



## FICPI INFORMATION DOCUMENT 10 SEPTEMBER 2013

### CET INFORMATION DOCUMENT

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| <p><b>TITLE:</b> Report of FICPI meeting with WIPO,<br/>30 August 2013, Geneva, Switzerland</p> <p><b>DRAWN UP BY:</b> Commission d'Etude et de Travail (CET) Work &amp; Study Commission)<br/>Jérôme Collin, Reporter of CET 03</p> <p><b>PURPOSE:</b> For information and publication in the library section of FICPI's website</p> |  |
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### Report of FICPI meeting with WIPO

#### On 30 August 2013 in Geneva, Switzerland

A delegation led by Bastiaan Koster and including Toni Ashton, Eric Le Forestier, Roberto Pistolesi, Robert Watson and Jérôme Collin attended an official visit to WIPO on August 30, 2013 in the WIPO premises in Geneva.

The meeting was opened by Mr. Francis Gurry who provided an overview on WIPO's activities over the last year. An achievement of this past year was the agreement of the Marrakech Treaty on the access to works by the blind and visually impaired.

Going forward, there are a number of topics to be discussed in the next General Assembly of WIPO :The Design Law Treaty is presented as ready for an agreement, and it is hoped that a decision will be made to convene a diplomatic conference. The discussions on TK and Genetic Resources will also be on the agenda for the General Assembly, although this is unlikely to be ready for a diplomatic conference yet. Broadcasting is now the focus of the copyright agenda - it is possible that this will lead to a single provision treaty to prohibit rebroadcasting of broadcast signal by any means.

The SCP currently makes no progress, and WIPO aims at separating 'easier' subjects from more problematic subjects, which may not move forward in a foreseeable future.

Mr. Gurry then mentioned key elements of the Global IP system administrated by WIPO. The figures of PCT filings are still robust, and the initiative now put forward by WIPO is the development of ePCT. The Madrid system is undergoing geographical expansion, and WIPO hopes to develop it in Latin America. Expansion of the Hague agreement is also expected. In addition to ePCT, other WIPO initiatives such as a future database for designs, WIPO CASE and Re:Search are also highlighted.

Bastiaan provided a summary of FICPI activities over the last year.

Different Directors of WIPO then presented their respective activities in greater detail.

#### **Arbitration and Mediation Center; WIPO Legal Rights Objection cases and other ICANN Rights Protection Mechanisms**

The Center currently manages about 350 cases. In patents, Pharma still represents the main industry. However there are now more cases in the telecom industry, with FRAND issues. WIPO



works with standard-setting organizations with a view to insert WIPO mediation clause in standards. WIPO needs more experts and shall send information to FICPI for possible involvement of its members.

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### GLOBAL CHALLENGES PLATFORMS: WIPO RE:SEARCH, WIPO GREEN

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WIPO Re:search is presented as the flagship of WIPO non-normative initiatives. It provides a database opening access to intellectual property research and development for certain diseases. The access is provided free of charge for R&D not related to a commercial interest, as well as for commercial exploitation in least developed countries.

WIPO GREEN is a new initiative covering 'Environmentally sound technologies' and based on two components :a database where parties can advertise patents for sale, licensing, collaboration, etc., and the WIPO GREEN network which is a 'match-making' platform open to service providers operating according to a charter. FICPI and its members are invited to join this network.

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### TRADITIONAL KNOWLEDGE AND GENETIC RESOURCES; UPDATE ON WORK OF IGC

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Disclosure requirements are the main issue for Genetic Resources, in the perspective of granting good patents. For TK a work of definition is ongoing for defining what is TK, what rights should be granted and who should benefit of such rights.

The mandate of the IGC has expired, and the next General Assembly has to decide on the way forward. The debates are becoming more technical and WIPO encourages FICPI to participate in the IGC as the input from practitioners would be welcome. FICPI is invited to submit proposals, which need only to be supported by at least one member state for being considered.

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### ADVISORY COMMITTEE ON ENFORCEMENT (ACE)

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The next session of the ACE (3-5 March 2014) shall address ADR, with a survey of practices and views from the public sector as well as from the Industry. WIPO prompted FICPI for testimonies on ADR, especially outside Europe and North America.

