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LIST OF PREPARATORY DOCUMENTS

prepared by the Secretariat

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AWARENESS BUILDING ACTIVITIES AND STRATEGIC
CAMPAIGNS AS A MEANS FOR BUILDING RESPECT FOR
IP

Contributions prepared by Croatia, Kazakhstan, Thailand and the United States of America; by the Asociación Española para la Defensa de la Marca, the Istituto Centromarca per la Lotta alla Contraffazione and the Union des Fabricants; and by the Cooperative Society of Music Authors and Publishers in Switzerland

AWARENESS-RAISING ACTIVITIES TARGETING SCHOOL CHILDREN UNDERTAKEN IN
CROATIA

Contribution prepared by Ms. Ana Rački Marinković, Deputy Director General, State Intellectual Property Office of the Republic of Croatia, Zagreb, Croatia

Abstract: The State Intellectual Property Office of the Republic of Croatia (SIPO) led an initiative within the national Coordination Bodies for the Enforcement of Intellectual Property Rights to undertake awareness-raising activities targeting children and young people. Two activities complementing each other were envisaged: a competition for school children in the framework of the WIPO Building Respect for Intellectual Property (IP) Competitions for Schools and a project entitled *IP Day for Kids* intended to raise awareness among children and young people.

The competition was launched on the occasion of World IP Day and was carried out nationwide. It was also promoted during the complementary activity “IP Day for Kids”, as well as during media coverage of this activity, which was held on May 30, 2017, in Zagreb, and on November 14, 2017, in Varaždin. In 2018, SIPO has launched another cycle of the competition, and held an event for children in Rijeka on April 11, 2018.

PUBLIC OUTREACH WORK IN THE AREA OF INTELLECTUAL PROPERTY RIGHTS:
KAZAKHSTAN’S EXPERIENCE – THE NATIONAL ANTI-PIRACY CAMPAIGN

Contribution prepared by Ms. Gulnara Kaken, Deputy Director, Department for Intellectual Property Rights, Ministry of Justice, Astana, Kazakhstan

Abstract: This document describes the experience of the Ministry of Justice of Kazakhstan in the dissemination of knowledge about IP and promoting respect for IP through public awareness campaigns and competitions aimed at young people, the private sector, employees of law enforcement authorities and other interested agencies.

RAISING IP AWARENESS VIA SOCIAL MEDIA IN THAILAND

Contribution prepared by Mr. Porsche Jarumon, Senior Trade Officer, IP Promotion and Development Office, and Mr. Sasiwat Rattanaphan, Public Relations Officer, Office of Central Administration, Department of Intellectual Property, Ministry of Commerce, Nonthaburi, Thailand

Abstract: At present, people increasingly have access to the Internet. Information and content can easily be shared over the computer network. To keep pace with technological and digital progress, it is believed that the raising of IP awareness should not be limited to traditional methods. Nowadays, online and social media play a significant role in enabling public and private sectors, entrepreneurs, small and medium-sized enterprises, institutions, universities, schools, and Internet users, particularly the young generation, to understand IP better and to become involved in IP-related activities. Recognizing the dynamic behaviors of Internet users and global IP trends, particularly in the digital environment, the Department of Intellectual Property of Thailand has strategically taken new measures on raising IP awareness and enhancing IP knowledge of the public by means of online social media, including campaigns on Facebook, information posted on Instagram, etc.

IP PUBLIC AWARENESS CAMPAIGNS IN THE UNITED STATES OF AMERICA

Contribution prepared by Mr. Peter N. Fowler, Senior Counsel, Enforcement, Office of Policy and International Affairs, United States Patent and Trademark Office, Alexandria, Virginia, United States of America

Abstract: This document summarizes recent, current, and planned IP awareness-building activities and strategic campaigns in the United States of America (U.S.), particularly those organized by U.S. Government agencies or conducted in partnership with Government agencies. The United States Patent and Trademark Office (USPTO) was inspired, in part, by recent submissions to the WIPO Advisory Committee on Enforcement (ACE) and is currently planning an awareness campaign concerning counterfeit goods. The USPTO will be launching a video contest open to youth, high school students, college students, and the general public on this topic. The USPTO anticipates launching this contest in the summer of 2018, and it is expected to be ongoing during the thirteenth ACE session. The winning entries will be utilized as part of a broader awareness campaign by the USPTO over the next year.

