually became Kraft Foods Limited) hired a young chemist to develop a vitamin-rich spread from brewers' yeast. Australian back-packers, it is said, never travel without it.



The famous **Qantas** kangaroo is instantly recognized all over the world as an Australian emblem. The airline prides itself on a long history focused on reliability, engineering excellence and customer service.



The **R.M. Williams** clothing company was established in Australia in 1932. It was described by the selection panel as "the true son of the outback – synonymous with the Australian outback image."

The other trademarks in the top ten are **David Jones, Penfolds, Wallabies, Weet-Bix** and **Woolmark**.

"We connect with brands at a personal level and associate them with moments in our own lives," said Ruth Mackay, Registrar of Trade Marks at the IP Australia Office. "That's why we wanted to do something where all Australians have a chance to contribute to the celebrations."

The Australian pioneering spirit and originality is often reflected in the country's trademarks. Many Australians admit a personal attachment to certain marks, and recognize the importance of good trademarks in contributing to the success of a product and to the nation's economic prosperity.

Members of the business and industry community nominated 40 of Australia's most prominent trademarks for consideration. A

the Australian people have been voting online to choose Australia's favorite trademark. The results will be announced on the IP Australia website in mid September.



IP Australia staff held a competition to design the centenary logo.

Other activities planned for the centenary year include seminars in each state, a poster campaign to teach school children about in-

to design the logo for the event. The winning entry (left), by Sally Monck, will be used throughout the centenary year on promotional materials and on the IP Australia Trade Marks' Centenary website.

Australia's Trade Marks Act 1905 (Commonwealth) came into operation on July 2, 1906. On that first day, more than 750 applications were lodged. PEPS, a product for coughs, colds and bronchitis, was the first federally registered mark. Since that time, Australia has registered over one million marks – over 50,000 of them in the 2004-05 financial year.

# NEWS ROUNDUP

## G8 Commit to Combating Counterfeiting

At their summit meeting in St. Petersburg, Russia, in July, the Group of Eight (G8) nations reaffirmed their commitment "to strengthening individual and collective efforts to combat piracy and counterfeiting," noting that "such efforts will contribute to sustainable development of the world economy." The group issued a six-point statement outlining the priorities and concrete measures which will form the basis of the G8's work plan on piracy and counterfeiting.

The statement calls for enhanced cooperation among the competent international organizations, notably WIPO, the World Trade Organization (WTO), the World Customs Organization (WCO), Interpol, the Organization for Economic Co-operation and Development (OECD) and the Council of Europe. Such cooperation should lead to the development and implementation of "technical assistance pilot plans within the G8 in interested developing countries to build the capacity necessary to combat trade in counterfeit and pirated goods."

The member states of the G8 are Canada, France, Germany, Italy, Japan, Russia, United Kingdom and the United States of America. Also present at the summit in Saint Petersburg were Brazil, China, the European Union, India, Mexico and South Africa.

## Google - What's in a Verb?

With the verb "to google" recently added to two major dictionaries, the owners of the world's most popular Internet search engine are fighting a rearguard action to try to prevent what some IP lawyers refer to the "genericide" of their trademark.

The company has been issuing letters asking the media to refrain from using its name as a verb. "With constant generic use, trade-

marks can lose their special status and the proper name capitalization," says Google.

Many users seemed puzzled by Google's action: "They should be flattered," and "Surely it's free advertising" were typical of comments on blogs reacting to the news. But lawyers note that, as a trademark owner, Google is obliged to demonstrate that it is protecting its rights in the name.

Otherwise the company could in future face difficulties defending against infringements.

Yo-yo, trampoline and nylon were also all once trademarks, but their popular use as generic terms was their own undoing.

For advice to businesses on protecting trademarks, see *Trademark Usage: Getting the Basics Right*, WIPO Magazine March/April 2004

## Kazaa Settles Lawsuit



More choice for legal down-loaders

Kazaa, the peer-to-peer (P2P) digital file sharing Internet service, is moving to a legal model. The Australian court had ruled against them in 2005, finding Sharman Networks, its parent company, guilty of inciting users to swap music illegally – a breach of copyright law. The U.S. Supreme Court ruled that Internet companies could be held accountable for promoting copyright theft by users of their services. So following the move of its predecessor, Napster, Kazaa will make the switch to licensed distribution of music and movies.

