

WIPO Assemblies
61st Series of Meetings, 21 September to 25 September 2020

- Opening Statement of the German Delegation to be included in the Report -

Thank you Mr Chair,

1. On behalf of the German government, I would like to thank you for your dedication in order to prepare this Assembly meeting, especially in these difficult and unprecedented times. The fact that the General Assembly meets a second time this year and that we were even able to elect a new Director General in May, after the crisis has hit all of us unexpectedly, shows the great determination and capacity for action of this organization and its Member States.

At this stage, again, we would like to wish Mr. DG-elect Daren Tang every success for his forthcoming term in office, beginning on 1 October 2020, and assure him of our full support in addressing the challenges which the organisation is currently facing.

At the same time, we also want to take this opportunity to thank DG Gurry for the commitment to this organisation over the last twelve years of his leadership, as well as his even longer lasting dedication to WIPO and IP as a whole. He has attained remarkable results in transforming WIPO into an effective and user-oriented organisation, and at the same time underlined the importance of modernizing the system of international Intellectual Property treaties. We also wish to thank the current SMT for their contributions to this organization; and we thank the International Bureau as a whole for the professional preparation of this session.

2. Germany is looking forward to contributing to a constructive and fruitful dialogue. We fully support the statements made by Group B and the European Union, whose Council Germany presides until the end of the year. Chair, you can count on Germany's constructive participation and full support in this General Assembly. The German delegation strongly believes in a smooth continuation of our work here at WIPO.

3. COVID-19 and the measures to combat this pandemic have had, and continue to have, serious consequences for the global economy. Historically, intellectual property rights have proven to be a driver of innovation, competitiveness and economic development. They are not only essential for enterprises and developers. For this reason, a strong and balanced IP system is crucial not only for developing vaccines and medicines, but also for the global economic recovery more generally.

4. Germany, again, acknowledges the significant initiatives undertaken by WIPO. WIPO's partnership platforms enable efficient and effective international cooperation. Regarding WIPO Re:Search for example, we have already seen over 150 research collaborations in the fight against Neglected Tropical Diseases as well as malaria and tuberculosis, which aim to improve global health through the sharing of IP-protected materials and other know-how. In this context we would like to encourage WIPO to look at how the organization can effectively

contribute not only to the global economic recovery but in particular to the management of the global health crisis. It is in this spirit that we would like to invite WIPO to engage even closer with WHO and WTO in order to ensure that IP issues are appropriately and competently included in the discussions.

Artificial Intelligence will change the ways in which we think, work and interact. It holds all the promises of a disruptive technology as well as all the challenges. Germany is grateful for WIPO's engagement in this area. In our view, WIPO can play a key role both as an international observatory identifying and monitoring trends and developments, as well as a global forum for the exchange of ideas and the coordination of efforts. With great interest we engaged in the two past sessions of the Conversation on AI and IP and we are pleased that WIPO will continue addressing questions raised by AI for IP by organizing a third session in November. WIPO can count on our active support.

5. The German Government considers intellectual property rights to be an integral part of the legal, economic and cultural framework within which enterprises and society as a whole function. Intellectual property rights remain a complex, passionately and globally debated issue. WIPO as the central institution for developing the global IP policy and managing the worldwide IP infrastructure must demonstrate that intellectual property is an instrument for meeting the global challenges of our time, including global health, climate change, and sustainable development. We encourage WIPO to contribute actively, within its mandate, to the implementation of the Agenda 2030 for sustainable development, to identify areas for its own possible input in this process, and to do this in close cooperation with other Geneva-based institutions.

7. The German Government supports further international normative development towards a strong and coherent international IP framework that is fit for purpose, strikes a balance between different interests and concerns, encourages innovation, and fosters the development and transfer of technology on mutually agreed terms and conditions. Stakeholders, including IP offices, will benefit from a simpler and more harmonized international framework, including substantive provisions, inter alia, on copyright law, patent law and trademark law.

Unfortunately, we are not able to advance WIPO's normative agenda at this year's Assembly under the given circumstances. Work on normative issues should be resumed once the framework for productive work on these issues has been created. This implies that all questions, whether logistical or technical, have to be clarified, including those concerning the procedural rules for virtual decision making.

