

Advisory Committee on Enforcement

Eighth Session

Geneva, December 19 and 20, 2012

ANALYSIS OF PROPOSALS FOR THE FUTURE WORK OF THE ACE

prepared by the Secretariat

1. At the seventh session of the Advisory Committee on Enforcement (ACE), the Committee took note of the proposals referred to under paragraph 18 of document WIPO/ACE/7/11 Prov., and agreed that all proposals referred to in paragraphs 3 and 4 of document WIPO/ACE/7/3 would serve as a basis for the discussion of the future work of the Committee at its eighth session. The Committee requested the Secretariat to prepare, for the eighth session of the ACE, an analysis of those proposals, including an assessment of the extent to which they have already been addressed.¹ This document responds to such request. Annex I provides a compilation of proposals made from the second through the seventh sessions of the ACE, and provides an informal assessment of the extent to which they have been addressed through the ACE through the listing of relevant working documents. Annex II provides a list of substantive documents from the first session in 2003, through the eighth session in 2012, and Annex III is an index of proposals with cross-references to the relevant sections in Annex I.

2. It is recalled that in its first session, held in 2003, the ACE agreed on the principle of a thematic approach to its work, and the inclusion of expert presentations in the respective sessions.² For the subsequent sessions, the following work programs were agreed:

- 2nd session of the ACE: ‘The role of the judiciary and quasi-judicial authorities, as well as of the prosecution, in enforcement activities (including related issues such as litigation costs)’;³

¹ Paragraph 19 of document WIPO/ACE/7/11.

² Paragraph 16 of document WIPO/ACE/1/7 Rev.

³ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=5662.

- 3rd session of the ACE: ‘Education and awareness-raising, including training, concerning all factors relating to enforcement, primarily those that are indicated in requests for assistance by Member States’;⁴
 - 4th session of the ACE: ‘Coordination and cooperation at the international, regional and national levels in the field of enforcement’;⁵
 - 5th session of the ACE: ‘Contribution of, and cost to, right holders in enforcement, taking into account Recommendation No. 45 of the WIPO Development Agenda’;⁶
 - 6th, 7th and 8th session of the ACE: ‘Developing on the substantive study contained in WIPO/ACE/5/6, analyze and discuss IPRs infringements in all its complexities by asking the Secretariat to undertake:
 1. A literature review of methodologies and gaps in the existing studies (6th session only);
 2. Identification of different types of infractions and motivations for IPR infringements, taking into account social, economic and technological variables and different levels of development;
 3. Targeted studies with an aim to developing analytical methodologies that measure the social, economic and commercial impact of counterfeiting and piracy on societies taking into account the diversity of economic and social realities, as well as different stages of development;
 4. Analysis of various efforts, alternate models and other possible options from a socio-economic welfare perspective to address the counterfeiting and piracy challenges’.⁷
3. By circular C.8121 of June 18, 2012, the Secretariat invited Member States to submit new proposals for the future work of the ACE, for consideration at the eighth session of the Committee. On December 13, 2012, the Secretariat received proposals by Group B and the Republic of Korea. They are reproduced in the Annexes IV and V to this document.

4. *The Committee is invited to take note of the content of this document and its Annexes.*

[Annexes follow]

⁴ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=9964.
⁵ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=12802.
⁶ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=17445.
⁷ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=20199.

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Explanatory Note

This document compiles the proposals made from the second through the seventh sessions of the Advisory Committee on Enforcement (ACE), in relation to the future work of the Committee, and provides an informal assessment of the extent to which they have been addressed through the ACE through the listing of relevant working documents, including references to the documents to be presented at the eighth session of the ACE.

“I. Strategic Goal VI and Mandate of the ACE” cover the main pillars of the work of the ACE, that would continue to guide the work of the Committee, within the framework of [Recommendation 45](#) of the Development Agenda. “II. ACE Work Programs – Sessions 2 through 8” cover the items under ACE work programs as agreed and discussed by the Committee. “Other Proposals” capture proposals that do not specifically fall under the above two categories.

This analysis does not seek to establish whether a particular subject matter was considered exhaustively by the Committee, or whether further work would be desirable. Items not addressed through the ACE may or may not have been addressed through other WIPO Committees and Programs.

Proposals within each topic are listed in chronological order. Proposals covering more than one topic are repeated as appropriate, as are relevant ACE working documents.¹ Proposing Member States, with relevant dates, have been separately identified when proposals were made directly to the WIPO Secretariat between sessions, and as such do not form part of ACE documents.

I. STRATEGIC GOAL VI AND MANDATE OF THE ACE

1. Enabling environment for promoting respect for IP

A. Proposals

1. Related proposals include: “The development dimension in relation to enforcement, including the need to take into account the broader context of society interests and obligations” (WIPO/ACE/2/13, paragraph 20; WIPO/ACE/3/17, paragraph 11); “Recommendation 45 shall frame the future discussions of the ACE” (Latin American and Caribbean Group (GRULAC), on February 28, 2008); “Identify and define the elements of an Enabling Environment for promoting respect for IP at all levels on sustainable basis [...] To effectively promote respect for IP, elements that lead to IP infringement need to be identified. On identification of these elements, ACE should focus on how these elements can be effectively addressed, in a balanced manner, with a view to promote respect for IP in all Member States on sustainable basis” (Asian Group on December 18, 2008); “i. ACE should identify the elements for creating an Enabling Environment for promoting respect for IP. After identification of the elements, ACE should discuss each of the identified elements in its future sessions. ii. WIPO, being the lead UN agency on IP, should promote the concept of creating an enabling environment to promote respect for IP at the forthcoming meetings of the Global Congress on Counterfeiting and Piracy. iii. WIPO may organize an International Conference on “Creating an Enabling Environment to build respect for IP” (ACE/5/11 Annex I); “Given resource constraints, develop strategies which prioritize enforcement efforts on the basis of a diagnosis of welfare impact. Welfare effects of different types of IP infringement

¹ ACE working documents at http://www.wipo.int/meetings/en/topic.jsp?group_id=142.

impact differently on consumers, producers and the economy at large. For instance, a case can be made for pursuing producers rather than small scale distributors of illicit goods, especially where the former are linked to organized crime syndicates.” (WIPO/ACE/5/11 Annex II; and WIPO/ACE/5/11 Annex III).

B. Relevant ACE Working Documents

2. Following the adoption at the 2008 WIPO General Assemblies, of Strategic Goal VI “Building Respect for IP”, which calls for creating an enabling environment that promotes respect for IP in a sustainable manner, in the spirit of Recommendation 45 of the Development Agenda, this item has been guiding the work programs of the sixth, seventh and eighth sessions of the ACE; and the activities of WIPO Program 17 Building Respect for IP in general. The [Sixth Global Congress on Combating Counterfeiting and Piracy](#), organized under WIPO’s chairmanship, underscored the link between building respect for IP and sustainable development.

3. ACE Working Documents relevant to this item include, “The Importance of IPR Enforcement and Protection and Links with the WIPO Development Agenda” ([WIPO/ACE/5/4 Rev.](#)), “Contribution of right Holders to Enforcement and the Cost Thereof, Taking into Consideration Recommendation No. 45 of the WIPO Development Agenda” ([WIPO/ACE/5/9](#)), “The Contribution of, and costs to, Right Holders in Enforcement, Taking Into Account Recommendation 45 of the WIPO Development Agenda” ([WIPO/ACE/5/10](#)), “Mainstreaming CSR towards Developing Respect for IPR” ([WIPO/ACE/7/4](#)). Also, delegations shared views on the contribution of the ACE to the implementation of the WIPO Development Agenda during the sixth and seventh sessions of the ACE.

2. Coordinating with certain organizations and the private sector

A. Proposals

4. Related proposals include: “Cooperation between States in the field of enforcement” (WIPO/ACE/2/13, paragraph 20); “Exchange of views on coordination and cooperation at the international, regional and national levels in the field of enforcement” (WIPO/ACE/3/17, paragraph 12); “Administrative cooperation and information exchange at national, regional and international levels, among public authorities” (Regional Group of Central European and Baltic States on March 3, 2008; and Group B on March 16, 2008); “Administrative cooperation and information exchange at national, regional and international levels, among public authorities” (Regional Group of Central European and Baltic States on September 19, 2008); “vii. Avoid duplication of work and discourage the “forum shopping” trend, WIPO, being the lead UN agency on IP, should prepare a compilation of actions/initiatives taken in all UN agencies and international fora with regard to enforcement. viii. Promote international cooperation through financial burden sharing by the developed countries for putting in place administrative IPR enforcement mechanisms in the developing countries” (WIPO/ACE/5/11 Annex I); “Establish partnerships with organizations associated with “enforcement” from an integrated approach that involves all dimensions of the issue” (ACE/5/11 Annex II); “Discussions of establishing partnerships with organizations associated with enforcement using an integrated approach” (ACE/5/11 Annex III); “International cooperation to promote respect for IP, based on Recommendation 45 of the Development Agenda” (WIPO/ACE/6/11, paragraph 11).

B. Relevant ACE Working Documents

5. The work program of the fourth session of the ACE was: “Coordination and cooperation at the international, regional and national levels in the field of enforcement”.² See also, the working documents listed under “II.4 Role of right holders” below, and ACE Working Document on “Coordination, Training and Development of Enforcement Strategies” ([WIPO/ACE/1/4](#)).

