WIPO magazine

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PCT 2005
Celebrating 1 Million Applications

INSPIRATIONAL INNOVATION
Clean Water for Developing Countries

IP & BUSINESS
Tapping into Patent Information

World Intellectual Property Organization

World Intellectual Property Day – Think, Imagine, Create

April 26, 2005, marks the fifth ***World Intellectual Property Day***, which provides an opportunity to reflect on how intellectual property (IP) touches all aspects of our lives: How copyright helps bring music to our ears and art, films and literature before our eyes; how industrial design helps shape our world, and how trademarks provide reliable signs of quality; how patenting helps promote ingenious inventions that make life easier, faster, safer – and sometimes completely change our way of living.

These things are often taken for granted; there is little public awareness of the connection between human creativity and intellectual property in daily life. Although most people have heard of copyright, patents and trademarks, many view them simply as business or legal concerns, with little effect on their own lives. World Intellectual Property Day provides an ideal opportunity to improve public understanding of – and respect for – creativity, innovation, and the intellectual property system by demonstrating their importance in daily life.

WIPO will join IP offices, organizations, schools and libraries around the world in celebrating the event with activities on the local, national and regional level.

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As part of the celebration of the one-millionth application received under the Patent Cooperation Treaty (PCT), this month's issue of the WIPO Magazine highlights several aspects of the international patent system. Coverage of WIPO's observance of this landmark event begins on page two, followed by an interview with a research scientist and inventor whose PCT-registered invention for water purification is being used to aid ***tsunami*** relief efforts in Asia. An article exploring the immense value – particularly to enterprises – of the detailed information available in patent documents begins on page 8. – ***The Editor***

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Photo: FAO/19461/G. Bizzarri

Geneva,
January - February
2005

PCT 2005 ONE MILLION AND COUNTING

"In my opinion, the PCT is the greatest advance in foreign patent practice and patent portfolio management since the Paris Convention came into force in 1883." – Mr. T. David Reed, Senior Patent Advisor, The Procter and Gamble Company, United States of America

WIPO paid tribute to the world's innovators at a celebration in Geneva on January 14 to mark one million Patent Cooperation Treaty (PCT) applications. Representatives from major PCT user companies – Philips Electronics, Nokia, Samsung Electronics, Procter and Gamble, Huawei Technologies and Matsushita Electric – gathered to talk about why they use WIPO's international patent filing system, as well as the challenges faced in its further development.

WIPO Deputy Director General Francis Gurry described the founders of the PCT as visionaries. "The patent system is the best system that is available to encourage innovation which leads to improvement in the quality of life," he said. "Without the patent system, companies would seek to retain their competitive advantage through secrecy and the public domain would be the poorer."

One million applications speak for the PCT's success. Set up to offer inventors a ***user-friendly, cost-effective*** and ***efficient*** system for filing international patent applications, membership has snowballed since the PCT began operating in 1978. The system now counts 125 member countries. Expansion has been accompanied by regular updating of PCT Regulations to meet the needs of applicants and patent offices.

Creators great and small

From the biggest corporations, to universities, to small businesses and individuals, the PCT serves innovators from all walks of life. Complex advances in digital technology, life-saving discoveries in biotechnology, new products using traditional knowledge, labor-saving devices, games – all are among the more than 10,000 applications now processed by the PCT Office each month. Here is a sample of the new ideas and new solutions, which continue to pour in from across the globe:

- Apple Computer Inc. used the PCT for its iTunes music store, now countering digital piracy with a legal solution for downloading music.

iTunes music store

- Ashok Gadgil's water disinfection device using ultraviolet (UV) light is delivering affordable, safe drinking water to rural communities in developing countries. He filed the PCT application in 1997. (See our interview with Dr. Gadgil on page 5.)

- In Kenya, a partnership between university scientists in Nairobi and Oxford, United Kingdom, funded by the International AIDS Vaccine Initiative, produced a potential new vaccine against HIV. Following their PCT application in 2000, the nonprofit partners pledged to use patent ownership in pursuit of their commitment to make a successful vaccine available at minimal cost in developing countries.

- U.S. inventor Dean Kamen has 56 published PCT applications. He is best known for his stair-climbing iBOT™ wheelchairs and the Segway® Human Transporter.

Independence® iBOT™ 3000 Mobility System

"Companies are increasingly being judged on their… success in strategically leveraging their intellectual assets – the PCT system lays down an excellent path for achieving [this]." – Mrs. Kiran Mazumdar-Shaw, Chairman and Managing Director, Biocon Group, India

- Chinese scientists from Tsinghua University filed a PCT application for their process for creating a more environmentally friendly, two-component wet cement.

Sony's robot, Qrio

- Japanese ground-breaker Sony used the PCT when developing sophisticated techniques to control the movements of the company's humanoid robots.

- One of the first published Egyptian applications after Egypt joined the PCT in September 2003 was filed by Osman Fathi Osman for a honey-based, wound-healing compound. Some 50 applications were filed from Egypt during the first year of PCT membership, most by individuals.

A web gallery of notable PCT Inventions and Inventors is now showing on the PCT website. Visit the gallery at ***www.wipo.int/pct/en/inventions/***.

One application - 125 countries

A single, international PCT application enables an inventor to seek patent protection simultaneously in any or all of the 125 Contracting States. One application form, one language and one set of fees provides the same legal effect as a national application in each State. The PCT route gives applicants up to 18 months longer to decide in which countries to pursue national patent protection: ***more time*** for testing and technical development of the invention, for researching marketability in different countries, and for arranging manufacturing licenses and financing. This also means ***delayed costs*** associated with subsequent national applications. During the international phase, applicants receive ***high-value information*** from the PCT international search and preliminary report on the likely patentability of the invention in different countries. By the time applicants come to make national applications, they have a wealth of information on which to base business decisions.

Top users

The US, Japan and Germany are currently the most prolific PCT user-countries, with major multinational companies dominating the top 20 list. But use by developing countries is growing fast. The Republic of Korea is now the seventh overall user worldwide, with China moving into 13th place.

Top 5 overall users

Philips Electronics (Netherlands)
Siemens (Germany)
Matsushita (Japan)
Bosch (German)
Sony (Japan)

Top 5 developing country users

LG Electronics (Republic of Korea)
Samsung Electronics (Republic of Korea)
Council of Scientific and Industrial Research (CSIR) (India)
Huawei Technologies (China)
Ranbaxy Laboratories (India)

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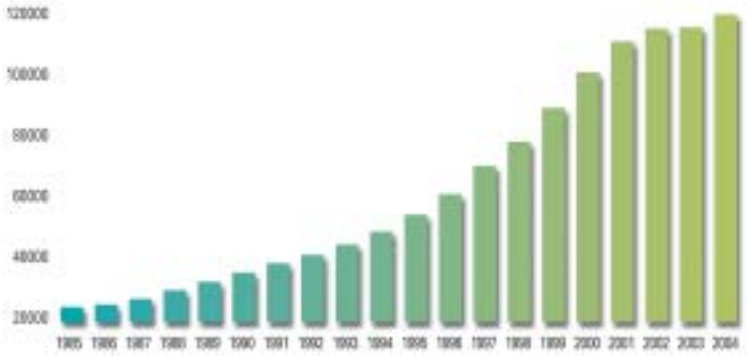
"The PCT system brings so many advantages to the applicants, with particular importance to enterprises and individuals of developing countries." – Mr. Cheng Xuxin, IP Dept, Huawei Technologies, Shenzhen, China

Towards the future

Electronic filing: faster, cheaper, safer. Now handling over 120,000 increasingly complex international applications per year, WIPO is progressively automating PCT procedures for greater efficiency and security. Online, electronic filing was introduced in August 2003 and is being rolled out to receiving offices. PCT-SAFE (Secure Applications Filed Electronically) cuts costs and saves time for applicants, for WIPO and for offices.

PCT mission. The PCT has found its place as an exceptional tool in patenting procedures worldwide. With applications already mounting towards the next million, WIPO is vigorously pursuing its PCT mission of assisting applicants and potential new users the world over in the realization of the most precious of natural resources, human creativity.

PCT Applications from 1985 to 2004



PCT applications soared as businesses woke up to the strategic importance of intellectual property assets. It took 18 years to reach 250,000 applications but only 4 years to double that figure, and another 4 to double again. Global trends indicate a steadier rate of growth for the forthcoming period.

The very first PCT application to be published was filed on June 1, 1978 by U.S. resident Mrinmay Samanta, for a "method of making glass of high purity and in virtually unlimited shapes."

