

## **IPRIA International Developments in IP Update February 2008**

Welcome to the IPRIA **International Developments in IP Bulletin** for February 2008. The following is a summary of some of the featured updates on the website. The page can be viewed in full at:

[http://www.ipria.org/developments\\_in\\_ip/intdev/index.html](http://www.ipria.org/developments_in_ip/intdev/index.html).

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

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

#### **WIPO convenes Fourth Global Congress on Combating Counterfeiting and Piracy**

The Fourth Global Congress on Combating Counterfeiting and Piracy was held in Dubai from **3 to 5 February 2008**. Co-convened by WIPO, the World Customs Organisation and the International Criminal Police Organisation, the Congress was attended by over 1200 delegates from 90 countries. Issues discussed included:

- increasing public and political awareness of counterfeiting and pirating activities;
- developing legislation and enforcement measures to deter and punish traffickers of counterfeit and pirated goods in free trade zones; and
- developing solutions to address the sale of counterfeit and pirated products over the internet.

A series of recommendations for specific actions is to be released as the 'Dubai Declaration' at the end of February 2008.

For more information, click here

[http://www.wipo.int/pressroom/en/articles/2008/article\\_0003.html](http://www.wipo.int/pressroom/en/articles/2008/article_0003.html)

#### **Importance of IP for development in least developed countries emphasised at WIPO forum**

The importance of IP as a strategic tool for alleviating poverty and promoting wealth creation in least developed countries (LDCs) was emphasised at a forum conducted by WIPO in Geneva on **12 December 2007**. The forum was attended by several ministers from LDCs, ambassadors, permanent representatives, and senior government officials. Lesotho, Senegal, the Republic of Guinea and the People's Republic of Bangladesh were among the countries represented. The issues discussed included protection of traditional knowledge, facilitation of investment and promotion of innovation, building IP awareness, and strengthening legal and institutional frameworks.

For more information, click here

[http://www.wipo.int/pressroom/en/articles/2007/article\\_0087.html](http://www.wipo.int/pressroom/en/articles/2007/article_0087.html)

## EUROPEAN UNION

### PATENTS

#### **European Commission launches sector inquiry into pharmaceuticals**

The European Commission has launched an inquiry into competition in the pharmaceuticals sector under Article 17 of Regulation 1/2003, and is conducting inspections at the premises of a number of pharmaceutical companies. The inquiry is limited to medicines for human consumption and will examine whether agreements between pharmaceutical companies, such as settlements in patent disputes, may infringe the EC Treaty's prohibition on restrictive practices under Article 81. It will also look into whether companies may have created artificial barriers to entry, whether through the misuse of patent rights, vexatious litigation or other means, and whether such practices may infringe the EC Treaty's ban on abuses of dominant market positions under Article 82. An interim report is planned for **Autumn 2008** and final results are expected in Spring 2009.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/49&format=HTML&aged=0&language=EN&guiLanguage=en>

#### **New brochure on patent issues for researchers published by the European Patent Office and the European Commission**

The European Patent Office and European Commission have published a brochure titled "Why researchers should care about patents". It aims to summarise the main considerations when conducting patent research, particularly before the commencement of an R&D project. The brochure, released in **January 2008**, provides information on how to search patent literature, when to consider patenting in an R&D project, and the importance of respecting third parties' rights when patenting.

To access the brochure, click here

[http://ec.europa.eu/invest-in-research/pdf/download\\_en/patents\\_for\\_researchers.pdf](http://ec.europa.eu/invest-in-research/pdf/download_en/patents_for_researchers.pdf)

#### **Revised version of the European Patent Convention (EPC 2000) enters into force**

The European Patent Convention of 1973 was comprehensively revised at a Diplomatic Conference in November 2000. Under Article 8 of the Revision Act, the new version of the Convention – EPC 2000 – entered into force on **13 December 2007**, two years after the fifteenth contracting state (Greece) deposited its instrument of ratification. The EPC 2000, which applies to all European patent applications filed after the date of entry into force, leaves substantive patent law largely unchanged. The main amendments are to Article 54(3), concerning the novelty-destroying effect of prior European patent applications, and Article 54(5), expressly providing for use-limited product protection for a second or further medical use of a known substance.