Kazaa agreed in July to an out-of-court settlement of a lawsuit brought against them by the music and record industry, accusing the company of assisting in copyright infringement on the Internet. Under the agreement, Sharman will pay some US\$100 million to Universal Music, Sony BMG, EMI and Warner Music, and the companies will be entitled to 20 percent of the proceeds of any eventual sale of Kazaa. Sharman also agreed to license the music of the four companies – owners of the vast majority of copyrighted music available on Internet – and to filter technology so that its users could no longer swap copyrighted files.

## IDEA: Asian Industrial Designers Excel

The 2006 Industrial Design Excellence Awards (IDEA) saw design teams from Asia scoop over a quarter of this year's 27 Gold Awards. The IDEA awards, which are among the most sought after awards for product-design by large and small companies across the world, focused on five areas – design innovation, benefit to the user, benefit to the client/business, ecological responsibility, and appropriate aesthetics and appeal. The judges made their selection from the 499 designs submitted to this year's competition.

Among the gold winners, announced in July, were:

- Samsung's Touch Messenger mobile phone, which enables blind or visually-impaired users to send and receive Braille text messages. Samsung hopes that, once commercialized, their phone will improve the quality of life for visually impaired people – who number some 180 million worldwide. Samsung also walked away with two Silver awards. The company has won 19 IDEA awards over the last five years and ranks first in the number of IDEA awards ever won.
- the Seymourpowell design for the ENV (Emission Neutral Vehicle) bike by Intelligent Energy. The ENV bike has been engineered and



**Samsung's Touch Messenger enables blind users to send text messages in Braille.**



**Intelligent Energy's Emission Neutral Vehicle – based on hydrogen fuel cell technology.**

purpose-built from the ground up, and demonstrates the applicability of hydrogen fuel cell technology for everyday use. The Core, which is completely detachable from the bike, is a compact and efficient fuel cell, which Intelligent Energy say is capable of powering anything from a motorboat to a small household.

- Lenovo's Opti Desktop PC and Visioneering. China's largest computer manufacturer, which recently acquired IBM's PC unit, took on ZIBA Designs to define its next-generation desktop PC, notebook and cell phone, and to reinvent the company image.

## The Thrill of IP Law

IP law as the subject of a thriller? It took Professor Paul Goldstein five years to write, but his *Errors and Omissions* could become the first ever best-selling IP novel. During a 39-year career in IP law, as a Stanford professor and counsel to the Morrison & Forrester law firm, Paul Goldstein saw scope for intrigue aplenty in copyright and patent law.

The novel follows an IP lawyer, a "defender of artists' rights," who is summoned to Hollywood by a big movie studio to verify the IP rights for a spy movie franchise. His investigation takes him to Europe, facing sundry perils along the way. The story was inspired by a case in the 1980s, in which Professor Goldstein helped defend the rights of MGM and United Artists to the James Bond series against Sony Pictures.

Professor Goldstein has published eight academic and legal books, but this is his first novel. "It was something I could not *not* do," he said. "To have billions of dollars turning on fine points of law, I found that fascinating."

# LETTERS AND COMMENT

*WIPO Magazine welcomes letters commenting on issues raised in Magazine articles, or on other developments in the field of intellectual property.*

*Letters should be marked "for publication in the WIPO Magazine" and addressed to The Editor at WipoMagazine@wipo.int or to the postal/fax address on the back cover of the Magazine. Please also include your postal address. We regret that it is not possible to publish all the letters we receive. The editor reserves the right to edit, shorten, or publish extracts from letters. The author will be consulted if substantial editing is required.*

## IP system isn't working for small designers



Photo P. Hughes

**"Sooner or later, most of us are obliged to give up the struggle to protect our designs."**

As a lecturer in three dimensional design, I am in contact with many product designers and design students who have found that the IP system is just too expensive and unwieldy to protect the interests of budding designers. Without the substantial resources needed to pay patent agents and to file patents or design registrations nationally and internationally, designers are discouraged from undertaking lengthy development work

and exposing their creations to the market. They are too aware that large manufacturers can copy their designs, and with a few minor amendments, market these innovations as their own.