THE AUTHENTICITY PROJECT

Contribution prepared by Mr. José Antonio Moreno Campos, Director General, Asociación Española para la Defensa de la Marca (ANDEMA), Madrid, Spain, Mr. Claudio Bergonzi, Director General, Istituto Centromarca per la Lotta alla Contraffazione (INDICAM), Milano, Italy, and Ms. Delphine Sarphati, Director General, Union des Fabricants (UNIFAB), Paris, France

Abstract: *Authenticity* is an awareness project carried out by the French, Italian and Spanish trademarks associations to raise awareness of the need to protect authentic products and local commerce against the distribution and sale of counterfeit goods, by creating a sign of recognition that could be used by those cities that are actively supporting trademarks and local commerce by protecting them from counterfeiting. Through the signing of a Memorandum of Understanding (MoU), interested cities can become “authenticities”, cities willing to cooperate with the three associations with a view to undertaking awareness campaigns, training of local police and cooperating with other “Authenticities” in sharing best practices on the seizure of counterfeit products. Originally funded by the European Observatory on Infringement of Intellectual Property Rights, the project also aims at creating a network of cities respectful of IP in France, Spain and Italy, currently linking Rome, Paris, Cervia, Málaga and Alicante.

RESPECT ©OPYRIGHT! – BUILDING COPYRIGHT AWARENESS AMONG PUPILS

Contribution prepared by Ms. Claudia Kempf, Head, Members Department, Cooperative Society of Music Authors and Publishers in Switzerland, Zurich, Switzerland

Abstract: *respect ©opyright!* is an educational project designed by five Swiss collective management organizations to make young people aware of copyright and the value of creative work. *respect ©opyright!* gives 12- to 16-year-olds an interactive introduction to copyright and is conducted during normal classroom hours. Pupils make up a song together with an artist, with whom they discuss the song. They are thus initiated in a fun way to the production conditions that artists face and to the artistic and cultural landscape in Switzerland. The goal of *respect ©opyright!* is not to frighten young people by wagging a threatening finger, but to make them understand the work of creative artists. *respect ©opyright!* will be on offer for the twelfth year running, a real success story. In all, more than 239 school visits have been made so far, reaching some 39,440 pupils.

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THE INTERFACE OF IP ENFORCEMENT AND COMPETITION LAW

Contributions prepared by Brazil and Peru

THE INTERSECTION BETWEEN INTELLECTUAL PROPERTY RIGHTS AND ANTITRUST LAW IN BRAZIL

Contribution prepared by Ms. Paula Azevedo, Commissioner, Administrative Council for Economic Defense, Brasilia, Brazil

Abstract: Antitrust law and IP law must be reconciled in order to achieve common goals such as stimulating economic development, promoting innovation and encouraging competition. However, the interaction between these two areas of law is not always simple and requires a careful balance to ensure that the shared objectives are attained. In the context of the new economy, where innovation, knowledge and IP play a central role in the competition between market players and in defining the limits of the relevant market, there is a growing awareness of the need to balance IP rights and competition rules. The Administrative Council for Economic Defense, Brazil's competition authority, has been tasked with investigating and deciding cases in which IP rights were exercised in an allegedly abusive manner and, in so doing, has developed a framework for analyzing the intersection between IP rights and competition law.