"Using the PCT system has allowed us to streamline our internal processes while maintaining maximum flexibility in obtaining patent protection. One of the most important [future challenges for the PCT] will be its ability to maintain the cost/benefit value to applicants while it reduces backlogs and increases functionality in electronic document exchange." – Mr. Gary L. Griswold, President and Chief Intellectual Property Counsel, 3M Innovative Properties Company, U.S.

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INSPIRATIONAL INNOVATORS
Dr. Ashok Gadgil

Bio-data

Born: 1950, Bombay, India
Education: Bsc Physics, University of Bombay; MSc Physics, Indian Institute of Technology, Kanpur; PhD Physics, University of California, Berkeley.

Employment: 1988 to date - Lawrence Berkeley National Laboratory (LBNL), California, Environmental Energy Technologies Division; 1983 – 88: Tata Energy Research Institute, New Delhi; 1981: National Centre for Scientific Research, Paris; 1980 – 83: LBLN.

Specialist fields: airborne pollutants; energy efficiency in developing countries; drinking water disinfection for developing countries;

Patents *include*: UV Device to Disinfect Drinking Water; Portable Emergency Relief Water Treatment Unit; Smokeless Ashtray to capture side stream cigarette smoke; Detector for Impending Electronic Failures from Aerosol Deposition; Energy Efficient Device for Exhaust Hoods. Patents pending in India: Solar Collector for Rural Applications based on Stabilized Mud; Novel Integrated Solar Water Heater; Concrete Solar Water Heater; Energy Efficient Bukhari (space heater).

With disease spreading in the wake of the Asian ***tsunami***, survivors desperately need access to safe drinking water. In some ravaged communities in Sri Lanka and the Southern Indian state of Tamil Nadu, emergency relief is arriving in the shape of an innovative water disinfection unit, the ***UV Waterworks*** (UVW). This robust device kills bacteria, viruses and parasites in water from any source, using nothing more than ultraviolet (UV) light from an unshielded fluorescent lamp powered by a 40-watt power source (for example a car battery). Treating approximately 15 liters a minute, each unit can deliver safe drinking water for a village of 2,000 for under US$2 per person per year, including amortized capital costs.

The brains behind the UVW is Indian-born physicist Ashok Gadgil, who began searching for a way to purify water cheaply in developing countries after an outbreak of "Bengal cholera" in 1993 killed some 10,000 people within months. He has won numerous awards for the UVW since developing the original technology in 1996, most recently the 2004 Health Award from the Tech Museum of Innovation[1].

Ashok Gadgil's application of simple technology to tackle one of the developing world's most fundamental problems is inspirational. ***WIPO Magazine*** asked Dr. Gadgil about his invention, his experience, as a scientist, of the IP system, and about innovation for development.

Dr. Gadgil, how did you come by the idea of inventing a water disinfector using UV light?
I was looking to see how one can inexpensively disinfect drinking water for poor communities in the developing countries. The ability of UV light to kill bacteria and viruses has been known for almost a century. I just determined how best to use that ability to design a disinfector that is both robust in performance, and efficient in operation.

Ingenious simplicity. Using light to clean drinking water in developing countries

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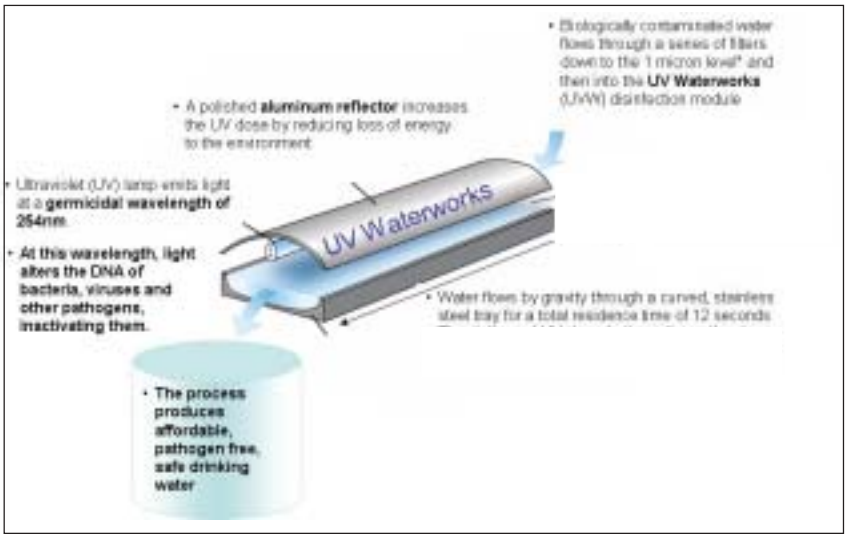
[1] The Tech Museum Awards for technology benefiting humanity, Tech Museum of Innovation, San Jose California: ***www.techawards.org/ta_laureates.cfm***

You make it sound simple. But others had tried and failed. How were you able to find the technical and design solutions that eluded them?
I greatly enjoy seeking simple solutions to complex questions. For example, simply suspending the lamp ***above*** the surface of the water, then putting an aluminum reflector above it to direct back down light that would otherwise be lost, solved some of the main problems with previous attempts using an immersed lamp.



The engineering design was actually a product of the constraints and criteria we had to work with. Based on my experience in India, I knew that the unit must not be dependent on pressurizing devices, i.e., it had to be able to deal with gravity-fed water from sources such as ponds or streams using buckets. And the treatment had to be quick, so it needed a fairly high flow rate. Simplicity was a very important goal in my mind all along the design process. I wanted no moving parts, a simple design that should remain easy to fabricate, with cheap and easy maintenance for the poorest communities. It was a joyful moment when it worked so well in our tests.

What particular difficulties did you face?
Getting funding was quite difficult. Fortunately I received some funding from a couple of project managers in the government, as well as seed funding from a couple of private foundations. This paid for direct expenses. Funding for salaries was much harder to come by. Mostly I worked on my own time, and used the funds to support students and for hardware.

How did your invention get from laboratory to production?
University of California/Lawrence Berkeley National Lab (UC/LBNL), my employer, owns the rights to the patent – I assigned it to them per conditions of my employment. WaterHealth International (WHI)[2] was among a dozen or so companies that approached UC/LBNL, each company asking for an exclusive license. After due process, UC/LBNL's Technology Transfer office selected WHI as the licensee of choice.

How is the UVW currently being used?
There are more than 300 installations of UVW systems around the world already, primarily in Mexico, the Philippines and now in India, as well as handfuls in a dozen other countries. (For details see ***www.waterhealth.com***). The systems developed by WHI are modular so can be used in different ways, for example, as community water systems in remote villages; as water refilling stores, owned and operated by local entrepreneurs in urban centers; or as household systems, which can also provide water for hospitals or schools. WHI is also making available, on a cost-recovery basis, UVW systems for ***tsunami*** relief. The emergency relief units costs US$10,000 and include UVW, tanks and pumps, multiple filters, electronic level indicators and electrical controls, shipping, installation, commissioning, training of local community, and parts and maintenance for five years. Several dozens of these systems will be placed in camps of ***tsunami*** sur-

[2] WaterHealth International, Inc. California, an innovation-driven company, set up to develop technologies and business models to provide high quality, affordable water worldwide. ***www.waterhealth.com***

vivors in the next weeks and months, and will be moved to their villages as they rebuild their lives.

When did you start considering patenting your idea? And how did you decide to file an international application via the Patent Cooperation Treaty (PCT)?
I initially considered just putting up my design on the Internet for all to freely copy. LBNL's Technology Transfer Department (licensing and patent officers) persuaded me of the advantages of patenting. Patenting would protect against badly manufactured copies with corner-cutting fabrication that would not then function as well as the genuine article.

To tell you the truth, I was not aware of the PCT filing approach. It was LBNL's patent attorneys who educated me about the advantages of the PCT route when they identified that the primary application of the invention would be abroad. This was an enormous help to WHI, when they licensed the invention from LBNL.

How did you find the process of licensing/negotiating over IP rights?
It has been a learning experience for me. This is something that no one teaches us scientists during our formal education. I am grateful that LBNL has fine licensing and patent officers.

Can you offer any thoughts on how to encourage innovation to benefit developing countries?
There is enormous talent and creativity at the grassroots where people are inventing new ways to tackle their daily problems. A multi-pronged approach to encourage, recognize, protect and commercialize many of these inventions will greatly help in improving the livelihoods of ordinary people in the developing countries. I am pleased and honored to be part of the effort by the Lemelson Foundation (Initiative on Invention and Innovation for Sustainable Development) to encourage such efforts in many parts of the developing world.

What advice can you offer to young innovators in developing countries?
Dare to dream, and aim high. At the same time, keep your feet on the ground regarding protection of your intellectual property and turning it into a good business.

