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Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Forty-Fifth Session
Geneva, March 28 to 30, 2022

PROPOSAL BY THE DELEGATION OF THE UNITED STATES OF AMERICA
REGARDING THE AGENDA FOR THE FORTY-FIFTH SESSION OF THE STANDING
COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND
GEOGRAPHICAL INDICATIONS

Document prepared by the Secretariat

In a communication dated February 28, 2022, the Delegation of the United States of America transmitted to the International Bureau of the World Intellectual Property Organization (WIPO) the proposal contained in the Annex to the present document.

[Annex follows]

Proposal of the Delegation of the United States of America Regarding the Agenda for the Forty-Fifth Session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Industrial designs is a standing agenda item at the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), with the SCT being the committee of jurisdiction for discussions on industrial designs. Several industrial design topics are listed under the industrial designs agenda item in the draft agenda, document SCT/45/1 PROV.2. The United States of America proposes that under item “5. Industrial Designs” the following topics be included:

- Industrial Design Law and Practice – Draft Articles

See document SCT/35/2.

- Industrial Design Law and Practice – Draft Regulations

See document SCT/35/3.

The text of the draft Design Law Treaty (DLT) has been in discussion at the WIPO SCT since at least 2010 (the twenty-third session), with foundational discussions taking place for several prior years.¹ Since at least 2015, the WIPO General Assembly has also been considering the progress of the DLT.² Together, these fora have provided opportunities for discussion to reach agreement. However, in some years little to no DLT-related discussions have occurred either at the SCT or the WIPO General Assembly.

At the Fifty-Fourth Session of the WIPO General Assembly in October of 2021, the Delegation of the United States of America highlighted the appropriateness of draft DLT discussions continuing in the SCT to enable the SCT to come to a recommendation.³ Absent such a recommendation from the SCT, agreement at a future WIPO General Assembly may be unlikely. Further, past WIPO practice for other treaties suggests that a recommendation from the body of competence and jurisdiction, in this instance the SCT for matters pertaining to industrial designs, should predicate a General Assembly decision, thereby ensuring that the technical subject matter experts have had a proper opportunity to be involved. Consistent with the aforementioned view of the United States of America, as well as those noted in the interventions of other delegations at the 2021 General Assembly, the General Assembly indicated it would revisit the issue of convening of a diplomatic conference on the DLT at its next session.⁴

¹ Document SCT/23/5.

² Document WO/GA/54/8.

³ Document WO/GA/54/15, paragraph 115.

⁴ *Id.* at paragraph 120 (“The WIPO General Assembly decided that, at its next session, it will continue considering the convening of a diplomatic conference on the Design Law Treaty, to take place no sooner than 2023.”)

To provide the best opportunity for success, discussions on the draft DLT should continue at the Forty-Fifth Session of the SCT and they should be focused on the remaining areas of seemingly divergent views (namely Article 1 bis, Article 3, and Rule 2). As such, this delegation will be prepared to discuss these matters in substantive and technical details and we invite other delegations to consider preparing for and joining the discussion on these specific outstanding matters.

[End of Annex and of document]