INTELLECTUAL PROPERTY AND UNFAIR COMPETITION LAW IN PERU

Contribution prepared by Mr. Ray Augusto Meloni García, Director, Department of Distinctive Signs, National Institute for the Defense of Competition and Protection of Intellectual Property, Lima, Peru

Abstract: This contribution addresses the competences of the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) to receive and resolve specific cases relating to industrial property (trademarks) and unfair competition. The details of a specific case, Lab. Nutrition Corp. S.A.C. vs. José Abraham Villacorta Olano et al., are described to portray INDECOPI's experience in settling disputes in which the industrial property system is misused to prevent competitors from entering or remaining in the market. The legal system in Peru foresees mechanisms to resolve and sanction such cases under unfair competition law and trademark law. The administrative authority for these purposes is vested in INDECOPI through its operational and dispute-resolution bodies, namely the Unfair

Competition Monitoring Commission and the Department of Distinctive Signs (DSD).

In the above-mentioned case, the Unfair Competition Monitoring Commission ruled that it was an act contrary to good faith in business practice to register, on one's own initiative, distinctive signs that identified goods manufactured abroad with a view to becoming the sole distributor of these goods in the national market. The Commission therefore levied a fine and referred the evidence to INDECOP's DSD to take action, as appropriate, in its field of competence in respect of the trademarks involved in the proceedings.

The DSD, for its part: (i) ruled that the various trademark registrations were null and void on the ground that the applicant had acted in bad faith when filing the applications; and (ii) ruled that various actions were inadmissible because they infringed industrial property rights.

WIPO/ACE/13/6

COORDINATING INTELLECTUAL PROPERTY
ENFORCEMENT AT THE NATIONAL AND REGIONAL LEVEL
*Contributions prepared by Belarus, China, Finland, Mexico,
Peru, the Republic of Korea, the Russian Federation and
Uganda*

INTELLECTUAL PROPERTY DISPUTE RESOLUTION IN BELARUS: GOVERNMENT
BODIES INVOLVED AND THEIR COMPETENCES

Contribution prepared by Mr. Aliaksandr Zayats, Deputy Head, Department of Law and International Treaties, and Ms. Yelena Makhankova, former Head, Division for Monitoring Compliance with Intellectual Property Legislation, National Center of Intellectual Property, Minsk, Belarus

Abstract: This paper describes how the competences to resolve IP disputes have been distributed among various bodies in Belarus. Both administrative and legal procedures exist to remedy infringements of IP rights. More specifically, the paper discusses the competences of the Board of Appeals of the National Center of Intellectual Property and the Specialized Tribunal for Intellectual Property Matters under the Supreme Court of Belarus.

STRENGTHENING THE PROTECTION OF INDUSTRIAL DESIGNS TO PROMOTE THE
DEVELOPMENT OF THE LIGHTING INDUSTRY – INTELLECTUAL PROPERTY RIGHTS
PROTECTION IN GUZHEN, ZHONGSHAN, CHINA

Contribution prepared by Mr. Yin Ming, Director, Zhongshan Municipal Bureau of Intellectual Property, Zhongshan City, China

Abstract: Initiated and supported by the State Intellectual Property Office of the People's Republic of China, the Guzhen model aims to establish a system of industrial design protection that enables the speedy granting of IP rights, as well as enforcement and coordination in an area with a specific industrial cluster, namely the lighting industry. The model has a positive effect on the development of the industry and the wider regional economy.

CHINA'S EXPERIENCE IN PROMOTING THE USE OF LEGITIMATE SOFTWARE

Contribution prepared by Mr. Liangbin Zheng, Director, Enforcement Division, Copyright Department, National Copyright Administration of China, Beijing, China

Abstract: Copyright protection for software is an important part of IP protection. This article describes the efforts of the Chinese Government to strengthen copyright protection for software. Based on its relatively comprehensive laws and regulations on copyright protection for software, China has launched a series of policies and measures to promote the use of legitimate software. It has also established an inter-ministerial coordination mechanism to promote the use of legitimate software by government agencies and enterprises. These efforts have effectively improved the environment for copyright protection for software and boosted the development of the software industry.