Your hopes for the future?
I hope we find ways to unleash and nurture the creative genius of hundreds of thousands of individuals around the world who have good ideas but don't know what to do with them, or are not able to turn them into products that benefit humanity

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For more information see the Lawrence Berkeley National Laboratory website on ***www.lbl.gov***

Clean water: a global challenge[3]

- Over 1.1 billion people lack access to clean water.
- There are 1.8 million deaths per year from diarrhoeal diseases alone.
- 90 percent (approx. 200 per hour) are children under age five.
- 88 percent are caused by unsafe water and sanitation.
- Millions more die or suffer from other water-related diseases.
- "We shall not finally defeat [any of the] infectious diseases that plague the developing world until we have also won the battle for safe drinking water, sanitation and basic health care." Kofi Annan, United Nations Secretary-General.

[3] World Health Organization Facts on Water Sanitation and Health ***www.who.int/water_sanitation_health/facts2004/en/***

PATENT INFORMATION: BURIED TREASURE

Planning a merger or acquisition? Looking for creative minds to lead the way in research and development (R&D)? Need to identify the state-of-the-art in a technological area to launch a new product? Look no further. Patent information, the largest repository of technical information in the world, has the answer to these and more.

Patent information is the sum total of all the information contained in every patent document ever published. To date this means some 42 million patent documents worldwide in every technical field, with about one million more documents added each year. As well as patents for inventions, it includes inventors' certificates, utility certificates and utility models. A veritable treasure trove, patent information is the largest, most up-to-date and well-classified collection of technical documentation on new technologies.

Outside the patent office, patent information was once largely the preserve of patent agents or attorneys, skilled in conducting searches as the first step in filing patent applications or preparing for patent litigation. But in the last decade, the development of computerized databases of patent information, many of them online and free-of-charge, has opened the doors to users across the board. Businessmen, economists, researchers and policymakers the world over are waking up to the potential value of patent information.

Patent information has become a strategic business tool. It is being used to forecast the direction of technical change, or to assess a company's relative technological strength in a marketplace. Analyzing trends revealed by patent information helps to identify potentially profitable areas for R&D, key technologies and market opportunities. Studying technical information may help to predict the success or failure of a new product under development and, consequently, the success or failure of the company itself.

What is in a patent document?

The patent system is based on a two-way deal. In exchange for an exclusive, time-limited, legal right to prevent others from making, using, offering for sale, selling or importing a patented invention without the patent owner's permission, the owner is legally required to disclose the invention to the public. Disclosure serves the wider public good, by enabling others to understand the new solutions or technology underpinning each invention, thus in turn fuelling further technological advances. Each patent applicant, therefore, is obliged to provide a detailed description of the claimed invention in the application.

Patent applications are similarly structured worldwide. They consist of a ***front page***, a ***specification***, ***claims, drawings*** (if necessary) and an ***abstract***. A patent application may be anything from a few pages to hundreds of pages long, depending on the nature of the specific invention and the technical field.

The ***front page*** of a published patent document generally displays bibliographic information, such as the title of the invention, the date of filing, the priority date, the relevant technical field, the name and address of applicant(s) and inventor(s). It also contains an ***abstract***, which gives a brief summary of the invention, and a representative ***drawing***. The bibliographic information is an essential means of identifying, locating and retrieving patent documents.

The patent ***specification*** must describe the claimed invention and the technical information contained in it in enough detail that anyone skilled in the same technical field could reconstruct and practice the invention without putting in further inventive effort. Most countries require that the specification include the title of the invention, the background to the invention, a summary, a brief description of drawings (if necessary) and a detailed description of the invention.

The ***claims*** determine the patentability and scope of the claimed invention. In patent litigation, interpreting claims is the first step in determining whether the patent is valid and whether the patent has been infringed.

A unique source

In most countries a patent application is published 18 months after it is filed, so there is a time lag between the publication of the patent application and the time of invention. Generally, however, patents are granted well before a patented product is introduced on the market. So the publication of a patent application is the earliest moment when the relevant information becomes available to the public. Moreover, the patent document provides much more detailed information about a technology than any other type of scientific or technical publication. And it is estimated that more than 70 percent of the information disclosed in patents is never published anywhere else.[1]

Patents do not, of course, cover every kind of inventive activity in every country. Some patentable inventions are either kept as trade secrets or put into the public domain through defensive publication in order to prevent anyone else from obtaining a patent on that invention. Both are valid business strategies. Nor do they diminish the importance of patent documents as a business resource.

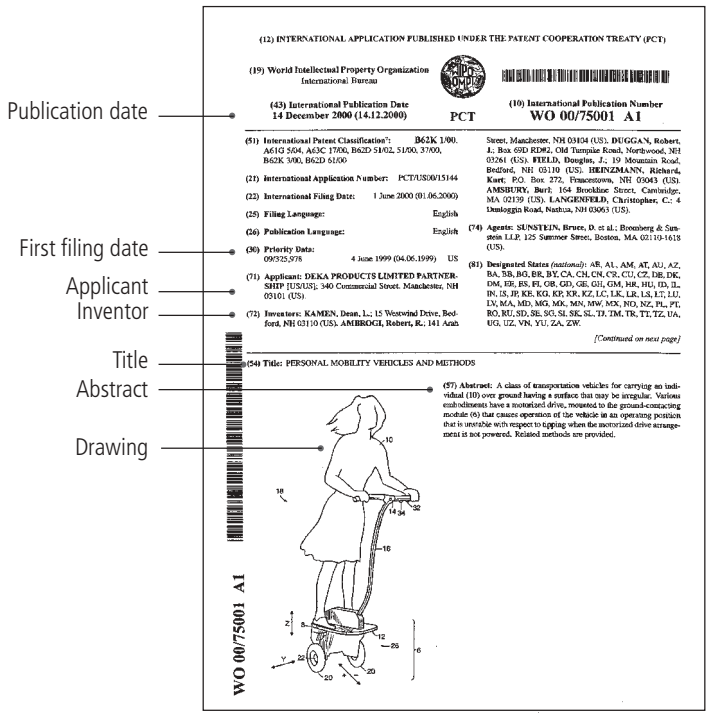
Business uses of patent information

Many areas of business can benefit from patent information analysis. Some of the practical applications include:

Input to licensing strategy. Licensing technology – into or out of a company – requires reliable information in order to make the right business decisions. If the technology in question is valuable enough, it will generally be protected by a patent because of the intrinsic difficulty of protecting it as a trade secret. Analyzing patent information will provide pertinent technical and business information about the technology. Before starting licensing negotiations, it is essential to have a good understanding of the target technology itself, and of its values, in terms of its strengths and weaknesses. Patent analysis will also reveal the availability of competing technology in the same field.

While preparing to license-in technology, a company should analyze patent information to determine whether:

- the technology in question is protected, or is already in the public domain in the target market due to its non-protection, expiration, non-payment of maintenance fees or invalidation of the patent in a court proceeding;
- the owner of an existing or competing patent could bring an action for infringement;
- the technology is overvalued or undervalued in comparison with other related or alternative technologies.



Example of the front page of a PCT patent application for an invention by Mr. Dean Kamen, subsequently commercialized as the Segway ® Human Transporter

Segway® Human Transporter (HT) i170 in midnight blue

Credit: Segway LLC

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[1] "Global Patent Sources - An overview of International Patents", Derwent Information, 1999/5.

Similarly, while preparing to license-out technology, analysis of patent information will help a company to determine:

- who could be prospective licensees in the marketplace;
- how much potential licensees might be willing to pay for the technology;
- whether it is a core technology in the business, such that licensing it out might become an obstacle to its further development and use.

Cross-licensing, an agreement between two companies to license one or more patents to each other, may involve payments if one of the parties is perceived to have a patent portfolio of lesser value than the other. Patent analysis plays a role in comparing the patent portfolios of the two companies in order to decide who should pay whom and how much.

Supporting mergers and acquisitions. If a company wishes to acquire a specific technology along with other complimentary assets through a merger or acquisition, then it should first identify all the companies with relevant patents. An initial patent search can identify these. Further patent analysis will help to narrow down the choices and to decide which company is the best target. Once a target company is identified, patent analysis can also address additional questions such as: Is the target's technology as good as claimed? Is the company priced fairly? Who are the innovators and will they stay with the merged or acquired company? For example, a large company may acquire a small specialty business as part of a broad strategic plan to fill gaps in its technology base. However, upon completing the acquisition, the company may discover that the R&D capabilities of the small company are reduced, because they were dependent on one key researcher, who did not come along as part of the deal having been transferred to the parent company before the sale was completed. If the large company had done its patent analysis thoroughly prior to the acquisition, they could have identified the researcher in advance and taken appropriate steps to retain him.

