

**IPRIA International Developments in IP
Update May 2009**

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WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Standing Committee on the Law of Patents (SCP) to intensify work

At the close of its session from **23 to 27 March 2009**, the SCP agreed on a range of work items that will continue to focus attention on substantive issues relating to patent law and practice. The Committee agreed that the following four preliminary studies would remain open for comments at its next meeting:

- standards and patents;
- exclusions from patentable subject matter and exceptions and limitations to patent rights;
- client-attorney privilege; and
- dissemination of patent information.

Future work will also include initial studies on two new topics: transfer of technology and opposition systems.

For more information, click here

http://www.wipo.int/pressroom/en/articles/2009/article_0009.html

Agreement to simplify International Patent Classification (IPC) system

A committee of international experts meeting at WIPO in Geneva from **16 to 20 March 2009** agreed to simplify the structure of the IPC system. The latest series of reforms have resulted in a number of changes, including:

- the IPC structure will be simplified by abolishing the distinction between the core and advanced levels from January 2011;
- development of the IPC will be accelerated with the aim of building a unified international patent classification by progressively integrating local classification systems such as those from the United States, Europe and Japan; and
- the current structure of IPC revision work and procedures will continue to be reviewed in 2010 after one year's evaluation.

For more information, click here

http://www.wipo.int/pressroom/en/articles/2009/article_0008.html

Record number of cybersquatting cases in 2008, WIPO proposes paperless UDRP

Allegations of cybersquatting by trade mark holders continued to rise in 2008, with a record 2,329 complaints filed under the Uniform Domain Name Dispute Resolution Policy (UDRP), a dispute resolution procedure administered by the WIPO Arbitration

and Mediation Center. To improve efficiency and respond to growing demand, WIPO has proposed an 'eUDRP Initiative' to render the UDRP paperless.

In 2008, almost 30% of all cases were settled without a panel decision. Of the remainder, 85% of the panel decisions favoured the complainant, while 15% of the complaints were denied, leaving the names in the possession of the registration holder. The top sectors for complainant business activity were biotechnology and pharmaceuticals, followed by banking and finance.

The increasing number of cases filed with the Center is occurring at a time when the Internet Corporation for Assigned Names and Numbers (ICANN), responsible for managing the generic top level domain space (gTLD), is preparing to launch large numbers of new gTLDs. ICANN's current expectation is to begin accepting applications by late 2009. This has been described as 'a watershed moment in the development of the Domain Name System', and is seen as 'a genuine concern for trade mark holders'.

For more information, click here

http://www.wipo.int/pressroom/en/articles/2009/article_0005.html

New record for international trade mark registrations in 2008 but signs of slowdown at year end

International trade mark activity remained 'robust' overall in 2008 with WIPO receiving a record 42,075 applications under the Madrid system for the international registration of trade marks, representing a 5.3% rate of growth. Filing activity was stronger in the first six months of the year than in the second half of 2008 mirroring a slowdown in global economic conditions. Applicants from Germany topped the list of top filers for the 16th consecutive year, followed by users in France, the USA, the European Community, Switzerland, Italy, Benelux, China, Japan and Austria. China remained the most designated country in international trade mark applications followed by the Russian Federation.

For more information, click here

http://www.wipo.int/pressroom/en/articles/2009/article_0004.html

EUROPEAN UNION

COPYRIGHT

European Parliament votes in favour of extending copyright for music performers and record producers to 70 years

The European Commission welcomed the European Parliament's endorsement on **23 April 2009** of a proposal to extend term of copyright protection for music performers and record producers from 50 to 70 years. This is despite the European Commission previously proposing to extend the copyright term up to 95 years. The Parliament's text also introduces a new claim for session players amounting to 20% of record labels' offline and online sales revenue. According to the proposal, performers can also recover their copyright after 50 years, should the producer fail to release to the public the sound recording. Finally, a newly introduced 'clean slate' clause would prevent record producers from making deductions to the royalties paid to featured performers.

For more information, click here

http://www.europarl.europa.eu/news/expert/infopress_page/058-54192-111-04-17-909-20090422IPR54191-21-04-2009-2009-false/default_en.htm

PATENTS

European Commission adopts recommendation on Unified Patent Litigation System

On **20 March 2009**, the European Commission adopted a Recommendation to the European Council that would provide the Commission with negotiating directives for the conclusion of an agreement creating a Unified Patent Litigation System (UPLS). The UPLS is intended to increase legal certainty, reduce costs and improve access to patent litigation for businesses, in particular small and medium enterprises. The court structure to be established in the framework of the UPLS would have jurisdiction both for existing European patents and future Community patents.

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/460&format=HTML&aged=0&language=EN&guiLanguage=en>

European Commission publishes a report on the relationship between IPR and climate change

In **March 2009**, the European Commission published a report titled 'Are IPR a Barrier to the Transfer of Climate Change Technology?'. The report traces patent protection data for seven emissions-reducing energy technologies in a representative sample of low-income developing countries and emerging market economies from 1998-2008. The study finds that IPRs do not constitute a barrier to the transfer of carbon abatement technology from developed countries, neither to low-income developing countries nor to emerging market economies. Economic factors are said to stand in the way of achieving the carbon abatement objectives of low-income countries. For emerging market economies that have the capacity and market size to use innovative technologies, further improvements in patent protection could actually stimulate domestic innovation and the transfer of technologies from foreign patent holders.

To access the report, click here

http://trade.ec.europa.eu/doclib/docs/2009/february/tradoc_142371.pdf

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

Reduced fees for application to Community Trade Mark fees enter into force

From **1 May 2009**, the cost of having a Community trade mark fell by 40%. This brings the fee down to €900 for an online application.

For more information, click here

<http://oami.europa.eu/ows/rw/news/item982.en.do>

ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

OECD publishes survey on patent licensing in Japan and EU

On **31 March 2009**, the OECD released a Working Paper titled ‘Who Licenses Out Patents and Why? Lessons from a Business Survey’. In the second half of 2007, those who responded to the survey were 600 European and 1600 Japanese patenting firms. The results include the following:

- patent licensing is widespread among patenting firms: around one company in five in Europe licenses patents to non-affiliated partners, whereas more than one in four does so in Japan;
- the relationship between size of the firm and probability to license out is U-shaped: small firms and large firms are more likely to license out their patented inventions; and
- the major barrier firms have when licensing out patents is the identification of partners.

To access the Working Paper, click here

<http://www.oecd.org/dataoecd/47/16/42477187.pdf>