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**Submissions from entities in the United Nations system and elsewhere on their efforts in 2010 to implement the outcome of the WSIS**

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 14th 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 2010
TO THE IMPLEMENTATION OF THE OUTCOMES OF
THE WORLD SUMMIT ON THE INFORMATION SOCIETY

INTRODUCTION

This report has been prepared by the Secretariat of the World Intellectual Property Organization in response to the Economic and Social Council (ECOSOC) resolutions 2006/46, 2007/8 and 2008/3, which request 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.

I.    SUMMARY

The Internet, the new information and communication technologies and the digital economy present both challenges and opportunities for the international community and the Intellectual Property (IP) system.  The World Intellectual Property Organization (WIPO) is fully engaged in the process of adapting the international IP framework to the evolving needs of the Information Society.  Using a multi-stakeholder approach, WIPO addresses many issues related to the intersection between IP and the digital environment at the international level; among these are the technologies that enable management of IP rights on the Internet, the international framework for copyright limitations and exceptions, emerging tools for documentation and preservation of creative works, the legal and licensing framework of computer software and the role of Internet Intermediaries.

The commitment of WIPO to contribute to the development of an inclusive and development-oriented Information Society is reflected in past and future activities of the Organization.  The progress reported in the implementation of the WIPO Development Agenda (DA), which aims at ensuring that development considerations form an integral part of the Organization's work, is an expression of this commitment.  A structured, projects-based implementation of the 45 Recommendations of the WIPO DA had already commenced, which consisted of issues related to access to knowledge, information and communications technologies (ICTs) and the "Digital Divide".

II.    ANALYTICAL OVERVIEW

Copyright protects the moral and economic interests of creators through a system of intangible property rights provided in national laws and international treaties.  The traditional model of returning value to creators and their business associates is rapidly changing in light of the convergence of digital technology and the distributional power of the Internet.  This may work to

the disadvantage of the developing world, where creators and users do not have the same access to the Internet, bandwidth and alternate models of obtaining financial rewards as their counterparts in the developed world.

The Geneva Declaration of Principles and Plan of Action of the World Summit on the Information Society (WSIS), encourages the development of a global Information Society, by harnessing the potential of ICTs to promote the Millennium Development Goals (MDGs).  The Geneva Declaration recognizes that "education, knowledge, information and communication are at the core of human progress, endeavor and well-being" (paragraph 8); and it further emphasizes the importance of removing barriers to equitable access to information; of ensuring a rich public domain; and of raising awareness of different software models to ensure affordable access to software (paragraphs 25 to 28).  In addition, the WSIS Plan of Action outlines goals with direct correlation to IP legislation, including that "Governments should foster a supportive, transparent, pro-competitive and predictable policy, legal and regulatory framework, which provides the appropriate incentives to investment and community development in the Information Society" ("Enabling environment", Action Line C.6).

In the digital environment, technologies for documentation, preservation and registration of creative works are becoming essential tools for a secure, rich and user-friendly digital distribution of knowledge.  There is a corresponding need for Governments and stakeholders to better understand the role of copyright in regard to those technological developments.  Moreover, the challenge is to meet the expectations of, and involve, a growing number and range of stakeholders in addressing these issues.  The gap between technologically developed and others countries remains a significant challenge.  There is a need to raise awareness in many countries of the opportunities provided by the copyright system for using and benefiting from the digital environment and thereby, helping to bridge the "Digital Divide".  These concerns have been brought to the fore during discussions on the WIPO Development Agenda, which requires a proactive engagement with challenging issues at the intersection of copyright and digital technology.  For example, new activities can promote the understanding of problems related to 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.

The copyright system in the digital environment is further challenged by the role of new Internet Intermediaries, including Internet service provider, portals, User-Created Content sites and search engines.  The landscape has become more fragmented as court decisions worldwide have taken diverging approaches to defining the circumstances under which such intermediaries bear responsibility for infringing content on their networks.  This scenario increases the need for balanced discussion of best practices and tentative solutions at international level.

The evolution of Digital Rights Management (DRM) technologies also deserves mention.  Access- and copy-control technologies have met with strong consumer resistance, particularly in the online delivery of music content.  But the growing role of search engines illustrates the importance of emerging technologies which enable users to locate and access the content they need, including metadata identifying the creator and providing licensing information where appropriate.  Interoperability of these identifiers and metadata is important to ensure that content is accessible for multiple purposes, including to provide access to content by beneficiaries of copyright exceptions, and enable users to find and use content that is in the public domain.


