



SCP/33/5
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Standing Committee on the Law of Patents

Thirty-Third Session
Geneva, December 6 to 9, 2021

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The thirty-third session of the Standing Committee on the Law of Patents (SCP) was opened by Ms. Lisa Jorgenson, Deputy Director General of the World Intellectual Property Organization (WIPO), who welcomed the participants on behalf of Mr. Daren Tang, Director General of WIPO. She acted as Secretary.

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

2. The SCP unanimously elected, for one year, Mr. Leopoldo Belda Soriano (Spain) as Chair and Ms. Berta Dávalos (Paraguay) and Ms. Lukrecia Marčoková (Slovakia) as Vice Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

3. The SCP adopted the revised draft agenda (document SCP/33/1 Prov.2).

AGENDA ITEM 4: ADMISSION OF OBSERVER

4. The SCP approved the accreditation of the Intellectual Property International Forum-Québec (FORPIQ).

AGENDA ITEM 5: REPORT ON THE INTERNATIONAL PATENT SYSTEM

5. Discussions were based on document SCP/33/3.
6. Some delegations shared information on recent developments of their national/regional patent laws with the Committee.
7. 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 6: EXCEPTIONS AND LIMITATIONS TO PATENT RIGHTS

8. Discussions were based on documents SCP/14/7, SCP/19/6, SCP/32/3 and SCP/32/3 Corr.
9. The Committee held discussions on the draft reference document on the exception regarding prior use (SCP/32/3). The Committee continued discussion on the issues regarding exceptions and limitations to patent rights.

AGENDA ITEM 7: QUALITY OF PATENTS, INCLUDING OPPOSITION SYSTEM

10. 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/28/8, SCP/30/9 and SCP/31/3 and 8 Rev. and SCP/33/4.
11. The Committee continued discussion on a study on approaches to the quality of patent grant process (document SCP/31/3).
12. In addition, Member States shared information on the use of artificial intelligence for examination of patent applications.
13. The Committee continued discussion on the issues and proposals relating to this agenda item, including the proposal by the Delegations of Brazil and Spain (document SCP/31/8 Rev.) and proposal by the Delegation of the United States of America (SCP/33/4).
14. Some other delegations suggested other activities to be carried out by the Committee with respect to quality of patents, including opposition systems.

AGENDA ITEM 8: PATENTS AND HEALTH

15. Discussions were based on documents SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/28/9 Rev. and 10 Rev. and SCP/31/5.
16. The Committee continued discussion on a review of existing research on patents and access to medical products and health technologies (document SCP/31/5).
17. In addition, the Committee continued to receive update on the initiatives on publicly accessible databases of patent status information concerning medicines and vaccines. In particular, the Committee was informed about the recent development with respect to Pat-INFORMED, MedsPaL and VaxPaL, and the Eurasian Patent Organization (EAPO) Pharmaceutical Register.

18. The Committee continued further discussion on the aspects reflected in the proposals by the Member States. Some delegations suggested other activities to be carried out by the Committee with respect to patents and health.

AGENDA ITEM 9: CONFIDENTIALITY OF COMMUNICATIONS BETWEEN CLIENTS AND THEIR PATENT ADVISORS

19. The Committee continued discussion on recent developments and experiences with respect to confidentiality of communication between clients and their patent advisors, and on any suggestions/proposals by Member States.

20. Some delegations suggested activities to be carried out by the Committee under this agenda item.

AGENDA ITEM 10: TRANSFER OF TECHNOLOGY

21. Discussions were based on document SCP/32/6.

22. The Committee discussed patent law provisions and practices that contributed to effective transfer of technology (document SCP/32/6).

23. Some delegations suggested activities to be carried out by the Committee under this agenda item. Some other delegations stated that discussion on this topic in the SCP should avoid duplication of work with the CDIP.

AGENDA ITEM 11: FUTURE WORK

24. The Committee decided its future work as follows:

- The Secretariat will publish written statements relating to SCP/33, submitted by members and observers of the SCP, on the SCP electronic forum.
- 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

- In accordance with the agreement within the Committee at SCP/28, the Secretariat will continue to work on a draft reference document on exceptions and limitations to patent rights in conjunction with patent protection. The Secretariat will prepare a draft reference document on the exception regarding the exhaustion of patent rights, to be submitted to SCP/34. The Committee agreed that the subsequent type of exceptions and limitations to be covered by a draft reference document will be the exception regarding the use of articles on foreign vessels, aircrafts and land vehicles.

Quality of Patents, including Opposition Systems

- The Secretariat will submit, at SCP/34, a report of the sharing session held during SCP/33 on the use of artificial intelligence (AI) for examination of patent applications.
- The Secretariat will organize, at SCP/34, an information sharing session on patentability of inventions using AI and by AI.
- The Secretariat will organize, at SCP/34, an information sharing session on expedited patent examination mechanisms at IP offices, as proposed in document SCP/33/4.
- The Secretariat will prepare a study on the sufficiency of disclosure, as proposed in document SCP/31/8 Rev., based on the information received from Member States and regional patent offices, to be submitted to SCP/34.

Patents and Health

- The Secretariat will prepare an update of document SCP/31/5 containing the review of existing research on patents and access to medical products and health technologies, extending the period under review and covering the period between 2019 and 2021, consistent with the terms of reference set out in document SCP/28/9 Rev., to be submitted to SCP/34.
- The Committee will continue to receive, at SCP/34, update on the initiatives on publicly accessible databases of patent status information concerning medicines and vaccines from their representatives, in accordance with document SCP/28/10 Rev.
- At SCP/34, the Representatives of WHO, WIPO and WTO will present their patent-related activities with respect to Covid-19 pandemic in the context of the trilateral cooperation.
- The Secretariat will invite a Representative from WHO for a presentation on C-TAP initiative as an example of sharing knowledge, intellectual property and data to expand the production capacity of COVID-19 health products.
- The Secretariat will invite a representative from MPP for a presentation on its licensing activities.

Confidentiality of Communications between Clients and Their Patent Advisors

- The Secretariat will organize, at SCP/34, an information sharing session focusing on cross-border aspects of confidentiality of communications between clients and their patent advisors.

Transfer of Technology

- The Secretariat will organize, at SCP/34, an information sharing session to highlight the positive contributions of the patent system in enhancing innovation, technology transfer and industrial development of countries as well as challenges therein, through presentation of concrete cases by various

stakeholders, for example, innovative companies that rely on an IP strategy involving effective use of patent and technology information and enabling effective technology transfer or dissemination on mutually agreed terms.

25. The Secretariat informed the SCP that its thirty-fourth session is tentatively scheduled to be held in Geneva from September 26 to 30, 2022.

26. The SCP noted that the present document was a summary established under the responsibility of the Chair. The Committee noted that in line with paragraph 30 of the Summary Report of the sixty-second series of Meetings of the Assemblies of the Member States of WIPO (document A/62/12), the verbatim reports of the SCP would be replaced by automated speech-to-text transcripts and translations. Accordingly, the official report of the current session will be made available in that form. In order to help improve the automated speech-to-text technology, delegations are requested to provide corrections of substantial nature to the Secretariat, preferably four weeks before the following session of the Committee.

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

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