

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

BACKGROUND:

Intellectual property includes industrial property, such as inventions, trademarks, and designs, on the one hand, and the objects of copyright and neighboring rights on the other. Until a century ago, there were no international instruments for the protection of intellectual property. Legislative provisions for the protection of inventors, writers, dramatists, and other creators of intellectual property varied from country to country and could be effective only within the borders of states adopting them. It came to be widely recognized that adequate protection of industrial property encourages industrialization, investment, and honest trade. That the arts would be advanced by legal safeguards in favor of their practitioners had long been argued, but such safeguards were difficult to devise and enact into law. The Paris Convention of 20 March 1883 and the Bern Convention of 9 September 1886 represented initial steps toward systematic provision of the two sorts of international protection that led eventually to the creation of the World Intellectual Property Organization (WIPO).

CREATION

The 1883 Paris Convention established the International Union for the Protection of Industrial Property, also called the Paris Union. The convention is open to all states. Its most important functions have to do with patents for inventions and marks for goods and services.

The term industrial property is applied in its widest sense in the convention. In addition to inventions, industrial designs, trademarks, service marks, indications of source, and appellations of origin, it covers small patents called utility models in a few countries, trade names or the designations under which an industrial or commercial activity is carried on, and the suppression of unfair competition.

The convention states that members must provide the same protection of rights in industrial property to nationals of the other members as they provide to their own nationals. It permits foreigners to file for a patent that will apply in all member states within a year after first filing in the country of origin. Additionally, it defines conditions under which a state may license the use of a patent in its own territory—for example, if the owner of the patent does not exploit it there.

The 1886 Bern Convention established the International Union for the Protection of Literary and Artistic Works, also called the Bern Union. It also is open to all states. Its function is the protection of copyright, the main beneficiaries of which include authors of books and articles; publishers of

books, newspapers, and periodicals; composers of music; painters; photographers; sculptors; film producers; and creators of certain television programs. Under the convention, each member state must accord the same protection to the copyright of the nationals of the other member states as it accords to that of its own nationals. The convention also prescribes some minimum standards of protection—for example, that copyright protection generally continues throughout the author's life and for 50 years thereafter. It includes special provisions for the benefit of developing countries.

In 1893, the secretariats of the Paris Union and the Bern Union were joined in the United International Bureaus for the Protection of Intellectual Property (BIRPI). **BIRPI** is an acronym for *Bureaux Internationaux Réunis pour la Protection de la Propriété Intellectuelle* (French for "United International Bureaus for the Protection of Intellectual Property")

The World Intellectual Property Organization (WIPO) was established by a convention signed at Stockholm 14 July 1967 by 51 states. When the convention entered into force on 26 April 1970, WIPO incorporated BIRPI and perpetuated its functions. BIRPI still has a function for members of the Paris or Bern unions that have not yet joined WIPO.

WIPO became the fourteenth specialized UN agency, the first new one since 1961, when the General Assembly approved that status on 17 December 1974.

PURPOSES

The purposes of WIPO are twofold: (1) to promote the protection of intellectual property throughout the world through cooperation among states and, where appropriate, in collaboration with any other international organization; and (2) to ensure administrative cooperation among the unions.

Intellectual property comprises two main branches: *industrial property*, chiefly in inventions, trademarks, and industrial designs; and *copyright*, chiefly in literary, musical, artistic, photographic, and cinematographic works.

The WIPO Convention lists rights in intellectual property relating to literary, artistic, and scientific works; performances of artists; phonograms; broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks; service marks; and commercial names and designations. The convention also offers protection against unfair competition and covers all other rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.

As of May 2006, WIPO administered the following 23 unions or treaties (in addition to the convention establishing WIPO), listed in the chronological order of their creation:

1. ***Industrial property (15)***: the Paris Union (1883), for the protection of industrial property; the Madrid Agreement (1891), for the repression of false or deceptive indications of source on goods; the Madrid

Union (1891), for the international registration of marks; the Hague Union (1925), for the international deposit of industrial designs; the Nice Union (1957), for the international classification of goods and services for the purpose of registration of marks; the Lisbon Union (1958), for the protection of appellations of origin and their international registration; the Locarno Union (1968), establishing an international classification for industrial designs; the International Patent Cooperation (IPC) Union (1970), for the establishment of worldwide uniformity of patent classification; the Strasbourg Patent Classification Treaty (PCT) Union (1971), for cooperation in the filing, searching, and examination of international applications for the protection of inventions where such protection is sought in several countries; the Vienna Union (1973), establishing an international classification of the figurative elements of marks; the Budapest Union (1977), for the international recognition of the deposit of microorganisms for the purpose of patent procedure; the Nairobi Treaty (1981), on the protection of the Olympic symbol; the Washington (DC) Treaty (1989) on intellectual property in respect of integrated circuits; the Geneva Trademark Law Treaty (1994); the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement; 1995/96) between WIPO and the World Trade Organization; and the Singapore Treaty on the Law of Trademarks (2006), as of 1 May 2006 not yet in force.