BEST PRACTICES FOR THE USE OF CEASE-AND-DESIST LETTERS ADDRESSED TO INDIVIDUALS IN FINLAND

Contribution prepared by Ms. Anna Vuopala, Government Counsellor, Division for Copyright Policy and Audiovisual Culture, Department of Culture and Art Policy, Ministry of Education and Culture, Helsinki, Finland

Abstract: Following a sharp increase in the number of cease-and-desist letters sent on behalf of right holders by law firms against alleged copyright infringers and a backlash against the content and process attached to this practice from recipients as well as the media, a working group was appointed by the Ministry of Education and Culture to study the use of such letters. The group was tasked with proposing best practices that would take account of the fundamental rights of the letters' recipients, balancing these against the rights of copyright holders, and that would make the process of sending cease-and-desist letters more transparent and predictable. The working group developed 15 best practices on the basis of the current law that increase legal certainty and balance in the monitoring of copyright infringements by means of such letters.

COMBATING SOFTWARE PIRACY IN MEXICO

Contribution prepared by Mr. Miguel Ángel Margáin, Director General, Mexican Institute of Industrial Property, Mexico City, Mexico

Abstract: Aside from the protection of IP, the Mexican Institute of Industrial Property (IMPI) is responsible for both promoting and enforcing IP rights. In the context of promotion, IMPI has partnered with the Business Software Alliance (BSA) in pursuit of a common objective – to ensure that the IP rights involved in the use of software are fully respected. Recognizing the value of joint public and private sector initiatives in curbing the prevalence of illegal software and in creating favorable conditions for the development of sound technological ecosystems, IMPI and BSA have signed several cooperation agreements aimed at discouraging and combating the illegal reproduction and installation of computer programs. Several activities have been undertaken in the application of those agreements, including awareness-raising campaigns on the advantages of using legal software as well as inspection programs, conducted *ex officio* by IMPI and based on listings provided by BSA, to verify the legal use of computer programs. Although the use of illegal software is still widespread among Mexican companies, inter-institutional cooperation efforts have led to decreases in the rate of unlicensed software.

ENFORCEMENT SYSTEMS IN IBEPI COUNTRIES

Contribution prepared by Mr. Ronald Gastello, Technical Secretary, Commission on Distinctive Signs, INDECOPI, Lima, Peru

Abstract: Since the establishment of INDECOPI, three distinct phases can be identified in terms of the action taken to combat IP-infringing practices. The first phase was marked by a local punitive strategy, reliant on INDECOPI's *ex parte* or *ex officio* operations to confiscate counterfeit and pirated goods inside the country. During the second phase, action was primarily taken at a customs control level, aimed at preventing the entry of infringing goods into the market. The third phase recognized the need for a holistic approach in tackling IP infringements and pursued, on the one hand, a shift in consumer culture to the effect that demand for counterfeit goods would decrease, and, on the other, a decrease in the supply of such goods by providing greater incentives for micro and small businesses to create and register their own trademarks.

In November 2017, the Ibero-American Program on Industrial Property and Development (IBEPI) organized a Workshop on the Enforcement of Rights in Distinctive Signs hosted by INDECOPI in Lima. With a view to establishing a basis for potential harmonization of IP enforcement in IBEPI countries, the participating countries shared information and exchanged their experiences with IP enforcement, thus assessing commonalities and differences in their national legal frameworks and practices. Discussions were based on the responses to a detailed questionnaire covering, *inter alia*, issues relating to national IP enforcement policies, enforcement authorities, available legal measures, the disposal of IP-infringing goods. The present contribution presents the results of this survey, thereby providing an overview of enforcement systems in IBEPI countries.

ADMINISTRATIVE MEASURES TAKEN BY THE KOREAN INTELLECTUAL PROPERTY OFFICE UNDER THE UNFAIR COMPETITION PREVENTION AND TRADE SECRET PROTECTION ACT

Contribution prepared by Mr. Taeyoung Lee, Assistant Director, Multilateral Affairs Division, Korean Intellectual Property Office, Daejeon, Republic of Korea

Abstract: The Korean Intellectual Property Office (KIPO) is increasingly undertaking administrative measures to respond to unfair competition practices with a view to promoting consumer rights and interests. In an effort to prevent unfair competition, the Republic of Korea amended the Unfair Competition Prevention and Trade Secret Protection Act in January 2017 and April 2018. The amendments expanded both the scope of what is to be considered an act of unfair competition as well as the authority conferred upon KIPO to investigate cases of suspected unfair competition practices and issue corrective recommendations. This contribution describes the recent amendments as well as KIPO's competences and illustrates KIPO's strengthened efforts to remedy acts of unfair competition by way of two recent case studies.

