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Submission by

WIPO

This submission was prepared as an input to the report of the UN Secretary-General on "Progress made in the implementation of and follow-up to the outcomes of the World Summit on the Information Society at the regional and international levels" (to the 15th session of the CSTD), in response to the request by the Economic and Social Council, in its resolution 2006/46, to the UN Secretary-General to inform the Commission on Science and Technology for Development on the implementation of the outcomes of the WSIS as part of his annual reporting to the Commission.

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

WORLD INTELLECTUAL PROPERTY ORGANIZATION CONTRIBUTION IN 2011
TO THE IMPLEMENTATION OF THE OUTCOMES OF
THE WORLD SUMMIT ON THE INFORMATION SOCIETY

December 15, 2011

This report has been prepared by the Secretariat of the World Intellectual Property Organization (WIPO) in response to the Economic and Social Council (ECOSOC) resolution 2006/46, which requests the United Nations Secretary–General to inform the Commission on Science and Technology for Development (CSTD) on the implementation of the outcomes of the World Summit on the Information Society (WSIS), based on inputs from relevant United Nations agencies and other entities. This report provides an update of WIPO's contribution, in 2011, to the implementation of the outcomes of the World Summit on the Information Society.[1]

DESCRIPTION OF PRESENT AND FUTURE WIPO ACTIVITIES RELATED TO THE WSIS OBJECTIVES

WIPO is committed to contribute to the development of an inclusive and development-oriented Information Society as set out in the WSIS objectives and the implementation of the Geneva Plan of Action. This is demonstrated through the number of activities engaged in by various units in WIPO as described below.

1.   Action Line C3 "Access to information and knowledge"

With regard to access to information and knowledge, the challenge refers to getting protected content to users, persons with disabilities, and other disadvantaged and vulnerable groups whilst ensuring the interest of creators are protected. To overcome this challenge, WIPO has been working to promote a balanced international IP protection as a means of rewarding creativity, stimulating innovation, and contributing to economic development and access to knowledge in the public interest. WIPO's Standing Committee on Copyright and Related Rights (SCCR) monitors and reviews developments in international copyright law, and where appropriate, develops new approaches to important issues raised by market and technology developments. An example is the current SCCR discussions on limitations and exceptions to copyright, and in particular the need for specific user groups, like visually-impaired persons (VIPs), libraries and archives, and educational institutions, to have access to digital content under reasonable conditions and in accessible formats. The SCCR formally recognized the importance to address the issues without delay and with appropriate deliberation, the special needs of VIPs and other reading-disabled persons. As an immediate priority, WIPO is facilitating arrangements to promote access by VIPs to works protected by copyright. With the support of partner institutions, WIPO has created a dedicated website[2] as a platform for expressions of support, exchange of views, and dissemination of information to all parties interested in the issue of access to information and cultural content by VIPs and other reading-disabled persons. Based on these initiatives a couple of e-strategies have been formulated aimed at addressing these special requirements. The Stakeholder Platform has been followed by the launch of the "trusted intermediary global accessible resources project" (TIGAR) – which will enable publishers to make their titles easily available to trusted intermediaries. These intermediaries will create accessible formats and share them amongst each other and with specialized libraries for the benefit of persons with disabilities.

The distribution of creative content was traditionally based on the dual roles of the creator and the distributor, be it a publisher or a producer. In the new technological environment there is a shift to a triangular approach where the Internet Intermediary plays an increasing relevant role.