It is those innovators who are not attached to large commercial concerns who suffer most. Consider the design student or independent designer who has an innovative idea or design. They must finance the development of their project and the launch of the

product, or spend a considerable amount of time taking the product around to manufacturers. This takes up time they would otherwise spend on paid work. The addition of agents' fees, searches and applications fees in different countries is a further burden that acts to deter the pursuit of their ideas and inventions. Even if they succeed, they face the prospect of having to spend large additional sums to fight any infringement of their patent. Sooner or later, as was my own experience, most have to give up the struggle.

Certainly there are success stories. But under the current IP system, large number of small businesses and individual designers will continue to be deterred from bringing to market new innovations and ideas – to the detriment of the wider community.

*From Philip Hughes*

*Senior Lecturer in Three Dimensional Design*

*The Arts Institute at Bournemouth, UK*

## Patents and gender



Photo by Liliana Coria

Your article on the Global Women Inventors & Innovators Network (*GWIIIN: Championing Women in Mexico and Beyond*, August 2006) asked: "with ever more women achieving success ... might not organizations promoting women inventors have almost outlived their need?" The article went on to demonstrate that in Mexico women still file far fewer

patent applications than men. But what happens in other countries?

I would like to draw your attention to the recent research on gender differences in patenting in the U.S., published in the August 4 edition of *Science Magazine*.<sup>\*</sup> A random sample of 4,227 life scientists showed that, over a 30-year period, male scientists gen-

## Protecting image rights



The article *Using Photographs of Copyrighted Works*, April 2006, does not mention the related area of using photographs of people – a subject which gives frequent rise to confusion.

National laws differ. But your readers may be interested in some recent Chilean case law, according to which a claim for protection of a person's image used without consent is admissible if the image is clearly recognizable and is used for profitable purposes, regardless of whether the photograph was taken in a public place.

The recognizability requirement was established in a case in which an individual filed a claim against a newspaper for publishing his photograph without consent in an article on obesity in Chile. The court rejected that claim since it proved not possible to identify beyond doubt the claimant from the photograph.

Regarding the display of a person's image for advertising or profit, the tennis player Fernando González filed a successful claim against a media company for using his image in an advertising campaign without his consent. In the ruling, the court stated that body image is one of a person's attributes, and that it is therefore that person's own prerogative to use or reproduce the image for the purposes of advertising or profit.

In a third case, a newspaper published a photograph of a holiday-maker on a public beach without her consent, arguing that the photograph had been taken in "a crowded public place" and had served purely to "pay tribute once again to the renowned beauty of Chilean women". The ruling stressed that the act of appearing in a public place cannot be presumed to mean that consent has been given for the widespread public dissemination of this act. This embodies the very essence of the right to privacy guaranteed by the Political Constitution.

*From Carmen Paz Alvarez,  
Sargent & Krahn,  
Chile*

erated nearly 14 times as many patents as their female colleagues. After accounting for substantial and complex effects of a range of factors, the research team concluded that there is a "statistically significant effect of being female" and that women Ph.D life scientists patent at 40 percent of the rate of their male counterparts – although the trend

for younger female life scientists is slightly more encouraging.

So much untapped potential!

I welcome this research, as there is currently so little data available on the effects of gender in patenting and invention – and even less on the possible reasons for disparity between men and women.

Meanwhile, organizations such as GWIIN respond to what is clearly an on-going need for positive, gender-related actions to be developed across the globe.

*From Ann Reynard,  
EU Projects Consultancy  
and GWIIN Member*

\* Study by Professor Waverly Ding (University of California) Fiona Murray (MIT). Tony E. Stuart (Harvard Business School)

# WIPO AWARD WINNERS

## July, August, September



The WIPO Awards program has already made over 120 awards this year. The list below includes all the winners from July to September, to the extent this information was made available to WIPO by the date this magazine went into print. We congratulate the winners and wish them continued success.

A new publication *WIPO Awards Program* (Publication No. 923) is now available in English, French and Spanish. From September, there will also be a display of WIPO Gold Medals and trophies in the Information Center at WIPO headquarters.