3. Public education (including awareness-raising)

A. Proposals

6. Related proposals include: “Successful training as well as education and awareness building activities” (WIPO/ACE/2/2, paragraph 13); “Issues concerning education and awareness building” (WIPO/ACE/2/13, paragraph 19); “Issues concerning continued education and awareness raising” (WIPO/ACE/3/17, paragraph 11); “Education and awareness on the importance of legitimate use of IP” (Group B on March 16, 2008); “iv. Promote enforcement of IPRs through capacity building of judiciary and enforcement agencies [...], raising public awareness on IP issues” (WIPO/ACE/5/11 Annex I); “Design of capacity building and technical assistance projects that go beyond the mere setting up and training of teams for operational law enforcement in developing countries to include, for example, campaigns to raise awareness in the citizenry as well as programs to reincorporate into the economy those who were “lesser” violators dependant on trade in or on the manufacture of counterfeit products to survive” (WIPO/ACE/5/11 Annex II); “Discussions of the design of capacity building and technical assistance projects, for example training for the judiciary, as well as those that go beyond the mere setting up and training of teams for operational law enforcement in developing countries. These projects could include, for example, campaigns to raise awareness in the citizenry, as well as programs to reincorporate into the formal economy those who are working in the informal economy trading in counterfeit and pirated goods” (WIPO/ACE/5/11 Annex III); “An examination of public awareness campaigns focused on building respect for IP” (WIPO/ACE/6/11, paragraph 11).

B. Relevant ACE Working Documents

7. The work program of the third session of the ACE was: “Education and awareness-raising, including training, concerning all factors relating to enforcement, primarily those that are indicated in requests for assistance by Member States.”³ See substantive working documents of the third session, listed in Annex II; see also, “Coordination, Training and Development of Enforcement Strategies” ([WIPO/ACE/1/4](#)).

4. Coordination to undertake national and regional training programs

A. Proposals

8. Related proposals include: “Successful training as well as education and awareness building activities” (WIPO/ACE/2/2, paragraph 13); “Design of capacity building and technical assistance projects that go beyond the mere setting up and training of teams for

² Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=12802.

³ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=9964.

operational law enforcement in developing countries to include, for example, campaigns to raise awareness in the citizenry as well as programs to reincorporate into the economy those who were “lesser” violators dependant on trade in or on the manufacture of counterfeit products to survive” (WIPO/ACE/5/11 Annex II); “Discussions of the design of capacity building and technical assistance projects, for example training for the judiciary, as well as those that go beyond the mere setting up and training of teams for operational law enforcement in developing countries.” (WIPO/ACE/5/11 Annex III) “An analysis of the technical assistance provided by WIPO in the field of building respect for IP with a view to further improving this assistance; [...] a discussion on how to intensify and improve WIPO’s enforcement-related technical assistance, including: (i) an evaluation of how WIPO has been promoting the concept of “building respect for IP” in its technical and legislative assistance activities; (ii) an inventory of “success stories” of technical assistance and capacity building in this area; (iii) legislative assistance with a view to preventing the abuse of enforcement procedures such as “sham litigation”; and (iv) legislative assistance in drafting national laws of enforcement that take into account the use of flexibilities as well as the different socio-economic realities and the differences in the legal tradition of each country” (WIPO/ACE/6/11, paragraph 11).

B. Relevant ACE Working Documents

9. A number of ACE working documents listed under “1.3 Public education (including awareness-raising)” covered issues relating to training programs. General information on WIPO’s enforcement-related technical assistance, including legislative assistance, was provided in each ACE session by the Secretariat, including through documents on “Recent Activities of WIPO” ([WIPO/ACE/2/2](#), [WIPO/ACE/3/2](#), [WIPO/ACE/4/2](#), [WIPO/ACE/5/2](#), [WIPO/ACE/6/2](#), [WIPO/ACE/7/2](#)). (“Sham litigation” as such was addressed through “Draft study on the anti-competitive enforcement of IP Rights: Sham litigation” ([WIPO/ACE/7/REF/IPEA](#)).)

5. Exchange of information on enforcement issues (including analysis of national experiences and strategies)

A. Proposals

10. Related proposals include: “The development of national strategies in order to render enforcement of intellectual property rights more effective” (WIPO/ACE/1/2, paragraph 13; and WIPO/ACE/2/2, paragraph 13); “Promote enforcement of IPRs through [...] making domestic legislation (and its period review) in accordance with level of development of different countries” (WIPO/ACE/5/11 Annex I); “Analysis of national experiences, especially those deemed to be successful ones with a view to both improving systems that integrate the multiple dimensions of intellectual property rights infringement and examining business models in line with the members’ specific economic and technological realities” (WIPO/ACE/5/11 Annex II); “Discussion and analysis of national experiences, especially those deemed to be successful ones, with a view to improving systems that integrate the multiple dimensions of IPR infringement, and examining business models that have been used to combat counterfeiting and piracy.” (WIPO/ACE/5/11 Annex III).

B. Relevant ACE Working Documents

11. National experiences and strategies were addressed in each ACE session, reflecting the mandate of the ACE to *inter alia* exchange of information on enforcement issues. As such a number of ACE working documents listed are based on national experiences.

II. ACE WORK PROGRAMS – SESSIONS 2 THROUGH 8

1. Role of the judiciary and quasi-judicial authorities

A. Proposals

12. Related proposals include: “The role of the judicial authorities in the field of enforcement of intellectual property rights” (WIPO/ACE/1/2, paragraph 13); “Continue to discuss the role of the judiciary and quasi-judicial authorities, as well as prosecution, in enforcement activities” (WIPO/ACE/2/2, paragraph 13; WIPO/ACE/2/13, paragraph 20); “Effectiveness of the judiciary in criminal and civil proceedings” (Group B on March 16, 2008); “ix. Promote enforcement of IPRs through capacity building of judiciary and enforcement agencies” (WIPO/ACE/5/11 Annex I).

B. Relevant ACE Working Documents

13. The work program of the second session of the ACE was: “The role of the judiciary and quasi-judicial authorities, as well as of the prosecution, in enforcement activities (including related issues such as litigation costs).”⁴ See substantive working documents of the second session, listed in Annex II. See also, “The Enforcement of Intellectual Property Rights by Means of Criminal Sanctions: An Assessment” ([WIPO/ACE/4/3](#)), “Criminal Measures for Enforcement of Intellectual Property Rights - Sanctions in the Andean Community” ([WIPO/ACE/4/5](#)), “Submission from the Russian Federation” ([WIPO/ACE/4/6](#)), “A Comparative Analysis of the Legal Enforcement of Intellectual Property Offences in Barbados and Trinidad and Tobago” ([WIPO/ACE/4/8](#)), “The Socio-Economic Implications of Piracy to the Indian Entertainment Industry, as Well as Current Trends Related to the Criminal Enforcement Against That Kind of Piracy” ([WIPO/ACE/4/9](#)), “The Contribution of, and Costs to, Right Holders in Enforcement, Taking Into Account Recommendation 45 of the WIPO Development Agenda” ([WIPO/ACE/5/10](#)), “Draft study on the anti-competitive enforcement of IP Rights: Sham litigation” ([WIPO/ACE/7/REF/IPEA](#)). “Criminal Enforcement of IPR – The U.S. Approach” was also presented at the fourth session.

2. Education and awareness-raising, including training

14. The work program of the third session of the ACE was: “Education and awareness-raising, including training, concerning all factors relating to enforcement, primarily those that are indicated in requests for assistance by Member States.” See substantive working documents of the third session.⁵ See Proposals and Relevant ACE Working Documents under “1.3 Public education (including awareness-raising)” and “1.4 Coordination to undertake national and regional training programs” above.

3. Coordination and cooperation at the international, regional and national levels in the field of enforcement

15. The work program of the fourth session of the ACE was: “Coordination and cooperation at the international, regional and national levels in the field of enforcement”. See substantive working documents of the fourth session.⁶ See also Proposals and Relevant

⁴ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=5662.

⁵ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=9964.

⁶ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=12802.

ACE Working Documents under “I.2 Coordinating with certain organizations and the private sector” and “I.4 Coordination to undertake national and regional training programs” above.

4. Role of right holders

A. Proposals

16. Related proposals include: “Assistance by the private sector to enforcement agencies in the identification of counterfeit and pirated goods, training and activities relating to education and awareness building” (WIPO/ACE/1/2, paragraph 13); “The contribution of right holders in enforcement; [...] private sector involvement in capacity building relating to IP” (WIPO/ACE/4/10, paragraph 11); “Involvement of the private sector in capacity building work; contribution of right holders in enforcement.” (Regional Group of Central European and Baltic States on March 3, 2008; and Group B on March 16, 2008); “Involvement of the private sector in capacity building work” (Regional Group of Central European and Baltic States on September 19, 2008); “Contribution and costs of rightsholders within framework of recommendation 45 of the [D]evelopment Agenda and existing TRIPS provisions on enforcement (Part III) [...] Role of Rightsholders and Member States in ensuring the transfer of technology to developing and least developed countries” (African Group on December 1, 2008); “The contribution of and costs to rightsholders in enforcement taking into account recommendation 45 of the Development Agenda” (Group B on December 3, 2008; GRULAC and Regional Group of Central European and Baltic States on December 3, 2008); “The contribution of and costs to rightsholders in enforcement taking into account recommendation 45 of the Development Agenda [...] the contribution of the private sector in developing and supplying affordable and price-competitive products; the role of alternative licensing models (creative commons, free and open source software) in increasing the supply of affordable and high-quality products; the needs for new business models based on the Internet; the importance of private sector participation in the formulation of public policies for combating piracy; the role of the private sector in educative campaigns for promoting respect for intellectual property” (Brazil on December 12, 2008); “An analysis of the obligations of right holders in the domain of enforcement as a mechanism to facilitate the efforts of Member States in this field” (WIPO/ACE/6/11, paragraph 11).