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[1] Please refer to WIPO's Contribution in 2010 for more information
http://www.unctad.org/sections/wcmu/docs/ecn232010_WIPO.pdf
[2] http://visionip.org/portal/en/index.html

Digital distribution of creative content is characterized by a multiplicity of new roles for Internet intermediaries such as search engines, Internet Service Providers (ISPs), which may challenge traditional concepts of indirect responsibility for use and misuse of copyright material. Following a Study in 2005 on Online Intermediaries and Liability for Copyright Infringement[3], WIPO launched a series of international discussions to showcase the evolving role of internet intermediaries, the opportunities and challenges faced by different stakeholders and the relationship between IP rights (IPRs) and digital technologies. This included a seminar on internet intermediaries in Geneva in 2005, a regional seminar in Sri Lanka in May 2007, two national seminars in 2008, in Malaysia and Costa Rica respectively, a *WIPO Africa Regional Seminar on Intellectual Property, Software, and E-Health: Trends, Issues, Prospects*, held in Kigali (Rwanda), June 2010[4]. In addition a series of new studies on Internet intermediaries were commissioned in 2010 to look at this rapidly evolving issue[5] and WIPO has since their completion in 2011 organized a series of meetings in cooperation with the Internet Society (ISOC) to present the studies and other information material. These meetings included a workshop during the WSIS Forum which took place in Geneva, on May 16th 2011 and a side event during the 22nd SCCR on June 22, 2011[6], where partial results of the WIPO Studies were showcased. The last workshop on the role of internet intermediaries was held on September 29 during the IGF 2011 held in Kenya. WIPO is now looking at organizing an International Conference on the Role and Responsibility of Internet intermediaries in 2012. It is yet to be decided whether this event will focus exclusively on copyright issues regarding internet intermediaries (i.e. a horizontal approach), or if a cross-sectoral approach will be adopted. Moreover, the Ministry of Culture, Sports and Tourism (MCST) of the Republic Korea in cooperation with WIPO organized the International Copyright Technology Conference 2011. The Conference which was held in Seoul on November 17 and 18, 2011 also provided an opportunity to exchange views and information on policy and strategy considerations relating to copyright in the digital environment.

WSIS Action Line C3 recommended the development of "policy guidelines for the development and the promotion of public domain information as an important international instrument promoting public access to information" (paragraph 10.a).   A main priority for WIPO was to promote the role of IPRs in enhancing wider and more user-friendly distribution of content as a tool for reducing the "Digital Divide". A good example of this priority is the WIPO Development Agenda[7]. In October 2007, the WIPO General Assembly approved 45 recommendations aimed specifically at ensuring that development considerations form an integral part of WIPO's work. The adoption of these recommendations marked the culmination of three years of negotiations among Member States. The 45 adopted recommendations are divided into six clusters, namely: A) Technical Assistance and Capacity Building; B) Norm-setting, Flexibilities, Public Policy and Public Domain; C) Technology Transfer, Information and Communication Technology (ICT) and Access to Knowledge; D) Assessments, Evaluation and Impact Studies; E) Institutional Matters Including Mandate and Governance; and F) Others. To carry out this work, the 2007 WIPO

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[3] www.wipo.int/meetings/en/2005/.../wipo_iis_05_ledwards_cwaelde.doc
[4] http://www.wipo.int/meetings/en/details.jsp?meeting_id=20625
[5] Two which include:

    (i)   A. Role and Responsibility of the Internet Intermediaries in the Field of Copyright, by Professor Lilian Edwards

    (ii)   Comparative Analysis of National Approaches of the Liability of the Internet Intermediaries, by Professor Daniel Seng and Professor Juan Jose Marin

[6] Detail of WIPO-ISOC joint event from the following links
    http://www.wipo.int/copyright/en/internet_intermediaries/index.html and
    http://www.isoc.org/pubpolpillar/governance/igf2011-copyright.shtml
[7] The recommendations can be found at http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_1/cdip_1_3.doc

