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Team of Specialists on Intellectual Property**Fifth session**

Geneva, 7–8 July 2011

Report of the Team of Specialists on Intellectual Property on its fifth session**I. Attendance**

1. The Team of Specialists on Intellectual Property (TOS-IP) held its annual session on 7-8 July 2011. Experts representing government agencies, academic institutions and the business community from fifteen UNECE member States participated in the meeting. The session was also attended by representatives of the European Commission, the European Patent Organization (EPO), the Organization for Economic Cooperation and Development (OECD), the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO).

**II. Adoption of the agenda and election of officers
(agenda item 1)**

2. The Team adopted the agenda of its session unchanged as provided in document ECE/CECI/IP/2011/1.

III. Substantive segment (agenda item 2)

3. The topic of the substantive segment was raising awareness of the role of intellectual property rights (IPRs) in innovation and the dangers and economic costs of IPR infringements. It was organized into three sessions, on "Raising Awareness of the Dangers and Economic Costs of IPR Infringements", on "Raising Awareness Among Academics of the Role of IPRs in Technology Transfer and Innovation", and on "Raising Awareness among small and medium enterprises (SMEs) on How to Access the IPR System and How to Manage IPRs for Business Development".

4. In addition, the substantive segment included a keynote speech on "IPR Awareness - Preserving the Engines of Growth and Innovation" by Andrew Sherman, Group Vice President and General Counsel of Dolby Laboratories, and a panel discussion on "The New European Union (EU) Draft Customs Regulation".
5. The substantive segment provided an opportunity for policymakers from member States to engage in an exchange of experience with representatives of relevant stakeholder groups, including global IPR owning companies, small and medium-sized companies, the academic community, and international organizations.
6. The results of the discussions at the substantive segment will form the basis for a policy-oriented document to be submitted to the sixth annual session of the UNECE Committee on Economic Cooperation and Integration on 30 November - 2 December 2011.
7. The panel on The New EU Draft Customs Regulation featured presentations by the World Trade Organization, the European Commission, the Intellectual Property Rights Business Partnership and the All-Russian Association of Small and Medium-sized Enterprises (OPORA). Panellists discussed the current international minimum standards for the enforcement of IPRs at international borders, the corresponding provisions in the Russian Federation and the customs union between Belarus, the Russian Federation and Kazakhstan, the motivation for the new proposed EU regulation, the changes it would introduce, and the advantages and drawbacks of these changes from the point of view of IPR owners.
8. Some of the points made during the three sessions of the substantive segment were:
 - (a) To curb trademark counterfeiting and copyright piracy, it is not enough to focus on the supply side, i.e. to go after the producers of infringing products and to intercept such products at borders or on national markets. It is also important to address the demand side, i.e. to educate potential customers about the threats that counterfeits pose for innovation, economic development, and consumer health and safety;
 - (b) Potential customers of counterfeit and pirated products differ substantially in their motivations for considering purchasing these products. Some are attracted by the lower prices, some by the ease of delivery (file sharing), some by a desire to "beat the system". In order to be effective, awareness raising campaigns need to be tailored to these different types of potential customers;
 - (c) Campaigns also need to differentiate between "complicit" buyers, who know that they are buying fake products, and "naive" buyers, who buy fake products unknowingly;
 - (d) In addition to educating potential customers about the dangers of counterfeits and pirated products, companies also need to make sure that legitimate products are sufficiently attractive to consumers relative to counterfeit alternatives. This may involve tailoring the packaging, package sizes, modes of delivery, or pricing to different markets and customer groups;
 - (e) Participants discussed examples of public awareness raising campaigns from France, Switzerland, the United States, Finland, Italy, Canada, Germany, and the European Union as a whole, as well as international campaigns.
 - (f) Counterfeiting today is not confined to consumer products only. It has affected a broad range of product categories, including products typically purchased by enterprises or even government procurement offices. Awareness raising campaigns therefore need to be devised also for these categories of potential customers;
 - (g) Experience suggests that one challenge is to engage consumer associations in IPR awareness raising campaigns;