B. Relevant ACE Working Documents

17. The work program of the fifth session of the ACE was: “Contribution of, and cost to, right holders in enforcement, taking into account Recommendation No. 45 of the WIPO Development Agenda.” See substantive working documents of the fifth session⁷; see also “Education & Awareness-Building Initiatives of International Trademark Association (INTA) on Trademark Protection and Enforcement” ([WIPO/ACE/3/4](#)), “IFPI’s Work on Education, Training and Awareness Building in the Area of Enforcement of Rights” ([WIPO/ACE/3/13](#)), “Mainstreaming CSR towards Developing Respect for IPR” ([WIPO/ACE/7/4](#)).

5. A literature review of methodologies and gaps in the existing studies

A. Proposals

18. Related proposals include: “The Committee agreed to consider [...] 1. A literature review of methodologies and gaps in the existing studies” (WIPO/ACE/5/11, paragraph 12).

⁷ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=17445.

B. Relevant ACE Working Documents

19. The work program of the sixth session of the ACE included: “A literature review of methodologies and gaps in the existing studies.”⁸ See in particular, “The Economic Effects of Counterfeiting and Piracy: A Literature Review” ([WIPO/ACE/6/7](#)). See also working documents listed under “II.7 Analytical methodologies that measure the social, economic and commercial impact of counterfeiting and piracy on societies” below.

6. Identification of different types of infractions and motivations for IPR infringements, taking into account social, economic and technological variables and different levels of development

A. Proposals

20. Related proposals include: “The socio-economic impact of counterfeiting and piracy” (WIPO/ACE/1/2, paragraph 13); “The development dimension in relation to enforcement, including the need to take into account the broader context of society interests and obligations” (WIPO/ACE/2/13 paragraph 20); “Undertake independent, objective and empirical assessments of the nature and extent of IPR infringements” (WIPO/ACE/5/11 Annex I); “Preparation of studies and promotion of discussions that examine infringement of intellectual property rights in all its complexity, identifying different types of infractions and the motivations for them, taking into account social, economic and technological variables” (ACE/5/11 Annex II); “Discussions that examine infringement of IPRs in all of its complexity, identifying different types of infractions and the motivations for them, taking into account social, economic and technological variables” (ACE/5/11 Annex III); “The relationship between poverty, inequality, the need for imitation and the protection of foreign rights” (WIPO/ACE/6/11, paragraph 11).

B. Relevant ACE Working Documents

21. The work programs of the sixth, seventh⁹ and eighth sessions of the ACE included: “Identification of different types of infractions and motivations for IPR infringements, taking into account social, economic and technological variables and different levels of development.” See in particular, “Media Piracy in Emerging Economies: Price, Market Structure and Consumer Behavior” ([WIPO/ACE/6/5](#)), “Research Report on Consumer Attitudes and Perceptions on Counterfeiting and Piracy” ([WIPO/ACE/6/6](#)), “IPR Infringements and Enforcement - Accounting for Socio-Economic, Technical and Development Variables” ([WIPO/ACE/6/10](#)), “Work under Way in the UK Intellectual Property Office (IPO), and Work by the Strategic Advisory Board for Intellectual Property Policy (SABIP)” ([WIPO/ACE/7/7](#)), “Piracy and Counterfeiting: Perspectives and Challenges for African Countries” ([WIPO/ACE/7/10](#)), “Surveys on Consumers’ Awareness and Attitudes in Relation to Counterfeiting in Hungary” (WIPO/ACE/8/[4]).

7. Analytical methodologies that measure the social, economic and commercial impact of counterfeiting and piracy on societies

A. Proposals

22. Related proposals include: “Examination of the question whether counterfeiting and piracy have a socio-economic impact not only in industrialized but also in developing and

⁸ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=20199.

⁹ Meeting documents at http://www.wipo.int/meetings/en/details.jsp?meeting_id=22170.

transition countries” (WIPO/ACE/2/2, paragraph 13); “The development dimension in relation to enforcement, including the need to take into account the broader context of society interests and obligations; cost/benefit aspects of enforcement in developing countries” (WIPO/ACE/2/13, paragraph 20); “Discuss and analyze the relationship between the rates of counterfeiting and piracy of intellectual property and technology transfer, foreign direct investment and economic growth. The WIPO Secretariat could assist in the collection of data on piracy rates.” (WIPO/ACE/3/2, paragraph 21); “The methodological evaluation of, and scientifically prepared statistics on, the economic impact of counterfeiting and piracy; [...] cost/benefit aspects of enforcement, particularly in developing countries” (WIPO/ACE/3/17, paragraph 11); “Undertake independent, objective and empirical assessment of the nature and extent of IPR infringements” (ACE/5/11 Annex I); “Preparation of studies and promotion of discussions aimed at developing methodologies of measurement of the economic and commercial impact of counterfeiting and piracy on societies, taking into account the diversity of economic and social realities as well as stages of development” (ACE/5/11 Annex II); “That studies developed using objective and impartial parameters be carried out on the economic impact of piracy and counterfeiting in countries” (WIPO/ACE/7/3 Annex III).

B. Relevant ACE Working Documents

23. The work programs of the sixth, seventh and eighth sessions of the ACE covered: “Targeted studies with an aim to developing analytical methodologies that measure the social, economic and commercial impact of counterfeiting and piracy on societies taking into account the diversity of economic and social realities, as well as different stages of development.” ACE working documents relevant to this item include: “Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods” ([WIPO/ACE/6/4](#)), “The Economic Effects of Counterfeiting and Piracy: A Literature Review” ([WIPO/ACE/6/7](#)), “A Review of Statistical Information on Counterfeiting and Piracy” ([WIPO/ACE/7/5](#)), “Work on Counterfeiting and Piracy Concerning the Development of a Methodology to Measure the Socio-Economic Impact of Counterfeiting and Piracy” ([WIPO/ACE/7/6](#)), “The Findings of a Study, undertaken in Public-Private Partnership, Seeking to Assess the Economic Impact of Counterfeiting in Morocco” (WIPO/ACE/8/[5]), “Methodology Used in the UK IP Crime Report” (WIPO/ACE/8/[6]), “Work Undertaken by the European Observatory on Counterfeiting and Piracy, in particular the Development of a Methodology to Measure the Socio-Economic Impact of Counterfeiting and Piracy” (WIPO/ACE/8/[7]), “The Recent Activities Undertaken in the Republic of Moldova to Measure the Social, Economic and Commercial Impact of Counterfeiting and Piracy” (WIPO/ACE/8/[8]). See also, “The Socio-Economic Implications of Piracy to the Indian Entertainment Industry, as Well as Current Trends Related to the Criminal Enforcement Against That Kind of Piracy” ([WIPO/ACE/4/9](#)).

8. Analysis of various efforts, alternate models and other possible options from a socio-economic welfare perspective to address the counterfeiting and piracy challenges

A. Proposals

24. Related proposals include: “Alternative dispute resolution and conciliation procedures” (WIPO/ACE/2/13, paragraph 20); “Facilitation of access by nationals of developing countries to the IP systems in industrialized countries” (WIPO/ACE/2/13, paragraph 20); “Cost-reduction as an enforcement strategy and its possible impact on foreign direct investment” (WIPO/ACE/3/17, paragraph 11); “Socio-economic welfare needs of countries particularly for access to medicines and educational materials at affordable prices through use of TRIPS flexibilities and alternate business models for price reductions (such as different pricing

schemes, advance market commitment mechanisms, licensing arrangements for domestic production, etc.)” (ACE/5/11 Annex I); “Promote and facilitate domestic research and innovation through transfer of technology, joint research, innovative commons, open source, exceptions to IPRs for research purposes and by utilizing the concept of utility models, etc. Developing countries should also be supported in commercialization of their domestic innovation.” (ACE/5/11 Annex I); “Discussions of mechanisms for small and medium sized enterprises (SMEs) to utilize and protect IPRs for their benefit” (WIPO/ACE/5/11 Annex III); “An analysis of flexibilities relating to IP enforcement available under TRIPS for developing countries and least developed countries and their socio-economic significance, especially in relation to medicines, access to knowledge and food security” (WIPO/ACE/6/11, paragraph 11); “Studies designed to identify types of preventive measures that could be used in this regard. This would require an exhaustive multi-disciplinary study, involving not only lawyers and economists, but also sociologists, psychologists, educators, etc.” (WIPO/ACE/7/3 Annex III).

B. Relevant ACE Working Documents

25. The work programs of the sixth, seventh and eighth sessions of the ACE included: “Analysis of various efforts, alternate models and other possible options from a socio-economic welfare perspective to address the counterfeiting and piracy challenges.” See in particular, “Enforcing Intellectual Property Rights: An Economic Perspective” ([WIPO/ACE/5/6](#)), “A Study Relating to Existing Methods of Disposal and Destruction of Counterfeit Goods and Pirated Goods within the Asia Pacific Region” ([WIPO/ACE/6/8](#)), “Mainstreaming CSR towards Developing Respect for IPR” ([WIPO/ACE/7/4](#)), “Presentation of the French Charter on the Fight against Cyber-Counterfeiting of December 16, 2009” ([WIPO/ACE/7/8](#)), “Anti-Counterfeiting Policies of the Korean Intellectual Property Office (KIPO) (WIPO/ACE/8/[9]), “Voluntary Mechanisms for Resolving IP Disputes” (WIPO/ACE/8/[10]), “The Fight Against Counterfeiting and Imitations at Trade Fairs: The Panel of BASELWORLD” (WIPO/ACE/8/[11]).