General Assembly established a new Committee on Development and Intellectual Property (CDIP), with a mandate to develop a work-program for implementation of the adopted recommendations; monitor, assess, discuss and report on the implementation of all recommendations adopted, in coordination with relevant WIPO bodies; and discuss IP and development related issues as agreed by the Committee, as well as those decided by the General Assembly. The CDIP discussed and approved activities to meet the Development Agenda goals in the field of copyright, including the following: activities to promote understanding of problems related to identification of public domain material (e.g. orphan works, use of rights management technologies, the role of search engines); a study on the public domain[8] (Part I- comparative analysis of legislative approaches to defining public domain subject matter; Part II- a survey of tools for identifying and accessing public domain material); and activities on new approaches to copyright licensing (e.g. Creative Commons, Open-Source Software), including co-existence with more traditional commercial or proprietary licensing models. Under the CDIP project on IP and Competition, WIPO in 2010 also organized "the Global Meeting on Emerging Copyright Licensing Modalities"[9] which provided an opportunity to showcase and analyze all the major issues related to the accessibility of knowledge and information in the digital environment, from both the public and the private sector perspective. In close connection to the issues debated in the meeting, WIPO has started to facilitate a Stakeholder Dialogue on International Rights Management Challenges, which looks at ways to improve licensing of music in the digital environment. The Stakeholder Dialogue is focused on the development of an International Music Registry (IMR) as an authoritative resource containing information on the rights for each record and piece of music in each territory. This public asset, which needs to develop in a voluntary, global and neutral way, is likely to greatly facilitate the diffusion of music in the digital environment. Finally, WIPO organized a two day conference in Geneva on Copyright Infrastructure and Documentation in 2011, which gathered governments, national and international public institutions, academics and an array of stakeholders. The goal of the conference was to raise the awareness of Member States on the linkage between copyright infrastructure and development and to highlight the complexities underlining a vast variety of key issues, including public registration and legal deposit systems, private documentation systems, online licensing tools and practices and the interrelation between copyright infrastructure and access to knowledge[10].

Finally, the intersection of IP and ICT continually creates both challenges and opportunities for the international community and the intellectual property system. However, looking ahead into the future, WIPO will continue to contribute to the development of an inclusive and development-oriented Information Society by minimizing the challenges whilst efforts will aim at maximizing the opportunities for the benefit of Member States. WIPO will do this by playing its proactive role in raising the awareness of Member States and civil society on all concerns that border on the intersection of IP and ICT. Moreover, WIPO will look at enhancing copyright infrastructure in areas such as collective management and registration and documentation in order to facilitate licensing of copyright content in the digital environment.

Another area of increasing concern would relate to promoting the understanding of issues regarding the public domain (e.g. orphan works, the use of rights management technologies, the role of search engines), including the tools needed to identify and access public domain material. A further example is the preparation of information material related to the interaction between open source software (OSS) and proprietary software in areas such as looking at

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[8] http://www.wipo.int/ip-development/en/agenda/news/2010/news_0007.html
[9] http://www.wipo.int/meetings/en/2010/wipo_cr_lic_ge_10/index.html
[10] http://www.wipo.int/meetings/en/2011/wipo_cr_doc_ge_11/index.html

consensual approaches on procurement and developing taxonomies of interaction in regard to different licensing approaches. WIPO is developing a project together with other intergovernmental organizations[11] aimed at drafting more open licenses for IGOs based on the OSS model which would take into consideration the needs of IGOs in areas such as immunity, jurisdiction, applicable law etc. To this end two approaches are being developed simultaneously, and are under discussion within a working group formed by the different organizations involved in this project. First, the development of a Creative Commons license adapted to the needs of IGOs, and second a new draft of a sui generis Open IGO license (OIGO), based on the contributions of the working group. Finally, WIPO participated in the Creative Commons General Assembly in Warsaw on September 16, 2011, and in the *Annual UN Publishers Meeting* convened during the Frankfurt Book Fair on October 11, 2011, to discuss the OIGO project with participants from the UN agencies and IGOs.

Contributing to on-line access of technological information contained in patents in order to support science, technology and innovation

Access to state of the art technological information contained in patent documents is a useful tool for innovation and R&D processes, as access to previously published patents and patent applications helps to establish the novelty of a new invention, avoid infringement of others' inventions, and improve the patent drafting process to improve the quality of a patent application. In view of the growing information needs of national industries, R&D community and the business sector of developing countries, the WIPO Global IP Information Services Program provides infrastructure and supporting services to IP Offices and users to take advantage of the information resources generated by IP systems worldwide for supporting science, R&D and innovation, and operates the WIPO Patent Information Services (WPIS)[12] in order to assist Member States in establishing their national industrial property information system. In order to improve access to specific technology information several patent landscape reports have been developed that include both on-line databases including patents relevant for the respective technologies. They also provide detailed instructions on how to search generic on-line patent databases for such specific technology and thereby contribute to capacity building in patent search expertise.