- (h) Examples were given of initiatives to incorporate IPR awareness raising in school curricula in order to reach students at an early age;
- (i) An example of effective awareness raising on the internet is decoy websites which pose as sites where consumers can purchase counterfeits or pirated products but which then lead the consumer to a site which educates on the dangers of these products;
- (j) Public awareness on the problem of counterfeiting and piracy can also be raised by destroying seized counterfeit and pirated materials in public in a highly visible way;
- (k) Scientists working in research organizations are motivated mostly by the quest for new knowledge. They are not primarily interested in monetary rewards, and they are typically not very entrepreneurial. The challenge is to make them aware of how IPR management can advance their research interests, by facilitating research cooperations with industry and by attracting industry financing for research projects. For students, these cooperations are attractive because they can generate critical job market opportunities;
- (l) To raise awareness about the importance of IPR management among researchers it is important for the top management of the research organization to consistently send the message that successful IPR management is viewed as critical for the organization as a whole;
- (m) It is also important to fully integrate IPR management into the internal value system of the research organization by recognizing achievements in technology transfer on an equal footing with scientific publications and work in the institutions self-administration;
- (n) Researchers frequently perceive IPR protection requirements as career obstacles because patenting is seen as delaying academic publishing. However, without IPR protection, industrial partners, who may have financed or cooperated in the research, may insist that the results be kept secret and not be published at all;
- (o) A key component of IPR awareness raising in research organizations is to explain the need for IPR due diligence in the design of research projects in order to avoid inadvertent infringements of third party IPRs;
- (p) IPR awareness raising in research organizations needs to be tailored to different academic fields because fields differ in the kinds of knowledge they generate, the appropriate conduits for knowledge transfer to industry and society at large, and the appropriate types of IP needed to facilitate this process;
- (q) The available evidence from a large number of countries suggests that SMEs frequently lack a coherent IP management strategy, that they lack adequate skills to manage their IP portfolios, that they don't understand the formal IPR system, and they don't have adequate resources for IPR protection and enforcement;
- (r) These problems are compounded when SMEs are operating on international markets;
- (s) Lacking IP awareness not only prevents SMEs from fully exploiting their own innovative potential. It can also cause them to inadvertently infringe on the IPRs of third parties;
- (t) There is a considerable heterogeneity in how SMEs use IPRs depending on factors such as industrial sector, size, and innovative activity. One challenge for awareness raising programs is to adequately take this heterogeneity into account;
- (u) Many awareness raising programmes for SMEs struggle to reach their target audiences because they are being offered by IP offices. Those SMEs that are not currently using IP and therefore are not in contact with IP offices often fail to notice these

programmes. There is therefore a need for awareness raising programmes to be designed and delivered in partnership with enterprise promotion agencies and other entities that are already in regular contact with SMEs, including SMEs that are not currently using formal IPRs;

(v) The vast majority of support programmes currently available for SMEs focus on patenting. This is unfortunate because the evidence suggests that patenting is less important for most SMEs than other forms of formal and informal IP. Awareness raising and other support programmes should be broadened to cover the whole range of formal and informal IP protection mechanisms that may be relevant to SMEs;

(w) Many SME awareness raising and education programmes are conceived from a legal IP point of view, but lack a genuine business focus;

(x) IPR awareness raising campaigns need to keep up with dynamic changes in the innovation processes and innovation models used by innovative SMEs and the attendant changes in how IP and other intangible assets need to be managed;

(y) To be effective, awareness raising campaigns should inter alia work with professionals who regularly provide services to SMEs, such as lawyers, accountants, engineers, designers so that they can routinely incorporate IPR management into their interactions with SMEs; and

(z) A problem that was in evidence in virtually all awareness raising programmes discussed, including consumer awareness, awareness in research organizations, and SME awareness, was that the impact of these programmes is not being systematically assessed.

IV. Review of the work done since the fourth session (agenda item 3)

9. The Chairperson gave the floor to the secretariat to present a summary of the main work done. The secretariat presented the main results achieved on a synopsis of good practices and policies, on a comparative review which had been circulated to the members of TOS-IP in draft form, and on capacity-building.