### WIPO Gold Medal for Inventors

#### ECUADOR

■ Patricio Varela, Juan Cedeño, Alexis Delgado (High school category) – For a construction project of low cost equipment for the electroforesis of protein in cellulose acetate

■ Nelson Herrera Arauz (National Innovator category) – For a project for a virtual library of the Universidad Internacional

■ Evelin Quisphe, Gustavo Recalde (Andean Innovator category) – For a project for the metaheuristic construction of phyto-genetic trees with DNA sequences

■ Elylyn Tomalá, John Antamba (University Innovator category) – For a project for an eco-anthropology tourist complex

#### RUSSIA

■ Alexander Grigoriev (Innovation Promoter category) – For his leadership and contribution to the establishment and development of the Eurasian Patent System

#### UKRAINE

■ Volodymyr Boyko (Outstanding Inventor) – For his valuable contributions to the development of science and technology in Ukraine

■ Mariya Tsebrenko, Victoria Rezanova, Irina Tsebrenko (Best Woman Inventor) – For a “Thermoplastic forming composition for obtaining of ultra-thin synthetic fibers” (Patent No. 69476).

■ Oleg Bevz, Alexander Matvienko, Gennadiy Moskalenko, Timofey Rudenko (Best Young Inventor) – For a “Method of adjusting by volume of cog-wheel hydraulic machines” (Patent No. 63343 declarative)

■ Maksym Slobodyanyuk (Best Young Inventor) – For a “Method of electronic information system of contract negotiation” (Patent No. 7704).

### WIPO Creativity Award

#### JAMAICA

■ Valentine Coshaine, Robinson Duchane – Winners of the Young Artists Copyright Mascot Competition

■ Crystal Campbell – Runner-up of the Young Artists Copyright Mascot Competition

#### PANAMA

■ Aquilina Gallegos, Beleida Espino R., Omayra Casamá, Sonia Henríquez – For their leadership and contribution to the promotion and protection of expressions of folklore and traditional knowledge in Panama.

#### SUDAN

■ Awn Asharief Gasim, Ustaz Mohammed Wardi, Al-tayeb Mohammed Al tayeb, Amal Abbas, Hashim Sedeig, Ali Shumu, Abeil Alier, Nasr Edin Abbas Jaksa, Buraé Ahmed, Abdul Kareim Al-kabli, Talayie Association, Ismael El haj Musa, Abdel Gadir Salim – For contributions to the cultural heritage of Sudan.

#### UZBEKISTAN

■ Abdulla Oripov – For his contributions to the literary and cultural heritage of Uzbekistan.

### WIPO Trophy for Innovative Enterprises

#### MOROCCO

■ Fondation Suisse Maroc pour le Développement Durable (Excellence category) – For “New Horizon,” a project to create an environmentally friendly home garbage disposal.

#### UKRAINE

■ New in Medicine, Bilozherkiv-MAZ, Index – For judicious use of the IP system, raising awareness of its advantages in R&D, production, commercial and business activities.

# Calendar of Meetings

## SEPTEMBER 25 TO OCTOBER 3 ■ GENEVA

### ■ *Assemblies of the Member States of WIPO (Forty-second series of meetings)*

Some of the assemblies will meet in extraordinary session, other bodies in ordinary session.

**Invitations:** As members or observers (depending on the assembly), the States members of WIPO and the European Community; as observers, other States and certain organizations.

## OCTOBER 9 TO 13 ■ GENEVA

### ■ *Committee of Experts of the IPC Union (Thirty-eighth session)*

The Committee of Experts will consider amendments to the eighth edition of the IPC, will discuss coordination of IPC revision and reclassification of patent files and will review the status of the implementation of IPC reform by industrial property offices.

**Invitations:** As members, the States members of the IPC Union; as observers, the States members of the Paris Union which are not members of the IPC Union and certain organizations.

## NOVEMBER 6 TO 10 ■ GENEVA

### ■ *Committee of Experts Under the Vienna Agreement Concerning the International Classification of the Figurative Elements of Marks (Fifth session)*

The Committee of Experts will decide on the adoption of proposals for amendments and additions to the current (fifth) edition of the Vienna Classification for incorporation in the new (sixth) edition, which should enter into force on January 1, 2008, and be published in the two authentic versions (English and French).

**Invitations:** As members, the States members of the Vienna Union; as observers, all States members of the Paris Union which are not members of the Committee, and certain organizations.