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

WIPO is engaged in working towards the WSIS objectives and the implementation of the Geneva Plan of Action, as described below.

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

WIPO works 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 has formally recognized the importance of addressing, 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[1] 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.

In recent years, WIPO organized several activities concerning the relationship between IP rights (IPRs) and digital technologies.  WIPO has launched a series of seminars on software and IPRs, focusing not only on how software should be protected, but also on the many ways that software contributes to economic development.  Following an initial regional seminar in Sri Lanka in May 2007, two seminars were organized in 2008, in Malaysia and Costa Rica respectively.  The latest of this series of meetings was the *WIPO Africa Regional Seminar on Intellectual Property, Software, and E-Health: Trends, Issues, Prospects*, held in Kigali, Rwanda, June[2] 2010.  The objectives of the Conference were to update on recent developments regarding IPRs and software and to survey main IPRs issues in relation to E-Health.

WSIS Action Line C3 recommends 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 is 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*[3].  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 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 DA 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

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[1] http://visionip.org/portal/en/index.html
[2] http://www.wipo.int/meetings/en/details.jsp?meeting_id=20625
[3]  The recommendations can be found at http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_1/cdip_1_3.doc

engines); a study on the public domain (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.  In order to offer a better understanding of issues involved in the public domain, a scoping study commissioned by WIPO was done to crystallize the elements involved.  Two other projects – patents and the public domain and IP and the public domain - were also developed within the context of the WIPO DA to provide further emphasis to this important aspect of access to knowledge.  Finally, under the DA project on IP and Competition WIPO also organized in 2010 "the Global Meeting on Emerging Copyright Licensing Modalities"[4]. The meeting provided an unprecedented 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 Dialogues is focused on the development of an international music registry 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.

*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)[5] in order to assist Member States in establishing their national industrial property information system.

In 2008 and 2009 cooperation agreements were concluded and projects were started with several Member States and regional IP organizations for the purposes of digitization and dissemination of their national and regional patent data.  In 2010 training seminars and workshops on PATENTSCOPE®[6] search service and on patent information were conducted at several national offices and seminars were held at international conferences.

In 2010 the Access to Research for Development and Innovation (aRDi)[7] program continued to be supported and developed.  The aRDi program allows access to scientific and technical journal databases to least developed and developing countries through a public-private partnership between WIPO and partners in the publishing industry.  Currently, 12 publishers provide access to over 50 journals for 107 developing countries.  A similar partnership with 6 of the world's leading commercial patent database providers led to the launch in 2010 of a new program called Access to Specialized Patent Information (ASPI)[8], allowing access to commercial patent databases, which provide more sophisticated search and analysis tools in retrieving and assessing pertinent technology.

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[4] http://www.wipo.int/meetings/en/2010/wipo_cr_lic_ge_10/index.html
[5] For further information see at http://www.wipo.int/patentscope/en/data/developing_countries.html
[6] For Further information see at http://www.wipo.int/pctdb/en/
[7] For further information see at http://www.wipo.int/ardi/en/
[8] For further information see at http://www.wipo.int/patentscope/en/programs/aspi

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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)[9], 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.  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.

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

WIPO Lex[10], a database that provides free access to IP legislation from a wide range of countries and regions as well as to treaties on IP, was launched on-line in September 2010.  Currently, it contains over 12,000 legal texts in various languages.  These include the complete IP legislation of over 100 countries, of which more than two-thirds are developing, and the substantial IP legislation of nearly a hundred other countries.  Completion and updating of WIPO Lex continue with the active collaboration of national IP offices and other treaty-administering organizations.  The database is available in three public interfaces; English, French and Spanish, and plans for additional UN languages are underway to enable universal access to this wealth of legal information.