10. A **Synopsis of good practices and policy recommendations on the commercialization of intellectual property rights in public research organizations and innovative enterprises in the context of cross-border open innovation** was prepared drawing on the results of the substantive segment of the fourth session of TOS-IP in July 2010. This Synopsis was submitted as an official document to the fifth session of the UNECE Committee on Economic Cooperation and Integration on 1-3 December 2010 (ECE/CECI/2010/7). The secretariat presented some of the main findings from this document.

11. A **Comparative Review on Intellectual Property Rights Commercialization - Policy Options and Practical Instruments** was prepared and circulated to the members of TOS-IP for comments. The secretariat presented some of the main findings from the Review and invited Team members to circulate it among relevant national stakeholders and to provide comments on the document. The secretariat explained that it would incorporate comments over the summer. The final document would be published as an official UN publication and would be submitted to the sixth session of the Committee on Economic Cooperation and Integration.

12. The TOS-IP organized or participated in the following IP-specific capacity-building activities:

(a) **International Capacity-building Conference on the Commercialization and Enforcement of Intellectual Property, Moscow, Russian Federation, 6 to 8 October 2010**, co-organized with the All-Russian Association of Small and Medium-sized Enterprises and the United States Patent and Trademark Office, with financial support from the Russian Federation and Dolby Laboratories, and with participation from WIPO and the United States Federal Bureau of Investigations (FBI). The Conference built on the results of the substantive segment of the fourth session of TOS-IP held in July 2010. It was attended by over 100 representatives of intellectual property offices, government ministries, universities, technology parks, customs and other IPR enforcement authorities from Armenia, Belarus, Moldova, the Russian Federation, Turkey, and Ukraine, as well as international experts from Switzerland, Finland, the United Kingdom, the United States, and the business community. The Conference discussed international good practices and national experiences on the management of IPRs in cross-border open innovation, and international cooperation on IPR enforcement. As part of the programme, site visits to the technopark of the Moscow State University and to the Federal Customs Authority were organized.

(b) **Contribution to an Inter-regional Symposium on the Enforcement of Intellectual Property Rights, Prague, Czech Republic, 2-3 November 2010**, organized by the World Intellectual Property Organization (WIPO) in co-operation with the United States Patent and Trademark Office and the Czech Industrial Property Office. The Symposium brought together representatives of intellectual property offices and IPR enforcement authorities from 26 countries to discuss work on a WIPO tool on IPR enforcement for transition economies.

(c) **Contribution to the International Conference "From Applied Research to Entrepreneurship: Promoting Innovation-driven Start-ups and Academic Spin-offs", Kiev, Ukraine, 9-10 November 2010**, organized jointly by UNECE, the Ministry of Education and Science of Ukraine, and the National Technical University. The Conference exploited synergies between the various thematic areas under the Committee on Economic Cooperation and Integration and was jointly organized on the part of UNECE by the Team of Specialists on Innovation and Competitiveness Policies, TOS-IP and the networks of experts on entrepreneurship and enterprise development and on financing innovative development. The Conference discussed good practices and built capacity on the commercialization of academic research, creating university start-ups and spin-offs, and research cooperation between public research organizations and industry.

(d) **International Capacity-building Seminar "Intellectual Property Management at Public Research Organizations", Kiev, Ukraine, 11 November 2010**, in cooperation with the Science and Technology Centre of Ukraine with participation of the United States Patent and Trademark Office. The seminar was structured into two sessions on Building an IP Portfolio, and on Technology Transfer for the Benefit of Business and Society. Together, the two events in Kiev were attended by over 170 representatives of national intellectual property offices, government ministries, public research organizations, technology parks, and the business community from Azerbaijan, Bulgaria, Georgia, Moldova, the Russian Federation, Turkey, Ukraine, as well as international experts from the European Commission, Estonia, India, Luxemburg, the Netherlands, Sweden, the United Kingdom and the United States.