Guiding R&D. Before developing a new product or going into a new business, a company should seek an overview of the relevant technology field in order to forecast market needs. Patent information analysis makes it possible to map out the trend of technological change and the life cycle of a technology – growth, development, maturity and decline. It will also identify the competitors' technological assets, as well as the problems and solutions in the development of a particular technology. Knowing the life cycle of a technology makes it possible to judge the right time to invest in the different aspects of relevant research and development. Patent analysis can also prevent infringement, and thus save huge amounts in litigation fees and payments of compensation for damages.

Patents are good indicators of R&D output. If one company owns more patents than another, it suggests that the company has a stronger commitment to R&D. However, not all patents are equally valuable. Very few patents are for radical inventions that change the world; most are granted for incremental inventions. A patent that is more frequently cited than others of the same age is regarded as a patent of greater impact or of higher quality. From links between patents revealed by ***patent citation analysis***, it is possible to target the acquisition of strong patents, which results in the enhancement of R&D output.

Human resources. Research[2] has shown that a small number of prolific inventors drive technological development, whereas most researchers produce only one or two patented innovations. Patent analysis, such as co-inventor brain maps, can reveal the key inventors who are vitally important for the future of the company. Such brain maps can identify star inventors within a company and in other companies, providing a valuable tool for retaining or head-hunting talented individuals.

A tool for creative thinking. Patent information provides a source of technological information that can be used by researchers and inventors to find new solutions to techni-

[2] "Inventive productivity", F. Narin and A. Breitzman, Research Policy 24 (1995), 507-519.

cal problems. The TRIZ methodology (a Russian acronym for Theory of the Solution of Inventive Problems) was developed specifically on the basis of patent information. TRIZ began with the hypothesis that there are universal principles of invention, which are the basis for creative innovations that advance technology, and that if these principles could be identified and codified, they could be taught to people to create or enhance their inventive capabilities.[3] Large and small companies are using TRIZ to create or improve products and to elaborate R&D strategies for new technology. TRIZ is just one illustration of how patent information has been exploited as a tool for developing problem solving and innovation strategies

Analyzing patent information

There are both qualitative and quantitative methods for searching and analyzing patent information. Qualitative methods show the content of the individual patent documents. Quantitative methods result in statistical processing. Both methods have been made easy by electronic databases, analytical software products and private service providers. A few examples of these can be found in the box below.

Conclusion

Intelligent exploitation of patent information, a unique source of technical, business and legal information, will contribute to the success of any enterprise, large or small. Today's fast paced development has opened new vistas for smart businesses to use patent information to hone their business strategies in domestic and export markets. The relatively low cost of using patent information makes it a particularly attractive option for small and medium-sized enterprises.

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For more information on various practical aspects of the IP system of interest to business and industry, please visit the website of the SMEs Division at www.wipo.int/sme.

The next article in the IP and Business series will discuss "IP and advertising".

Patent Databases

Databases on CD-ROM. These are very convenient for documentary searches, but the information rapidly becomes out-of-date, at least for certain types of analysis. CD-ROM databases are not yet suitable for statistical applications.

Online Databases. Many national patent offices have launched free-of-charge databases, which are open to the public. The *Full-Text and Full-Page Image Database* of the United States Patent and Trademark Office (USPTO) was one of the earliest, free online patent information services. Others include the European Patent Office's esp@cenet®, which contains some 30 million patent documents, and WIPO's international Patent Cooperation Treaty (PCT) database. The free services work well for simple searches based on key words, such as a known patent number, the name of the inventor(s), or a key word in the title. But they are not suitable for complex investigations and legally motivated searches.

Commercial databases. Private companies, such as Derwent, Dialog, STN, Questel Orbit, Micropatent and WIPS, offer enhanced or value-added patent information, based on the actual requirement of particular end-users.

[3] See ***www.triz-journal.com/whatistriz_orig.htm.***

ESTABLISHING IP INSTITUTIONS IN THE LEAST DEVELOPED COUNTRIES (Part IV)

This is the last in a series of four articles. The preceding articles looked at some of the challenges faced by the least developed countries (LDCs) in seeking to build effective intellectual property (IP) institutions. We conclude by focusing on assistance available to help LDCs meet these challenges. And we report from the recent LDC conference in the Republic of Korea, a developing country which has been outstandingly successful in using the IP system to promote development and wealth creation.

Korea's example

On October 25 to 27, 2004, ministers and senior government officials from 21 of the world's LDCs met at the ***Seoul Ministerial Conference***, organized jointly by WIPO and the Korean Intellectual Property Office (KIPO) to exchange experiences regarding efforts to integrate IP into national development policies. The ministers declared their determination to address the problems facing their countries on IP institution building "with a renewed sense of common concern, purpose and objectives, by seeking opportunities to strengthen regional and international cooperation for using IP to promote national development".

Setting the conference in the Republic of Korea served as a vivid reminder that establishing effective IP systems is not an end in itself, but a means to promote economic and social advancement. For government representatives from LDCs, seeing the Korean success story first hand was inspiring. Here was a country which, 50 years ago could have been termed an LDC, had that classification then existed; and which today had risen to become a world leader of innovation in electronics, cars, telecommunications and information technologies. Hi-tech Korean multinationals such as Hyundai Motor Company and Samsung Electronics, visited by the Conference participants, have won widespread trademark recognition. The Republic of Korea is now the seventh highest filer worldwide of international patent applications via the Patent Cooperation Treaty.

Meanwhile, the average per capita GNP in LDCs remains less than one-sixth that of the Republic of Korea. That fact helped drive animated discussions at the conference of the reasons underpinning Korea's success in building a knowledge-based infrastructure. Factors identified ranged from the foreign aid connected to its geo-strategic location, which helped kick-start development of its technology sectors, to the sheer hard work, focus and inventiveness of the Korean people. Keynote speaker Joseph Stiglitz, Nobel Laureate and former Senior Vice-President of the World Bank, stressed the importance of investing in education and research, and creating centers of excellence. He recommended that a trust fund be established for technology transfer from Korea to LDCs. "If Korea can do it, so could we!" – was the message that heartened LDC participants took back to their respective governments.

Getting help

While highlighting the potential rewards, the Seoul Conference did not downplay the difficulties facing LDCs seeking to build IP institutions. Most LDCs lack the stable demo-

Recap: Cornerstones of IP institutions

- Appropriate **legal and regulatory framework** to enable the protection, enforcement and commercialization of IP, while safe-guarding the public interest;
- Efficient, transparent **organizational structures** to administer the system, including streamlined agencies within a national framework; and networks linking public and private sector IP actors;
- A trained **work-force** equipped with both the technical IP expertise, and the management skills to deliver results;
- Modern **communication networks,** including office automation, for knowledge sharing, access to information, and dissemination of IP.

cratic structures, which would enable talent to flourish, their people to participate constructively, and IP legal systems to be administered fairly. By definition, LDCs lack the financial and technical resources to tackle the challenges unaided. But a wide range of practical and financial assistance is available. WIPO runs technical cooperation programs to assist LDCs, as do the governments and regional IP offices of many countries, including advanced developing countries such as Korea, Brazil and Singapore. Portuguese-speaking LDCs will have a particular interest in cooperation with Brazil. WIPO encourages LDCs to explore closer cooperation on knowledge transfer and institution building with, for example, Australia, Canada, China, France, Japan, the Republic of Korea, the Russian Federation, Switzerland, the United Kingdom and the United States of America, as well as with private sector organizations, research institutions and universities.

Technical cooperation is an instrument to help LDC governments accelerate and facilitate the process they choose. WIPO's commitment to technical cooperation to help LDCs build their IP institutions and systems is enshrined as a core objective in the organization's Program and Budget document. The approach is demand-driven, and tailored to the specific needs of each country. The current, over-arching priorities were identified at the Third UN Conference on LDCs in Brussels in May 2001, when Member States agreed that WIPO's development cooperation programs should deliver concrete results within 10 years in ***five key areas***:

Ambassador Samuel Amehou of Benin, Representative of the Global Co-ordinator of Least Developed Countries at the opening ceremony of the Seoul Ministerial Conference.

1. Information Technology (IT);
2. Collective management of copyright and related rights;
3. Human resource development;
4. Genetic resources, traditional knowledge (TK) and folklore; and
5. Small and Medium-sized Enterprises (SMEs).