For more information, click here

<http://www.epo.org/patents/law/legislative-initiatives/epc2000/faq.html>

## DESIGN

### **EU joins Hague design agreement**

On **1 January 2008**, the Geneva Act of the Hague Agreement, which establishes a system for the international registration of industrial designs, entered into force for the European Community. This creates a link between the Geneva Act of the Hague Agreement administered by WIPO and the Community Design system administered by the Office for Harmonization in the Internal Market. EU companies will now be able to use a single application to obtain protection of a design in the EU and in the countries which are members of the Geneva Act. The process aims to reduce costs and simplify procedures and administration for international design protection.

For more information, click here

<http://oami.europa.eu/en/news.htm> [see under the date 03/01/2008 on the left hand side]

## COPYRIGHT

### **European Commission adopts a Communication proposing a single market for online music, films and games in Europe**

On **3 January 2008**, the EC adopted a Communication on “Creative Content Online in Europe’s Single Market”. The Communication, formulated in response to a public consultation conducted in 2006, encourages the content industry, telecoms companies and internet service providers to work closely together to make more content available online, while at the same time ensuring a ‘robust’ protection of IP rights. The Commission identifies four main challenges which merit further action at the EU-level:

- availability of creative content;
- multi-territory licensing for creative content;
- interoperability and transparency of Digital Rights Management systems; and
- measures to combat piracy.

In conjunction with the Communication, the Commission also launched a public consultation in order to prepare – by mid 2008 – an EU recommendation on Creative Content Online for adoption by the European Parliament and the Council. Comments are due by **29 February 2008**.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/5&format=HTML&aged=0&language=EN&guiLanguage=en>

### **Interim position on open access published by the scientific council of the European Research Council**

On **17 December 2007** the European Research Council (ERC) published its “Scientific Council Guidelines for Open Access”. The interim position adopted in the Guidelines requires that all peer-reviewed publications from ERC-funded research

projects and all primary data be deposited on publication into an appropriate research repository within 6 months of publication.

To access the Guidelines, click here

[http://erc.europa.eu/pdf/ScC\\_Guidelines\\_Open\\_Access\\_revised\\_Dec07\\_FINAL.pdf](http://erc.europa.eu/pdf/ScC_Guidelines_Open_Access_revised_Dec07_FINAL.pdf)

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

### **European Commission presents a new approach for funding pre-commercial R&D**

On **14 December 2007**, the European Commission proposed the development of a new approach for funding pre-commercial R&D activities through public procurement. According to the proposed scheme, public procurers may fund R&D activities and develop technologically innovative solutions that serve their needs. The outcome would be beneficial both for the public sector and for pre-commercial R&D. High-tech sectors, where pre-commercial R&D is more risky, will be the main targets.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1931&format=HTML&aged=0&language=EN&guiLanguage=en>

### **European Parliament supports Commission proposal on Joint Technology Initiatives**

Following a proposal put forth by the European Commission in May 2007 and the Competitive Council Agreement, the European Parliament formally approved the launch of the Joint Technology Initiatives (JTI) on **11 December 2007**. The JTIs are designed to pool together private and public research activities in areas where traditional funding methods are insufficient, and are expected to consolidate the European research community. The first four to be launched are:

- “ARTEMIS” – addressing the ‘invisible computers’ used in cars or household equipment;
- “ENIAC” – focusing on research in nanoelectronics;
- “The Innovative medicine initiative” – aimed at developing new knowledge in medicine; and
- “Clean Sky” – seeking ways to increase the competitiveness of the European aeronautics industry.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1896&format=HTML&aged=0&language=EN&guiLanguage=en>

## **ENFORCEMENT OF IPRs**

### **European Commission study on technology transfer and IP regimes in Europe**

In **January 2008**, it was reported that the European Commission is carrying out a study titled “Monitoring and analysis of technology transfer and intellectual property regimes and their use”. The purpose of the study is to foster the development and use of IP systems in research activities. Two different categories of issues are to be addressed: specific legal topics, and issues relating to training and awareness. The

Commission is inviting stakeholders to provide feedback on fact sheets explaining the IP regimes of individual countries, and on the first analyses and recommendations of the project.