2. **Copyright and neighboring rights** (8): the Bern Union (1886), for the protection of literary and artistic works; the Rome Convention (1961), for the protection of performers, producers of phonograms, and broadcasting organizations, jointly administered with the ILO and UNESCO; the Geneva Convention (1971), for the protection of producers of phonograms against unauthorized duplication of their phonograms; the Brussels Convention (1974), relating to the distribution of program-carrying signals transmitted by satellite; the Film Register Treaty (1989), on the international registration of audiovisual works; the WIPO Copyright Treaty (1996); the WIPO Performances and Phonograms Treaty (1996); and the Patent Law Treaty (2000), which applies to national and regional applications for patents for invention.

MEMBERSHIP

Membership in WIPO is open to any state that is a member of any of the unions, is a member of the UN or any of the specialized agencies or the IAEA, is party to the Statute of the International Court of Justice, or is invited by the General Assembly of WIPO to become a party to the WIPO Convention. The 183 members of WIPO (W), 169 members of the Paris Union (P), and 160 members of the Bern Union (B) as of 1 May 2006 are listed in the table on the next page.

STRUCTURE

The Paris and Bern unions each have an assembly consisting of the member states, meeting biennially. An executive committee elected by the General Assembly, consisting of one-fourth of the

member states, meets annually. The other unions, in most cases, have an assembly but no executive committee.

WIPO itself has four organs: the General Assembly, the Conference, the Coordination Committee, and a secretariat called the International Bureau.

General Assembly

The General Assembly consists of all states party to the WIPO Convention that are also members of any of the unions. It meets biennially and has the highest authority of all the organs.

Conference

The Conference consists of all states party to the WIPO Convention, whether or not they are members of one or more of the unions. It meets biennially to discuss matters of general interest in the field of intellectual property, as well as to establish WIPO's program of technical legal assistance and the budget for that program.

Coordination Committee

The Coordination Committee meets annually. It consists of executive committee members of the Paris or the Bern union or both.

International Bureau

The International Bureau, located in Geneva, is the secretariat of the various governing bodies of WIPO and the unions. In 2006 it consisted of a staff of 938 people from 95 different countries, headed by a Director General. Arpad Bogsch, of the United States, was elected to successive terms as Director General since the establishment of WIPO in 1974. In 1997 he was replaced by Kamil Idris of Sudan as Director General.

BUDGET

Until January 1994, the budget was entirely met from contributions of member states; from fees paid by applicants for international protection of inventions, international registration of trademarks and appellations of origin, and deposit of industrial designs; and from the sale of publications. Beginning with the 1994–95 biennium, the WIPO governing bodies instituted a system of unitary contributions. The advantages of the unitary contribution system are that it makes the administration of contributions simpler, and will be an incentive for states to join more unions, since adherence will not increase the amount of their contribution. In addition, the governing bodies adopted a new formula for contributions that was intended to significantly lower overall cost of contributions for developing countries. About 85 percent—approximately SFR 540 million—of WIPO's budgeted

expenditure for the 2004-2005 biennium came from earnings from registration systems. The remaining 15 percent came mainly from contributions from member states and sales of WIPO publications. All this income finances WIPO's operating expenditures, slightly over SFR 320 million per year.

ACTIVITIES

A. Assistance to Developing Countries

One of the main objectives of WIPO is to assist developing countries in the fields of both industrial property and copyright.

In the field of industrial property, WIPO's chief aims are the following: (1) to encourage and increase, in quantity and quality, the creation of patentable inventions in developing countries by their own nationals and in their own enterprises and thereby to increase their technological self-reliance; (2) to improve conditions for the acquisition of foreign patented technology; (3) to increase the competitiveness of developing countries in international trade through better protection of trademarks; and (4) to make it easier and cheaper for developing countries to locate the technological information contained in patent documents.