III. OTHER PROPOSALS

1. Border measures

A. Proposals

26. Related proposals include: “The implementation of procedures and mechanisms for appropriate and effective border measures” (WIPO/ACE/1/2, paragraph 13); “Border enforcement measures” (WIPO/ACE/2/13, paragraph 20; and WIPO/ACE/3/17, paragraph 11).

B. Relevant ACE Working Documents

27. Whereas some specific components of border measures were touched upon in “The Contribution of, and costs to, Right Holders in Enforcement, Taking Into Account Recommendation 45 of the WIPO Development Agenda” ([WIPO/ACE/5/10](#)), border measures, as a topic, has not been addressed by the Committee.

2. Corporate Social Responsibility

A. Proposals

28. Related proposals include: “An analysis of Corporate Social Responsibility (CSR) on building respect for IP” (WIPO/ACE/6/11, paragraph 11); “A comparative analysis of methodologies applicable to the following: [...] 3. Corporate Social Responsibility (CSR) on building respect for IP” (WIPO/ACE/7/3 Annex I).

B. Relevant ACE Working Documents

29. ACE working documents relevant to this item include: “Mainstreaming CSR towards Developing Respect for IPR” ([WIPO/ACE/7/4](#)). See also working documents listed under “II.4 Role of right holders” above.

3. Disposal of counterfeit and pirated goods

A. Proposals

30. Related proposals include: “Disposal of counterfeit and pirated goods and also the potential for the recycling or donation to charitable institutions of such goods” (ACE/5/11 Annex III).

B. Relevant ACE Working Documents

31. ACE working documents relevant to this item include: “Addressing Costs and Balancing Rights” ([WIPO/ACE/5/7](#)), “A Study Relating to Existing Methods of Disposal and Destruction of Counterfeit Goods and Pirated Goods within the Asia Pacific Region” ([WIPO/ACE/6/8](#)).

4. Impact of IPR Enforcement

A. Proposals

32. Related proposals include: “Examination of the impact of enforcement activities in developing, industrialized and transition countries” (WIPO/ACE/2/13, paragraph 20); “Cost/benefit aspect of enforcement, particularly in developing countries” (WIPO/ACE/3/17, paragraph 11); “1. The State’s ability to protect IP rights; 2. Evaluating protection of IP rights; 3. Improving the legal IP framework, seeking direct benefit for the right holder.” (Mexico on December 18, 2008); “Undertake independent socio-economic impact assessments of the existing and future IP norms” (ACE/5/11 Annex I); “Monitoring and assessing of progress in combating IPR infringement, including cost-benefit analysis of mobilized resources” (ACE/5/11 Annex II; and ACE/5/11 Annex III); “A study to assess the effectiveness of IP enforcement measures, with a view to formulating a strategy for enhancing IP enforcement policy stimulating development and economic growth” (WIPO/ACE/6/11, paragraph 11); “That studies be carried out to measure the real impact of development on legislation concerning enforcement measures (increased sanctions or sentences, the establishment of regular procedures, etc), as well as their implementation by the authorities as a part of their efforts to reduce piracy and counterfeiting (...)” (WIPO/ACE/7/3 Annex III).

B. Relevant ACE Working Documents

33. ACE working documents relevant to this item include: “Enforcing Intellectual Property Rights: An Economic Perspective” ([WIPO/ACE/5/6](#)), “Fight Against Piracy and Counterfeiting in Brazil: Progresses and Challenges” ([WIPO/ACE/5/8](#)), “Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods” ([WIPO/ACE/6/4](#)), “Media Piracy in Emerging Economies: Price, Market Structure and Consumer Behavior” ([WIPO/ACE/6/5](#)), “A Review of Statistical Information on Counterfeiting and Piracy” ([WIPO/ACE/7/5](#)).

5. Jurisdiction, evidence, damages

A. Proposals

34. Related proposals include: “A comparative analysis of methodologies applicable to: (i) calculating damages; (ii) determining jurisdiction; (iii) gathering and storing evidence” (WIPO/ACE/6/11, paragraph 11); “A comparative analysis of methodologies applicable to the following: 1. Determining jurisdiction in civil and criminal cases; 2. Gathering and storing evidence” (WIPO/ACE/7/3 Annex I).

B. Relevant ACE Working Documents

35. Whereas a few specific components of evidence and damages were mentioned in “The Role of the Judiciary in Enforcement of Intellectual Property Rights; Intellectual Property Litigation under the Common Law System with Special Emphasis on the Experience in South Africa” ([WIPO/ACE/2/4 Rev.](#)), jurisdiction, evidence, damages, as topics, have not been addressed by the Committee.

6. Online enforcement

A. Proposals

36. Related proposals include: “Coordination and cooperation related to IP crimes via the Internet” (WIPO/ACE/4/2, paragraph 21); “On-line trading of counterfeit and pirated goods” (Regional Group of Central European and Baltic States on March 3, 2008; and Group B on March 16, 2008); “1. Online infringement of copyright and measures to combat it, especially when it comes to cross-border cases of infringement; 2. The impact of enforcement mechanisms adjusted in other countries in order to tackle piracy, especially in the field of P2P technologies; 3. Infringement of exclusive rights on objects of intellectual property in the Internet, in particular, problem of control of “parallel import”” (WIPO/ACE/7/3 Annex II).

B. Relevant ACE Working Documents

37. Whereas specific components, in particular alternate models, of online enforcement were touched upon, online enforcement as a topic has not been addressed by the Committee. See, “Work under Way in the UK Intellectual Property Office (IPO), and Work by the Strategic Advisory Board for Intellectual Property Policy (SABIP)” ([WIPO/ACE/7/7](#)), “Presentation of the French Charter on the Fight against Cyber-Counterfeiting of December 16, 2009” ([WIPO/ACE/7/8](#)), “Voluntary Mechanisms for Resolving IP Disputes” (WIPO/ACE/8/[10]).

7. Other

A. *Proposals*

38. Other proposals include: “Enforcement in relation to competition law; [...] the issue of privacy and enforcement” (WIPO/ACE/2/13, paragraph 20); “Sharing of national experiences of bio-piracy” (WIPO/ACE/3/17, paragraph 11; WIPO/ACE/4/10, paragraph 11); “Enforcement of rights, taking into account limitations and exceptions; [...] piracy of traditional knowledge and genetic recourses” (WIPO/ACE/4/10, paragraph 11); “Health and safety concerns related to counterfeiting in the area of medical products” (Regional Group of Central European and Baltic States on March 3, 2008; and Group B on March 16, 2008); “Develop international guidelines for levels of IP protection in the bilateral and regional FTAs, in accordance with TRIPS agreement. Such guidelines should be followed in the negotiations on FTAs; [...] “Promote effective protection of the GRTKF owned by the developing countries through a normative framework and to mainstream it in the IP system” (ACE/5/11 Annex I); “Conducting a mapping study of the unilateral, bilateral, plurilateral and multilateral initiatives on IP enforcement/counterfeiting, including IP enforcement provisions in free-trade agreements (FTA) and various task forces and public-private partnerships on IP enforcement/counterfeiting; [...] an analysis of flexibilities relating to IP enforcement available under TRIPS for developing countries and least developed countries and their socio-economic significance, especially in relation to medicines, access to knowledge and food security” (WIPO/ACE/6/11, paragraph 11).

B. *Relevant ACE Working Documents*

39. The above proposals have not been specifically addressed by the Committee.

[Annex II follows]

**Advisory Committee on Enforcement
List of Substantive Documents**

First Session: June 11 to June 13, 2003

- [WIPO/ACE/1/2](#) Administrative and Procedural Matters, Mandate and Scope of Activities
- [WIPO/ACE/1/3](#) Synthesis of Issues Pertaining to the Enforcement of Intellectual Property Rights
- [WIPO/ACE/1/4](#) Coordination, Training and Development of Enforcement Strategies
- [WIPO/ACE/1/7 REV.](#) Conclusions by the Chair

Second Session: June 28 to June 30, 2004

- [WIPO/ACE/2/2](#) Recent Activities and Future Work of WIPO in the Field of Intellectual Property Enforcement
- [WIPO/ACE/2/3](#) Intellectual Property Litigation under the Civil Law Legal System; Experience in Germany
Prof. Dr. Joachim Bornkamm, Judge at the Federal Supreme Court, Karlsruhe
- [WIPO/ACE/2/4 REV.](#) The Role of the Judiciary in Enforcement of Intellectual Property Rights; Intellectual Property Litigation under the Common Law System with Special Emphasis on the Experience in South Africa
Honorable Mr. Justice Louis Harms, Judge of Appeal, Supreme Court of South Africa, Bloemfontein
- [WIPO/ACE/2/5](#) Protection of Intellectual Property Rights in the Russian Federation and the Latest Changes in Legislation in the Fight Against Counterfeiting and Piracy
Mrs. E. Moiseeva, Judge of the Higher Court of Arbitration of the Russian Federation, Moscow
- [WIPO/ACE/2/6](#) Role of the Judiciary in the Enforcement of Intellectual Property Rights
Dr. Hassan El Badrawi, Counselor, Vice-President, Court of Appeal (Supreme Court), Cairo
- [WIPO/ACE/2/7](#) Administrative Remedies for the Enforcement of Intellectual Property Rights - The Philippine Experience
Mr. Pacifico A. Avenido, Jr., Deputy Director General, Intellectual Property Office of the Philippines, Makati City
- [WIPO/ACE/2/8](#) Judicial and Administrative Protection of Intellectual Property in China
Mr. Jie Liu, Deputy Director General, Copyright Department, National Copyright Administration of China, Beijing

