

Standing Committee on the Law of Patents

Twenty-Seventh Session
Geneva, December 11 to 15, 2017

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The twenty-seventh session of the Standing Committee on the Law of Patents (SCP) was opened by Mr. Francis Gurry, Director General, who welcomed the participants. Mr. Marco Aleman, Director, Patent Law Division, acted as Secretary.

AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS

2. The SCP unanimously elected, for one year, Mr. Dámaso Pardo (Argentina) as Chair and Mr. Adrian Negoită (Romania) and Mr. Serkan Özkan (Turkey), as Vice Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

3. The SCP adopted the revised draft agenda (document SCP/27/1 Prov.2).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE TWENTY-SIXTH SESSION

4. The Committee adopted the draft report of its twenty-sixth session (document SCP/26/8 Prov. 2) as proposed.

AGENDA ITEM 5: ACCREDITATION OF OBSERVERS

5. The SCP approved the accreditation of the National Inventors Hall of Fame as *ad hoc* observer (document SCP/27/7).

AGENDA ITEM 6: REPORT ON THE INTERNATIONAL PATENT SYSTEM

6. Discussions were based on document SCP/27/2.

7. Some delegations shared information on recent developments of their national/regional patent laws with the Committee.

8. The SCP agreed that the information concerning certain aspects of national/regional patent laws [http://www.wipo.int/scp/en/annex_ii.html] would be updated based on input received from Member States.

AGENDA ITEM 7: EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

9. Discussions were based on documents SCP/14/7, SCP/19/6 and SCP/27/3.

10. The Committee had discussions on a draft reference document on exception regarding acts for obtaining regulatory approval from authorities (SCP/27/3). Some Delegations provided their comments on the draft reference document and suggested working on the draft further. The Committee continued discussion on the issues regarding exceptions and limitations to patent rights.

AGENDA ITEM 8: PATENTS AND HEALTH

11. Discussions were based on documents SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/26/6, SCP/27/6, 8 and 8 Add.

12. A half-day information exchange session on publicly accessible databases on patent information status and data on medicines and vaccines was held. The Representative of the World Health Organization (WHO) made a presentation on that topic and the Representative of the Medicines Patent Pool (MPP) made a presentation on its Medicines Patents & Licenses Database (MedsPaL).

13. In addition, a sharing session among Member States on patents and other related issues on access to medicines was held. The Representatives of the WHO and the World Trade Organization (WTO) presented the issues regarding the availability of generic medicines in developing countries and least developed countries (LDCs).

14. The Committee discussed a document supplementing document SCP/26/5 regarding constraints faced by developing countries and LDCs in making full use of patent flexibilities and their impacts on access to affordable especially essential medicines for public health purposes in those countries (document SCP/27/6).

15. The Committee continued further discussion on the aspects reflected in the proposals by the African Group (SCP/16/7 and 7 Corr. and SCP/24/4) and by the United States of America (SCP/17/11). The Delegation of Canada introduced its revised proposal to conduct a review of existing research on patents and access to medical products and health technologies (documents SCP/27/8 and 8 Add.). Some delegations suggested other activities to be carried out by the Committee with respect to patents and health.

AGENDA ITEM 9: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEMS

16. Discussions were based on documents SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4, SCP/24/3, SCP/27/4 Rev. and 5 Rev.

17. The Committee discussed the updated responses to the Questionnaire on the Term “Quality of Patents” and Cooperation between Patent Offices in Search and Examination (documents SCP/27/4 Rev. and 5 Rev.).

18. A half-day information exchange session on cooperation between patent offices in search and examination was held.

19. In addition, a sharing session was held on further examples and cases relating to assessment of inventive step, giving a particular attention to the topics suggested in paragraph 8 of document SCP/24/3 (Proposal by the Delegation of Spain).

20. Furthermore, the Secretariat presented the webpage on opposition and administrative revocation mechanisms [http://www.wipo.int/scp/en/revocation_mechanisms/].

21. The Committee continued discussion on the issues under this agenda item. Some delegations suggested activities to be carried out by the Committee with respect to quality of patents, including opposition systems.