#### Patents

There is no appetite for substantive discussion on the scheme of PCT fees, including fee reductions.

New PCT Authorities have been appointed recently – however as only between five and seven Authorities handle 95% of the PCT applications a slowdown in the appointment of new PCT Authorities could be expected.

Two improvements shall be brought to the PCT system, probably at the next General Assembly: mandatory top-up searches for Chapter II, and Search opinions to be published 18 months from the priority date.

Some Offices are publishing their search strategies on Patentscope already. However there is currently no agreement for a mandatory disclosure of search strategies.



WIPO has tried to promote harmonization of national phase requirements, over the past years. However this topic is under the responsibility of national POs and out of the reach of WIPO.

Global dossier is presented as a priority for WIPO. The IP5 is keen to move forward quickly and it is expected that very important decisions shall be taken in 2014. WIPO would welcome more input from FICPI on this project, maybe through the Industry IP5.

The last (19<sup>th</sup>) session of the SCP has confirmed that patents and health, and quality of patents, stall the SCP as a whole. In view of this and in order to keep the SCP alive WIPO has favoured a “low profile approach” where the quality issue would be monitored by a compilation of work-sharing programs, and the health issue by a session for sharing experiences and views on possible flexibilities.

Other topics at the agenda of the SCP are less problematic but do not produce any significant result either. Confidentiality shall remain on the agenda and shall now be treated by a mere compilation of practices. FICPI shall send to WIPO the final version of the text produced by the Privilege Paris Colloquium. On transfer of technology, WIPO is trying to gather examples of situations where the IP system has been either an obstacle or a facilitator to the transfer of technology. WIPO would welcome testimonies from FICPI members on such situations. On exceptions and limitations, WIPO has identified a ‘top ten’ of exceptions/limitations, which will be presented during half-day seminars in the next two sessions of the SCP.

Philippe Baechtold will take on a new position as Director of the operations of the PCT, and Marco Aleman is now the WIPO officer in charge of the SCP. WIPO will try to refresh the agenda of the SCP with new topics. Eric mentioned Utility Models as a possible topic.

### Brands and Designs

The Hague system has initially included mostly countries where designs are handled by trademark attorneys, however with the current expansion of the system outside Europe there are now more countries where designs are handled by patent attorneys. WIPO work on the Hague Agreement will therefore be more anchored in the patent community in the future.

On the Locarno Agreement there is still a pilot group at WIPO for visual classification of designs however its dynamics are currently very weak.

The draft Design Law Treaty is well advanced and the next General Assembly should convene a diplomatic conference. The present draft Treaty still comprises provisions with alternative proposals, in particular concerning the requirements for obtaining a filing date. The Treaty shall also comprise provisions for reinstatement of rights, including for priority claims.

The Singapore Treaty is expanding, with recent ratifications of UK and DE.

The question of protection of country names is an active topic. Requirements should be defined for such protection, and input from FICPI would be welcome, typically at the next SCT.

A diplomatic conference may be called for revising the Lisbon Agreement in 2015, with the objectives of refining and modernising the system, ensuring that the Agreement is applicable for GIs and Indications of Origin, and allowing intergovernmental organisations to join.



The Madrid system is further expanding. 44.000 national applications have been received in 2012, and 2013 looks promising. In 2012, the top five countries of origin of the trademarks were DE, EU, US, FR and CH, and the top five designated countries were CN, EU, RU, US and CH.

### **Training, Possible Areas of WIPO/FICPI Cooperation**

The WIPO Academy is the main training arm of WIPO. It focuses mostly on the training of officials, particularly in developing countries.

WIPO expressed interest in having tutors from FICPI for its two-week summer school, delivered in ten venues. Seoul and Singapore are cited as possible venues for including FICPI tutors. WIPO would also be interested in having FICPI tutors in their patent drafting courses, for developing countries. FICPI shall send a list of FICPI tutors, by technical field.

As usual, the meeting was concluded by a lunch hosted by Mr. Gurry and this was the occasion to pursue the discussions more informally.

*[End of report: prepared by Jérôme Collin]*