In the field of copyright, the main objectives are the following:

- to encourage and increase the creation of literary and artistic works in developing countries by their own nationals and thereby to maintain their national culture in their own languages and corresponding to their own ethnic and social traditions and aspirations; and
- to improve conditions for the acquisition of the right to use or enjoy the literary and artistic works in which copyright is owned by foreigners.

In order to attain these objectives, most developing countries need to create or modernize domestic legislation and governmental institutions, accede to international treaties, and have more specialists in the fields of industrial property and copyright.

WIPO's assistance consists mainly of advice, training, and the furnishing of documents and equipment. Advice is given by the staff of WIPO, by experts chosen by WIPO, or at international meetings convened by WIPO. Training may be individual (on the job) or collective (in courses, seminars, and workshops) and may take place in the interested developing country, in an industrialized country, or in another developing country. The resources for such activities are provided in WIPO's budget or from donor countries or organizations, particularly UNDP.

More than 8,000 men and women from some 140 developing countries annually benefit from the 350 courses, seminars, and other meetings held under WIPO's cooperation for development program. In

addition, the International Bureau gave advice and assistance to officials from newly independent governments of the former Soviet Union in connection with the preparation and enactment of intellectual property laws, the establishment of industrial property offices, as well as adherence to WIPO-administered treaties. In particular, the International Bureau advised the Interstate Council on the Protection of Industrial Property (which groups nine states from the former Soviet Union: Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan) on a plan to set up a regional patent system under the Eurasian Patent Convention.

B. Other Activities

In order to adapt the treaties administered by WIPO to changing circumstances and needs, a constant watch is kept to see whether they need to be revised. The Paris Convention, for example, has had six revisions, the last in Stockholm in 1967, and the Bern Convention has had five, the last in Paris in 1971. WIPO also keeps international classifications of patents, trademarks, and industrial designs under review in order to keep them up-to-date.

In addition, WIPO observes changes in international industrial, trade, and cultural relations that seem to call for adaptations not only in the treaties administered by WIPO but also in national laws, regional arrangements, contractual practices, and professional activities in the field of intellectual property.

Thus, for example, in the field of industrial property, WIPO is considering the possibilities of uniform provisions in national patent laws, particularly concerning the effects on the patentability of an invention or a public disclosure of the invention by the inventor prior to filing a patent application. It also advocates laws and treaty provisions that would give more efficient protection against the counterfeiting of goods and would protect the intellectual creators of microchips or integrated circuits and inventions in biotechnology, including genetic engineering.

In the field of copyright, WIPO has been engaged, in some cases jointly with UNESCO, in recommending laws for the protection of computer programs, for works created by employee-authors, for expressions of folklore, for more effective protection of authors and performers in connection with cable television, and for protection against piratical editions of books, phonograms, and videotapes and excessive unauthorized reproduction. WIPO is also studying the copyright law aspects of the rental of phonograms and videograms, of direct broadcast satellites, and of electronic libraries and the possibility of creating an international register of audiovisual works.

In 1993, WIPO established the WIPO Worldwide Academy to conduct encounter sessions on current intellectual property issues at the policy level for government officials from developing countries.

WIPO also awarded to three nationals from developing countries the first long-term scholarships to institutions in industrialized countries for intellectual property law studies.

The WIPO Arbitration and Mediation Center was established in July 1994 to offer enterprises and individuals four dispute-settlement procedures: mediation, arbitration, expedited arbitration (for small-scale disputes), and a combined procedure of mediation and arbitration.

The rise in the use of the Internet in the late 1990s and into the 2000s presented challenges for the intellectual property system in guaranteeing the orderly development of the digital society. WIPO developed the Digital Agenda, a work program to be developed in the new millennium, to respond to the connections between the Internet, digital technologies, and the intellectual property system. The Digital Agenda also aims to integrate developing countries into the Internet environment.

WIPO also developed a project called WIPOnet, a global intellectual property information network. It facilitates the digital exchange of intellectual property information between member states, and works to develop global standards and guidelines for the protection and enforcement of intellectual property rights.

International Registrations

The International Patent Documentation Center, established in Vienna in 1972 under an agreement between WIPO and the government of Austria, puts on computer the principal bibliographic data of almost 1 million patent documents a year and permits the retrieval of the data required for various purposes by patent offices, industry, and research and development institutions. The financial and operational responsibility lies with the Austrian government, but WIPO assists the center in its contacts with the patent offices of the various countries.

The International Bureau of WIPO, in Geneva, maintains four registration services in the fields of patents, trademarks, industrial designs, and appellations of origin.