(e) **Contribution to the International Conference "Actual Problematic Issues of Intellectual Property Rights" and the Inter-regional workshop "Economic Aspects of Intellectual Property in Transition Economies", Lvov, Ukraine, 21-24 February 2011**, organized by WIPO and the Ukrainian Intellectual Property Office. The events were attended by participants from 18 countries representing national IP offices, law firms and licensing professionals. While the Conference covered a broad spectrum of

topics, the workshop was devoted to discussing work on a WIPO tool on Economic Aspects of IPRs in Transition Economies.

(f) **Subregional Capacity-building Conference “Commercialization and Enforcement of Intellectual Property”, Belgrade, Serbia, 12-13 April 2011**, in cooperation with the Serbian Intellectual Property Office and the Chamber of Commerce and with the participation of WIPO and the European Union Economic and Social Committee. The Conference was attended by representatives of national intellectual property offices, government ministries, public research organizations, and small and medium-sized enterprises from Albania, Bosnia and Herzegovina, Croatia, Montenegro, Romania, Serbia, the former Yugoslav Republic of Macedonia, as well as the international business community. The Conference consisted of an opening and a closing plenary, and two parallel tracks in between. Participants in the first track discussed good practices on IPR management in small and medium-sized firms; participants in the second track discussed international cooperation curbing the trade in counterfeit goods.

13. Overall, some 350 participants from 17 countries with economies in transition attended the events where UNECE was the main organizer.

14. Responses from evaluation questionnaires distributed to participants at the UNECE events showed that 77 to 80 percent of respondents gave the events a rating of 4 or 5 on a scale of 1-5.

15. Representatives from the Russian Federation, Serbia and Ukraine provided additional details on some of the above activities and expressed their appreciation for the work done.

V. Implementation plan for the remainder of 2011 and proposals for the programme of work in the next programming cycle (agenda item 4)

16. The Chairperson gave the floor to the secretariat to introduce this agenda item. The secretariat explained that in addition to the proposals included in the annotated provisional agenda (ECE/CECI/2011/1), the Team would be expected to contribute to a UNECE-wide five-year review of its programme of work under the guidance of the UNECE Executive Committee and the Bureau of CECI. In addition to evaluating the work of the past five years, the review process would have a forward-looking part to identify priorities for current and future work, possible new and emerging issues and expected results, possibilities for streamlining and synergizing activities, ways of improving efficiency and methods of work, needs to re-orient or re-focus activities to better reflect member States' priorities, possibilities for improving the structure of the programme of work, and ways of improving communication and public outreach.

17. The review would be carried out at the level of all eight UNECE subprogrammes and within those subprogrammes, at the level of all subsidiary bodies. For CECI, this meant that all three Teams of Specialists would be undertaking a review of their work, including the forward-looking aspects mentioned above. The secretariat would be drafting the review in time for it to be submitted to the sixth annual session of CECI on 30 November - 2 December and would be in close contact with the members of its Teams in order to actively solicit their feedback on the above points.

18. The secretariat also drew the attention of the Team to an issue that was raised by some member States specifically on CECI's work on intellectual property. Some member States questioned whether this work might be duplicating the work of WIPO. They therefore requested the secretariat to undertake consultations with its counterparts at WIPO

to identify ways of making cooperation more efficient, avoiding duplication, and achieving complementarities and synergies. The results of these consultations would be incorporated in the review.

19. The secretariat explained that the CECI Programme of Work for the next programming cycle, including and that of its Teams, need to be aligned with the outcome of the review process. The secretariat would maintain an ongoing dialogue with the Team on the review process and its implications for the Programme of Work of the Team.

20. The Chairperson then referred to the annotated agenda (document ECE/CECI/IP/2011/1) and explained that the Team was mandated to produce synopses of Good Practices, to organize several capacity building activities, and to produce training materials and modules to be used in capacity-building seminars and training courses.

21. The secretariat introduced the discussion on training materials by explaining that the available options were to refer stakeholders to suitable existing training materials, to work with partners to adapt existing training materials to the needs of stakeholders, and to develop new materials where clear unmet demand exists. Research conducted by the secretariat, including a survey of Team members, revealed that there is demand for training materials on all topics covered by the Team, but that there are also a number of training materials available on these topics from international organizations, national intellectual property offices, associations of technology transfer professionals, and commercial providers.