[WIPO/ACE/2/9](#) Paper on Intellectual Property Rights
Mr. Carlos Javier Vega Memije, Deputy Attorney-General, Office of the Federal Attorney-General, Mexico

[WIPO/ACE/2/11](#) UK Background Paper. Submission by the United Kingdom
United Kingdom Patent Office (UKIPO)

[WIPO/ACE/2/12](#) The Protection of Intellectual Property Rights in Israel;
A Survey of Legislation, the Court System, Enforcement and Public Awareness Programs

[WIPO/ACE/2/13](#) Conclusions by the Chair

Other Related Documents

[WIPO/ACE/2/WWW\[33725\]](#) Intellectual Property Rights and Trade Enforcement Procedures in Costa Rica
Judge Carmen María Escoto, First Division of the Supreme Court of Justice, Member of the RAC, Civil and Agrarian Commissions of the, Judiciary, San José, Costa Rica

Third Session: May 15 to May 17, 2006

[WIPO/ACE/3/2](#) Recent Activities of WIPO in the Field of Intellectual Property Enforcement and Future Work of the ACE

[WIPO/ACE/3/3](#) Swiss Activities: Fighting Counterfeiting & Piracy and Improving Enforcement of Intellectual Property Rights
Mr. Felix Addor, Director, Legal and International Affairs, Swiss Federal Institute of Intellectual Property, Berne

[WIPO/ACE/3/4](#) Education & Awareness-Building Initiatives of International Trademark Association (INTA) on Trademark Protection and Enforcement
Ms. Toe Su Aung, General Counsel, BATMark Limited, Chairperson, Anti-counterfeiting and Enforcement Committee, International Trademark Association (INTA)

[WIPO/ACE/3/5](#) Issues Related to the Enforcement of IP Rights: National Efforts to Improve Awareness of Decision Makers and Education of Consumers
Mr. D.M. Karunaratna, Director General of Intellectual Property, National Intellectual Property Office of Sri Lanka, Colombo

[WIPO/ACE/3/6](#) Report on Some Aspects of Enforcement of Intellectual Property Rights in Serbia and Montenegro
Prof. Dr. Slobodan Markovic, Director General, Intellectual Property Office of Serbia and Montenegro, Belgrade

- [WIPO/ACE/3/7](#) Romanian Efforts to Improve Awareness of Decision Makers and Public Issues Related to the Enforcement of Intellectual Property Rights
H.E. Mr. Ion Codescu, Secretary of State, Ministry of Justice, Bucharest
- [WIPO/ACE/3/8 REV.](#) Submission by South Africa
Mr. Mkhusele Vimba, Director, Education and Capacity Building, Consumer and Corporate Regulation Division, Department of Trade and Industry (the dti), Pretoria
- [WIPO/ACE/3/9](#) Consideration of Intellectual Property Rights in Regulation and Control: Activities of the National Agency for Food and Drug Administration and Control (NAFDAC)
Prof. D. N. Akunyili, Director General, NAFDAC Nigeria
- [WIPO/ACE/3/10](#) Intellectual Property Enforcement in Australia - An Evolving Approach
Ms. Fiona Phillips, Principal Legal Officer, Copyright Law Branch, Australian Government, Attorney-General's Department
- [WIPO/ACE/3/11](#) Measures Adopted by the Spanish Government Relating to the Enforcement of Intellectual Property Rights
Mrs. Silvia Gema Navares González, Head of the Sector for International Cooperation and Relations with Courts, Department of Legal Coordination and International Relations, Spanish Patent and Trademark Office, Madrid
- [WIPO/ACE/3/12](#) Issues Related to the Enforcement of IP Rights: National Efforts to Improve Awareness of Decision Makers and Education of Consumers in Antigua and Barbuda and the Caribbean
Senator the Honourable Colin Derrick and Ms. Laurie Freeland Roberts, Registrar of Intellectual Property and Commerce
- [WIPO/ACE/3/13](#) IFPI's Work on Education, Training and Awareness Building in the Area of Enforcement of Rights
Ms. Ute Decker, Deputy Director, Global Legal Policy, International Federation of the Phonographic Industry (IFPI) Secretariat
- [WIPO/ACE/3/14](#) Public Policies for Combating Piracy in Brazil
Mr. Márcio Costa de Menezes e Gonçalves, Executive Secretary and Alex Canuto, Deputy Executive Secretary, National Council against Piracy, Brazil
- [WIPO/ACE/3/15](#) Guidelines for a successful and sustainable IP Enforcement Strategy
Mr. Fadi Makki, PhD (Cantab.), Director General, Advisor to the Prime Minister, Republic of Lebanon
- [WIPO/ACE/3/16](#) Administrative Protection of Intellectual Property in China in 2005
Mr. Liu Jie, Deputy Director General, Copyright Department, National Copyright Administration, State Intellectual Property Office, Beijing
- [WIPO/ACE/3/17](#) Conclusions by the Chair

Other Related Documents

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|---------------------------------------|------------------------------------------------------------------------------------|
| WIPO/ACE/3WWW[61112] | Danish Experience on Anti-counterfeiting Training and Awareness Raising Activities |
| WIPO/ACE/3/WWW[61192] | China's Action Plan of IPR Protection 2006 |
| WIPO/ACE/3/WWW[61434] | Submission by Argentina |
| WIPO/ACE/3/WWW[61435] | Submission by Brazil |
| WIPO/ACE/3/WWW[63258] | Speech by Minister of Domestic Trade and Consumer Affairs of Malaysia |

Fourth Session: November 1 to November 2, 2007

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|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| WIPO/ACE/4/2 | Recent Activities of WIPO in the Field of Building Respect for Intellectual Property and Future Work of the Advisory Committee on Enforcement (ACE) |
| WIPO/ACE/4/3 | The Enforcement of Intellectual Property Rights by Means of Criminal Sanctions: An Assessment <i>Honorable Mr. Justice Louis Harms, Judge of Appeal, Supreme Court of South Africa, Bloemfontein</i> |
| WIPO/ACE/4/5 | Criminal Measures for Enforcement of Intellectual Property Rights - Sanctions in the Andean Community <i>Dr. Galo Pico Mantilla, Director General, Center for Integration Studies, Andean Community, Quito, Ecuador</i> |
| WIPO/ACE/4/6 | Submission from the Russian Federation (Analysis Conducted in Accordance with Instructions in Annex I) <i>Mr. Piotr. P. Serkov, Deputy Chairman, Supreme Court of the Russian Federation, Moscow</i> |
| WIPO/ACE/4/8 | A Comparative Analysis of the Legal Enforcement of Intellectual Property Offences in Barbados and Trinidad and Tobago <i>Mr. Charles Leacock, Q. C. (LLM), Director of Public Prosecutions, Barbados</i> |
| WIPO/ACE/4/9 | The Socio-Economic Implications of Piracy to the Indian Entertainment Industry, as Well as Current Trends Related to the Criminal Enforcement against That Kind of Piracy <i>Mr. Bobby Bedi, Bollywood Film and Music Industry, New Delhi</i> |
| WIPO/ACE/4/10 | Conclusions by the Chair |

Fifth Session: November 2 to November 4, 2009

- [WIPO/ACE/5/2](#) Activities of WIPO in the Field of Intellectual Property Enforcement including the Global Congress on Combating Counterfeiting and Piracy and Future Work of the Advisory Committee on Enforcement (ACE)
- [WIPO/ACE/5/3](#) The Popularisation of Intellectual Property
Dr. Owen H. Dean, Spoor & Fisher, Cape Town, South Africa
- [WIPO/ACE/5/4 REV.](#) The Importance of IPR Enforcement and Protection and Links with the WIPO Development Agenda
Mr. Richard Heath, Vice President, Legal, Global Anti-Counterfeiting Counsel, Unilever PLC London and INTA President and Chairperson of the Board
- [WIPO/ACE/5/5](#) Policy Responses to the Involvement of Organized Crime in Intellectual Property Offences
Professor Michael Blakeney, Queen Mary Intellectual Property Research Institute and Faculty of Law, University of Western Australia
- [WIPO/ACE/5/6](#) Enforcing Intellectual Property Rights: An Economic Perspective
Mr. Carsten Fink, Professor of International Economics, University of St. Gallen
- [WIPO/ACE/5/7](#) Addressing Costs and Balancing Rights
Mr. Ronald Brohm, Amsterdam, Netherlands
- [WIPO/ACE/5/8](#) Fight against Piracy and Counterfeiting in Brazil: Progresses and Challenges
Mr. André Barcellos, Executive Secretary, National Council on Combating Piracy and Intellectual Property Crimes (CNCP), Brasília
- [WIPO/ACE/5/9](#) Contribution of Right Holders to Enforcement and the Cost Thereof, Taking into Consideration Recommendation No. 45 of the WIPO Development Agenda
Mr. Marino Porzio
- [WIPO/ACE/5/10](#) The Contribution of, and Costs to, Right Holders in Enforcement, Taking Into Account Recommendation 45 of the WIPO Development Agenda
Mr. Sisule F. Musungu, President, IQsensato, Geneva
- [WIPO/ACE/5/11](#) Conclusions by the Chair

Sixth Session: December 1 to December 2, 2010

- [WIPO/ACE/6/2](#) Recent Activities of WIPO in the Field of Building Respect for Intellectual Property
- [WIPO/ACE/6/3](#) Future Work of the Advisory Committee on Enforcement (ACE)