Part III of this series described the success of the WIPONET program in delivering IP office automation, with WIPONET now installed in 28 LDCs. Part II illustrated progress in setting up collective management agencies in Malawi and Benin. These on-going projects follow the establishment of collective management societies in Chad, Guinea-Bissau, Mozambique and Tanzania during the previous year. WIPO's LDCs Division is also actively engaged in exploring university industry cooperation and establishing Patent Information Centers in LDCs. The SME Division has carried out awareness programs geared to the IP-related needs of SMEs in, for example, Bhutan and Nepal. Below is an outline of human resource training available to LDC applicants at the WIPO Worldwide Academy; and an example of current cooperation on TK.

Training people

IP institutions can only be as effective as the men and women who direct and staff them. WIPO provides human resource training to meet the growing demand from LDCs for help in acquiring the specialized knowledge and skills they need. The WIPO Worldwide Academy offers a range of skills-based courses, training seminars and professional training programs. 780 participants from LDCs registered for the distance learning, ***General Course on Intellectual Property*** in 2003 and 2004. Highest numbers last year were from Myanmar and Togo. Participants include not just IP and Government officials, but

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academics, students, lawyers, scientists, and businessmen. The Academy also runs joint, post-graduate Specialization Courses in IP with various universities. Candidates from Tanzania, Sudan and Zambia have been successful in obtaining Masters Degrees through these programs.

TK: Prospecting for IP riches in Senegal

The application of IP rights to TK and folklore is still a relatively new area. But it holds real economic potential as a largely untapped national resource, in which many LDCs and their people are rich. WIPO is working with developing countries and LDCs to explore what kind of institutional frameworks would best enable them to protect and capitalize on these resources. (See ICG committee report on page 17.)

Training for public management

Earlier articles flagged the need for IP agencies, such as patent and trademark offices, to become as **financially self-reliant** as possible. Rigorous management is essential to make this work. LDCs can benefit from applying the principles of **New Public Management** (NPM). This is a concept now well established in many developed countries[1], whereby the administration of government agencies is modeled on that of successful private sector businesses. It includes total transparency in cost and revenue accounting, and a single-minded **results-oriented** management approach, underpinned by objective-setting and performance-related pay incentives for staff.

To this end, an in-depth study is underway in Senegal, funded by WIPO and carried out in partnership with the University of Dakar. During the initial phase of the study, researchers traveled throughout the country exploring musical elements, stories, designs, indigenous use of the medicinal properties of plants and so on. This TK is now being recorded, including evidence of the sources and origins to determine ownership. The final phase will seek to calculate its potential economic value, in other words, how much the people of Senegal could earn from their TK and folklore if their rights over its exploitation were IP-protected.

FAO/17512/R. Faiduti

Preparation of traditional medicine from Chlorophora Excelsa in another LDC, Uganda

Funding

Funding for institution building is a perennial problem for LDCs. Governments must prioritize initiatives carefully and consider how best to leverage available resources. Key are policies designed to attract the financial resources of the domestic private sector, as well as foreign investment and international finance.

The Seoul Ministerial Conference advocated that some existing ***Funds-In-Trust*** (FIT) agreements, in which developed or advanced-developing

[1] Reinventing Government (United States of America); Agency Initiative and Next Steps (United Kingdom); Kontraktmanagement (contract management) (Netherlands); Free Commune Principle (Scandinavian countries); Wirkungsorientierte Verwaltungsführung (result-oriented management) (Switzerland).

countries commit financial assistance for WIPO's development cooperation activities, should be earmarked specifically for LDC needs. This includes the FIT committed by the Korean Intellectual Property Office (KIPO) in October 2004. LDCs in the Asia Pacific region have benefited from substantial Japanese financing of the WIPO FIT/Japan agreement, which has been running since 1987 to help strengthen IP systems and train IP officials in the region. A French FIT is also contributing to IP development projects, focusing on some African LDCs and Haiti.

Priority areas

Narrowing the gap between LDCs and more developed countries is a global economic, political and ethical imperative. Moving towards a knowledge-based economy, underpinned by an effective IP system, is a means of generating wealth to help achieve this goal. IP is, in the words of WIPO Director General Kamil Idris, "a ***power tool*** for economic development that is not yet being used to optimal effect…particularly in the developing world"[2].

To conclude, the following is a list of priority areas commonly highlighted by LDC government representatives in discussions with WIPO about IP institution building for economic development. These are not exhaustive, and must be adapted according to the situation in each country:

- identify the country's needs, capacities and constraints;
- take measures to encourage both foreign direct investment and local production/trade, for example through market access. Attract foreign investors in strategic areas, particularly service sectors;
- invest in training to develop a skilled, adaptable labor force, able to manage the transition to a more knowledge-based economy;
- provide incentives for skilled workers abroad to return home;
- invest in a dynamic telecommunications and information infrastructure; promote IT and Internet use;
- support innovative and new technology-based enterprises, for example by establishing "incubators";
- facilitate global technological alliances for the country's enterprises;
- reform government R&D programs to stimulate participation by business and industry;
- channel core funding to selected networks of public, private and university institutes; use technology forecasts and outside expertise to make informed choices;
- disseminate new technologies throughout the economy;
- set up national, sub-regional and regional technical centers to support SMEs; and
- extend services and infrastructure to support industrial and agricultural programs in rural areas.

For the LDCs these challenges are huge. But as Ministers witnessed in Korea, so too are the rewards. Sound leadership, focused policies and hard work are prerequisites for success.

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[2] Intellectual Property, a Power Tool for Economic Growth, WIPO Publication No. 888.

REVISION OF INTERNATIONAL TRADEMARK LAW TREATY

Negotiations to revise the Trademark Law Treaty (TLT) are gathering pace at WIPO. Participants at a meeting of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) from October 25 to 29 made significant progress in fine-tuning legal texts to bring the Treaty into line with the technological advances of the past decade. This follows on the heels of a decision by WIPO Member States at their annual Assemblies in October 2004 to convene a Diplomatic Conference on the revision of the TLT in March 2006.

New provisions

The revisions are intended to keep pace with developments in telecommunication, and to create an institutional framework that would allow the adaptation of certain administrative details regulated under the treaty. New provisions on which the SCT is working cover electronic filing of trademark applications and associated communications; the recording of trademark licenses; relief measures when certain time limits have been missed; and the establishment of an assembly of the contracting parties.

The SCT reached consensus on a number of articles and rules including

- the marks to which the treaty applies;
- questions relating to communications;
- measures in case of failure to comply with time limits;
- duration and renewal of registration; and
- questions relating to requests for recordal, amendment or cancellation of a license.

Survey on Member States' trademark law and practice

The SCT also discussed a provisional summary of responses from Member States to a questionnaire on national trademark law and practice. The survey, containing a large number of questions on national trademark law and practice, was circulated to SCT members in August 2003. To date, 69 countries and 3 intergovernmental organizations have submitted some 22,000 responses, which have been compiled in the provisional summary document. Member States and intergovernmental organizations which responded to the questionnaire had until the beginning of 2005 to review and submit comments on their inputs. Thereafter, the final version of the document, taking into account all comments received, will be submitted to the SCT. The document could serve as a basis for the SCT's future work.

Internet domain names and geographical indications

The SCT also considered the issue of the abusive registration of geographical indications as Internet domain names. Without entering into a substantive discussion, the SCT decided to keep this item on its mid-term agenda.

The SCT was attended by 83 Member States, 3 intergovernmental organizations and 11 non-governmental organizations. The next session of the SCT will be held from April 18 to 22.

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MEMBER STATES TACKLE PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE

The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) met in Geneva from November 1 to 5 to review a set of draft policy objectives and core principles aimed at protecting traditional knowledge (TK) and traditional cultural expressions (TCEs)/ folklore against misappropriation and misuse.

Representatives from 104 Member States, 20 intergovernmental organizations (IGOs) and 45 NGOs attended the November IGC

WIPO Deputy Director General Francis Gurry explained that the proposals were distilled from views expressed by Member States and a wide range of indigenous and local communities, as well as drawing on a number of national and regional laws. The proposals "served as a springboard for a concentrated, focussed debate on the appropriate content of international protection of traditional knowledge and traditional cultural expressions" said Mr. Gurry. While acknowledging that significant issues were yet to be resolved by Member States, he expressed satisfaction with the promising progress made in the IGC meeting.

IGC delegates explored a range of policy and legal issues raised by these initial drafts. These included:

- the relation of specific TK or TCE protection to the existing intellectual property (IP) system, and possible reforms of the IP system, such as strengthened patent disclosure requirements for TK and genetic resources;
- how to determine the beneficiaries of protection;
- the need to take account of the underlying rights of indigenous peoples;
- the appropriate legal form of protection;
- how to set the appropriate boundary between international and national legal measures; and
- the relationship of protection with other legal systems and policy areas.

The IGC also considered to what extent a system to protect TK against misuse should retrospectively cover past use. The Committee placed strong emphasis on the need for a holistic approach, including close coordination with other international systems and processes.

