

## **IPRIA International Developments in IP**

### **Update December 2007**

Welcome to the IPRIA **International Developments in IP Bulletin** for December 2007. The following items are also available on our website. The page can be viewed in full at: [http://www.ipria.org/developments\\_in\\_ip/intdev/index.html](http://www.ipria.org/developments_in_ip/intdev/index.html).

*If you have any problems with the links please copy and paste the address into your browser.*

#### **WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)**

##### **SCT continues work on non-traditional marks, trade mark opposition procedures and industrial designs**

The eighteenth session of WIPO's Standing Committee on the Law of Trademarks, Industrial Design and Geographical Indications (SCT) took place in Geneva from **12 to 16 November 2007**. Among the issues discussed were member states' practices in relation to 'non-traditional marks' such as three-dimensional, colour, sound and scent marks. The SCT aims to provide guidance to national trade mark offices and users regarding the registration of such marks. Delegates also worked on a set of key approaches to trade mark opposition to identify areas of similarity between various national and regional offices, such as the grounds of opposition and cooling off periods allowing for settlement negotiations. With regard to industrial designs, the second stage of a comprehensive survey on various industrial design registration systems was approved, covering questions of substantive design law. This exercise is expected to yield a basis for future deliberations of the SCT on whether it is desirable to promote greater convergence of design legislation.

For more information, click here

[http://www.wipo.int/pressroom/en/articles/2007/article\\_0084.html](http://www.wipo.int/pressroom/en/articles/2007/article_0084.html)

##### **Enforcement Advisory Body examines criminal enforcement of IP rights**

WIPO's Enforcement Advisory Body met in Geneva from **1 to 2 November 2007** to discuss the effectiveness of IP rights under criminal law. The Committee heard presentations on the criminal enforcement of IP laws in various jurisdictions and considered issues such as the scope and definition of IP crimes, investigation and initiation of criminal proceedings, jurisdiction, means of streamlining proceedings, evidentiary issues, sentencing options, and level of penalties. The Committee agreed that it should continue to provide a platform for the exchange of country experiences in this area.

For more information, click here

[http://www.wipo.int/pressroom/en/articles/2007/article\\_0082.html](http://www.wipo.int/pressroom/en/articles/2007/article_0082.html)

##### **Member states adopt a Development Agenda for WIPO**

On **28 September 2007**, WIPO member states agreed to a new agenda with recommendations for the future of the organisation. The WIPO Development Agenda encompass a set of 45 agreed proposals, covering six clusters of activities, including:

- technical assistance and capacity building;
- norm-setting, flexibilities, public policy and public knowledge;
- technology transfer, information and communication technology and access to knowledge;

- assessments, evaluation and impact studies; and
- institutional matters including mandate and governance.

Member states also agreed to establish a Committee on Development and IP to create a work-program for implementation of the adopted recommendations. The Committee will report and may make recommendations annually to the General Assembly.

For more information, click here

[http://www.wipo.int/pressroom/en/articles/2007/article\\_0071.html](http://www.wipo.int/pressroom/en/articles/2007/article_0071.html)

## **EUROPEAN UNION**

### **PATENTS**

#### **European Competitiveness Council discusses European patent litigation system**

The Competitiveness (Internal Market, Industry and Research) Council of the European Union met in Brussels from **22 to 23 November 2007**. The Council agreed on the need to continue work towards finding solutions for a Europe-wide patent litigation system and a Community Patent. The exchange of views took place on the basis of a progress report elaborated by the Presidency following the Commission's communication 'Enhancing the patent system in Europe' of 3 April 2007. The report indicates general features that may form a basis for future work on the European patent litigation system, including:

- the patent jurisdiction should be an exclusive jurisdiction dealing with validity, infringement and inter-related proceedings concerning European patent and future Community patents;
- it should be a Community jurisdiction specialised in patent litigation;
- it should be an integrated system effective in all member states; and
- all divisions would form an integral part of a unified Community jurisdiction with uniform procedures.