22. The challenge was to identify specific demand and gaps in availability in terms of the level of detail and the target audience of training materials, their accessibility (mode of delivery and price), languages, and quality. Another challenge was to engage the right partners to effectively deliver training materials and training to the targeted audiences. Experience suggests that in order to reach the targeted audience (such as innovative small and medium-sized enterprises), it is important to partner in delivery with entities which are in regular contact with the target audience (such as enterprise promotion agencies).

23. The Chairperson then gave the floor to representatives of the European Patent Organization (EPO), the United States Patent and Trademark Office (USPTO) and WIPO to present some of the training materials they offer and to discuss opportunities for cooperation in making these materials available or adapting them to the needs of the Team's stakeholders.

(a) The EPO's European Patent Academy has produced inter alia training materials for SMEs, universities and innovation policymakers. The materials are targeted mainly at intermediaries and trainers. Some of the materials have been produced in the framework of the European Union IP4inno project. They are password-protected but available free of charge. They are open-source and can be translated or otherwise adapted by users to their specific needs.

(b) The USPTO's Global IP Academy offers on-site and distance learning programmes, including case studies. Materials are available in several languages, including English and Russian, and are mostly focused on IPR enforcement, IP law and the management of IP offices, but less on IP for SMEs or universities.

(c) WIPO presented several tools that have been developed or are in the process of being developed specifically for countries with economies in transition, including on IP management for SMEs, IP management for research organizations, and IPR enforcement. These materials are available free of charge in electronic form. TOS-IP has contributed to the development of some of these materials. The WIPO Academy provides on-site and distance learning on a broad range of topics and for a broad range of stakeholders. Associated learning materials are available to course participants.

24. The secretariat then introduced the work on policy-oriented documents to be submitted to the next session of CECI. The Team was mandated to produce a Synopsis of Good Practices and Policy Recommendations on Raising Awareness of the Role of IPRs in Innovation and the Dangers and Economic Costs of IPR Infringements. The secretariat would draft the document by capturing the main problems and recommendations emanating from the substantive segment of the fifth annual session of the TOS-IP. The draft would be circulated for comments among Team members. The final document would be submitted as an official document to the sixth annual session of CECI on 30 November - 2 December 2011.

25. The Team was also mandated to contribute to a Synopsis of Good Practices and Policy Recommendations on the Relations Between Education and Research Institutions, Industry and Government, drawing on the outcomes of an international conference to be organized in Azerbaijan in November 2011 (cf. paragraph 27 below) and other good practices.

26. The secretariat then explained that for the remainder of 2011, two capacity-building activities were scheduled. The first would be organized together with the Kyrgyz Intellectual Property Office, the Ministry of Economic Regulation of the Kyrgyz Republic and the United States Patent and Trademark Office in Bishkek on 11-12 October 2011. This event was originally planned for the spring of 2011 but had to be postponed due to scheduling conflicts. It would involve two days of parallel sessions on IPR valuation issues and on IPR enforcement, targeted at relevant government officials, academics and businesses from CIS countries. The second would be a subregional capacity-building conference in Chisinau, Republic of Moldova, on 9-10 November 2011, jointly organized with the Intellectual Property Office of the Republic of Moldova in cooperation with the United States Patent and Trademark Office. This event would be targeted at participants from Moldova, Ukraine, Romania, Turkey, the Caucasus and other interested countries with economies in transition.

27. In addition to the above events, the Team would be contributing to a cross-cutting International Conference on Knowledge-based Development and Innovative Entrepreneurship in Baku, Azerbaijan, on 23 – 24 November 2011, organized together with the CECI networks of experts on Entrepreneurship and Enterprise Development and on Financing Innovative Development and with the Team of Specialists on Innovation and Competitiveness Policies.

28. Moreover, the Team would contribute to an inter-regional symposium on IPR Enforcement organized by WIPO together with the Intellectual Property Office of Serbia in Belgrade on 6-7 September 2011.

