

IPRIA International Developments in IP Update November 2008

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WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

WIPO member states review key copyright issues

WIPO member states met from **2 to 7 November 2008** for the 17th session of the Standing Committee on Copyright and Related Rights (SCCR) to review the Organisation's work on a number of copyright issues, including:

- limitations and exceptions to IPRs in relation to a range of activities, such as educational activities, the activities of libraries and archives, and the use of digital technology;
- the proposed WIPO Treaty on the Protection of Broadcasting Organisations, and the further work required to achieve agreement on the objectives and scope of this agreement; and
- access to copyright-protected content by visually impaired persons.

For more information, click here

http://www.wipo.int/pressroom/en/articles/2008/article_0059.html

WIPO marks 50th anniversary of international geographical indications registration system

On 31 October 2008, WIPO marked the 50th anniversary of the adoption of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. The Lisbon system allows for the extension of protection for an appellation of origin from one WIPO member state (i.e. the country of origin of the appellation) to the other 25 member states through a single registration procedure. An appellation of origin is a geographical indication which generally consists of a geographical name or a traditional designation used on products having a specific quality or characteristics that are essentially due to the geographic location where they are produced. The ceremony followed the conclusion of the Forum on Geographical Indications and Appellations of Origin from **30 to 31 October 2008**, which was co-hosted by WIPO and the National Institute of Industrial Property of Portugal. The Forum addressed a range of themes including possible improvements to the Lisbon system and issues relating specifically to the protection and international registration of geographical indications and appellations of origin in developing countries.

For further information, click here:

http://www.wipo.int/pressroom/en/articles/2008/article_0054.html

Intergovernmental Committee on Intellectual Property and Genetic Resources (IGC) to continue consultations following 13th meeting

The IGC reviewed proposals for enhanced and accelerated working procedures, and analysed gaps in the protection currently available for traditional cultural expressions, traditional knowledge, and genetic resources in its 13th session, held from **13 to 17 October 2008**. Delegates failed to reach any agreement on the working procedures

required to deliver concrete outcomes by the time the Committee reports back to the WIPO General Assembly in September 2009. IGC Chairman, Ambassador Rigoberto Gauto Vielman, indicated that he would pursue informal consultations with member states and observers, including representatives of indigenous and local communities, in the period leading up to the next IGC session in 2009.

For more information, click here:

http://www.wipo.int/pressroom/en/articles/2008/article_0053.html

Dr Francis Gurry appointed as WIPO Director General

Following his nomination in May 2008, the 184 WIPO member states unanimously appointed Dr Francis Gurry as the Organisation's new Director General at the opening of WIPO annual Assemblies on 22 September 2008. Dr Gurry, an Australian national and previous WIPO Deputy Director General, succeeds Dr Kamil Idris as Director General, and has been appointed for a six-year term that began on **1 October 2008**. In his acceptance speech, Dr Gurry discussed the challenges facing the Organisation, highlighting the need for solutions to the growing global demand for patent services, and reflecting on WIPO's role in countering international trade in counterfeit and pirated goods. Dr Gurry also announced his plan to undertake a comprehensive process of strategic realignment of the Organisation in order to improve its functioning and performance.

For more information, click here:

http://www.wipo.int/portal/en/news/2008/article_0034.html

WIPO Assemblies conclude

The Assemblies of WIPO's member states met from **22 to 29 September 2008** in Geneva to review the Organisation's activities over the past year, and to discuss future work. Some significant outcomes from the meeting include:

- approval of a work program for implementing recommendations of the Committee on Development and Intellectual Property relating to matters such as funding for least developed countries and finance activities to promote the exploitation of IP in these countries;
- approval of a revised communication procedure under Article 6*ter* of the Paris Convention for the Protection of Industrial Property. Article 6*ter* prohibits unauthorised use of state emblems, official hallmarks, and emblems of intergovernmental organisations as trade marks or elements of trade marks; and
- the adoption of amendments to the Regulations under the Patent Cooperation Treaty relating to matters including the supplementary international search system (due to enter into force on 1 January 2009), and amendment of claims.

For more information, click here:

http://www.wipo.int/pressroom/en/articles/2008/article_0048.html

EUROPEAN UNION

ENFORCEMENT OF IPRs

European Commission (EC) holds conference on industrial property rights

After adopting a Communication in July 2008 on the matter, the European Commission co-hosted a conference on Industrial Property Rights in the Internal Market from **16 to 17 October 2008**. The conference focused on three main topics: a jurisdiction for European and Community patents, the Community patent, and counterfeiting. In his speech to the Conference, the European Commissioner for Internal Market and Services, Charlie McCreevy, highlighted a number of issues including:

- the need for an accessible and affordable patent system in Europe, considering the relatively high cost of obtaining and maintaining patent protection in member states, and the ‘prohibitive’ cost of patent litigation;
- the prospect of a Community patent to address ‘fragmentation’ of the market in patents and to reduce ‘unnecessary costs and red tape’; and
- the need for a specialist patent jurisdiction to provide for trans-national or EU-wide decisions.