## NOVEMBER 13 TO 17 ■ GENEVA

### ■ *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Sixteenth session)*

The Committee will work on new issues as identified by the SCT at its Fifteenth session, in particular new types of marks, trademark opposition procedures, the harmonization of formalities concerning the procedures for design registration and the relationship between trademarks and some aspects of copyright law.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, other States and certain organizations.

## NOVEMBER 15 ■ GENEVA

### ■ *Seminar on the Hague System of International Registration of Industrial Designs*

This Seminar, in English and French, is aimed at increasing awareness and practical knowledge of the Hague system for the international registration of industrial designs among industry and private practitioners who use, or will use, the system.

**Invitations:** Registration is open to all interested parties subject to the payment of a registration fee. The competent authorities of the States members of the Hague Union will be exempt from the payment of the fee.

## NOVEMBER 16 AND 17 ■ GENEVA

### ■ *Seminar on the Madrid System of International Registration of Marks*

This Seminar, in English, aims at increasing awareness and practical knowledge of the Madrid system among trademark agents who use, or will use, the system whether in industry or in private practice. These Seminars are held regularly every year, both in English and French.

**Invitations:** Registration is open to interested parties, subject to the payment of a registration fee. The competent authorities of the States members of the Madrid Union will be exempt from the payment of the fee.

# NEW PRODUCTS



## **NIVILO:CLASS**

### **Nice, Vienna, Locarno Classifications**

English/French no. CD-NIVILO

60 Swiss francs (plus shipping and handling)



## **Patent Cooperation Treaty (PCT) and Regulations under the PCT**

2006: Chinese no. 274C

20 Swiss francs (plus shipping and handling)



## **National Studies on Assessing the Economic Contribution of the Copyright-Based Industries**

English no. 624E

95 Swiss francs (plus shipping and handling)

Purchase publications online: [www.wipo.int/ebookshop](http://www.wipo.int/ebookshop)

Download free information products: [www.wipo.int/publications/](http://www.wipo.int/publications/)

The above publications may also be obtained from WIPO's Design, Marketing, and Distribution Section: 34, chemin des Colombettes, P.O. Box 18, CH-1211 Geneva 20, Switzerland. Fax: +41 22 740 18 12. e-mail: [publications.mail@wipo.int](mailto:publications.mail@wipo.int)

Orders should indicate: **(a)** the number or letter code of the publication desired, the language, the number of copies, **(b)** the full address for mailing, **(c)** the mail mode (surface or air).

For more information contact  
**WIPO** at:

**Address:**

34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

**Telephone:**

+41 22 338 91 11

**Fax:**

+41 22 733 54 28

**e-mail:**

[wipo.mail@wipo.int](mailto:wipo.mail@wipo.int)

or its New York Coordination  
Office at:

**Address:**

2, United Nations Plaza  
Suite 2525  
New York, N.Y. 10017  
United States of America

**Telephone:**

+1 212 963 6813

**Fax:**

+1 212 963 4801

**e-mail:**

[wipo@un.org](mailto:wipo@un.org)

**Visit the WIPO website at:**

[www.wipo.int](http://www.wipo.int)

**and order from the WIPO Electronic  
Bookshop at**

[www.wipo.int/ebookshop](http://www.wipo.int/ebookshop)

The WIPO Magazine is published bimonthly by the Communications and Public Outreach Division, World Intellectual Property Organization (WIPO). The views expressed in individual articles are not necessarily those of WIPO.

The WIPO Magazine is distributed free of charge.

If you are interested in receiving copies, contact:

Design, Marketing, and Distribution Section  
WIPO  
34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland  
Fax: +41 22 740 18 12  
e-mail: [publications.mail@wipo.int](mailto:publications.mail@wipo.int)

For comments or questions, contact:

**The Editor, WIPO Magazine**  
[WipoMagazine@wipo.int](mailto:WipoMagazine@wipo.int)

Copyright ©2006 World Intellectual Property Organization

All rights reserved. Articles contained herein may be reproduced for educational purposes. No part may, however, be reproduced for commercial purposes without the express written consent of the Communications and Public Outreach Division, World Intellectual Property Organization, P.O. Box 18, CH-1211 Geneva 20, Switzerland.