CRIMINAL INVESTIGATION AND PROSECUTION OF IP INFRINGEMENT IN THE REPUBLIC OF KOREA

Contribution prepared by Mr. Donghwan Shin, Prosecutor and Senior Legal Counsel, International Legal Affairs Division, Ministry of Justice, Seoul, Republic of Korea

Abstract: The Ministry of Justice and the Prosecution Service of Korea coordinate the investigation and prosecution of IP crimes. Prosecutors are in charge of criminal investigations in Korea, as well as IP infringement cases referred to them by the police and the special

investigation police. In criminal procedure, prosecutors collaborate, instruct and give legal advice to other agencies and, at their sole discretion, request warrants from the court. As collecting evidence is an essential part of any investigation, search and seizure warrants and digital forensic skills are frequently used in IP infringement cases to identify the infringer and relevant damages. All 59 district prosecutors' offices in Korea have prosecutors for IP cases and two of them have separate departments exclusively for IP investigation. To keep up with growing digital and cyberspace IP crime, the Ministry of Justice and the Prosecution Service endeavor to focus on technological developments and tactics. The National Digital Forensic Center and Forensic Investigation Department of the Supreme Prosecutors' Office are both good examples in this regard.

THE DEVELOPMENT OF MECHANISMS TO ENSURE COMPLIANCE WITH COPYRIGHT AND RELATED RIGHTS IN THE RUSSIAN FEDERATION

Contribution prepared by Ms. Natalia Romashova, Director, Legal Department, Ministry of Culture, Moscow, Russian Federation

Abstract: The Russian Federation has undertaken a number of measures to strengthen the protection and enforcement of copyright and related rights, as well as to increase the transparency and accountability of collective rights management organizations to ensure that these bodies effectively administer the value accrued from exploiting works protected by copyright and related rights. Legislative changes include an increased protection for directors of theatrical performances and the introduction of anti-piracy legislation. In the latter context, an extra-judicial mechanism exists to address online copyright infringements, allowing right holders to apply to the owner of a website with infringing content and request the blocking of such site. In addition, courts can now also restrict access to a site that mirrors another website to which access has previously been blocked. While these measures are having a positive effect in curbing IP infringements, further efforts are ongoing, for instance, with regard to simplifying the procedures for blocking infringing Internet sites.

ARRANGEMENTS TO ADDRESS ONLINE IP INFRINGEMENTS

WIPO/ACE/13/7

Contributions prepared by Israel, the United Kingdom and the European Union

PROPOSED ONLINE COPYRIGHT ENFORCEMENT MEASURES IN ISRAEL

Contribution prepared by Ms. Ayelet Feldman, Adv, and Mr. Howard Poliner, Adv, Intellectual Property Law Division, Ministry of Justice, Jerusalem, Israel

Abstract: A Bill to amend the Copyright Law (Copyright Law (Amendment No. 5), 5778-2017) was submitted to the Israeli Parliament in 2017 and is currently being discussed in public hearings before the Economic Committee. The Bill aims to create effective legal remedies for copyright enforcement in the online environment while simultaneously facilitating public online access to information and culture; preserving privacy rights; and providing platforms for the exercise of free speech and legitimate business activities. These measures include extending the scope of secondary infringement liability, site blocking in appropriate circumstances, court orders for the discovery of the identities of online infringers and extended criminal liability.

