



Building Respect for IP – Current Work of WIPO

Subregional Capacity-Building
Conference on Economic Aspects and
Enforcement of Intellectual Property

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Overview

- Legal Framework: The Agreement on Trade-Related Aspects of Intellectual Property Rights
- Policy Framework: The WIPO Development Agenda
- Current Work of the WIPO Advisory Committee on Enforcement (ACE)
- The Global Congress on Combating Counterfeiting and Piracy
- WIPO Legislative and Technical Assistance

Legal Framework

- Agreement on Trade-Related Aspects of Intellectual Property Rights
- Came into effect on January 1, 1995
- Part III of the Agreement: Enforcement of Intellectual Property Rights
- Divided into five Sections:
 - General Obligations
 - Civil and Administrative Procedures and Remedies
 - Provisional Measures
 - Special Requirements related to Border Measures
 - Criminal Procedures

Policy Framework: The WIPO Development Agenda and IP Enforcement

- Agreed by Member States in 2007, consists of 45 recommendations
- Aims at ensuring that development considerations form an integral part of WIPO's work
- WIPO to support an informed policy dialogue on the way in which IP can best evolve as a tool to establish an equilibrium between
 - Private Rights: to encourage and ensure reward for creativity and innovation
 - Public Interest: to access knowledge, and to share and collaborate in cultural development

Policy Framework: WIPO Development Agenda and IP Enforcement

Recommendation 45 – IP Enforcement:

“To approach IP in the context of broader societal interests and especially development-oriented concerns keeping in mind that ‘the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations’, in accordance with Article 7 of the TRIPS Agreement.”

The WIPO Advisory Committee on Enforcement (ACE)

- Established in 2002
- Members: all WIPO Member States + accredited observers
- Mandate of the ACE
 - Coordination with certain organizations and the private sector to combat counterfeiting and piracy activities
 - Public education
 - Technical assistance
 - Coordination of national and regional training programs
 - Exchange of information
- Norm setting excluded
- Annual work program agreed by the Committee
- Discussions supported by studies
- Working documents at: *<http://www.wipo.int/enforcement/en/ace/>*

ACE - Sessions

- 1st session (June 2003): Agreed on a thematic approach with expert opinions
- 2nd session (June 2004): The role of the judiciary, quasi-judicial authorities and the prosecution in enforcement activities including problems related thereto such as litigation cost
- 3rd session (May 2006): Education and awareness building, including training, in all areas of intellectual property enforcement
- 4th session (November 2007): Cooperation and coordination at the international, regional and national levels
- 5th session (November 2009): Contribution of, and cost to, right holders in enforcement, taking into consideration Recommendation 45 of the WIPO Development Agenda
- 6th session (December 2010): Focus on economic perspective to counterfeiting and piracy, analyzing and discussing intellectual property rights infringements in all its complexities
- 7th session (December 2011): Continuation of the Committee's work program

Current Work of the ACE

- Current work program – a shift in focus
- Three elements:
 - Analysis of reasons that fuel counterfeiting and piracy, including consumer behavior and motivations
 - Identifying and assessing the social, economic and commercial impact of counterfeiting and piracy
 - Analysis of enforcement efforts and alternative models from a socio-economic welfare perspective to address the counterfeiting and piracy challenges

Current Work of the ACE

Research to be presented at the 7th session of the ACE (Nov. 30 – Dec. 1, 2011)

Inter alia:

- ‘A Review of Statistical Information on Counterfeiting and Piracy’
- ‘Work on Counterfeiting and Piracy Concerning the Development of a Methodology to Measure the Socio-Economic Impact of Counterfeiting and Piracy’
- ‘Mainstreaming Corporate Social Responsibility (CSR) towards Building Respect for Counterfeiting and Piracy’
- ‘Presentation of the French Charter on the Fight against Cyber-Counterfeiting of December 16, 2009’

