

IPRIA International Developments in IP

Update March 2007

Welcome to the IPRIA **International Developments in IP Bulletin for March 2007**. 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.

WORLD TRADE ORGANIZATION (WTO)

DFAT seeks comment regarding acceptance by Australia of Protocol Amending TRIPS Agreement

The Department of Foreign Affairs and Trade (DFAT) is seeking views on acceptance by Australia of the Protocol Amending the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The proposed amendment is to allow WTO Members with insufficient manufacturing capacity to import patented pharmaceuticals made under compulsory license in certain circumstances. The Protocol is open for acceptance by WTO Members until 1 December 2007 and will enter into force upon acceptance by two thirds of WTO Members. Acceptance of the Protocol by Australia would not require any change to Australia's patent laws. Comments are due to DFAT by **Friday 16 March 2007**.

For more information, click here
<http://www.dfat.gov.au/ip/index.html>

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Progress made on a WIPO Development Agenda

WIPO reports there has been progress achieved by Member States in their discussions of a WIPO Development Agenda. The discussions took place at the third Session of the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA) held in Geneva from **19-23 February 2007**. Negotiators from 105 countries agreed on a first set of recommendations which will be part of the final list to be recommended for action to the WIPO General Assembly in September 2007. The first set of recommendations set out six main clusters of activity, including technical assistance and capacity building by WIPO in developing countries, technology transfer, information and communication technologies and access to knowledge, and institutional matters. Overall, the focus is on less developed countries, and the aim is promote the legal, commercial, cultural, and economic exploitation of IP in these countries.

For more information, click here
http://www.wipo.int/edocs/prdocs/en/2007/wipo_pr_2007_478.html

Record year for international patent filings

On **7 February 2007**, statistics were released on the registration of patents under the WIPO Patent Cooperation Treaty (PCT) for 2006. WIPO reports that 2006 saw a record 145,300 PCT applications, representing a 6.4% growth over the previous year. The most significant growth came from countries in Northeast Asia for the third year running and represented over a quarter of all international applications under the PCT.

In 2006, the list was topped by applications from the US, Japan, Germany, Republic of Korea, and France. The top 5 applicants remain unchanged. The Dutch multinational Philips Electronics N.V. again had the most applications published in 2006, followed by Matsushita (Japan), Siemens (Germany), Nokia (Finland), and Bosch (Germany). Among the 20 top filing companies, seven were from the US, four from Japan and three from Germany. Applications received from developing countries in 2006 saw an increase of 27.6% compared with 2005, representing 8.2% of all international patent applications filed.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2007/wipo_pr_2007_476.html

WIPO conference calls for global effort in combating counterfeiting and piracy

At the Third Global Congress on Combating Counterfeiting and Piracy held in Geneva from **30 to 31 January 2007**, government officials, business leaders, and international law enforcement called for an even greater marshalling of efforts and resources to counter the escalation in counterfeiting and piracy. The Congress was convened by WIPO, the International Criminal Police Organization (Interpol) and the World Customs Organization. According to the Organisation for Economic Co-operation and Development, counterfeit and pirated items which are traded internationally are thought to account for about 176 billion US dollars, even by conservative estimates. According to the World Health Organisation, an estimated 25% of the medicines consumed in developing countries are believed to be counterfeit. All representatives at the Congress emphasised that governments, businesses and IP organisations must work together to meet the shared challenges presented by the global trade in counterfeit and pirated products.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2007/wipo_pr_2007_475.html

To view the preliminary findings of the OECD study ‘Counting the Cost: The Economic Impacts of Counterfeiting and Piracy’ presented at the WIPO conference, click here

<http://www.oecd.org/dataoecd/12/7/38015608.pdf>

WIPO reports progress on broadcasting treaty

Acting on a mandate from the WIPO General Assembly, the Standing Committee on Copyright and Related Rights (SCCR) pushed ahead with negotiations on a treaty to update the protection of broadcasting and cablecasting organisations. The talks took place in the first of two special sessions of the SCCR held in Geneva from **17 to 19 January 2007**. According to the SCCR chair, the main objective of the treaty “is to serve as a stable legal framework for the activities of broadcasting organizations against piracy, but it also provides protection against competitors and against unfair exploitation, and against free-riding.” The SCCR will examine questions of webcasting and simulcasting on a separate track at a later date.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2007/wipo_pr_2007_473.html