For more information and to access the text of the Commissioner’s speech, click here: http://ec.europa.eu/internal_market/indprop/rights/index_en.htm

EU Competitiveness Council calls for comprehensive anti-counterfeiting and anti-piracy plan

At a meeting on **25 September 2008**, the EU Competitiveness Council adopted a resolution inviting the European Commission to take action in relation to the industrial property rights strategy for Europe proposed by the Commission in July 2008. Key actions suggested by the Council include:

- disseminating information and raising awareness about counterfeiting and piracy to those involved in combating these issues, especially via the internet;
- submitting an anti-counterfeiting customs plan for the years 2009-2012, which would involve information-sharing between authorities; and
- methods to strengthen international protection of IPRs, including promoting the inclusion of IPRs in bilateral and multilateral agreements, and taking part in negotiations for the conclusion of a plurilateral anti-counterfeiting trade agreement.

To access the Council’s Resolution, click here:

http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/intm/103037.pdf

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EC hosts Online Commerce Roundtable

Consumer and industry representatives met to discuss the opportunities created by and barriers to online commerce in Europe at the Online Commerce Roundtable hosted by the European Commission in Brussels on **17 September 2008**. The Commission published an issues paper for the Roundtable participants, inviting them to consider a number of matters, including the availability and licensing of copyrighted products online, and in particular:

- the role of collecting societies, and of direct licensing, and the proposal of a multi-repertoire pan-European licensing system;
- the need for territorial licensing of copyrighted content and whether that need varies depending on the type of content and/or revenue model; and

- the availability of new distribution models for copyrighted products.

A final report summarising consensus views of the group and other points of relevance was due to be published on the European Commission website by the end of October 2008.

For more information, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1338&format=HTML&aged=0&language=EN&guiLanguage=en>

RESEARCH & DEVELOPMENT (R&D)

EC Pharmaceutical Forum concludes

European Commission member states and stakeholders such as health care providers and industry took part in the final Pharmaceutical Forum on **2 October 2008**. The Forum adopted recommendations in relation to three areas:

- how to improve information on diseases and treatments;
- how to compare medicines and identify the most effective ones; and
- how to balance access and reward for innovation.

In relation to the third area identified above, the Forum encouraged member states to analyse the value of innovation and potential ‘reward mechanisms’ for innovative medicines to meet public health needs and long term investments in R&D. The Forum was established by the European Commission in 2005 to find relevant solutions to public health considerations regarding pharmaceuticals, while ensuring the competitiveness of the industry and the sustainability of national health care systems.

For more information, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1451&format=HTML&aged=0&language=EN&guiLanguage=en>

EC advocates strategy for international cooperation in science and technology

On **24 September 2008**, the European Commission released a communication proposing that member states jointly develop a common strategy to strengthen international cooperation in science and technology, most notably in the field of information and communications technology. Key goals of the proposal are to:

- integrate Europe’s neighbours into the ‘European Research Area’; and
- improve framework conditions for international cooperation in science and technology, such as through the development of global large-scale research infrastructures, and by supporting mobility of researchers and management of intellectual property.

For more information, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1395&format=HTML&aged=0&language=EN&guiLanguage=en>

EC launches public consultation on information and communications technology R&D and innovation strategy

As part of the European Commission's response to a recent expert report highlighting some key failings of Information and Communications Technology (ICT) research and innovation in Europe, on **4 September 2008** the European Commission launched a public consultation process. The process focused on three main questions:

- what are the main challenges ahead for ICT research and innovation?;
- how, and in what fields, should Europe aim to lead?; and
- what is the role of public policy in putting Europe at the forefront of ICT innovation?

The Commission is seeking contributions to develop a new strategy for ICT research and innovation, which will be launched next year. The public consultation was open until 7 November 2008.

For more information, click here:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1287&format=HTML&aged=0&language=EN&guiLanguage=en>

OFFICE FOR HARMONISATION IN THE INTERNAL MARKET (OHIM)

OHIM introduces fast-track design registration system

On **23 September 2008**, OHIM introduced a fast-track registration process for Community designs, which has so far resulted in an estimated 30% of applications being registered in under 10 days. Users can qualify for fast-track registration if: the application is submitted in 'good quality' to minimise the risk of deficiencies, and is not sent by fax;

- fees are paid by a current OHIM account to permit instant verification; and
- the application either includes no priority claim, or is accompanied by all the necessary priority documents.