The Committee agreed to invite written comments on the existing draft proposals to supplement the already extensive commentary and amendments proposed during the meeting. The deadline for submission of these comments is February 25. The updated proposals would then be circulated for further consultation in advance of the next session of the IGC in June. (Texts of the initial proposals are available as Annex I of documents WIPO/GRTKF/IC/7/3 and WIPO/GRTKF/IC/7/5 at ***www.wipo.int/tk/en/***).

Participation of indigenous communities

The Committee also reviewed arrangements for increasing the involvement of indigenous and local communities in its work. The number of non-governmental organizations (NGOs) specially accredited to the IGC rose to more than 100 at this session. Most of these observers represent indigenous, traditional and local communities.

Building on past steps to enhance the indigenous and local community perspective in its work, the Committee agreed on a range of procedural measures to increase this involvement and to give representatives a greater voice in the IGC. The Committee also agreed to develop plans for a voluntary fund to facilitate the involvement of these communities. A full proposal on this question will

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be considered at the June meeting. As an interim step, the Committee urged voluntary donors to provide funding to support the participation of indigenous communities.

The Committee was also updated on the process adopted by the WIPO General Assembly in response to the invitation by the Convention on Biological Diversity to address certain questions relating to disclosure requirements in IP systems for genetic resources and associated TK. The European Union introduced a proposal, and Switzerland updated the Committee on its related proposal within the Patent Cooperation Treaty (PCT), but no decision was reached on future work by the IGC itself on this topic.

WIPO-UNEP Joint Publication on Benefit Sharing

On November 1 WIPO and the United Nations Environment Programme (UNEP) announced the publication of a study on the role of intellectual property (IP) rights in the sharing of benefits arising from the use of biological resources and associated traditional knowledge. The study was presented by Mr. Klaus Töpfer, UNEP Executive Director, and Mr. Francis Gurry, WIPO Deputy Director General.

The study highlights the need for a clear understanding of IP issues when genetic resources are first accessed. Agreement on how IP derived from access to genetic resources is used, and how the benefits are shared, is an important part of the exercise of prior informed consent. It is also a practical way of ensuring that access and benefit-sharing is fruitful, equitable and mutually acceptable, and that it becomes a true partnership between custodian and user of the genetic resource. The study investigates the potential for achieving this, while underscoring the practical and legal obstacles that traditional communities have encountered in the three cases discussed in the study.

The use of Orysa lonistaminata, a local grain in Mali

UNEP and WIPO made available a pre-publication version of the study to ministers at the Seventh Meeting of the Conference of the Parties to the Convention on Biological Diversity in Kuala Lumpur in February 2004.

The publication "WIPO-UNEP Study on the Role of Intellectual Property Rights in the Sharing of Benefits Arising from the Use of Biological Resources and Associated Traditional Knowledge" (No. 769(E)), which includes detailed case studies from India, Mali and Nigeria, may be ordered from the WIPO Electronic Bookshop at ***www.wipo.int/ebookshop***.

WORK ON THE PROTECTION OF BROADCASTING ORGANIZATIONS ACCELERATES

WIPO Member States advanced towards development of a treaty to update intellectual property standards for broadcasters in the digital age at a meeting of the Standing Committee on Copyright and Related Rights (SCCR) in Geneva from November 17 to 19. Participants made substantial progress in narrowing differences on key issues contained in a Revised Consolidated Text of treaty proposals and Member States called for accelerated progress towards conclusion of the treaty.

Noting the central role of broadcasting in developing countries, SCCR Chairman Mr. Jukka Liedes of Finland said: "Broadcasters are motors of social, economic and cultural development. The progress in the SCCR session is quite promising, as Member States' positions showed increased flexibility and a will to move forward towards the formal treaty negotiation process."

In accordance with the Chair's conclusions, consultation meetings will be organized by the Secretariat over the next few months in Geneva and in regions where requested by Member States. The Chair will prepare a second Revised Version of the Consolidated Text and a working paper to address whether and how protection should extend to webcasters, entities that transmit over the Internet either directly or as an adjunct to traditional broadcasting activities.

Photo: Mercedes Martinez Dozal

WIPO Deputy Director General Rita Hayes, SCCR Chairman Jukka Liedes, and WIPO Legal Counsel Edward Kwakwa during the SCCR

Consensus was also sought on the scope and duration of rights under the treaty. Some delegations would prefer to limit protection to those rights needed to fight signal piracy. On duration, while there was some support for a term of protection of 20 years, the proposals of most Member States call for a 50-year term.

WIPO Deputy Director General Rita Hayes said: "Most Member States are confident that differences on these key issues can be narrowed in the final negotiating process. The next session of the Standing Committee will take into account the progress made in regional consultations, paving the way for the adoption of a new treaty."

Work aimed at updating the IP rights of broadcasters, currently provided by the 1961 Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, began at WIPO in 1997. A growing signal piracy problem in many parts of the world, including piracy of digitized pre-broadcast signals, has made the need to update the treaty more acute.

In a move applauded by consumer and user groups, the SCCR agreed to place on the agenda of its next session an item proposed by Chile concerning exceptions and limitations to rights for the purposes of education, libraries and disabled persons.

Before the SCCR, an information session on the protection of ***audiovisual performances*** took place. This featured a presentation by Professor André Lucas from University of Nantes, France, on the transfer of audiovisual performers' rights to producers. Many Member States, intergovernmental and non-governmental organizations expressed interest in making headway on outstanding issues left over from the Diplomatic Conference on the protection of audiovisual performances in December 2000.

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NEW PARTIES TO WIPO-ADMINISTERED TREATIES IN 2004

The number of countries that signed up to WIPO-administered treaties in 2004 reflected in the growing recognition of the importance of intellectual property rights in an era in which economic growth is increasingly driven by knowledge and information. During 2004, 61 instruments of accession to or ratification of treaties administered by WIPO were deposited with WIPO Director General Kamil Idris, compared to 52 in 2003.

Last year also marked a significant development in the membership of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("Madrid Protocol") with the deposit by the Council of the European Union, on July 1, of the instrument of accession of the European Community to that treaty.

IN THE FIELD OF INDUSTRIAL PROPERTY

WIPO Convention

The Convention Establishing the World Intellectual Property Organization was signed at Stockholm on July 14, 1967, and entered into force in 1970. WIPO is responsible for the promotion of the protection of intellectual property throughout the world through cooperation among States, and for the administration of various multilateral treaties dealing with the legal and administrative aspects of intellectual property.

In 2004, Maldives and the Syrian Arab Republic (2) adhered to the WIPO Convention, bringing the total number of States at year end to 181.

Paris Convention

The Paris Convention for the Protection of Industrial Property was concluded in 1883 and is one of the pillars of the international intellectual property system. It applies to industrial property in the widest sense, including inventions, marks, industrial designs, utility models (a kind of "small patent" provided for by the laws of some countries), trade names (designations under which an industrial or commercial activity is carried on), geographical indications (indications of source and appellations of origin) and the repression of unfair competition.

In 2004, Andorra and Pakistan (2) adhered to the Paris Convention, bringing the total number of States to 168.

Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (PCT) was concluded in 1970. The PCT makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application. Such an application may be filed by anyone who is a national or resident of a contracting state. The Treaty regulates the formal requirements with which any international application must comply.

In 2004, San Marino (1) adhered to the PCT, bringing the total number of States to 124.

Madrid Agreement and Madrid Protocol

The Madrid system for the International Registration of Marks (the Madrid system) is governed by two treaties: the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement) and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol).

The Madrid Agreement was concluded in 1891, and the Madrid Protocol was concluded in 1989 in order to introduce certain new features into the Madrid system. These features address the difficulties that prevent certain countries from adhering to the Madrid Agreement by rendering the system more flexible and more compatible with the domestic legislation of these countries.

In 2004, Namibia and the Syrian Arab Republic (2) adhered to the Madrid Agreement, bringing the total number of States to 56.

In 2004, the European Community, Kyrgyzstan, Namibia and the Syrian Arab Republic (4) adhered to the Madrid Protocol, bringing the total number of States to 66.

Madrid Agreement (Indications of Source)

The Madrid Agreement for the Repression of False or Deceptive Indications of source on Goods was concluded in 1891. Under the Agreement, all goods bearing a false or deceptive indication of source, by which one of the Contracting States, or a place situated therein, is directly or indirectly indicated as being the country or place of origin, must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation.

In 2004, Islamic Republic of Iran (1) adhered to the Madrid Agreement (Source on Goods), bringing the total number of States to 34.

