

World Intellectual Property Organization
50th Series of Meetings of the WIPO Assemblies
U.S. Opening Statement
Geneva, October 1-9, 2012

Thank you Mr. Chairman.

Allow me to begin by welcoming and thanking you and your vice-chairs for the important work you have done over the course of the last year. We are confident that you will ably guide our discussions this week.

The United States supports the statement I previously made on behalf of Group B.

Mr. Chairman, United States' patent and trademark filers depend on WIPO to administer systems for international patent and trademark protection, and we remain pleased with WIPO's actions to build a responsive and efficient Organization that

meets its mandate of providing global leadership on intellectual property issues.

The completion of the Audio-visual Performers Treaty at the June Diplomatic Conference meeting in Beijing is the first significant advancement in international norm-setting in the copyright area in more than fifteen years, and serves as just one example of the excellent work being done at WIPO.

The United States hopes the “spirit of Beijing” will now be apparent in the work to advance protection of broadcast signals and enhance access to copyrighted works by persons with print disabilities.

The United States welcomes improvements to financial, management, reporting and performance coordination through the Strategic Realignment Plan and the Enterprise Resource

Planning, which has helped identify synergies across the Organization and provided greater clarity to WIPO's work.

The United States is pleased that WIPO has, thus far, maintained a balanced budget through the 2012/2013 biennium and we support continued focus on savings and efficiency. We expect WIPO to continue looking for ways to reduce expenditures and stay within the three percent increase over the previous biennium.

WIPO is unique among UN-specialized agency UN as it provides a number of fee-paying services to industry and the private sector for protecting their inventions, brands and designs internationally. This enables the Organization to generate a significant proportion of its budget from fees.

The United States believes it is important for WIPO to develop closer ties with these industry and the private sector

users of WIPO services. As is done at other international organizations, WIPO should host an Industry/Stakeholder Day with industry officials during the 2013 General Assembly so that WIPO Member States can hear about real-world considerations in the discussions of the Organization.

Mr. Chairman, in line with what the Director General mentioned in his opening statement, the United States believes that it is now time to gradually expand the network of external offices in order to further develop the global IP system. As U.S. entities are responsible for the greatest percentage of PCT applications, we believe our users would significantly benefit from the services provided by an external office. We stand ready to work with WIPO in exploring the feasibility of placing an external office in the United States to better serve this significant number of users.

This has been a busy year in the world of patents in the United States. With passage of the America Invents Act (AIA)

in September 2011, we have achieved comprehensive reform of our patent law that will move the U.S. to the first-to-file system for awarding patents that is used throughout the world. Over the past year, the U.S. has further expanded its training and technical assistance efforts, and its cooperation on intellectual property issues with a multitude of WIPO Member States.

Mr. Chairman, the United States position on whistleblower protection is well known throughout the UN system. Whistleblowers at any organization, including WIPO, should be able to report fraud, corruption, and misconduct without fear of reprisal. When reprisals are taken or threatened, whistleblowers should have an effective recourse mechanism.

The United States calls upon WIPO to implement comprehensive whistleblower protections without further delay and make a concerted effort to create a culture for reporting misconduct or cooperating with an audit or investigation without fear of reprisal.

The JIU guidelines are a helpful starting point, but at a minimum, a comprehensive whistleblower policy must:

- Cover all individuals working for the organization.
- Clearly affirm the duty of these individuals to report misconduct and malfeasance and to cooperate with audits and investigations.
- Allow reporting of retaliation at any time.
- Grant interim relief to anyone who has claimed protection from retaliation through reassignment, suspension of the adverse action, or leave without pay pending the outcome of the case.

Mr. Chairman, I also want to address the issue of technical assistance projects in countries subject to UN Security Council sanctions.

For almost 6 months now, the United States has continually expressed its concern about WIPO conducting technical assistance projects and transferring U.S.-developed technology to countries subject to UN Security Council sanctions without the knowledge of Member States or the appropriate UN Security Council sanctions committees.

While the United States notes that both the Independent External Review and the relevant UN Security Council sanctions committees, as well as our own internal review, have concluded that WIPO did not violate UN Security Council sanctions, the fact is that no one knew that before or during the process of approval and implementation. It has only been after the fact that we have been able to make that determination, and there are still many questions that have not been answered, including whether various Member States' domestic export control laws were violated.

This is obviously contrary to the ideals of transparency and Member State oversight that ought to be the hallmarks of international organizations. The United States believes that WIPO and Member States need to seriously consider ways to improve oversight, transparency and accountability mechanisms, and to put in place safeguards that ensure Member States and the relevant UN Security Council sanction committees are properly consulted in the future before projects in countries subject to UN Security Council sanctions are approved.

We appreciate the work that the Director General and Secretariat have taken to address these issues, but based on the report of Independent External Review, our own review, and the fact that many questions still remain unanswered, we believe that WIPO should take the following steps to ensure that this failure of oversight and accountability does not happen again:

- In particular, we would like to see an analysis of the role of contractors in these projects, and whether or not they violated Member States' export control laws, and how

they bypassed UNDP safeguards put in place in 2007 to prevent exactly this type of situation. This analysis should be part of a follow-on independent, external review that is charged primarily with identifying how these projects have been approved and implemented without the knowledge of Member States. The follow-on review should work independently, have unfettered access to WIPO documents and employees, and report directly to this Assembly at its next session.

- The Director General should provide a report to Member States on the steps being taken to address the concerns and recommendations raised by the external review and various Member States. Particularly, the report should address how Member States will be notified of projects in countries subject to UN Security Council sanctions before they are approved.

Mr. Chairman, the United States will continue to work with the Secretariat and other Member States to create a better

functioning, more transparent and effective World Intellectual Property Organization to ensure that respect for IPR continues to be the major emphasis of the Organization.

Thank you