OHIM reports that the fast-track registration system will become further efficient when the new e-filing system for Community designs becomes available in 2009, as e-filing will feature automated screening and processing of application data, and will allow for more methods of payment such as by credit card.

For more information, click here:

<http://oami.europa.eu/en/office/newsletter/08010.htm#ED1>

OHIM proposes reduction in Community trade mark fees

At a joint meeting of OHIM's Administrative Board and Budget Committee from 18 to 19 September 2008, EU member states proposed a reduction in Community trade mark fees that would lower the combined application and registration fees to around €1000. The proposal was made as part of a package of budgetary measures aimed at addressing OHIM's growing surplus and better balancing income and expenditure which OHIM and member states have put forward to the European Commission to consider for approval. At present applicants must pay a total of €1600 in application and registration fees for a Community trade mark application covering up to three classes, and an additional €150 fee applies if an application is not filed electronically.

To read a summary of the conclusions reached in the joint meeting, click here:

http://oami.europa.eu/ows/rw/resource/documents/OHIM/news/summary_joint-meeting_ab_v1.pdf

ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

OECD report calls for strengthened international cooperation in science and innovation

A new OECD report encourages OECD governments to increase international cooperation and strengthen links between public research bodies and industry in order to boost science and innovation and drive long-term growth. The ‘Science, Technology and Industry Outlook’ report, released on **27 October 2008**, highlights the following key challenges to encouraging innovation in OECD countries:

- attracting foreign investment and participation in global innovation networks;
- improving policies to foster domestic talent to address growing demand for skilled workers and growing competition for foreign talent; and
- improving policies to encourage a broader range of innovation activities.

For more information, click here:

http://www.oecd.org/document/0/0,3343,en_2649_34269_41568384_1_1_1_37417,00.html

New OECD publication focuses on internationalisation of business innovation

On **7 October 2008** the OECD released its publication, ‘Open Innovation in Global Networks’, which presents the findings of a recent OECD project on globalisation and open innovation. This publication addresses topics such as the drivers of global innovation networks across different industries, how such networks are related to companies’ overall strategies, and whether they are accessible for small and medium-sized enterprises.

For more information, click here:

http://www.oecd.org/document/43/0,3343,en_2649_34443_41441387_1_1_1_37461,00.html

OECD releases 2008 Compendium of Patent Statistics

On **12 September 2008**, the OECD published its seventh annual Compendium of Patent Statistics, which provides a snapshot of the latest available internationally comparable data on patents, and reflects recent trends in inventive activities across a range of OECD member and non-member countries. The Compendium was produced using information from a variety of sources, including the EPO’s Worldwide Statistical Patent Database (‘PATSTAT’) and the new OECD ‘REGPAT’ database.

To access the Compendium, click here:

<http://www.oecd.org/dataoecd/5/19/37569377.pdf>

OECD assesses the economic impact of counterfeiting and piracy

As part of a project to improve understanding of the scope and effect of counterfeiting and piracy, in **June 2008** the OECD released its publication ‘The Economic Impact of Counterfeiting and Piracy’. The study is set out in three parts and provides:

- an analysis of the market for counterfeited and pirated goods and the effects on various parties;
- an overview of current government and industry initiatives for combating counterfeiting and piracy; and

- a number of industry sector ‘snapshots’ that highlight how those sectors are affected by counterfeiting and piracy, and how they are responding.

For more information, click here:

http://www.oecd.org/document/4/0,3343,en_2649_34173_40876868_1_1_1_1,00.htm
1

WORLD TRADE ORGANISATION (WTO)

TRIPS Council discusses biodiversity, geographical indications, and pharmaceutical patents

Discussions at the latest WTO TRIPS Council meeting on **28 October 2008** focused, among other matters, on:

- the relationship between the TRIPS Agreement and the Convention on Biological Diversity, particularly on a proposed requirement for patent applicants to disclose the origin of genetic material or traditional knowledge used in their inventions (‘disclosure’);
- whether two more subjects relating to geographical indications should be negotiated together with the ‘disclosure’ proposal (‘parallelism’); and
- a review of a WTO members’ 2003 decision allowing developing countries that lack manufacturing capacity to import cheaper generic medicines made under compulsory licences, and the related TRIPS Agreement amendment agreed to in 2005.

The discussions highlighted ongoing divisions between countries both on the ‘disclosure’ proposal and on the question of ‘parallelism’. However, a number of developing countries claimed that enough support exists to justify negotiations on these matters as part of the ‘special sessions’ of the TRIPS Council within the Doha Round of WTO trade negotiations, and reiterated this view at a ‘special session’ of the TRIPS Council on 29 October 2008.

For more information, click here:

http://www.wto.org/english/news_e/news08_e/trips_28oct08_e.htm