The Access to Research for Development and Innovation (ARDI)[13] program facilitates access to scientific and technical journals through a public-private partnership between WIPO and partners in the publishing industry. In July 2011, ARDI joined the Research4Life[14] partnership which includes the World Health Organization's HINARI program comprising biomedical and health literature, the Food and Agriculture Organization's AGORA program containing journals in the field of agriculture, and the United Nation's Environment Programme's OARE program which offers access to one of the world's largest collections of environmental science research. Currently, 12 publishers provide access to over 200 journals for 107 developing countries. A similar partnership with 6 of the world's leading commercial patent database providers launched the Access to Specialized Patent Information (ASPI)[15] in 2010, allowing access to commercial patent databases, which provide more sophisticated search and analysis tools in retrieving and assessing pertinent technology.

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[11] Food and Agriculture Organization of the United Nations (FAO), Organization for Economic Cooperation and Development (OECD), United Nations (UN), World Bank, International Monetary Fund (IMF) etc.

[12] For further information see at http://www.wipo.int/patentscope/en/data/developing_countries.html

[13] For further information see at http://www.wipo.int/ardi/en/

[14] For further information see http://www.research4life.org

[15] For further information see at http://www.wipo.int/patentscope/en/programs/aspi

Both the ARDI and ASPI programs seek to reinforce the capacity of developing countries to participate in the knowledge economy and to support researchers in developing countries in creating and developing new solutions to technical challenges faced on a local and global level by providing access to least developed countries (LDCs) for free and to certain other developing countries at very low cost.

Access to these databases and services are underpinned by training and awareness-raising activities within the framework of WIPO's project to establish Technology and Innovation Support Centers (TISCs)[16], which are intended to provide the local research and business community with expert assistance in accessing and effectively retrieving technological information from the many online resources such as patent, scientific and technical journal databases. TISCs, in particular their staff, are supported by WIPO through training programs, seminars, and access to the databases as described above so as to act as a central point of expertise for patent and technology information in these countries. In 2011, 20 training workshops were carried out in developing countries where the TISC project is being implemented. WIPO has also embarked on developing tools for access to patent information for its Member States. The project aims to provide developing countries, including LDCs with services which will facilitate the use of patent information on specific technology for facilitating local innovation and R&D.

The concept of "Smart IP Institutions" is also being promoted in relation to developing business solutions to modernize IP infrastructure of national and regional IP institutions. In addition, WIPO participated to the first meeting of the UN Broadband Commission Working Group on Broadband and Science, which was held on June 27, 2011 at the OECD Headquarters in Paris, and was attended by 40 representatives of numerous organizations including the European Commission, UNESCO, ITU, CERN, UNCTAD, universities and research institutions such as KTH, University of Ljubljana and South Africa's CSIR, as well as telecommunications companies such as Google, Microsoft, Alcatel-Lucent, Telefonica, Eutelsat, Dante and Ubuntunet.

The objective of the working group was to discuss the issues around broadband e-infrastructures for scientific cooperation and how they are radically changing the way scientists do research today – both in the developed and developing world. Broadband e-infrastructure networks are becoming more and more important as scientific work increasingly relies on data, simulation and modeling. These networks enable new ways of scientific collaboration and resource sharing, as well as a wider availability of repositories of scientific data. In the meeting, WIPO discussed the aRDi program providing free online access to major scientific and technical journals for developing countries. The results of this meeting, which was held in the margins of the OECD High Level Meeting on the Internet Economy (June 28-29, 2011), were presented by the European Commission Vice-President Neelie Kroes in Geneva at the margin of the ITU's Telecom World conference on October 24-25, 2011.