EXPERIENCES OF THE UNITED KINGDOM IN WORKING WITH INTERMEDIARIES TO TACKLE INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

Contribution prepared by Ms. Elizabeth Jones, IP Enforcement Policy Advisor, Intellectual Property Office, Newport, United Kingdom

Abstract: As set out in its IP Enforcement Strategy (2016-2020), the United Kingdom (UK) aims to ensure all parties understand their responsibilities in helping to eradicate online infringement. The UK Intellectual Property Office works with a number of different intermediaries to achieve this aim. This includes facilitating a code of practice between search engines and the creative industries to stop search results from pointing consumers to infringing websites; working with the advertising industry to prevent advertising appearing on (and funding) copyright infringing websites through the Police IP Crime Unit's Operation Creative and the Infringing Website List; and cooperation with online sales platforms.

STEPPING UP INDUSTRY-LED EFFORTS TO REDUCE INTELLECTUAL PROPERTY INFRINGEMENTS – AN UPDATE FROM THE EUROPEAN COMMISSION

Contribution by Mr. Harrie Temmink, Deputy Head, and Ms. Natalia Zebrowska, Policy Officer, Intellectual Property and Fight Against Counterfeiting, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, European Commission, Brussels, Belgium

Abstract: In November 2017, the European Commission presented a comprehensive package of measures to reduce counterfeiting and piracy. In that context, the Commission confirmed its “follow the money” approach to the enforcement of IP rights, which consists of designing policy measures that identify and disrupt the money trail for commercial-scale IP rights-infringing activities. In practice, this approach translates into voluntary agreements between industry players. The two most advanced self-regulatory initiatives are MoU on the sale of counterfeit goods via the Internet, which brings together major Internet platforms and right holders who suffer from frequent online sales of counterfeit or pirated versions of their products, and the MoU on online advertising and IP rights. Both initiatives focus on online infringements of IP rights and rely on the involvement of intermediaries and the use of new technologies that facilitate the enforcement of IP rights.

WIPO/ACE/13/8

INTELLECTUAL PROPERTY AND THE JUDICIARY
prepared by Mr. Xavier Seuba, Associate Professor, Judicial Trainings Manager and Director of Diploma on Patent Litigation in Europe, Center for International Intellectual Property Studies, University of Strasbourg, France

Abstract: The crucial impact of judicial decisions on the shape and shades of IP law is widely recognized. *Intellectual Property and the Judiciary* is a jointly edited volume that provides a comprehensive picture of judicial specialization in IP. It holds that yielding the benefits of specialization while preserving the contextualized understanding of IP law is key to the quality and fairness of IP adjudication, understood as a weighing and balancing process for the implementation of IP rights. Due consideration of the public interest, fundamental rights, competition and free trade principles are key in that operation. Judges also play a crucial role to adjust IP law to technological and social development. Digitalization, automation, centralization and delegation of authority in law enforcement challenge traditional notions of IP enforcement, judgecraft and the judiciary itself.

WIPO/ACE/13/9

THE QUANTIFICATION OF DAMAGES IN CASES OF IP
INFRINGEMENTS

*prepared by Colombia, Jordan, Morocco, the United Kingdom
and the International Association for the Protection of
Intellectual Property*

ASSESSMENT OF DAMAGE TO INTELLECTUAL PROPERTY: A VIEW FROM THE
COLOMBIAN LEGAL SYSTEM

*Contribution prepared by Mr. Jorge Mario Olarte Collazos, Deputy Superintendent for Judicial
Affairs, Superintendency of Industry and Commerce, Bogota, Colombia*

Abstract: Comprehensive protection of IP rights must include mechanisms designed to ensure that a right holder is granted an effective remedy or even compensation for damage caused by an act infringing his or her exclusive rights. Of course, the difficulties in this area are not minor, particularly with regard to the determination and quantification of damage caused by IP rights infringement. The purpose of the present document is to set out the criteria available to IP right holders and judges in Colombia for establishing and calculating the amount of damage caused by an infringing activity both in the area of industrial property and in copyright.