8. As the deliberations within the Standing Committee on Copyright and Related Rights (SCCR) demonstrate, the international harmonization of legal concepts in this field is a complex task which requires time and dedication on all sides. In view of the sensitive nature of the discussions in the SCCR, which under some agenda items have in the past traditionally been held in informal setting, we look forward to resuming the substantial work in this Committee once that the framework for productive work has been created and the conditions allow for it. It is important in our view that the traditional consensus on the allocation of time between agenda items within this Committee continues to be respected.

We strongly believe that if Member States work together in a spirit of consensus and with the firm aim of striking a fair balance between all interests involved, WIPO will continue to provide the framework within which we can achieve positive results.

10. Germany remains committed to improving the protection of broadcasting organizations by reaching a consensus on an international treaty. In order for the treaty to be sustainable and successful in the long term, its scope of application should reflect the technical developments that have taken place in the meantime. We therefore welcome the discussion on further technologies, especially on the so called deferred transmissions online. Once the conditions allow for resuming work on this topic, Germany will continue to actively support the efforts of the SCCR in order to advance text-based work on an international treaty for the protection of broadcasting organizations.

11. Germany is interested in sharing national experiences regarding exceptions and limitations for certain organizations and purposes, as well as for people with disabilities other than print disabilities. Although Germany firmly believes that there is no need for a legally binding international instrument in this area, we would like to learn more about other Member States' legal concepts.

We are also interested in sharing views on further issues such as the resale right and challenges for copyright in the digital environment.

12. Ever since the beginning of international IP cooperation and the founding of WIPO as an international agency for IP, patent law has been of core importance. Users of the patent system around the world are calling for the further development, harmonization and improvement of the patent system – a call that must be heeded by WIPO and its responsible standing body, the Standing Committee on the Law of Patents (SCP). Germany recognizes the SCP's ongoing work on important issues in this area. We welcome the agreements on future work reached at the Committee's last sessions and are looking forward to the 32nd meeting, which had to be postponed due to the COVID-19 pandemic and is now planned for December 2020.

We are particularly eager to continue work on issues of patent quality, including opposition systems, and the confidentiality of communications between clients and their patent advisors. Further work in this area is beneficial to all countries, irrespective of their level of development, since it would enhance the credibility, reliability and stability of the international IP system. The German delegation to the SCP expressed this particular interest by an intervention in the sharing session on the use of artificial intelligence for examination of patent applications at SCP/31. We are looking forward to the report on that sharing session that the Secretariat will submit at SCP/32. We also welcome the fact that the future work program for SCP/32 entails further sharing sessions on the topic of Artificial Intelligence and Patents focusing on issues related to the patentability of inventions. Artificial Intelligence raises numerous legal questions regarding patent protection of AI-Related Inventions, which are of fundamental importance for all Member States. Besides, AI-Technology provides numerous opportunities and challenges to the administration of the patent system. We therefore believe that the sharing of experiences and information on these topics in the SCP is highly beneficial for all Member States.

The German delegation has also been closely involved in the area of patents and health, and will continue to engage with these issues moving forward. We take into account the efforts and activities undertaken in this context by other WIPO committees and international organizations. As far as substantive issues of “patents and health” are concerned, we are looking forward to the discussions at SCP/32 on the review of existing research on patents and access to medical products and health technologies that the Secretariat has submitted at SCP/31. Since WIPO is the correct forum for addressing patent law questions, we are pleased that the review will be discussed in the SCP.

13. The latest figures on the development of application numbers under the Patent Cooperation Treaty (PCT) show the core importance of the PCT system for users worldwide. Germany is delighted to note the steady increase of application filing numbers in Germany every year. We are pleased to report a significant increase of 7% in the number of PCT applications from abroad which entered the national phase at the German Patent and Trade Mark Office (DPMA) in 2019.

