

IPRIA International Developments in IP

Update December 2006

Welcome to the IPRIA **International Developments in IP Bulletin** for December 2006. 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 INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

WIPO Committee continues work on various international trade mark issues

From **13 to 17 November 2006**, the WIPO Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT) met to discuss a range of issues. Discussion focussed on different approaches by member states to the representation and description of new marks such as three-dimensional marks, audio marks, holograms, and olfactory (smell) marks, as well as trade mark opposition procedures which offer third parties the opportunity to oppose the registration of a trademark within a certain period of time provided by the applicable law. The SCT also agreed on a number of proposals for making information on International Non-Proprietary Names for Pharmaceutical Products (INNs) available to trade mark administrations of interested countries.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_upd_2006_281.html

Final stage in negotiations for WIPO Broadcasting Treaty

WIPO reports that negotiations on the protection of broadcasting organisations have entered their final phase, following agreement by the WIPO Standing Committee on Copyright and Related Rights (SCCR) to convene a diplomatic conference from **11 July to 1 August 2007** to update the rights of broadcasting organisations. The objective of the conference, the last phase of treaty negotiations, is to conclude a treaty on the protection of broadcasting organisations, including cablecasting organisations.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_pr_2006_454.html

Amendments to PCT Regulations

At its thirty-fifth (20th extraordinary) session, the Assembly of the Patent Cooperation Treaty (PCT) Union adopted amendments to the PCT Regulations, further to those adopted in October 2005, which will enter into force on **1 April 2007**. The amendments relate to various matters, including:

- minimum requirements for International Searching and Preliminary Examining Authorities; and
- physical requirements of the international application: text size requirements and procedure for making corrections.

To access the amendments, click here

http://www.wipo.int/meetings/en/details.jsp?meeting_id=11183

WIPO Report shows internationalisation of patent trends

WIPO's patent report, 'Statistics on Worldwide Patent Activity (2006 Edition)', released **16 October 2006** shows an internationalisation of patent trends. According to the report, the number of patent applications filed worldwide almost doubled between 1985 to 2004, with an average annual rate of increase of 4.75% since 1995. The number of Patent Cooperation Treaty (PCT) applications grew at an average annual rate of 16.8% between 1990 and 2005 and is now used in 47% of all international filings. Patent filing activity is highly concentrated, with patent offices in the US, Japan, Republic of Korea, China and Europe accounting for 75% of all patents filed. The ownership of patents granted over the past 20 years shows even greater concentration, with residents of Japan and the US owning 29% and 22% respectively of all patents in force in 2004. The report also notes a boom in patent filings in northeast Asia over the past 20 years, most notably with the emergence of China and the Republic of Korea as major industrial economies. In only 20 years, China has become the 4th largest patent office in the world (by number of patent applications filed) and patent filings by Chinese residents grew more than five-fold between 1995 and 2004.

For more information and to access the report, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_pr_2006_463.html

WIPO Assemblies conclude

Following a review of activities over the past year and agreement on future work, the Assemblies of the member states of WIPO concluded. Highlights of the meeting that took place from **25 September to 3 October 2006** include:

- Member States expressed support for the Singapore Treaty on the Law of Trademarks which they concluded by consensus in March 2006;
- the General Assembly agreed to renew the mandate of the Provisional Committee on Proposals Related to a WIPO Development Agenda for a further year;
- Member States endorsed the appointment of the Nordic Patent Institute, comprising the patent offices of Denmark, Iceland and Norway, as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty (PCT); and
- Member States agreed on a way forward in respect of discussions held in the context of WIPO's Standing Committee on the Law of Patents (SCP) which, in past years, has been discussing mainly substantive patent law issues. Member States decided that proposals for the work program of the SCP, including proposals on ways forward or approaches, may be submitted by December 2006.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_pr_2006_462.html

UPCOMING WIPO CONFERENCES, MEETINGS AND SEMINARS

WIPO to host anti counterfeiting and piracy meeting

WIPO has announced that the “Third Global Congress on Combating Counterfeiting and Piracy” will be held in Geneva on **30 and 31 January 2007** under the banner “Shared Challenges – Common Goals”.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_ma_2006_24.html

WIPO executive program on strategic IP management

WIPO is inviting interested parties to participate in its second executive program on strategic intellectual property management, which will be held from **11 to 13 March 2007** in Goa, India.

For more information, click here

http://www.wipo.int/edocs/prdocs/en/2006/wipo_pr_2006_467.html

EUROPEAN COMMISSION (EC)

EC adopts new state aid Framework for Research, Development and Innovation

The European Commission has adopted a new Framework to clarify to Member States how best they can give state aid to research, development and innovation (R&D&I) projects without infringing EC Treaty state aid rules. Whereas the current Framework is limited to aid for R&D, the new Framework also includes aid for innovation projects. The Framework sets out a series of guidelines for specific types of state aid measures – such as aid for R&D projects, aid for young innovative enterprises, and aid for technical feasibility studies – that could encourage additional R&D&I investments by private firms. These guidelines allow Member States to tailor aid measures to particular situations, subject to a three-part test:

1. the aid must address a well defined market failure;
2. the aid must be well targeted; and
3. the identified benefits must outweigh the distortions to competition resulting from the aid.