CALCULATION OF DAMAGES IN THE CASE OF INFRINGEMENT OF INTELLECTUAL
PROPERTY

Contribution prepared by Dr. Nehad Al-Husban, Judge, Amman Appeal Court, Jordan

Abstract: The Jordanian legal system provides for compensation for both material and moral damage. Material damage is determined by the actual losses and loss of profits sustained by the plaintiff. Under this system, courts may not apply general rules of equity and fairness when calculating damages nor may they award punitive damages, *i.e.*, award an additional amount to the plaintiff as compensation for the infringement of that person's IP rights. Moral damage is limited to the infringement of copyright or related rights. In order for moral damages to be awarded, plaintiffs must prove the merits of their claim, and calculate them based on a discretionary valuation by an expert. Furthermore, the amount of damages awarded is neither linked to the nature of the infringing act - whether it was a direct infringement resulting from the imitation or use of a trademark without the consent of its owner or an indirect infringement due to the sale of counterfeit goods - nor to the willfulness of the infringer's actions. Indeed, the amount of damages is determined by the actual losses and loss of profits sustained by the plaintiff, provided that such damage was a natural consequence of the infringing act. Finally, courts may award compensation equal to the value of a license agreement, if the plaintiff can prove the relevance of such an agreement to their claim.

COMPENSATION FOR DAMAGES IN COUNTERFEITING CASES

Contribution prepared by the Honorable Justice Mr. Abderazzak El Amrani, First President, Casablanca, Commercial Court of Appeal, Morocco

Abstract: Under Morocco's legislation and case law, including most decisions issued by commercial courts, a trademark owner may choose to claim "full compensation" for actual losses suffered and profits generated by the unlawful activity. In such cases, the trademark owner will have to establish the merits of their claim, which could be very difficult even if the judge has recourse to a technical expert. Thus, plaintiffs usually choose to claim the statutorily "pre-established damages", so as to be exempt from proving the extent of the incurred damages. Where a court assesses the compensation to be awarded within the set range for pre-established damages, it takes into account the volume of counterfeit goods seized from the infringer's shop. The judge will only look at the issue of good and bad faith when the infringer is a small "non-manufacturing" trader. On the other hand, a manufacturing infringer is deemed to be a counterfeiter liable for compensation regardless of their good faith. Finally, the Moroccan judiciary does not establish the terms of compensation by reference to the value of hypothetical license agreements.

EXPERIENCES ON QUANTIFICATION OF DAMAGES FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT IN THE UNITED KINGDOM

Contribution prepared by Mr. Alan Johns QC, District Judge of the Intellectual Property Enterprise Court, High Court of Justice, London, United Kingdom

Abstract: An IP right holder is entitled to damages for infringement of the IP right without the need to establish any knowledge on the part of the infringer. Further, the law provides an effective remedy for damages, namely negotiating damages, even if loss of a conventional kind cannot be established. In such cases damages are awarded in the sum which might reasonably have been demanded for permitting the wrong. That sum is arrived at by picturing a hypothetical negotiation between the right holder and the infringer and is a question for the court based on the evidence. In cases where the infringer knowingly committed the infringement, the court may award additional damages. Neither negotiating damages, nor additional damages, are punitive. There is only limited scope for damages to compensate for "moral prejudice".

THE STUDY ON THE QUANTIFICATION OF MONETARY RELIEF OF THE INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INTELLECTUAL PROPERTY (AIPPI)

Contribution prepared by Dr. Ari Laakkonen, Assistant Reporter General, AIPPI, Zurich, Switzerland

Abstract: This paper summarizes the main issues highlighted by National and Regional Groups of AIPPI during the Study on the Quantification of Monetary Relief that AIPPI concluded in October 2017. The discussions focused on the quantification of damages (the actual profits of the right holder lost as a result of the infringement) and reasonable royalties (an estimate of damages obtained by applying a reasonable royalty to the infringer's unlawful sales). They also addressed the principles applicable to the recovery of damages for conveyed goods and for goods into which an infringing article are incorporated, as well as the recovery of damages for future losses. The quantification of claims for accounts of profit, i.e., the infringer's unlawful profit attributable to infringement, was not within the ambit of the Study.