As a patent-intensive country, both at the national and international levels, Germany is pleased that the PCT system works well. In 2019 the German Patent and Trade Mark Office processed 7,507 international applications in the national phase, out of which over 85% were filed by applicants from outside Germany. For this reason, Germany, as always, stands committed to all necessary further developments in the PCT system and encourages all WIPO Member States to take advantage of the PCT system. We highly appreciate the numerous improvements in the PCT system achieved by changes to the legal framework over the past years. Germany is looking forward to this year’s PCT working group, which could not take place in May due to the COVID-19 pandemic and is planned for October 5 to 8, 2020. We hope to see the constructive atmosphere continued that prevails in this working group.

14. In reference to the discussions of last year’s General Assembly to convene a diplomatic conference for the adoption of a Design Law Formalities Treaty, the German Delegation notes that, unfortunately, Member States again were not able to agree upon convening a diplomatic conference. We regret that the facilitator’s proposal for solving the issue of disclosure requirement was rejected. Nevertheless, Germany, like other EU member states, remains convinced that such requirement is not relevant to industrial designs and that its inclusion in the Treaty would contradict the aim of simplifying and harmonising design registration procedures. However, Germany is open to consider any reasonable and constructive proposals that may be raised in the future.

15. Turning to the Geneva Act, we look back with pleasure to the last year’s successful accession of the European Union which marked a milestone enabling its entry into force for all contracting parties as the European Union was the key fifth member of the international registration system. We would like to point out that the protection of geographical indications provides an instrument to protect regional traditional knowledge for both agricultural and non-agricultural products.

16. Germany notes the broad consensus amongst Member States to continue work in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). Germany recognises the importance of the work

carried out by this Committee. There is still a long way to go in order to achieve the aim of reaching consensus on a sui generis instrument that takes account of the interests of holders of traditional knowledge, genetic resources and folklore and, at the same time, does not harm the functioning of the international IP system. We are willing to continue our participation in this process.

17. Germany remains fully committed to further progress in the field of development, particularly in light of the United Nations 2030 Agenda for Sustainable Development. We support the continued implementation of the 45 recommendations of the Development Agenda in a balanced and consensus-driven manner. It is unfortunate that the Committee on Development and Intellectual Property (CDIP) has not yet been able to meet this year due to COVID-19. We welcome the results achieved at the last session of the committee (CDIP 24) which constitute considerable progress in a number of areas. We sincerely hope that the spirit and readiness to engage in constructive and forward-looking efforts shown at the last sessions will continue in order to rise to the challenges we face together in this important committee. Germany looks forward to participating in the upcoming discussions, which will hopefully continue as planned in November at the 25th session of the committee.

18. The German Patent and Trade Mark Office (DPMA) has continued its successful cooperation with WIPO, other IP-related organisations and national IP offices, albeit in a limited way due to the restrictions of the COVID-19 pandemic.

In November 2019, the DPMA and WIPO held two successful seminars. The first seminar was aimed at informing the public about the services offered by WIPO, focusing on the PCT procedure. The seminar was held at the DPMA in Munich and was primarily aimed at patent applicants, patent law firms and company representatives. The second seminar was held as in-house training for patent examiners, the patent administration and other staff of the DPMA. This in-house training focused on the PCT procedure and the search possibilities in the databases of WIPO.

At the end of 2019, the DPMA held bilateral top-level meetings, giving the senior management of the DPMA the opportunity to discuss current IP topics with their counterparts of the IP offices of Belarus and Russia.

Due to the outbreak of the COVID-19 pandemic at the beginning of this year, the international cooperation of the DPMA with WIPO and national/regional IP offices was and still is severely restricted.

All meetings of the head of office planned for 2020 had to be cancelled. The same applies to all major events of the DPMA and to international meetings at the working level. Unfortunately, also the annual patent examiner exchanges with China (CNIPA), Japan (JPO), Korea (KIPO) and the United Kingdom (UK IPO) had to be cancelled. When the COVID-19 situation permits, the exchange programmes will be resumed.

The DPMA is increasingly relying on virtual conferences to continue the dialogue with its partner offices. The successful series of seminars concerning the services and initiatives of WIPO will be continued this year in a virtual format. It is planned that the next seminar will take place in December 2020.

20. Distinguished Chair!

These are our introductory remarks. We look forward to engaging in a constructive discussion and trust that, under your guidance, we will achieve consensus on the items on the agenda.