

**THIRD WORLD NETWORK (TWN) STATEMENTS AT THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) ASSEMBLY, 14-22 July 2022, Geneva**

**General Statement: Agenda 4**

Thank you Madam Chair.

COVID-19 has brought to the forefront the inequalities in accessing COVID-19 medical products and the limitation of intellectual property (IP) in facilitating access to the same. The pandemic also revealed that apart from patents, copyright, industrial designs and trade secrets also can create barriers to scaling up the production and distribution of medical products and technology. Many countries including the USA have taken measures to address the IP barriers.

However, COVID-19 has clearly shown us that innovation can take place without IP. Many innovation processes especially the development of monoclonal antibodies have moved away from the logic of patents. However, WIPO is still stuck in the old paradigm and provides an outdated narrative.

It is high time for WIPO to stop providing narratives which are not rooted in reality. We call upon Member States to take appropriate measures to correct this narrative, which is devoid of evidence.

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**Standing Committee on Copyright and Related Rights (SCCR) : Agenda 4.(i)**

Thank you Madam Chair.

Though discussions within SCCR on exceptions and limitations are yet to lead to concrete outcomes, I did notice a qualitative change in the approach of the Secretariat. Over the last two days nobody from the Secretariat prevented any of us from recording the music performance. This is a welcome change. We would like to see such changes across the board to expansion of the exception and limitations, especially related to access to knowledge.

In recent years big publishing companies are suing internet service providers and governments in various countries to block websites like Libgen (Library Genesis) which provide access to scholarly content to students and researchers especially in developing countries. Copyrights cannot exist in vacuum and needs to respect the right to education and right to science.

It is worth to note that a few publishing houses did provide access to articles during the pandemic. However, it is important to discuss and create a framework to ensure uninterrupted access to articles and books related to medicines and public health. Further, there is an urgent need to examine the implications of copyrights on availability and affordability of health products such as diagnostic equipment, wearables etc. We call upon Member States to undertake a work program in this regard within SCCR. We also call upon WIPO to examine the implications of copyrights on the affordability and accessibility of education and research materials in higher education, and health products.

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## **Standing Committee on Patents (SCP): Agenda 9.(ii)**

Thank you Madam Chair.

Despite the loss of lives due to inaccessibility of needed medical technologies, there was no focused agenda on IP and COVID-19 medical products. Inaction during this period will also show poor concerns over lives of people.

It is important for SCP to take note of the fact that patents are increasingly sought as a tool to manage competition rather than for invention. The story of insulin patents reveals this beyond any doubt.

We take this opportunity to flag our concern on the push for expedited patent examination. We are concerned that with such expedited examination and work sharing, the flexibilities related to scope of patentability will be compromised.

Using artificial intelligence-based technologies provided by developed countries poses a danger of harmonizing patent laws and thus undermines TRIPS flexibilities. This would ultimately result in proliferation of patent monopolies.

We call upon the developing countries Member States to approach artificial intelligence with extreme caution. Lastly, we would like to draw the attention of Member States to UNCTAD's trade and development report 2021 which calls for the transformation of rules governing intellectual property rights, such as through a WTO Ministerial Declaration on TRIPS and Climate Change.<sup>1</sup>

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## **Committee on Development and Intellectual Property (CDIP): Agenda 9. (v)**

Thank you Madam Chair.

The WIPO Development Agenda (DA) was adopted with an objective of ensuring that the IP system responds adequately to the development needs of WIPO Member States by addressing both opportunities and challenges arising from the IP system. Now, it is clear that there is a long way to go to achieve this objective.

Often, the discussions on implementation of the DA have been co-opted by the term "mainstreaming development agenda". This is evident from the fact that even during the unprecedented COVID-19 pandemic, the CDIP had little meaningful discussion on challenges arising in respect of access to medicines, diagnostics, vaccines, online learning material and the linkages of the IP system in those aspects.

It is a matter of concern that despite the decision on coordination mechanism there is no reporting of activities of other committees to CDIP with regard to their respective contribution to the advancement of the DA.

We call upon the WIPO Secretariat to implement the Development Agenda in good faith.

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<sup>1</sup> The 2001 Doha Declaration on TRIPS and Public Health is the precedent.

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**The Intergovernmental Committee on Intellectual Property and Genetic Resources,  
Traditional Knowledge and Folklore (IGC) : Agenda 9. (vi)**

Thank you Madam Chair.

It was interesting to listen to the discussion in the morning on the Agenda item 9.IV i.e *Matters Concerning the Convening of a Diplomatic Conference on draft design law treaty (DLT)*. During the discussions many Member States forcefully argued for the need to hold the diplomatic conference to conclude DLT.

It is important to recall that the mandate to develop three international legal instruments under the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is more than 12 years old, quite older than DLT.

The pandemic again showed the need to have an international instrument preventing biopiracy. Though developing countries shared the pathogen samples or genetic sequence information on pathogens that really helped in the development for vaccines including Ebola and COVID-19, neither vaccines nor technology were shared with developing countries in a fair and equitable manner. From a public health perspective it is important to have a mechanism to facilitate sharing pathogens and digital sequence information (DSI) by facilitating a fair and equitable benefit sharing framework.

Prevention of misappropriation of genetic resources and associated traditional knowledge using IP is essential to develop a credible mechanism to share genetic resources for public health purposes. We call for speedy conclusion of IGC negotiations.