New edition of trade marks NICE classification system

On **1 January 2007**, a revised version of the NICE classification (classification of goods and services for the purpose of registering trade marks) entered into force. The Nice Classification is based on a multilateral treaty administered by WIPO. As at January 2007, 79 States (including Australia) have adopted it for the purpose of trade mark registration. The revised version (9th edition) presents a number of changes by the NICE Committee of Experts regarding the 2001 version. Trade mark applications filed on or after 1 January 2007 must comply with this new classification.

To access IP Australia's Official Notice about the 9th edition of the Nice Classification, click here

<http://www.ipaustralia.gov.au/pdfs/news/NiceInternationalClassificationofGoodsandServices.pdf>

WIPO agrees on new approach for protection of traditional knowledge and traditional cultural expressions

WIPO reports that the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), meeting in Geneva from **30 November to 8 December 2006**, adopted a set of core issues that it agreed would be the focus of its future discussions on traditional knowledge (TK) and traditional cultural expressions (TCEs). The IGC requested delegates and observers to provide input on such issues as definitions of TK and TCEs, the form and scope of protection of TK and TCEs, and the nature of the beneficiaries, before the end of March 2007. These comments will be posted on the WIPO website upon receipt and made available to Member States by the end of April 2007. With regard to genetic resources, the IGC requested the secretariat to prepare a working document listing options for future work, including alternative proposals for dealing with the relationship between IP and genetic resources; the interface between the patent system and genetic resources; and the IP aspects of access and benefit-sharing contracts. This will be submitted for the IGC's consideration at its next meeting from 3 to 12 July 2007.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_pr_2006_470.html

EUROPEAN COMMISSION (EC)**EC to assess the development of Europe's online music sector**

The European Commission recently announced it will assess the development of Europe's online music sector. The assessment is in light of the Commission recommendation of 18 October 2005 on collective cross-border management of copyright and related rights for legitimate online music services. Interested stakeholders are invited to submit their views and comments on their initial experience with the Recommendation and how the online music sector has developed generally since its adoption. Comments are due by **1 July 2007**.

For more information, click here

http://ec.europa.eu/internal_market/copyright/management/management_en.htm#monitoring

EC releases results of study on interactive content and convergence

On **25 January 2007**, the results on a study by the European Commission titled 'Interactive Content and Convergence: Implications for the Information Society' were released. Although revenue from online content is predicted to grow by 400% to 8.3 billion euros in 2010, technological, economic and legal challenges – notably intellectual property rights and interoperability – need to be addressed for Europe to have faster market uptake. The study found that Europe trails the US' lead in developing interactive fixed broadband services, and Japan and Korea's in mobile services. After a wide consultation, the most identified roadblock to developing online content was found to be connectivity. Privacy, a lack of specialised skills in media companies, the cost of digitisation of content, and consumer acceptance of new content services were also found to have a significant market impact.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/95&format=HTML&aged=0&language=EN&guiLanguage=en>

Two new EC Directives on copyright enter into force

On **25th January 2007**, two new European Commission Directives on copyright entered into force. They are Directive 2006/115/EC on rental rights and lending rights and on certain rights related to copyright in the field of intellectual property, and Directive 2006/116/EC on the term of protection of copyright and certain related rights.

Directive 2006/115/EC repeals and replaces Directive 92/100/EEC. The provisions of Directive 2006/115/EC include:

- exclusive rights to authorise or prohibit the rental and lending of works subject to copyright and other objects subject to neighbouring rights;
- a harmonisation of certain neighbouring rights including the right of fixation, reproduction, broadcasting and communication to the public and distribution;
- the beneficiaries of rights related to copyright are performers, phonogram producers, film producers and broadcasters;
- Member States can derogate from the exclusive public lending right, provided that at least authors obtain remuneration for such lending; and
- the author of a cinematography work is the principal director.