For more information on the Competitiveness Council meeting, click here [for conclusions on the European patent litigation system, see page 25]

[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/intm/97225.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/intm/97225.pdf)

#### **European Parliament votes in favour of a Council Decision to ratify the Protocol amending TRIPS**

On **24 October 2007**, the European Parliament adopted a resolution in favour of a Council Decision to ratify, on behalf of the European Community, the Protocol amending the World Trade Organisation (WTO) agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). According to the Protocol, developing countries 'with insufficient or no manufacturing capacity in the pharmaceutical sector' are given the opportunity to import cheap generic versions of patented pharmaceuticals. The TRIPS Council, which consists of all WTO members, recently agreed to extend the deadline for the Protocol to enter into force from 1 December 2007 to 31 December 2009.

For more information on the European Parliament resolution, click here

<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2007-0403&language=EN&mode=XML>

For more information regarding the TRIPS Council's decision to extend the deadline for ratification, click here

[http://www.wto.org/english/tratop\\_e/trips\\_e/amendment\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/amendment_e.htm)

## **DESIGNS**

### **EU joins Hague system on international designs**

The European Union submitted its instrument of accession to the Geneva Act of the Hague Agreement to WIPO on **24 September 2007**. This accession will allow EU companies, with a single application, to obtain protection of a design throughout the EU with the Community Design and in the countries which are members of the Geneva Act. The new system will enter into force on 1 January 2008, and is intended to simplify administration procedures and lower the costs of obtaining protection.

For more information, click here

<http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1388&format=HTML&aged=0&language=EN&guiLanguage=en>

## **DOMAIN NAMES**

### **European Commission updates .eu Top Level Domain Regulation**

On **25 October 2007**, the European Commission adopted Regulation 1255/2007, which amends Regulation 874/2004 establishing public policy rules on the implementation and functions of the .eu Top Level Domain and the principles governing registration. The new Regulation contains an updated list of names registered or reserved for registration by EU Member States, European Economic Area States and candidate countries.

To access the Regulation, click here

[http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l\\_282/l\\_28220071026en00160029.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_282/l_28220071026en00160029.pdf)

## **RESEARCH & DEVELOPMENT (R&D)**

### **Europe's R&D intensity needs to be strengthened**

The Annual Report on Research and Technological Development Activities of the European Union in 2006 was released on **13 September 2007**. With respect to R&D intensity, most member states need to strengthen their efforts significantly in order to achieve their targets for 2010. The European Competitiveness Report 2007, released by the European Commission on **5 November 2007**, estimates that the impact of reaching the EU's R&D intensity target (3% of GDP) would lead to increases in total productivity of 0.8% and could boost real income by 3%. However, there is a clear recognition that additional progress in this area will in part depend on better integrating elements of the 'knowledge triangle': R&D, innovation, and education and training. One of the challenges in reaching the EU's R&D intensity target is how sufficient private R&D spending can be induced.

For more information on the Annual Report on Research and Technological Development Activities of the European Union in 2006, click here

[http://ec.europa.eu/research/reports/2007/index\\_en.html](http://ec.europa.eu/research/reports/2007/index_en.html)

For more information about the European Competitiveness Report 2007, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/445&format=HTML&aged=0&language=EN&guiLanguage=en>

### **European Commission releases 2007 Scoreboard of companies' expenditure on R&D**

On **5 October 2007**, the European Commission released its 2007 EU Industrial R&D Investment Scoreboard. The Scoreboard comprises the top 1000 R&D companies from the EU and the top 1000 R&D companies from the rest of the world. It shows that the world-wide corporate R&D rate has grown by 10%, with EU-based companies increasing their R&D investment by 7.4%. This compares to 5.3% growth reported in the 2006 edition. The world's biggest investor in R&D according to the 2007 Scoreboard is Pfizer of the US, with €5.8 billion. The top EU company is DaimlerChrysler of Germany with €5.2 billion.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1448&format=HTML&aged=0&language=EN&guiLanguage=en>

### **European Commission releases Communication on research and innovation**

On **16 August 2007**, the European Commission released a Communication on how to synergise Cohesion Policy programmes with innovation and research funding under the Seventh Research Framework Programme (FP7) and the Competitiveness and Innovation Programme (CIP). The Commission proposes various actions to make better use of European funding, such as:

- a practical guide to help users identify the most appropriate source of funding;
- improving information exchange with national/regional authorities on the organisations that receive FP7 and CIP funding; and
- regular events where research, innovation, and regional development stakeholders can share ideas and access advice.