Enhancing on-line access to information concerning IP laws, regulations and treaties:

WIPO Lex[17], the Organization's on-line database of intellectually property legislation and treaties, continues to provide free and universal access to global IP legal information. It now features the most comprehensive coverage of the main IP and IP-related legislation of nearly 190 countries, which are available in various language versions covering at least 50 languages. In addition to the English, French and Spanish public interfaces of the database, the Chinese

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[16] For further information see at http://www.wipo.int/patentscope/en/programs/tisc
[17] For further information see at http://www.wipo.int/wipolex/en/.

and Arabic interfaces were launched in April and September of this year, respectively. Development of these new language interfaces continues.

Every effort is made to include all the countries in the world in WIPO Lex's coverage. Thus the database also includes all available and relevant IP legal information even for those countries in conflict situations with governments that are not fully functioning and therefore unable to fully provide the texts of their statues and regulations as well as newly-established States which are still in the process of defining their IP legal systems.

Close collaboration with national authorities continues. To date, the national IP offices of some 150 countries have been invited to review the entries in the database relating to their respective jurisdictions. More invitations will follow until a full review of WIPO Lex by all countries concerned has been made. Feedback from the national IP offices ensures that the legal information in WIPO Lex is current, complete and authoritative.

Finally, consistent with the Organization's commitment to ensure the accessibility of its web site and services to all users in accordance with Article 9(g) of the United Nations Convention on the Rights of Persons with Disabilities and the Web Content Accessibility Guidelines (WAG 2.0), WIPO Lex has been tested for compliance with these standards and found to be substantially compliant. Further improvements are underway to achieve full compliance.

2. Action Line C5 "Building confidence and security in the use of ICTs"

One of the main objectives of the WIPO Arbitration and Mediation Center is to promote a balanced legal framework for the protection of IP in the Internet Domain Name System (DNS). The WIPO Center strives to provide leadership in the development of dispute prevention and settlement, and options to address tensions arising from the unauthorized use of IP in the DNS. Building on its more than 11 years of daily experience with more than 37,000 domain name-related disputes, the WIPO Center continues to liaise with DNS stakeholders, including trademark owners and representatives, the Internet Corporation for Assigned Names and Numbers (ICANN) and registration authorities, and has been providing input to and will, as appropriate, administer dispute resolution policies for such domains. This concerns in particular mechanisms for the protection of trademarks at top and second levels in the introduction and operation of further new generic top-level domains (gTLDs) foreseen for 2012. In 2011 the WIPO Center also continued to liaise with the administrators of country-code Top-Level Domains (ccTLDs) around the globe and created and implemented electronic, paperless dispute resolution policies for such domains including for Internationalized Domain Names (IDNs), thus expanding the basis for WIPO case administration in such domains.

3. Action Line C7 "ICT applications: benefits in all aspects of life" paragraph 15: E-Government"

WIPO's support regarding IP registration related issues and e-governmental available services.

In order to enhance the efficiency of IP registration related activities and improve e-services provided by IP institutions (e.g. national IP offices) to their stakeholders, WIPO carried out the following in 2011:

a) In the field of Copyright and Related rights, infrastructure has been central in achieving the goal of digital inclusion, enabling universal, sustainable, ubiquitous and affordable access to ICTs by all. However the gap between technologically

developed and other countries remains a significant challenge. There was a need to raise awareness of the opportunities provided by the copyright system for using and benefiting from the digital environment and thereby, helping to bridge the "Digital Divide". Taking into account relevant solutions already in place in developing countries and countries with economies in transition, to provide sustainable connectivity and access to remote and marginalized areas at national and regional levels, WIPO through several initiatives has assisted Members States with computers and accessories, servers, etc. to improve the system of administration. In the copyright area, such initiatives include the WIPOCOS (WIPO Software for Collective Management of Copyright and Related Rights), a project supporting automation of collective management in developing countries and GDA (*Gestion del derecho de autor)*, which promotes automation of copyright offices and public registration systems. The challenge still remains in WIPO's ability to meet the growing demands of all Member States in copyright infrastructure particularly in developing countries and countries with economies in transition.