To access Directive 2006/115/EC, click here

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0115:EN:NOT>

Directive 2006/116/EC repeals and replaces Directive 93/98/EEC. The provisions of Directive 2006/116/EC include:

- a total harmonisation of the period of protection for each type of work and each related right in the Member States – e.g. 70 years after the death of the author for works and 50 years after the event setting the time running for neighbouring rights; and
- the period of protection for previously unpublished works, critical and scientific publications, and photographs.

To access Directive 2006/116/EC, click here

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0116:EN:NOT>

European Innovation Scoreboard 2006 released

On **22 February 2006**, the European Commission released the European Innovation Scoreboard 2006. The Scoreboard presents a comparative analysis of the innovation performance of European countries, the US and Japan. The scoreboard measures the innovation performance of a country's economy based on a wide range of indicators, from education to expenditure in information and communication technologies, investment in R&D, or number of patents. Based on their overall innovation score and their recent historical trend, the countries are grouped in four categories:

- Innovation leaders: Sweden, Switzerland, Finland, Denmark, Germany, and Japan.
- Innovation followers: UK, Iceland, France, Netherlands, Belgium, Austria, Ireland, and US.
- Catching-up countries: Slovenia, Czech Republic, Lithuania, Portugal, Poland, Latvia, Greece, Bulgaria, Cyprus, and Romania.
- Trailing countries: Estonia, Spain, Italy, Malta, Hungary, Croatia, and Slovakia.

Luxembourg, Norway and Turkey would not fit in any of these categories.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/221&format=HTML&aged=0&language=EN&guiLanguage=en>

European Parliament examines proposal for a Directive on criminal measures aimed at ensuring the enforcement of IPRs

The Legal Committee of the European Parliament on **29th January 2007** examined the Zingaretti Report on the draft Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights. Overall, the Report is supportive of the proposal but recommends the exclusion of patent matters from the scope of any criminal sanctions. The proposed harmonisation of criminal penalties is intended to overcome the disparities between the national systems to ensure that counterfeiting and piracy can be combated effectively. The plenary of the European Parliament will vote on this proposal during the March 2007 session.

To access the European Commission's proposal for a Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights, click here

http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0168en01.pdf

OHIM seeks comments regarding Draft Guidelines on International Marks

The Office for Harmonization in the Internal Market (Trade Marks and Designs) seeks comments regarding its Draft Guidelines on International Marks. The changes have been made in a number of parts of what used to be Chapter 13 of the Examination Guidelines and new parts have been added. Comments are due by **12 March 2007**. The process of formal adoption of revisions of the guidelines will be finalised in 2007.

For more information, click here
<http://oami.europa.eu/en/mark/marque/direc.htm>

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

Science, Technology and Industry Outlook 2006 released by OECD

On **4 December 2006**, the OECD released the Science, Technology and Industry Outlook 2006. The report provides a review of key trends and developments in science, technology and innovation policy in OECD countries. Among other things, it finds that:

- By the end of 2006, China will for the first time spend more on research and development (R&D) than Japan and so become the world's second highest investor in R&D after the US. The US is predicted to remain the world's leading investor in R&D in 2006, spending just over USD 330 billion. The EU-15, which includes France, Germany and the UK, is predicted to spend just over USD 230 billion in 2006;
- The total number of globally important patents originating from non-OECD economies is small compared to the OECD total, but the numbers have grown rapidly in recent years. In 1991, Brazil, China, India and South Africa accounted for 0.15% of the total share; by 2002 this had increased to 0.58% of the total; and
- Policy has yet to catch up with the globalisation of innovation. To date, policies have largely been ad hoc and aimed at specific problems, such as inward investment. Few countries have worked out how to adapt national policy frameworks to today's more global innovation system but small, open economies, such as Finland and Ireland, appear to be leading the way.

For more information, click here
http://www.oecd.org/document/26/0,2340,en_2649_37417_37770522_1_1_1_37417_00.html