Trademark Law Treaty (TLT)

The Trademark Law Treaty (TLT) was concluded in 1994. The TLT aims to make national and regional trademark registration systems more user-friendly through the simplification and harmonization of procedures.

In 2004, Belgium, Germany and Turkey (3) adhered to the TLT, bringing the total number of States to 33.

Nice Agreement

The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks was concluded in 1957. The Nice Agreement establishes a classification of goods and services for the purposes of registering trademarks and service marks. The Classification consists of a list of classes (based on types of products and services) of which there are 34 for goods and 11 for services and an alphabetical list of the goods and services.

In 2004, Armenia and the Syrian Arab Republic (2) adhered to the Nice Agreement, bringing the total number of States to 74.

Vienna Agreement

The Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks was concluded in 1973. The Vienna Agreement establishes a classification system for marks which consist of or contain figurative elements. The classification comprises 29 categories, 144 divisions and some 1,887 sections in which the figurative elements of marks are classified.

In 2004, Armenia (1) adhered to the Vienna Agreement, bringing the total number of States to 20.

Locarno Agreement

The Locarno Agreement Establishing an International Classification for Industrial Designs was concluded in 1968. The Locarno Agreement establishes a classification for industrial designs which consists of 32 classes and 223 subclasses based on different types of products. It also comprises an alphabetical list of goods with an indication of the classes and subclasses into which these goods fall. The list contains some 6,600 indications of different kinds of goods.

In 2004, Belgium (1) adhered to the Locarno Agreement, bringing the total number of States to 44.

Strasbourg Agreement (IPC)

The Strasbourg Agreement Concerning the International Patent Classification was concluded in 1971. The Strasbourg Agreement establishes the International Patent Classification (IPC), which divides technology into 8 sections with approximately 69,000 subdivisions. Each of these subdivisions has a symbol which is allotted by the national or regional industrial property office that publishes the patent document.

In 2004, Armenia (1) adhered to the Strasbourg Agreement, bringing the total number of States to 55.

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Budapest Treaty

The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was concluded in 1977. The main feature of the Budapest Treaty is that a Contracting State which allows or requires the deposit of microorganisms for the purposes of patent procedure must recognize, for such purposes, the deposit of a microorganism with any "international depositary authority," irrespective of whether such authority is on or outside the territory of the said State. This eliminates the need to deposit in each country in which protection is sought.

In 2004, Armenia and Tunisia (2) adhered to the Budapest Treaty, bringing the total number of States to 60.

Nairobi Treaty

The Nairobi treaty on the Protection of the Olympic symbol was concluded in 1981. All Contracting States are obliged to protect the Olympic symbol (the five interlaces rings) against use for commercial purposes (in advertisements, on goods, as a mark, etc.) without the authorization of the International Olympic committee.

In 2004, Croatia and Kyrgyzstan (2) adhered to the Nairobi Treaty, bringing the total number of States to 43.

Lisbon Agreement

The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration was concluded in 1958. The aim of the Agreement is to provide for the protection of appellations of origin, that is, the "geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors".

In 2004, the Democratic People's Republic of Korea and Georgia (2) adhered to the Lisbon Agreement, bringing the total number of States to 22.

The Hague Agreement

The system of international deposit of industrial designs is governed by the Hague Agreement Concerning the International Deposit of Industrial Designs which dates from 1925 and has been revised at various times, in particular in London (1934 Act) and the Hague (1960 Act). A new Act of the Hague Agreement was adopted in Geneva on July 2, 1999.

In 2004, Croatia and Niger (2) adhered to the Hague Act and the Complementary Act of Stockholm, bringing the total number of States to 31.

The ***Geneva Act of the Hague Agreement*** Concerning the International Registration of Industrial Designs was concluded in 1999. The Act is aimed at making the system more responsive to the needs of users and facilitating adherence by countries whose industrial designs systems do not permit them to accede to the 1960 Hague Act.

In 2004, Croatia, Egypt, Hungary, Namibia and Turkey (5) adhered to the Geneva Act of the Hague Agreement, bringing the total number of States to 16.

Patent Law Treaty (PLT)

The Patent Law Treaty (PLT) was concluded in 2000. The purpose of the PLT is to harmonize and streamline formal procedures in respect of national and regional patent applications and patents. With a significant exception for the filing date requirements, the PLT provides maximum sets of requirements which the office of a contracting party may apply: the office may not lay down any other formal requirements in respect of matters dealt with by this Treaty.

In 2004, Croatia and Denmark (2) adhered to the PLT, bringing the total number of States to nine. The PLT will enter into force three months after ten instruments of ratification or accession by States have been deposited with the Director General.

IN THE FIELD OF COPYRIGHT AND RELATED RIGHTS

Berne Convention

The Berne Convention for the Protection of Literary and Artistic Works was concluded in 1886. The Convention sets out and defines minimum standards of protection of the economic and moral rights of authors of literary and artistic works.

In 2004, Andorra, Bhutan, Ireland, Syrian Arab Republic, United Arab Emirates and Viet Nam (6) adhered to the Berne Convention, bringing the total number of States to 157.

Rome Convention

The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, concluded in 1961, secures protection of performers on their performances, phonograms of producers of phonograms and broadcasts of broadcasting organizations.

In 2004, Andorra, Turkey and United Arab Emirates (3) adhered to the Rome Convention, bringing the total number of States to 79.

WIPO Copyright Treaty (WCT)

The WIPO Copyright Treaty (WCT) was concluded in 1996. It extends copyright protection to two additional subject matters: (i) computer programs and (ii) compilations of data or other material ("databases") in any form, which by reason of the selection or arrangement of their contents constitute intellectual creations.

In 2004, Armenia, Botswana, Jordan, Kazakhstan, Republic of Korea and United Arab Emirates (6) adhered to the WCT, bringing the total number of States to 50.

WIPO Performances and Phonograms Treaty (WPPT)

The WIPO Performances and Phonograms Treaty (WPPT) was concluded in 1996. The Treaty deals with intellectual property rights of two kinds of beneficiaries: (i) performers (actors, singers, musicians, etc.), and (ii) producers of phonograms (the persons or legal entities who or which take the initiative and have the responsibility for the fixation of the sounds). They are dealt with in the same instrument because most of the rights granted by the Treaty to performers are rights connected with their fixed, purely aural performances (which are the subject matter of phonograms).

In 2004, Armenia, Botswana, Indonesia, Jordan, Kazakhstan and The former Yugoslav Republic of Macedonia (6) adhered to the WPPT, bringing the total number of States to 48.

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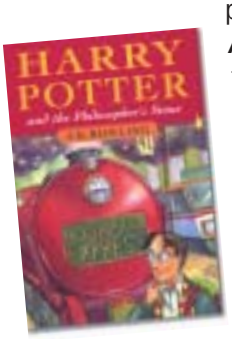
NEWS ROUNDUP

Domain name disputes: from fiction to footballers

Fans of ***JK Rowling's*** famous Harry Potter books who hoped to access the author's website by (mis-)typing ***www-jkrowling.com*** or ***kjkrowling.com***, were disenchanted to find themselves on a cybersquatter's site, bombarded with pop-up advertising. So the author took the case to the ***WIPO Arbitration and Mediation Center***. On November 22, 2004, the WIPO appointed panelist, Beatrice Jarka, ordered that the domain names be transferred to Joanne K. Rowling. The panelist found that Rowling had established unregistered trademark rights in the mark JK ROWLING, having sold millions of books under that name; and that the registrant of the disputed domain names, an individual from Uruguay with a history of typosquatting, had registered the domain names in bad faith in order to take financial advantage of the many people attempting to reach a JK Rowling-related website. (Typosquatting refers to the registering of domain names similar to well-known brands, but with a deliberate mis-spelling, for example using an adjacent letter on the keyboard.)



WIPO's Arbitration and Mediation Center has dealt with 7,000 cases under the fast-track, low-cost Uniform Domain Name Dispute Resolution Policy (UDRP) procedure, with parties from some 120 different countries. These include a host of famous names, such as ***Brazilian football star Ronaldinho*** of FC Barcelona, who scored a 1 – 0 victory against a U.S. domain name broker in December 2004.

In a UDRP proceeding, a trademark owner whose mark has been registered as a domain name by someone else can file a complaint with the WIPO Arbitration and Mediation Center*. The Center appoints an independent legal expert who considers submissions from the trademark owner and the domain name holder. If the expert determines that the Complainant owns trademark rights, the domain name is confusingly similar to the trademark, the Respondent has no legitimate interest in the domain name, and that the domain name is registered and used in bad faith, then the expert can order the transfer of the domain name to the Complainant.