The new Framework is due to apply from **1 January 2007**.

For more information, click here

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/1600&format=HTML&aged=0&language=EN&guiLanguage=en>

Report on patents and R&D expenditures

In **November 2006**, Eurostat (the Statistical Office of the European Communities) published a report on patents and R&D expenditures. The report looks closely at the role of patent activity at the European Patent Office (EPO) and the US Patent and Trade Mark Office (USPTO) as an output of R&D expenditure. The main findings include:

- businesses applied for most EPO patents (82.4%), followed by the government sector (13.8%), and the higher education sector (1.9%);
- a high level of gross domestic expenditure on R&D leads in most countries to a high number of patent applications to the EPO or patents granted by the USPTO; and
- the ratio of business enterprise R&D to EPO patent applications in the business sector indicates that EU patent applications require less research funds than American or Japanese applications.

To access the report, click here

http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-NS-06-016/EN/KS-NS-06-016-EN.PDF

Follow-up study on patent litigation insurance

The European Commission has released a follow-up study on patent litigation insurance (PLI) for public comment. Following the first study commissioned in 2002, this study aims to evaluate the feasibility of a small number of alternative schemes for insuring European patents and, when they exist, Community Patents. Key findings include:

- patentees would like to insure their patents – if the premium and conditions are reasonable;
- the PLI market is currently small and weak, and the risks of entry for insurers seem to exceed the potential for rewards. This is why so few insurers are interested;
- the only basis on which insurers wish to be involved would be on a scale which only a mandatory scheme could provide; and
- it may be possible to revert back to a voluntary scheme later once a scheme is well established.

The Commission is seeking views of all interested parties on this follow-up study and invite them to submit their contributions by **31 December 2006**.

For more information and to access the study, click here

http://ec.europa.eu/internal_market/indprop/patent/index_en.htm#studies

EC business survey identifies target countries for the enforcement of IPR rights

On **5 October 2006**, the European Commission released the results of a survey on Intellectual Property Rights (IPR) enforcement outside the EU in 2005. The survey results identify three categories of concern for counterfeiting. China has been identified as the main priority, accounting for two thirds of all counterfeit goods seized entering the EU. In Category 2, countries with high levels of production, transit and/or consumption of counterfeit goods have been identified, such as Russia, Ukraine, Chile and Turkey. The third category identifies countries/regions with which the EU may soon enter into a deeper trade relation, which would include higher focus on IPR enforcement, such as Korea, Brazil, Argentina, Paraguay, and several members of ASEAN. While the EU does not exclude the possibility of action in the WTO against IPR infringement, it says it is not creating a “black list”, but “looking to focus technical assistance and cooperation in the joint fight against piracy”.

For more information, click here

http://ec.europa.eu/trade/issues/sectoral/intell_property/pr051006_en.htm

European Commission renders commitments between music publishers and collecting societies legally binding

On **4 October 2006**, the European Commission announced that commitments given by the five major music publishers (BMG, EMI, Sony, Universal and Warner) and thirteen European collecting societies, the signatories of the Cannes Extension Agreement, are now legally binding under EC Treaty competition rules. The

commitments ensure that record producers can continue to receive rebates from collecting societies on royalties paid in the context of Central Licensing Agreements. Under a Central Licensing Agreement, a record company can obtain a copyright licence for the combined repertoires of all the collecting societies and covering the whole of the European Economic Area (EEA) or part thereof, from any collecting society within the EEA. The commitments also ensure that potential entry by collecting societies in the music publishing or record production markets is not impeded. According to the European Commission, the Cannes Extension Agreement “settles a number of issues regarding the relations between the two groups of companies.”

For more information, click here

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1311&format=HTML&aged=0&language=EN&guiLanguage=en>

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION (UNESCO)

Convention on the Protection and Promotion of the Diversity of Cultural Expressions

UNESCO announced that as of **8 November 2006**, 16 States have ratified the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by UNESCO’s General Conference in October 2005. The Director-General of UNESCO, Koïchiro Matsuura, welcomed the “particularly rapid” rate of the Convention’s ratification. In order for the Convention to enter into force, it must be ratified by 30 countries. Among other objectives, the Convention highlights “the importance of intellectual property rights in sustaining those involved in cultural creativity” and reaffirms that “freedom of thought, expression and information, as well as diversity of the media, enable cultural expressions to flourish within societies.”

For more information, click here

http://portal.unesco.org/culture/en/ev.php-URL_ID=32392&URL_DO=DO_TOPIC&URL_SECTION=201.html