



WIPO/ACE Meeting 1 & 2 November 2007 – Geneva

- SUMMARY -

BIEM attended the annual session of WIPO/ACE (Advisory Committee on Enforcement) for the first time this year in an observer role. WIPO/ACE is a forum for the exchange of information between countries from the different regions in the field of IP enforcement. Several organizations are admitted, approved by the participating representatives of the various governments, to join the committee meetings as an observer. The observer role is not withholding from participating in the discussions, after the official member's debate. Both IFPI and MPA are observers as well. IPR Business Partnership joined this meeting as well.

Most important item that was discussed during this meeting was the presentation by Justice Louis Harms on the enforcement of IPR rights by means of criminal sanctions. He provided a well argumentum introduction to this subject including the culture of copying and socio-economic factors, the TRIPS provisions and obligations as well as criminal law policy consideration. It was emphasized that, although many countries provide for presumptions and the admission of secondary evidence to assist the prosecution, systemic problems often hampered effective criminal enforcement and created backlogs. It was further pointed out that intellectual property crimes were often associated with other, often cross-border criminality. In that regard, it was pointed out that the application of the criminal system in general, including proceeds of crime and asset forfeiture legislation, rendered criminal IP enforcement more effective.

Among the other specific issues that were dealt during this fourth session, with in the presentations were, the importance of cooperation and coordination especially among law enforcement agencies at the national, regional and international levels, and the need for right holder cooperation in a strategic approach to addressing this global concern; the global magnitude of counterfeiting and piracy activities, including the growing trade in infringing goods over the Internet; the important role of the enforcement of intellectual property rights for socio-economic and cultural development and the creation of investor confidence. The presentations further addressed the importance of information gathering and sharing in the effective enforcement of intellectual property rights.

Delegations discussed the role of criminal IP enforcement as a complement to civil enforcement, and felt that an effective civil IP enforcement system reduced the reliance on criminal enforcement. It was suggested that means should be available to take action not only against infringers, but also against third parties whose services are used in the commission of the offence.

WIPO itself delivered a review of activities in the field of IPR and the future work of ACE. All the activities were undertaken through the WIPO Enforcement and Special Projects Division. A full list of activities is available at www.wipo.int/enforcement/en/activities/activities_07.html. Coordination and cooperation in the field of IP Enforcement is of great importance to WIPO. Partnership between governments, intergovernmental organizations and the private sector is the most important development in the international cooperation against counterfeiting and piracy. Amongst these organizations are WCO, Interpol, ICC and INTA. The importance of

Training and awareness-raising activities is highlighted as one of the most important tools to be used by WIPO and all partners involved.

As the annual ACE sessions have different themes it was considered by the Committee to have the topic of coordination and cooperation related to IP crimes via internet as subject to the fifth session of the ACE building on the presentations and discussions at this session. The discussion on this proposal ended up into a political discussion by the member's states. Some delegations underscored their desire for broader consultation with regional groups to define topics to be discussed at the forthcoming meetings. Besides IP crimes on the internet it was proposed to discuss bio-piracy; the contribution of right holders in enforcement; enforcement of rights taking into account limitations and exceptions as well as private sector involvement in capacity building relating to IPR Enforcement. As there was no agreement on the subject to be chosen, the groups were invited to further consult and to provide the secretariat with a proposal on the topic, as well as on the procedure to be applied for selecting future topics by the end of February next year.

Advice:

It was good to see that BIEM's participation was highly welcomed by WIPO. I spoke on this with WIPO's Louise van Greunen and Wolfgang Starein. I recommend participating in this group as WIPO is one of the most important players in this field and we may be able to keep track on its activities related to counterfeiting and piracy.

I suggest, although we are not a governmental member, to advise the secretariat of WIPO Enforcement to have IP crimes on the internet as a serious subject for the next ACE Meeting and make suggestions for speakers. If it's agreed I will draft a letter for this purpose.

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