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Trademark protection for Nelson Mandela

Nelson Mandela has also been troubled by cybersquatters. His foundation recently had the web site ***www.nelsonmandela.com*** shut down. Moreover, Mr. Mandela has found that, not only his name – on the Internet, in shopping malls, on advertising billboards, on gold coins, as character merchandising on goods – but even his prison number and his clan name are being abusively used without authorization. Mr. Mandela is now seeking trademark registration to protect his name. In the meantime, he is discouraging abusers by writing to inform them that he and his charity foundation have proprietary rights over his name, and that they must request authorization if they wish to make use of it.

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* See ***http//:arbiter.wipo.int/domains*** for guidance on filing a Complaint, and for an on-line index of domain name decisions

'Copyright and Choreography' dance performance

The WIPO Coordination Office in New York hosted a discussion on "Copyright and Choreography" and a dance performance by the renowned New York company, "Janis Brenner and Dancers", on November 10 in the Dag Hammarsjkold Auditorium at the United Nations. Ms. Brenner, choreographer and lead dancer, prefaced the three dances with a comment on her experiences of performing them in different countries and continents. Questions from the audience helped to bring out the link between copyright and choreography, and to illustrate WIPO's international mandate. Audience members from the diplomatic corps noted that the discussion and performance had enlivened their understanding of WIPO and its mandate.

Photo: UN Photo/Evan Schneider

Duet from heartSTRINGS *performed by Ms. Brenner and Mr. John-Mario Sevilla*

Disposable DVDs – countdown to self-destruction

French manufacturers have just released a new disposable DVD: after opening the box, the customer has eight hours to watch it before it self-destructs. The discs, on the market at a similar price to DVD rentals, are chemically timed – the surface of the disc gets darker once exposed to air and eventually becomes completely opaque and unreadable by DVD players. These discs can be illegally copied and pirated, like any other DVD, yet movie studios may see advantage in the disposables in that they will reduce the scope for illegal reproduction. The Walt Disney Company has been experimenting in test markets for the past year with a version that becomes unplayable after 48 hours. The inventors of the eight-hour version are using its short life expectancy – and thus limited time for creating counterfeits – as part of their promotion of the DVDs. DVD rental stores that stock them will spare their clients the chore of bringing back movie rentals to avoid surcharges. Environmentalists worry that these new discs will exacerbate landfill problems, but the discs and casings are recyclable. The disposable DVDs were first introduced on the market in 1998, but have yet to catch on. As copyright owners seek new ways to protect their works, the disposable discs may become more attractive.

CALENDAR of meetings

JANUARY 31 TO FEBRUARY 4
GENEVA

Preparatory Working Group of the Committee of Experts of the Nice Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks (Twenty-fifth session)

In the framework of the revision period, the Preparatory Working Group will consider and make recommendations on proposals for changes to the eighth edition of the Nice Classification, which will subsequently be submitted to the twentieth session of the Committee of Experts of the Nice Union for adoption.

Invitations: As members, the States members of the Preparatory Working Group of the Committee of Experts of the Nice Union; as observers, the States members of the Paris Union, which are not members of the Preparatory Working Group, and certain organizations.

FEBRUARY 14 TO 18
GENEVA

Committee of Experts of the IPC Union (Thirty-sixth session)

The Committee of Experts will complete consideration of amendments to the Seventh edition of the IPC and will finalize other preparations for the publication of the reformed IPC.

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

APRIL 18 TO 22
GENEVA

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Fourteenth session)

The Committee will work on finalizing the basic proposal to be presented to the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT), to be held in Geneva from March 13 to 31, 2006.

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

APRIL 25 AND 26
GENEVA

Conference on Dispute Resolution in International Science and Technology Collaboration

An event in which speakers from key institutions involved in science and technology collaboration will discuss their experience in structuring collaboration, areas of potential disputes and their approach to dispute resolution.

Invitations: Open to interested parties against payment of a fee, and as members, the States members of WIPO.

APRIL 25 AND 26
GENEVA

Preparatory Meeting for the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT)

The Preparatory Meeting will discuss and adopt the draft Agenda for the Diplomatic Conference, as well as the draft rules of procedure and the draft letters of invitation to the Diplomatic Conference.

Invitations: As members, the States members of WIPO; as observers, other States and certain intergovernmental organizations.

APRIL 27 TO 29
GENEVA

Program and Budget Committee (Eighth session)

The Committee will consider and discuss proposals with regard to WIPO's Program and Budget for the 2006-2007 biennium.

Invitations: As members, the States members of the Program and Budget Committee; as observers, all Member States of WIPO that are not members of the Committee.

MAY 23 TO 27
GENEVA

Standing Committee on the Law of Patents (SCP) (Eleventh session)

The Committee will continue its discussion on a draft treaty on harmonization of certain provisions of patent law and practice.

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

MAY 30 TO JUNE 3
GENEVA

Working Group on Reform of the PCT (Seventh session)

The meeting will consider proposals for the reform of the PCT system.

Invitations: As members, the States members of the PCT Union and the International Searching and Preliminary Examining Authorities under the PCT; as observers, all States members of the Paris Union which are not members of the PCT Union and certain organizations.

NEW PRODUCTS

JUNE 6 TO 10
GENEVA

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Eighth session)

The Committee will continue its work based on the renewed mandate established by the General Assembly, and will consider revised texts of policy objectives and principles for the protection of traditional knowledge and traditional cultural expressions/folklore.

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

JUNE 23 & 24 ANDJUNE 27 & 28
GENEVA

WIPO Workshops for Mediators in Intellectual Property Disputes

An annual event for all parties interested in WIPO mediation procedures.

Invitations: Open to interested parties, against payment of a fee.

JUNE 30 AND JULY 1
GENEVA

WIPO Advanced Workshop for Mediators in Intellectual Property Disputes

A new event for all parties who wish to further develop the mediation skills taught by the instructors of the annual WIPO Workshops for Mediators in Intellectual Property Disputes.

Invitations: Open to interested parties, against payment of a fee.

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April 25 and 26, 2005

Geneva, Switzerland

WIPO Conference on Dispute Resolution in International Science and Technology Collaboration

WIPO
ARBITRATION
AND
MEDIATION CENTER

The WIPO Arbitration and Mediation Center will hold a Conference on Dispute Resolution in International Science and Technology Collaboration in Geneva on April 25 and 26, 2005.

Public and private research institutions, universities, industry, start-up companies and venture capital providers the world over collaborate to exchange scientific expertise, entrepreneurial experience, funding and research results. It is not surprising that the legal structures underpinning such relationships have become increasingly intricate, giving rise to complex IP disputes. As Ms. Rosemary Wolson, IP Manager at the University of Cape Town, comments: "The potential for disputes grows together with the opportunities." Mr. Gabriel Clerc, Director, Industrial Relations Department, *Ecole Polytechnique Fédérale de Lausanne* (EPFL) adds that "the risk of disputes and the potential financial consequences should not become an obstacle to the conclusion of R & D collaboration and licenses between universities and industry."

Preventing and managing disputes is a growing challenge. Mediation and arbitration offer flexible and cost-effective alternatives to court litigation, particularly when the parties are based in different countries or wish to preserve an ongoing relationship. Dr. Philip Graham, Executive Director of the Association for University Research and Industry Links (AURIL) in the United Kingdom notes that "the cost of litigation makes it very difficult for any university or public sector organization to defend their patents. Public research organizations, with their financial constraints will have to make better use of mediation in order to avoid head-on disputes."

The Conference, chaired by WIPO Deputy Director General Mr. Francis Gurry, will bring together speakers from key institutions involved in science and technology collaboration to share their experience and discuss their approach to dispute resolution.

The program and related information is available at *http://arbiter.wipo.int/conference.*

The Conference includes speakers from:

Agilent
Akzo Nobel
Association for University Research and Industry Links (AURIL)
Association of University Technology Managers (AUTM)
BTG
Council of Science & Industrial Research (CSIR), India
Ecole Polytechnique Fédérale de Lausanne (EPFL)
Edinburgh Research & Innovation
European Commission, DG Research
Fraunhofer Institute
Fujitsu Techno Research
Genome Institute of Singapore (GIS)
GlaxoSmithKline
Index Ventures
Institut Pasteur
Massachusetts Institute of Technology (MIT)
Ministry of Research, France
National Institute of Advanced Industrial Science and Technology (AIST)
Samsung
The Scripps Research Institute
Serono
Solvay Pharmaceuticals
Stanford University
University of California at Los Angeles (UCLA)
University of Cape Town

"At any given time, Institut Pasteur manages a portfolio of 400 groups of related patents, 200 license agreements and 30 industrial and R&D collaborations." – Christian Policard, Vice President, Business Development and Industrial Partnerships Department, Institut Pasteur

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