For more information, click here

<http://www.eutechnologytransfer.eu/index.php>

### **European Parliament approves Proposal for a Regulation on the law applicable to contractual obligations (Rome I Regulation)**

On **29 November 2007**, the European Parliament approved a proposal by the European Commission for a Regulation on the law applicable to contractual obligations (Rome I Regulation). The Regulation establishes a uniform body of conflict of law rules that will replace the Rome Convention of 1980, modernising some of its provisions. National courts of the Member States must apply these rules to determine the law applicable for international contracts, including licences or assignments of IP rights and research and technological development contracts. The approved proposal was submitted for discussion by the Council of Ministers.

To access the legislative resolution, click here

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0560+0+DOC+XML+V0//EN&language=EN#BKMD-18>

### **European Parliament adopts resolution calling for changes to IP law in relation to climate change**

On **29 November 2007**, the European Parliament adopted a legislative resolution on trade and climate change in response to three recently published reports of working groups of the Intergovernmental Panel on Climate Change. The resolution recommends the EU develop and promote 'climate-friendly' industry and reduce barriers to 'green' trade by reshaping the rules on IP rights.

To access the legislative resolution, click here

<http://www.europarl.europa.eu/sides/getDoc.do?Type=TA&Reference=P6-TA-2007-0576&language=EN>

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

### **OHIM creates database of geographical indications**

On **24 January 2008**, it was reported that the OHIM had created a database containing geographical indications of wines, spirits, agricultural products and foodstuffs protected under Community Regulations and Bilateral Treaties between the European Commission and third countries. The publicly accessible database, in Excel format, is to be used by examiners when examining Community Trade Mark applications.

To access the database, click here

[http://oami.europa.eu/en/mark/marque/pdf/Geographical\\_Indications.xls](http://oami.europa.eu/en/mark/marque/pdf/Geographical_Indications.xls)

### **OHIM releases new brochure on national laws relating to the Community Trade Mark and the Community Design**

On **16 January 2008** the OHIM released an updated edition of its publication “National Law Relating to the Community Trade Mark and the Community Design”. The third edition of the brochure lists the national trade mark and design laws in the 27 member states of the EU and related international treaties. It also covers issues including the treatment of “earlier rights” in member states, national provisions on the effect of seniority claims, and sanctions for the infringement of a Community Trade Mark.

To access the brochure, click here

[http://oami.europa.eu/en/office/diff/pdf/National\\_law.pdf](http://oami.europa.eu/en/office/diff/pdf/National_law.pdf)

### **New OHIM guidelines on opposition, cancellation and international marks enter into force**

On 29 November 2007, the OHIM adopted, by a decision of the President, a number of guidelines with regards to opposition, cancellation proceedings, and international marks. These guidelines entered into force on **30 November 2007**.

To access the decision, click here

<http://oami.europa.eu/en/office/aspects/pdf/ex076en.pdf>

## **WORLD HEALTH ORGANIZATION (WHO)**

### **WHO working group progresses on global strategy on public health, innovation and IP**

On **10 November 2007**, it was reported that the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property has made progress in developing a plan to ensure poor populations have better access to medicines and other health products. Representatives from 140 Member States of WHO met over six days in early November 2007 to discuss key issues including R&D, innovative capacity in the developing world, IP rights and sustainable financing. A resumption of the talks has been tentatively set for 28 April to 3 May 2008 to finalize the strategy and action plan, which is scheduled to be presented to the World Health Assembly in May 2008.

For more information, click here

<http://www.who.int/mediacentre/news/notes/2007/np33/en/index.html>