AGENDA ITEM 10: CONFIDENTIALITY OF COMMUNICATIONS BETWEEN CLIENTS AND THEIR PATENT ADVISORS

22. A sharing session was held on the experiences of Member States in implementing the confidentiality of communication between clients and their patent advisors through national legislation, including cross-border issues. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that the issue was outside of the scope of the Committee.

AGENDA ITEM 11: TRANSFER OF TECHNOLOGY

23. A sharing session on patent law provisions that contributed to effective transfer of technology was held. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations suggested that discussion on this topic should take place in the CDIP.

AGENDA ITEM 12: OTHER ISSUES: INFORMATIVE SESSION ON LEGISLATIVE ASSISTANCE IN THE FIELD OF PATENTS AND RELATED CAPACITY BUILDING

24. The Secretariat organized an informative session on legislative assistance in the field of patents and related capacity building.

AGENDA ITEM 13: FUTURE WORK

25. The Committee decided its future work as follows:

- The non-exhaustive list of issues will remain open for further elaboration and discussion at the next session of the SCP.
- Without prejudice to the mandate of the SCP, the Committee agreed that its work for the next session be confined to fact-finding and not lead to harmonization at this stage, and would be carried out as follows:

Exceptions and Limitations to Patent Rights

- The Secretariat will continue working on a draft reference document on exceptions and limitations. It will submit a second draft reference document on exception regarding acts for obtaining regulatory approval from authorities to SCP/28. In this regard the Secretariat will invite Member States to send any additional inputs with respect to, for example, challenges faced by Member States in implementing the exception and results of the national/regional implementation. The Secretariat will prepare a first draft reference document on the research exception, and will submit it to SCP/29.

Quality of Patents, including Opposition Systems

- The Secretariat will prepare a further study on inventive step, giving a particular attention to the topics suggested in paragraph 8 of document SCP/24/3 (Proposal by the Delegation of Spain).
- A sharing session on opposition and administrative revocation mechanisms will be held at SCP/28. The session will address national/regional experiences, challenges encountered and possible solutions, among others.
- Member States will continue to share their experiences on cooperation between patent offices in search and examination, including sharing of information concerning the corresponding foreign applications and grants, at SCP/28. Member States may address challenges encountered and possible solutions, among other issues.

Patents and Health

- The Committee will continue exchanging information on publicly accessible databases on patent information status and data, on medicines and vaccines at SCP/28, taking the issues addressed in paragraphs 18 and 19 of document SCP/24/4 (Proposal by the African Group for a Work Program on Patents and Health) into consideration.
- The Secretariat will update the feasibility study on the disclosure of International Nonproprietary Names (INN) in patent applications and patents (document SCP/21/9), and submit it to SCP/28.
- Member States will share their experiences with respect to enhancing examiners capacity, particularly in small and medium-sized offices at SCP/28. The Secretariat will report its technical assistance activities in this area at SCP/28.
- The Committee will continue discussion on the revised proposal by the Delegation of Canada, co-sponsored by the Delegation of Switzerland (document SCP/27/8 and 8 Add.), at SCP/28.

Confidentiality of Communications between Clients and Their Patent Advisors

- Member States will continue sharing their experiences and court cases in implementing the confidentiality of communication between clients and their patent advisors through national legislation, including cross-border issues.

Transfer of Technology

- Member States will continue sharing information on patent law provisions that contributed to effective transfer of technology.

26. The Secretariat informed the SCP that the dates of its twenty-eighth session, to be held in Geneva, was tentatively scheduled from July 9 to 12, 2018.

27. The SCP noted that the present document was a summary established under the responsibility of the Chair and that the official record would be contained in the report of the session. The report would reflect all the interventions made during the meeting, and would be adopted in accordance with the procedure agreed by the SCP at its fourth session (see document SCP/4/6, paragraph 11), which provided for the members of the SCP to comment on the draft report made available on the SCP Electronic Forum. The Committee would then be invited to adopt the draft report, including the comments received, at its following session.

28. The SCP noted the contents of this summary by the Chair.

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