- [WIPO/ACE/6/4](#) Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods
Mr. Loren Yager, Director, International Affairs and Trade, Government Accountability Office (GAO), Washington, D.C.
- [WIPO/ACE/6/5](#) Media Piracy In Emerging Economies: Price, Market Structure And Consumer Behavior
Mr. Joe Karaganis, Program Director, Social Science Research Council, Vice President, the American Assembly, New York
- [WIPO/ACE/6/6](#) Research Report on Consumer Attitudes and Perceptions on Counterfeiting and Piracy
Mr. Hardy, BASCAP Coordinator, International Chamber of Commerce (ICC), Paris
- [WIPO/ACE/6/7](#) The Economic Effects of Counterfeiting And Piracy: A Literature Review
Mr. Carsten Fink, Mr. Keith Maskus and Ms. Yi Qian
- [WIPO/ACE/6/8](#) A Study Relating to Existing Methods of Disposal and Destruction of Counterfeit Goods and Pirated Goods within the Asia Pacific Region
Mr. David Blakemore, Executive Director, Asia Pacific Secretariat, IPR Business Partnership, Christchurch
- [WIPO/ACE/6/10](#) IPR Infringements and Enforcement – Accounting for Socio-Economic, Technical and Development Variables
Mr. Sisule F. Musungu, President, IQsensato, Geneva
- [WIPO/ACE/6/11](#) Summary by the Chair
- Seventh Session: November 30 to December 1, 2011**
- [WIPO/ACE/7/2](#) Recent Activities of WIPO in the Field of Building Respect for Intellectual Property
- [WIPO/ACE/7/3](#) Future Work of the Advisory Committee on Enforcement (ACE)
- [WIPO/ACE/7/4](#) Mainstreaming CSR towards Developing Respect for IPR
Mr. Mohiuddin Babar, CSR Consultant, BizCare, Bangladesh
- [WIPO/ACE/7/5](#) A Review of Statistical Information on Counterfeiting and Piracy
Dr. Charles Clift, Senior Research Consultant, Centre on Global Health Security, Chatham House
- [WIPO/ACE/7/6](#) Work on Counterfeiting and Piracy Concerning the Development of a Methodology to Measure the Socio-Economic Impact of Counterfeiting and Piracy
Mr. Jean Bergevin, Head of Unit, Fight against Counterfeiting and Piracy, Directorate D, DG Internal Market and Services, European Commission

- [WIPO/ACE/7/7](#) Work under Way in the UK Intellectual Property Office (IPO), and Work by the Strategic Advisory Board for Intellectual Property Policy (SABIP)
Mr. Richard Naylor, Head of Research, BOP Consulting
- [WIPO/ACE/7/8](#) Presentation of the French Charter on the Fight against Cyber-Counterfeiting of December 16, 2009
Mr. Pierre Sirinelli, Professor at the Sorbonne School of Law (Paris 1 - Panthéon Sorbonne University) and Co-Director of the Intangible Law Research Center (CERDI - Paris 1 and Paris 11 Universities)
- [WIPO/ACE/7/10](#) Piracy and Counterfeiting: Perspectives and Challenges for African Countries
Mr. Gift Sibanda, Director General of the African Regional Intellectual Property Organization (ARIPO)
- [WIPO/ACE/7/11 PROV.2](#) Draft Summary by the Chair

Other Related Documents

- [WIPO/ACE/7/REF/IPEA](#) Draft study on the anti-competitive enforcement of IP Rights: Sham litigation

Eighth Session: December 19 to 20, 2012

- [WIPO/ACE/8/2](#) Recent Activities of WIPO in the Field of Building Respect for Intellectual Property
- [WIPO/ACE/8/3](#) Analysis of Proposals for the Future Work of the Advisory Committee on Enforcement (ACE)
- [WIPO/ACE/8/4](#) Survey on Consumers' Awareness and Attitudes in Relation to Counterfeiting and Piracy in Hungary
Ms. Zita Tóth, Secretary, Secretariat of the National Board Against Counterfeiting, Hungarian Intellectual Property Office
- [WIPO/ACE/8/5](#) Study on the Economic Impact of Counterfeiting in Morocco
Mr. El Maliki, Director General, Moroccan Industrial and Commercial Property Office
- [WIPO/ACE/8/6](#) The Methodology Used in Developing the UK Annual IP Crime Report – A Method of Best Practices within the United Kingdom
Ms. Jenny Vaughan and Ms. Lee Deakin, United Kingdom IP Crime Report Team, Copyright and IP Enforcement Directorate, United Kingdom Intellectual Property Office
- [WIPO/ACE/8/7](#) Measuring IPR Infringements in the Internal Market: Development of a New Approach to Estimating the Impact of Infringements on Sales
Stijn Hoorens, Priscillia Hunt, Alessandro Malchiodi, Rosalie Liccardo Pacula, Srikanth Kadiyala, Lila Rabinovich, Barrie Irving, RAND Europe

- [WIPO/ACE/8/8](#) The Recent Activities Undertaken in the Republic of Moldova to Measure the Social, Economic and Commercial Impact of Counterfeiting and Piracy
Ms. Natalia Mogol, Deputy Director, Trademark and Designs Department, State Agency on Intellectual Property of the Republic of Moldova
- [WIPO/ACE/8/9](#) Anti-Counterfeiting Policies of the Korean Intellectual Property Office (KIPO)
Mr. Koo Bonchul, Deputy Director, KIPO Industrial Property Protection Team
- [WIPO/ACE/8/10](#) Voluntary Mechanisms for Resolving IP Disputes
Mr. Andrew Christie, Professor of Intellectual Property, Melbourne Law School, and Research Associate, Intellectual Property Research Institute of Australia, University of Melbourne
- [WIPO/ACE/8/11](#) Fight against Counterfeiting and Imitations at Trade Fairs: The Panel of BASELWORLD
Mr. Christoph Lanz, Head of Legal Department and Secretary of the Panel, MCH Group Ltd, Basel and Secretary of the Panel of the World Watch and Jewellery Show, BASELWORLD

[Annex III follows]

INDEX OF PROPOSALS FOR THE FUTURE WORK OF THE ACE

| PROPOSALS (in chronological order) | REFERENCE IN WIPO/ACE/8/3 ANNEX I |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <p>WIPO/ACE/1/2</p> <ul style="list-style-type: none"> • The role of the judicial authorities in the field of enforcement of intellectual property rights • The development of national strategies in order to render enforcement of intellectual property rights more effective • Assistance by the private sector to enforcement agencies in the identification of counterfeit and pirated goods, training, and activities relating to education and awareness building • The socio-economic impact of counterfeiting and piracy • The implementation of procedures and mechanisms for appropriate and effective border measures | <p>II.1</p> <p>I.5</p> <p>II.4</p> <p>II.6</p> <p>III.1</p> |
| <p>WIPO/ACE/2/2</p> <ul style="list-style-type: none"> • Continue to discuss the role of the judiciary and quasi-judicial authorities, as well as of prosecution, in enforcement activities • The development of national strategies in order to render enforcement of intellectual property rights more effective • Successful training as well as education and awareness building activities • Examination of the question whether counterfeiting and piracy have a socio-economic impact not only in industrialized but also in developing and transition countries | <p>II.1</p> <p>I.5</p> <p>I.3; I.4</p> <p>II.7</p> |

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| <p>WIPO/ACE/2/13</p> <ul style="list-style-type: none"> • Issues concerning education and awareness building • Discussion of some specific issues raised in the course of the discussion under agenda item [5] [(a) Civil proceedings and related issues (b) Quasi-judicial decisions by administrative authorities (c) Criminal proceedings and prosecution] • Border enforcement measures • Examination of the impact of enforcement activities in developing, industrialized and transition countries • The issue of privacy and enforcement • Development dimension in relation to enforcement, including the need to take into account the broader context of society interests and obligations • Cost/benefit aspects of enforcement in developing countries • Facilitation of access by nationals of developing countries to the IP systems in industrialized countries • Enforcement in relation to competition law • Cooperation between States in the field of enforcement • Alternative dispute resolution and conciliation procedures | <p>I.3</p> <p>II.1</p> <p>III.1</p> <p>III.4</p> <p>III.7</p> <p>I.1; II.6; II.7</p> <p>II.7</p> <p>II.8</p> <p>III.7</p> <p>I.2</p> <p>II.8</p> |
| <p>WIPO/ACE/3/2</p> <ul style="list-style-type: none"> • Discuss and analyze the relationship between the rates of counterfeiting and piracy of intellectual property and technology transfer, foreign direct investment and economic growth. The WIPO Secretariat could assist in the collection of data on piracy rates. | <p>II.7</p> |

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| <p>WIPO/ACE/3/17</p> <ul style="list-style-type: none"> • Issues concerning continued education and awareness raising • Further discussion of some specific issues raised in the course of the discussion under agenda item 7 [Future Work], including border enforcement measures • Methodological evaluation of, and scientifically prepared statistics on, the economic impact of counterfeiting and piracy • Development dimension in relation to enforcement, including the need to take into account the broader context of society interests and obligations • Cost/benefit aspects of enforcement, particularly in developing countries • Cost-reduction as an enforcement strategy and its possible impact on foreign direct investment • Sharing of national experiences on bio-piracy • Exchange of views on coordination and cooperation at the international, regional and national levels in the field of enforcement | <p>I.3 III.1 II.7; III.4 I.1 II.7 II.8 III.7 I.2</p> |
| <p>WIPO/ACE/4/2</p> <ul style="list-style-type: none"> • Coordination and cooperation related to IP crimes via the Internet | <p>III.6</p> |
| <p>WIPO/ACE/4/10</p> <ul style="list-style-type: none"> • Bio-piracy • The contribution of right holders in enforcement • Enforcement of rights, taking into account limitations and exceptions • Piracy of traditional knowledge and genetic resources • Coordination and cooperation related to IP crimes via the Internet • Private sector involvement in capacity building relating to intellectual property enforcement | <p>III.7 II.4 III.7 III.7 III.6 II.4</p> |
| <p>Latin American and Caribbean Group (GRULAC) (February 28, 2008)</p> <ul style="list-style-type: none"> • Recommendation 45 shall frame the future discussions of the ACE | <p>I.1</p> |