For more information, click here

<http://ec.europa.eu/research/index.cfm?pg=newsalert&lg=en&year=2007&na=na-100907>

### **Feedback provided for the future of the European Research Area**

The European Commission released the preliminary results of a public consultation on the future of the European Research Area (ERA) on **8 October 2007**. The six priority areas suggested by the Commission in its Green Paper – knowledge sharing, researchers, research infrastructures, research institutions, research programmes, and international cooperation – were confirmed, with knowledge-sharing emerging as the most pressing if the ERA vision is to be achieved. The priority area relating to researchers however was considered to be the most important in terms of need for EU-level action. The Commission aims to come forward with proposals in specific areas in 2008.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1451&format=HTML&aged=0&language=EN&guiLanguage=en>

### **European Commission launches a funding programme for research-performing SMEs**

On **17 September 2007**, the European Commission launched a new programme, known as Eurostars, to provide funding for research-performing small and medium enterprises (SMEs). A Eurostars project can address any technological area, but must have a civilian purpose and be aimed at the development of a new product, process or service. In order to participate in the project, SMEs need to fulfill the criteria established by the Commission Recommendation regarding the definition of an SME and to invest a minimum of 10% of their turnover in research activities.

For more information, click here

<http://www.eurostars-eureka.eu/faq.do>

### **ENFORCEMENT OF IPRs**

#### **European Commission to mandate new international anti-counterfeiting agreement – DFAT seeks comments**

On **23 October 2007**, the European Commission announced that it will seek a mandate from European Member States to negotiate a new Anti Counterfeiting Trade Agreement (ACTA) with major trading partners, including the US, Japan, Korea, Mexico and New Zealand. ACTA's goal is to strengthen the enforcement of IP rights and help to protect consumers from the health and safety risks associated with many counterfeit products. ACTA aims to pursue its objectives by building international cooperation between authorities; establishing common enforcement practices; and creating a modern legal framework to combat the global trade of counterfeiting and piracy.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1573&format=HTML&aged=0&language=EN&guiLanguage=en>

The Department of Foreign Affairs and Trade (DFAT) welcomes submissions from individuals and groups with views on Australia entering into negotiations on ACTA. The DFAT Discussion Paper regarding ACTA can be requested by emailing [IP@dfat.gov.au](mailto:IP@dfat.gov.au). Submissions can also be sent to that email address until **3 December 2007**.

### **ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)**

#### **OECD releases its Science, Technology and Industry Scoreboard for 2007**

On **25 October 2007**, the OECD published the 2007 edition of its Science, Technology and Industry Scoreboard. The report, which is published every two years, explores recent developments in OECD member and non-member economies regarding matters relating to science, technology, globalisation and industrial performance. Major findings include:

- investment in new knowledge, notably in R&D, is now growing in line with gross domestic product;
- more OECD governments are giving firms tax breaks to encourage innovation while cutting their direct spending on business R&D – two thirds of the 30 OECD member countries offered businesses tax subsidies in 2006 and most have tended to make it more generous over the years; and
- in most OECD countries foreign affiliates of multinational firms now have a higher share in R&D than in manufacturing activities.

For more information, click here

[http://www.oecd.org/document/10/0,3343,en\\_2649\\_33703\\_39493962\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/10/0,3343,en_2649_33703_39493962_1_1_1_1,00.html)

### **OECD releases 2007 Compendium of Patent Statistics**

On **28 September 2007**, the OECD released the 2007 Compendium of Patent Statistics. The Compendium presents various patent indicators to reflect recent trends in innovative activity across various OECD and non-OECD countries, with seven main sections: triadic patent families; patenting at national, regional and international level; patenting in selected technology areas; patents by institutional sectors; patents by regions; international cooperation in inventive activities; and science linkages in technology.

To access the Compendium, click here

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

### **OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)**

#### **OHIM invites comment on Community Designs renewal guidelines**

The OHIM recently launched a public consultation on the draft guidelines for renewing a registered Community Design which will be adopted in early 2008. The purpose of these Guidelines is to explain how, in practice, the requirements of the Regulation on the Community Design, the Community Design Implementing Regulation, and the Community Design Fees Regulation will be applied by the Office in the renewal of a registered Community Design. The Guidelines assist will serve to assist the staff members of OHIM to consistently apply the Regulations to renewal proceedings. Submissions close **15 December 2007**.

For more information, click here

[http://oami.europa.eu/en/design/gudelines\\_draft.htm](http://oami.europa.eu/en/design/gudelines_draft.htm)