WIPO/ACE/13/10

NATIONAL AND REGIONAL EXPERIENCES WITH THE
ADAPTATION OF WIPO'S TRAINING MATERIALS
INVESTIGATING AND PROSECUTING IP CRIME
*Contributions prepared by Jordan, South Africa and the African
Regional Intellectual Property Organization*

THE CUSTOMIZATION OF THE WIPO TRAINING MATERIALS INVESTIGATING AND
PROSECUTING IP CRIME FOR THE USE BY JUDGES, PUBLIC PROSECUTORS AND IP
LAW ENFORCEMENT OFFICIALS IN JORDAN

*Contribution prepared by the Honorable Justice Dr. Nehad Al-Husban, Judge, Amman Appeal
Court, Jordan*

Abstract: In 2017, the WIPO Training Materials *Investigating and Prosecuting Intellectual Property Crime* were customized for use in Jordan. The customization resulted in the publication of a Training Manual entitled *Investigation and Prosecution of IP Crimes for Judges, Public Prosecutors and IP Law Enforcement Officials in Jordan*, which is becoming an invaluable reference. It provides the target audience with the information to develop the skills necessary to effectively enforce IP rights. Furthermore, as each IP right is governed by a separate law under Jordanian legislations, the training manual facilitates the work of the Jordanian enforcement authorities by grouping the enforcement provisions in one booklet, namely the Training Manual.

The Training Manual is considered a main reference material within the Jordanian Judicial Institute and is used as a training resource to teach students enrolled in the Jordanian Judicial Institute Diploma and in training courses

THE VALUE OF A HOLISTIC APPROACH TO TRAINING LAW ENFORCEMENT AGENCIES
USING CUSTOMIZED TRAINING MATERIALS

Contribution prepared by Ms. Amanda Lotheringen, Senior Manager Copyright and Intellectual Property Enforcement, Companies and Intellectual Property Commission, Pretoria, South Africa

Abstract: South Africa has long realized the importance of training and capacity building in the value chain of enforcing IP rights. Targeting all parties through a holistic approach, with the deployment of the customized training manual, delivered multiple benefits. The South African Training Manual, offered through a holistic approach to law enforcement officials, delivered the benefits for an effective and efficient enforcement of IP rights. When training is done holistically, the specific role of each party is clearly identified and national cooperation between various enforcement authorities becomes critical for effective enforcement of IP.

Co-operation with WIPO made it possible for South Africa to customize the existing training material that WIPO makes available to all WIPO Member States by adapting the *Investigating and Prosecuting IP Crime Training Materials for Law Enforcement Authorities and Prosecutors* into a customized tool that is perfect and uniquely shaped for the South African enforcement landscape. The importance of effective training materials and joint training sessions is therefore a cornerstone of promoting respect for IP rights on all levels in South Africa. At a time when scrutiny of law enforcement officers is on the rise, training them appropriately is essential to minimize errors and make today's enforcement officials the best they can be.

THE USE OF THE ADAPTED WIPO TRAINING MATERIALS *INVESTIGATING AND PROSECUTING IP CRIME* IN ARIPO MEMBER STATES

Contribution prepared by Mr. Fernando dos Santos, Director General, African Regional Intellectual Property Organization, Harare, Zimbabwe

Abstract: The African Regional Intellectual Property Organization (ARIPO) recognizes the importance of building respect for IP in the African region. In 2013, ARIPO adopted a strategy for building respect for IP, which it is implementing in cooperation with international organizations and its Member States. As a result of a regional workshop organized in July 2014 by ARIPO and WIPO in Harare, Zimbabwe, to encourage the teaching of IP in police colleges, WIPO undertook the preparation of the training materials *Investigating and Prosecuting IP Crime* for law enforcement authorities and prosecutors (Training Manual). The Training Manual was launched at a further such workshop in 2015, stimulating increased teaching activity on IP crime in the police colleges of a number of ARIPO member states. At ARIPO's request, a customized version of the Training Manual was prepared, incorporating relevant legislation from 10 ARIPO jurisdictions. This was launched in July 2018 at a workshop for police training officers, organized by WIPO and ARIPO. It is hoped that the Training Manual will continue to stimulate the enhancement of police training on IP crime in the African region, including through the development of country-specific versions of the Manual.

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