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| <p>Regional Group of Central European and Baltic States (March 3, 2008 and September 19, 2008)</p> <ul style="list-style-type: none"> • Administrative cooperation and information exchange at national, regional and international levels, among public authorities • Involvement of the private sector in capacity building work; contribution of right holders in enforcement • On-line trading of counterfeit and pirated goods • Health and safety concerns related to counterfeiting in the area of medical products | <p>I.2 II.4 III.6 III.7</p> |
| <p>Group B (March 16, 2008)</p> <ul style="list-style-type: none"> • Administrative cooperation and information exchange at national, regional and international levels, among public authorities • Education and awareness on the importance of legitimate use of IP • Effectiveness of the judiciary in criminal and civil proceedings • Involvement of the private sector in capacity building work; contribution of right holders in enforcement • On-line trading of counterfeit and pirated goods • Health and safety concerns related to counterfeiting in the area of medical products | <p>I.2 I.3 II.1 II.4 III.6 III.7</p> |
| <p>Asian Group (December 18, 2008)</p> <ul style="list-style-type: none"> • Identify and define the elements of an Enabling Environment for promoting respect for IP at all levels on sustainable basis [...] To effectively promote respect for IP, elements that lead to IP infringement need to be identified. On identification of these elements, ACE should focus on how these elements can be effectively addressed, in a balanced manner, with a view to promote respect for IP in all Member States on sustainable basis. | <p>I.1</p> |
| <p>African Group (December 1, 2008)</p> <ul style="list-style-type: none"> • Contribution and costs of rightsholders within framework of recommendation 45 of the [D]evelopment Agenda and existing TRIPS provisions on enforcement (Part III) [...] Role of Rightsholders and Member States in ensuring the transfer of technology to developing and least developed countries. | <p>II.4</p> |
| <p>Group B, GRULAC, Regional Group of Central European and Baltic States (December 3, 2008)</p> <ul style="list-style-type: none"> • The contribution of and costs to rightsholders in enforcement taking into account recommendation 45 of the Development Agenda | <p>II.4</p> |

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| <p>Brazil (December 12, 2008)</p> <ul style="list-style-type: none"> The contribution of and costs to rightsholders in enforcement taking into account recommendation 45 of the Development Agenda [:] the contribution of the private sector in developing and supplying affordable and price-competitive products; the role of alternative licensing models (creative commons, free and open source software) in increasing the supply of affordable and high-quality products; the needs for new business models based on the Internet; the importance of private sector participation in the formulation of public policies for combating piracy; the role of the private sector in educative campaigns for promoting respect for intellectual property | <p>II.4</p> |
| <p>Mexico (December 18, 2008)</p> <ul style="list-style-type: none"> The State's ability to protect IP rights; Evaluating protection of IP rights; Improving the legal IP framework, seeking direct benefit for the right holder | <p>III.4</p> |
| <p>WIPO/ACE/5/11 Annex I</p> <p><u>Creating an Enabling Environment to build respect for IP</u></p> <p>In view of the above, a number of measures need to be taken if we are to create an enabling environment to build respect for IP. These include the following:</p> <ul style="list-style-type: none"> i. Undertake independent, objective and empirical assessments of the nature and extent of IPR infringements ii. Address socio-economic welfare needs of countries particularly for access to medicines and educational materials at affordable prices through use of TRIPS flexibilities and alternate business models for price reductions (such as different pricing schemes, advance market commitment mechanisms, licensing arrangements for domestic production, etc.) iii. Promote effective protection of the GRTKF owned by the developing countries through a normative framework and to mainstream it in the IP system iv. Promote and facilitate domestic research and innovation through transfer of technology, joint research, innovative commons, open source, exceptions to IPRs for research purposes and by utilizing the concept of utility models, etc. Developing countries should also be supported in commercialization of their domestic innovation. v. Develop international guidelines for levels of IP protection in the bilateral and regional FTAs, in accordance with TRIPS agreement. Such guidelines should be followed in the negotiations on FTAs. vi. Undertake independent socio-economic impact assessments of the existing and future IP norms. | <p>II.6; II.7; III.4</p> <p>II.8</p> <p>III.7</p> <p>II.8</p> <p>III.7</p> <p>III.4</p> |

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| <p>vii. Avoid duplication of work and discourage the “forum shopping” trend, WIPO, being the lead UN agency on IP, should prepare a compilation of actions/initiatives taken in all UN agencies and international fora with regard to enforcement.</p> <p>viii. Promote international cooperation through financial burden sharing by the developed countries for putting in place administrative IPR enforcement mechanisms in the developing countries.</p> <p>ix. Promote enforcement of IPRs through capacity building of judiciary and enforcement agencies, making domestic legislation (and its periodic review) in accordance with level of development of different countries, raising public awareness on IP issues, and international cooperation and cost-sharing in putting in place IP enforcement mechanisms.</p> <p><u>Road ahead:</u></p> <p>i. The WIPO Advisory Committee on Enforcement (ACE) should identify the elements for creating an Enabling Environment for promoting respect for IP. After identification of the elements, ACE should discuss each of the identified elements in its future sessions. ii. WIPO, being the lead UN agency on IP, should promote the concept of creating an enabling environment to promote respect for IP at the forthcoming meetings of the Global Congress on Counterfeiting and Piracy. iii. WIPO may organize an International Conference on “Creating an Enabling Environment to build respect for IP”.</p> | <p>I.2</p> <p>I.2</p> <p>I.3; I.5; II.1</p> <p>I.1</p> |
| <p>WIPO/ACE/5/11 Annex II</p> <p>A) Diagnosis</p> <ul style="list-style-type: none"> • Preparation of studies and promotion of discussions aimed at developing methodologies of measurement of the economic and commercial impact of counterfeiting and piracy on societies, taking into account the diversity of economic and social realities as well as stages of development; • Preparation of studies and promotion of discussions that examine infringement of intellectual property rights in all its complexity, identifying different types of infractions and the motivations for them, taking into account social, economic and technological variables; • Development of methodologies for monitoring and assessing progress in combating intellectual property rights infringement, including cost-benefit analysis of mobilized resources. <p>B) Action</p> <ul style="list-style-type: none"> • Analysis of national experiences, especially those deemed to be successful ones with a view to both improving systems that integrate the multiple dimensions of intellectual property rights infringement and examining business models in line with the members’ specific economic and technological realities; • Establish partnerships with organizations associated with “enforcement” from an integrated approach that involves all dimensions of the issue; | <p>II.7</p> <p>II.6</p> <p>III.4</p> <p>I.5</p> <p>I.2</p> |

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| <ul style="list-style-type: none"> • Design of capacity building and technical assistance projects that go beyond the mere setting up and training of teams for operational law enforcement in developing countries to include, for example, campaigns to raise awareness in the citizenry as well as programs to reincorporate into the economy those who were “lesser” violators dependant on trade in or on the manufacture of counterfeit products to survive; • Given resource constraints, develop strategies which prioritize enforcement efforts on the basis of a diagnosis of welfare impact. Welfare effects of different types of IP infringement impact differently on consumers, producers and the economy at large. For instance, a case can be made for pursuing consumers rather than small scale distributors of illicit goods, especially where the former are linked to organized syndicates. | <p>I.3; I.4</p> <p>I.1</p> |
| <p>WIPO/ACE/5/11 Annex III</p> <ul style="list-style-type: none"> • Discussions that examine infringement of IPRs in all of its complexity, identifying different types of infractions and the motivations for them, taking into account social, economic and technological variables • Discussions regarding the monitoring and assessing of progress in combating IPR infringement, including cost-benefit analysis of mobilized resources • Discussion and analysis of national experiences, especially those deemed to be successful ones, with a view to improving systems that integrate the multiple dimensions of IPR infringement, and examining business models that have been used to combat counterfeiting and piracy • Discussions of establishing partnerships with organizations associated with enforcement using an integrated approach • Discussions of the design of capacity building and technical assistance projects, for example training for the judiciary, as well as those that go beyond the mere setting up and training of teams for operational law enforcement in developing countries. These projects could include, for example, campaigns to raise awareness in the citizenry, as well as programs to reincorporate into the formal economy those who are working in the informal economy trading in counterfeit and pirated goods • Given resource constraints, discussions of strategies which evaluate enforcement efforts on the basis of a diagnosis of welfare impact. Welfare effects of different types of IP infringement impact differently on consumers, producers and the economy at large. For instance, a case can be made for pursuing producers rather than small scale distributors of illicit goods, especially where the former are linked to organized crime syndicates • Discussions of mechanisms for small and medium sized enterprises (SMEs) to utilize and protect IPRs for their benefit • Discussions of the disposal of counterfeit and pirated goods and also the potential for the recycling or donation to charitable institutions of such goods | <p>II.6</p> <p>III.4</p> <p>I.5</p> <p>I.2</p> <p>I.3, I.4</p> <p>I.1</p> <p>II.8</p> <p>III.3</p> |