b)   Technical assistance to IP Institutions to help them participate effectively in the global IP system. In 2011, WIPO provided modernization products and services to IP institutions[18] from 74 countries, across all regions, of which 15 were LDCs, 44 were developing countries and 12 were countries in economic transition. In addition, two regional IP institutions in Africa, namely the African Regional Industrial Property Organization (ARIPO) and African Intellectual Property Organization (OAPI), were assisted in their modernization projects. The Program's work also included several regional workshops focusing on key automation topics, training and sharing of national experiences and best practices. Countries assisted included both new ones where modernization projects were initiated, as well as those where modernization projects were already in progress but in different stages of implementation. In order to meet the expected results and to address the challenges faced in assisting IP institutions with diverse levels of development, infrastructure, skills and resources, the Program's assistance covered a comprehensive set of modernization services. These included: technical advice and guidance; needs assessment; simplification of business processes; provision of standard automation components customized to specific national requirements; establishment of national IP databases; extensive training of IP institutions staff and knowledge transfer to their technical focal points; progress monitoring and post-deployment impact evaluations; and e-communication with WIPO Treaties. Training related activities accounted for 50% of the Program's work and were critical in achieving the desired results.

4.   Action Line C8 "Cultural Diversity and identity, linguistic diversity and local content"

On "Cultural Diversity and identity, linguistic diversity and local content," in 2008 WIPO approached another crucial issue at the intersection of digital technologies and copyright, holding an International Workshop on Digital Preservation[19]. In the digital economy, information and creative materials are increasingly created in digital form and analog materials are being transferred to digital formats. Unlike analog materials, digital works do not 'self preserve' if stored in a stable environment. As digital works tend to degrade quickly and without warning, their preservation requires that multiple copies of a work are made, in different formats and in different storage locations, over the course of its "lifetime". Digital preservation can, therefore,

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[18] IP institutions include IP offices and collective management societies (CMOs).
[19] The presentations of the workshop can be found at http://www.wipo.int/meetings/en/2008/cr_wk_ge/

raise a number of copyright issues, and the workshop aimed at contributing to the debate among stakeholders and policy makers on how to develop and improve policies and practices that support digital preservation of copyrighted content.

ICTs as tools to support the IP management of intangible cultural heritage and traditional cultural expressions (TCE):

With WIPO's support, national and community processes made use of IP guidelines, best practices and manuals for documenting, digitizing and disseminating intangible cultural heritage. WIPO organized an international symposium to offer a platform to exchange experiences on the use of registers and databases in relation to IP protection of Traditional Knowledge (TK) and Traditional Cultural Expressions (TCEs).[20] WIPO's expertise on policy, legal and practical issues related to IP management linked to the digitization of cultural heritage provided guidance in national projects. WIPO's Creative Heritage training program[21] on cultural documentation and IP management was carried out in partnership with external institutions. WIPO received many requests from indigenous and local communities and cultural institutions to replicate or run a similar program. The program trains communities on how to: (1) document their own cultural heritage; (2) archive this heritage for future generations; and (3) safeguard their IP interests in regulating the use of the recordings by third parties, through IP management policies.

WIPO provided assistance in the development of an archiving, publishing and content management software tool under a partnership with external academic institutions. The software tool enables indigenous and local communities to manage their IP interests in their digital collections of their TK and TCEs, through regulating access and licensing.

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[20] International Technical Symposium on Intellectual Property and Sustainable Development: Documentation and Registration of Traditional Knowledge and Traditional Cultural Expressions, Muscat, Oman, June 26 to 28, 2011 http://www.wipo.int/meetings/en/2011/wipo_tk_mct_11/index.html

[21] For further information see at http://www.wipo.int/tk/en/culturalheritage/