29. The secretariat then introduced the discussion on the Team's contributions to the 5-year review of its work, including the forward-looking aspects on future priorities and methods of operation. The secretariat invited the Team to consider in particular the following points:

(a) How the Team's work on intellectual property can contribute to the broader agenda of the Committee on Economic Cooperation and Integration, i.e. promoting knowledge-based development;

(b) How to maximize synergies with other Teams and networks under CECI, with other subprogrammes of UNECE and with international partner organizations and stakeholder associations;

(c) Identifying niches where the Team can add value and avoid duplication of the work of others; and

(d) How to further improve the impact and efficiency of its work.

30. The Chairperson opened the floor for a discussion on these points. Representatives of Azerbaijan, Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, Romania, and Ukraine expressed their appreciation of and continuing support for the Team's work on intellectual property, stating that they did not see the Team's work as duplicating work done elsewhere but rather complementing the work of other organizations.

31. In addition to these interventions, the representative of WIPO's Division on Certain Countries in Europe and Asia (which covers countries with economies in transition) also touched upon these points when presenting their work on training materials (cf. para. 23 above). He stated that when TOS-IP was established five years ago, there was some hesitation at WIPO concerning possible harmful competition and duplication of work. However, these concerns proved irrelevant, and WIPO and TOS-IP established a very fruitful cooperation. He added that the demand from countries with economies in transition for information, advice and capacity-building on IP was so strong that the question was how both WIPO and UNECE could do more in this field to meet this demand.

32. Among the proposals for future priorities and for further strengthening the impact and effectiveness of the work were the following:

(a) to create specific favourable conditions for the development of innovation activities through the effective use of IP;

(b) to facilitate economic modernization through enhanced transfer of advanced technologies;

(c) to raise awareness among all stakeholders on the role and significance of IP;

(d) to further strengthen work on establishing effective IP protection systems;

(e) to encourage, support and promote intellectual creativity among authors and inventors;

(f) to put a specific focus on involving young people in scientific and technical creative activities;

(g) to contribute to further improvement of the technology transfer from R&D centres to the market, and to imports of foreign advanced technologies;

(h) to improve regulatory frameworks dealing with the legal protection of IPRs;

(i) wherever appropriate, to help in amending criminal and civil codes and other IP-related laws in order to reduce the scope of infringements in the field of IPRs, including imported counterfeit and pirated products;

(j) to contribute to improving the knowledge of law enforcement authorities and courts and ensure effective collaboration of public authorities in order to effectively prevent infringements of IPRs;

(k) to assist in promoting the dissemination of IP-related products and innovations;

(l) to continue efforts in supporting IPR enforcement, including at borders;

(m) to engage in providing policy advice, including advisory missions to countries, on legal improvements and implementation, including on the commercialization of IP;

(n) to continue and strengthen efforts in training of national IP experts;

(o) to engage in assisting the development of national IP strategies;

(p) to continue providing support for technology transfer centres;

(q) wherever appropriate, to help in improving the quality of patents;

(r) improving communication with each other to facilitate knowledge sharing in the field of IPRs;

(s) to disseminate and to use best practices and experiences in the countries of the region;

(t) to engage in regular sending out questionnaires to Team members; and

(u) to engage in sending requests to member States to identify their interests and priorities.

33. The Chairperson thanked participants for their suggestions and reminded them that further consultations on the future priorities and structuring of the work would be conducted by the secretariat in the coming months. The Chairperson invited participants to contribute to this process, including by holding their own consultations with colleagues and other interested stakeholders in their respective countries.

VI. Other business (agenda item 5)

34. Participants agreed that the secretariat prepare the meeting's report no later than ten days following the session and that it be reviewed and adopted by the Bureau on behalf of the Team.

35. The Secretariat proposed a provisional date for the Team's sixth annual session. After the end of the session, the secretariat learned that it would be necessary to re-schedule due to capacity constraints of the UN Conference Services Department on the originally proposed date. The secretariat therefore proposed and the Bureau agreed on 20-21 June 2012 in Geneva as the new date.