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| <ul style="list-style-type: none"> • A continuation of the work program adopted at the fifth session of the ACE | I |
| <ul style="list-style-type: none"> • An analysis of the obligations of right holders in the domain of enforcement as a mechanism to facilitate the efforts of Member State in this field | I.4 |
| <ul style="list-style-type: none"> • Conducting a mapping study of the unilateral, bilateral, plurilateral and multilateral initiatives on IP enforcement/counterfeiting, including IP enforcement provisions in free-trade agreements (FTA) and various task forces and public-private partnerships on IP enforcement/counterfeiting. | III.7 |
| <ul style="list-style-type: none"> • A study to assess the effectiveness of IP enforcement measures, with a view to formulating a strategy for enhancing IP enforcement policy stimulating development and economic growth | III.4 |
| <ul style="list-style-type: none"> • An analysis of the technical assistance provided by WIPO in the field of building respect for IP with a view to further improving this assistance. | I.4 |
| <ul style="list-style-type: none"> • An examination of public awareness campaigns focused on building respect for IP | I.3 |
| <ul style="list-style-type: none"> • A comparative analysis of methodologies applicable to: <ul style="list-style-type: none"> (i) calculating damages; (ii) determining jurisdiction; and (iii) gathering and storing evidence. | III.5 |
| <ul style="list-style-type: none"> • An analysis of Corporate Social Responsibility (CSR) on building respect for IP | III.2 |
| <ul style="list-style-type: none"> • The relationship between poverty, inequality, the need for imitation and the protection of foreign rights | II.6 |
| <ul style="list-style-type: none"> • International cooperation to promote respect for IP, based on Recommendation 45 of the Development Agenda | I.2 |
| <ul style="list-style-type: none"> • An analysis of flexibilities relating to IP enforcement available under TRIPS for developing countries and least developed countries and their socio-economic significance, especially in relation to medicines, access to knowledge and food security | II.8; III.7 |

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| <ul style="list-style-type: none"> A discussion on how to intensify and improve WIPO's enforcement-related technical assistance, including: <ul style="list-style-type: none"> (i) an evaluation of how WIPO has been promoting the concept of "building respect for IP" in its technical and legislative assistance activities; (ii) an inventory of "success stories" of technical assistance and capacity building in this area; (iii) legislative assistance with a view to preventing the abuse of enforcement procedures such as "sham litigation"; and (iv) legislative assistance in drafting national laws of enforcement that take into account the use of flexibilities as well as the different socio-economic realities and the differences in the legal tradition of each country | <p>I.4</p> |
| <p>WIPO/ACE/7/3 Annex I</p> <ul style="list-style-type: none"> A comparative analysis of methodologies applicable to the following: <ol style="list-style-type: none"> Determining jurisdiction in civil and criminal cases; Gathering and storing evidence; and Corporate Social Responsibility (CSR) on building respect for IP. | <p>III.5 III.5 III.2</p> |
| <p>WIPO/ACE/7/3 Annex II</p> <ul style="list-style-type: none"> Online infringement of copyright and measures to combat it, especially when it comes to cross-border cases of infringement; The impact of enforcement mechanisms adjusted in other countries in order to tackle piracy, especially in the field of P2P technologies; Infringement of exclusive rights on objects of intellectual property in the Internet, in particular, problem of control of "parallel import". | <p>III.6</p> |
| <p>WIPO/ACE/7/3 Annex III</p> <ul style="list-style-type: none"> (...) That studies developed using objective and impartial parameters be carried out on the economic impact of piracy and counterfeiting in countries (...). (...) That studies be carried out to measure the real impact of development on legislation concerning enforcement measures (increased sanctions or sentences, the establishment of regular procedures, etc), as well as their implementation by the authorities as a part of their efforts to reduce piracy and counterfeiting (...). (...) Studies designed to identify types of preventive measures that could be used in this regard. This would require an exhaustive multi-disciplinary study, involving not only lawyers and economists, but also sociologists, psychologists, educators, etc. (...) | <p>II.7 III.4 II.8</p> |

A Review of Awareness Building Activities
as a Means of Building Respect for Intellectual Property Rights

Proposal by Group B
Advisory Committee on Enforcement

1. With regard to developing a work program for the Ninth Session of the Advisory Committee on Enforcement (ACE), Group B sees a benefit to returning to a theme that was first suggested by the Secretariat at the First Session of the ACE (Paragraph 13 of document WIPO/ACE/1/1): “education and awareness building activities.” The issue of education and awareness-building was adopted as the theme for the Third Session in 2005 (Paragraph 21 of document WIPO/ACE/2/13), and among the conclusions adopted was stressing the importance of continued education and awareness raising. (Paragraph 11 of document WIPO/ACE/4/2).
2. At the thirty-second session of the WIPO General Assemblies, Member States unanimously expressed their appreciation of the choice of this theme for the Third Session of the ACE, and encouraged the Committee to continue its work. (Paragraph 2 of document WIPO/ACE/3/2; Document WO/GA/32/FI). Accordingly, we believe it is timely for us to re-visit this theme.
3. As noted in responses from Member States and Organizations collected by the International Bureau, to a survey proposed at the First Session of the Advisory Committee on the Enforcement of Industrial Property Rights (Paragraph 1 of document WIPO/ACE/1/4 Annex): “a perceptible heightening of awareness among the general public and government agencies as to the importance of adequate intellectual property rights protection for the economic development and well-being of the country” is crucial “to achieve results in the fight against counterfeiting and piracy.” In this respect, intellectual property education and awareness programs can serve to educate and inform the public about the benefits that a strong intellectual property system can have for their economy. (Paragraph 23 of document WIPO/ACE/1/4 Annex). The survey further noted that: “[t]o achieve this goal, Member States could work with private sector partners to create outreach enforcement programs, involving the media and using the Internet, street presentations, and the like.” (Paragraph 25 of document WIPO/ACE/1/4 Annex).
4. One area in particular that is likely to reap benefits in the short and long term is awareness raising among school-age children and students of the importance of intellectual property in achieving developmental goals and the harm – economic and health and safety – to societies that counterfeiting and piracy can pose. Accordingly, we propose that the International Bureau undertake a study that identifies the existing initiatives targeted at school age students, and presents said study at the 9th Session of the ACE.

5. Moreover, we recognize that Member States have continued to work in this field of awareness-raising, and we believe it would be valuable to have an interchange regarding such efforts for the Ninth Session of the ACE, which could complement the findings of the study.

[Annex V follows]

Study on Practices and Operation of Alternative Dispute Resolution Systems in IP Areas

Proposal from the Republic of Korea

for the Work Program of the Advisory Committee on Enforcement (ACE)

As the landscape of intellectual property (IP) disputes is expanding both quantitatively and geographically, the need for swift and inexpensive settlements is also on the increase. The IP system functions so that incentives are conferred to innovators in return for their contributions to the society at large. IP litigation complements this reward system as a last resort for innovators to execute their legitimate rights within the law. The high costs and time spent in IP litigation, however, are widely perceived to be the major deterrents to using the IP system, particularly from the perspective of SMEs and individual innovators. In this respect, we face the new challenge of putting in place efficient IP settlement mechanisms to accommodate the changing circumstances surrounding IP disputes.

The effective use of Alternative Dispute Resolution (ADR) has been and still is a useful option worth primary consideration. Taking into account the growing number of cross-border disputes, the advantage of ADR, particularly in the arbitration process, in rendering final and internationally enforceable resolutions should be highlighted in addition to its procedural advantages of swiftness, cost-effectiveness and flexibility.

Arbitration, a good alternative to avoid litigation, saves time and money through the use of specialized arbitrators with specific technological expertise. These arbitrators easily understand IP-related issues resulting in a shorter arbitration process, which is beneficial to IPR owners and users.

In particular, in cases of legal disputes extending to more than one jurisdiction, including transactions over the Internet, the differences in IP laws and legal systems of the involved nations increases the difficulty in obtaining a quick and clear final outcome. Even in these circumstances, arbitration may provide a consolidated forum to have all things considered to produce an internationally recognizable outcome, under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The use of mediation resolves many of these issues, often saving time and money for the involved parties. Most importantly, parties can expect a reasonable and predictable outcome by employing experienced mediators, and reflecting the business interests of the parties.

A neutral forum utilizing an alternative, cost-effective resolution process for international IP disputes, may provide IP stakeholders with more security and predictability in the international arena and contribute to the promotion of technological innovation to the mutual advantage of producers and users of technological knowledge.

Recognizing the benefits of ADR, many countries encourage, by law or in IP policy, to utilize ADR proceedings, as a separate proceeding or combined with litigation, in the settlement of IP disputes.

Against this backdrop, we propose:

1. That the Secretariat of the Advisory Committee on Enforcement conducts a "Study on Practices and Operation of Alternative Dispute Resolution Systems in IP Areas."

- This study may proceed as follows: i) identify the areas of ADR proceedings which have divergent practices among member states and generate a comparative analysis; ii) collect information on national practices in the areas in question; and iii) submit the result of the analysis for review at the next ACE session.
 - The result report may additionally include recent trends of ADR, emerging legal issues, case analyses, an experts (mediators/arbitrators) pool, the level of satisfaction of cases resolved through alternative dispute resolution (ADR) provisions, obstacles of utilizing the ADR system, and solutions, etc.
 - The report and accumulated data may be disseminated through the publishing of a guide book or the holding of a seminar.
2. Based on the findings of the study, the Committee may identify the areas for international cooperation in IP-related dispute resolution and recommend them for future work.

[End of Annex V and of document]