2.      Action Line C4 "Capacity Building"

WIPO has developed several IP related capacity-building course contents and programs available on the Internet.  Demand for Distance Leaning (DL) Courses[11] in the area of IP continued to increase in 2009 and 2010.  The WIPO Academy offers 13 courses on line at general, advanced and specialized levels.  The courses are Primer on Intellectual Property (DL-001), Primer on the Patent Cooperation Treaty (DLPCT-101), General Course on IP (DL-101), Advanced Course on Copyright and Related Rights (DL-201), IP and Electronic Commerce (DL-202), IP and Biotechnology (DL-204), Protection of the Plant Varieties (DL-205), Patents (DL-301); Trademarks, Industrial Designs and Geographical Indications (DL-302); Arbitration and Mediation Procedure under the WIPO Rules (DL-317); Patent Information Search (DL-318), Basics of Patent Drafting (DL-320), IP Management in the Publishing Industry (DL-401), and Basics of IP Management (DL-450).  These courses provide participants with systematic, basic and in-depth knowledge as well as practical skills in the fields of patents, trademarks, industrial designs, geographical indications, arbitration and mediation, and IP management, licensing in specific fields of industry.  On-line courses registered 84,000 participants in 2009/2010 compared to 52,000 participants in 2007/8.  In 2011, WIPO will enhance its multilingual platform for its capacity-building educational programs with a view to reach an even wider group of beneficiaries in developing countries.

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[9] For further information see at http://www.wipo.int/patentscope/en/programs/tisc
[10] For further information see at http://www.wipo.int/wipolex/en/.
[11] For further information see at http://www.wipo.int/academy/en/

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

One of the main objectives of the WIPO Arbitration and Mediation Center[12] (AMC) is to promote a balanced legal framework for the protection of IP in the Internet Domain Name System (DNS). The 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 10 years of daily experience with domain name-related disputes, the 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).  In 2010 the Center 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.

4.    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 2010:

a)    In the field of Copyright and Related Rights, WIPO through several initiatives has assisted Members States with computers, accessories and servers to improve the system of administration.  Such initiatives include the WIPOCOS, a project supporting automation of collective management in developing countries, and GDA which promotes automation of copyright offices and public registration systems.  The challenge still remains in WIPO's ability to meet the growing demands of Member States for their copyright infrastructure particularly in developing countries and countries with economies in transition.

b)    In the field of the IP International Registration activities, a new online facility for electronic payments regarding the international trademark and design registrations and modifications has been made available.  Payments can now be made by either credit card or current account transfer, and internal processing has therefore become almost entirely automatic.

c)    Technical assistance to IP Institutions to help them participate effectively in the global IP system.  In 2010, WIPO provided modernization products and services to IP institutions[13] from 51 countries, across all regions, of which 9 were LDCs, 35 were developing countries and 7 were countries in economic transition.  In addition, two regional IP institutions in Africa, namely ARIPO and 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

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[12] For further information see at http://www.wipo.int/amc/en/
[13] IP institutions include IP offices and collective management societies (CMOs).

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.

5.      Action Line C8. "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*[14].  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, 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.

The *International Conference on Intellectual Property and Cultural Heritage in the Digital World*[15], jointly organized in 2009 by WIPO and the Ministry of Culture of Spain, covered a number of topics on the nexus between IP and cultural heritage institutions (CHIs), such as museums, libraries and archives, and on their role in the dissemination and promotion of culture in the digital environment.  The Conference focused on the dual role of CHIs as users/licensees of IP, on the one hand, and as creators/owners/managers of IP, on the other.  CHIs are users of IP either directly or as facilitators of use by the public in areas such as digital preservation and access and use under limitations and exceptions in the digital environment.  Whereas museums were once concerned with using IP owned by others, they are now also faced with the responsibility of managing their own IP as right owners, (for example, of their collections and related digital contents) and mediating between users and original right owners.  The speakers outlined the crucial roles played by IPRs in this context.  On one hand, IPRs can provide the legal basis for building safe and robust tools for preservation of national cultural heritage.  On the other hand, IPRs are instrumental for delivering new services and capitalizing on emerging business models in the cultural heritage sector.  In this context, an International Congress on Creativity, Cultural Diversity and the Market, organized by the Ministry of Culture of Brazil, WIPO and the performers of LATIN ARTIS took place in Rio de Janeiro in December 2010 focusing, among other, on the intersection between cultural heritage and IPRs in the digital environment.

*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 an active use of IP guidelines, best practices and manuals for digitizing and disseminating intangible cultural heritage, including traditional cultural expressions.  WIPO's expertise on policy, legal and practical issues related to IP management during the digitization of cultural heritage provided guidance in national projects on cultural heritage digitization in more than five countries.  WIPO's Creative Heritage training program[16], offered in partnership with external institutions, on cultural documentation and IP management was launched.  WIPO received many requests from communities, museums and archives to be included in the program.

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[14]  The presentations of the workshop can be found at http://www.wipo.int/meetings/en/2008/cr_wk_ge/
[15] http://www.wipo.int/meetings/en/details.jsp?meeting_id=19502
[16] For further information see at http://www.wipo.int/tk/en/culturalheritage/