Global Congress on Combating Counterfeiting and Piracy

- Organized in public-private cooperation: WIPO, INTERPOL, World Customs Organization (WCO) and the private sector (ICC-BASCAP, INTA)
- 6th Congress: chaired by WIPO (Paris, February 2011)
- Attracted almost 900 delegates from 105 countries
- Focus in 2011 on finding sustainable solutions in response to different levels of socio-economic development
- Examples:
 - Measuring scope and impact of counterfeiting and piracy
 - Protecting consumer safety
 - Eco-friendly and socially equitable disposal of infringing goods
 - Innovative approaches to financing effective enforcement
 - Corporate Social Responsibility – nurturing respect for IP
- Key statements: podcasts of the sessions and other information available soon at <http://www.ccapcongress.net/>

WIPO Legislative and Technical Assistance Relating to IP Enforcement

- Great demand by WIPO Member States
- WIPO services include
 - Legislative advice
 - IP enforcement training courses
 - Strategic/policy advice
- Example: Regional project aiming at strengthening the public-private dialogue/cooperation concerning IP enforcement in Central European and Baltic States, Central Asian, Eastern European and Caucasian countries, as well as some Mediterranean countries
 - Series of meetings 2008-2011, bringing together enforcement authorities and the private sector
 - Compilation of working document (“Tool”) that reflects public private sector views as well as relevant legislation; current focus on border enforcement and market surveillance

Draft Tool on Enforcement of IP Rights in Countries in Transition

Border Enforcement – Issues Covered

- Application for Customs Procedures
 - Application costs
 - Formalities
 - Bond or insurance
 - Single application for several countries
 - Filing of applications electronically
- Goods Identification
 - Inspection
 - Access to information
 - Product information online database
 - Capacity building concerning goods identification

Draft Tool on Enforcement of IP Rights in Countries in Transition

Border Enforcement – Issues Covered

- Follow-Up Procedures
 - Legal costs in civil and administrative procedures
 - Simplified procedures
 - Duration of follow-up proceedings
 - Capacity building concerning follow-up proceedings
- Destruction and Recycling of Counterfeit Goods
 - Costs of transportation, storage and destruction
 - Environmental issues
- Other Issues
 - Ex officio procedures
 - Goods in transit

Draft Tool on Enforcement of IP Rights in Countries in Transition

Market Surveillance – Issues Covered

- Agencies involved in Market Surveillance, *inter alia*:
 - Market inspectorates
 - Police
 - Customs
- Enhanced Inter-Agency Cooperation
- Strategic Interaction with Right Holders
- Resources, Capacity Building

Annexes to the draft Tool

- Annex I: Legal Framework
- Annex II: Example of Successful Practice: Recycling Counterfeit Goods (submitted by REACT)
- Annex III: Right Holders' Recommendations (submitted by REACT)
- Annex IV: UNECE Recommendation M

Feedback on the draft Tool – 2011 WIPO Inter-Regional Symposium on the Enforcement of IP Rights

- Group Discussion on Border Enforcement
- Reports and Suggestions:
 - In several countries, the application fee had been abolished, leading to an increase of applications
 - Discussions on including additional information in the application
 - Right holders reported that too many formalities would discourage applying for customs' action
 - The need of intelligence-sharing between public and private sector was emphasized
 - Customs officers called on right holders for better cooperation

Feedback on the draft Tool – 2011 WIPO Inter-Regional Symposium on the Enforcement of IP Rights

■ Group Discussion on Market Surveillance

■ Reports and Suggestions:

- Importance of specialized IP training for market surveillance authorities, in particular with a view to trade of counterfeit goods over the internet, was underlined
- Participants called for systematic data and intelligence collection pertaining to IP enforcement
- Participants reported that the role of market surveillance in IP enforcement is, in comparison to border enforcement, being underestimated

Follow-up Initiatives

- Countries have expressed interest to further discuss the following issues:
 - Demand-side of counterfeiting and piracy
 - Counterfeiting and piracy over the internet
 - IP criminal procedure
 - Compilation of a code of conduct for right holders
 - The role of competition law

THANK YOU



<http://www.wipo.int/enforcement/en/>