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Delegations will find in the Annex the final EU/Member States statements delivered at the above-mentioned WIPO meeting.

**36th Session of the WIPO Standing Committee on the Law of Patents (SCP)****(Geneva, 14-18 October 2024)****General statement**

Thank you Chair,

1. Hungary is honoured to deliver this statement on behalf of the European Union and its Member States. We are happy to see you chairing this session and we look forward to working efficiently under your skilled leadership this week. We would also like to congratulate Mr Christoph Spennemann on his election as Chair for the next two sessions of the SCP. We thank the WIPO Secretariat for its excellent work in preparing this meeting and providing us with all the relevant documents.
2. The European Union and its Member States are pleased with the constructive discussions and progress achieved in previous SCP sessions, especially in advancing the five key topics on the agenda. The patent system plays a vital role in fostering innovation, economic growth, and competitiveness, and we remain committed to engaging constructively on all items under the SCP's work programme.
3. Exchanges regarding the similarities and differences between patent laws and best practices across the globe are crucial to enable stakeholders with diverse needs to fully utilise the benefits of the patent system. As a multilateral forum, the SCP provides an invaluable platform for the global community to deepen understanding of patent systems, share best practices, and work towards substantive harmonisation where possible. The EU and its Member States see this as a long-term objective, central to improving the international patent landscape, fostering innovation, and addressing cross-border challenges such as technology transfer and patent-related disputes.
4. The quality of patents, including opposition systems, has always been a priority for the EU and its Member States. 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. At this session, we welcome the presentations of experts on the

use of AI for generation of new technical solutions or in R&D processes and we especially look forward to the sharing session on the use of AI for efficient patent examination procedures. We are convinced that sharing experiences and information on these topics is highly beneficial for all WIPO Member States.

5. The EU and its Member States also wish to highlight the importance of confidentiality of communications between clients and their patent advisors. This issue is vital for ensuring legal certainty and maintaining the integrity of the patent system. We welcome the updated document (SCP/36/7) on recent court cases, and look forward to meaningful dialogue on how different jurisdictions address this critical matter.
6. Furthermore, the topic of Standard Essential Patents (SEPs) and Fair, Reasonable, and Non-Discriminatory (FRAND) licenses are of particular interest to the EU and its Member States. SEPs are essential for global trade and technology, especially in the digital era, where interoperability between systems is key. The EU remains committed to promoting transparent, balanced frameworks that support innovation while ensuring fair access to key technologies. However, we want to reiterate our belief that the SCP should avoid duplicating the efforts of the Committee on Development and Intellectual Property (CDIP) in Technology transfer.
7. In closing, while we consider all topics on the agenda to be important, we reiterate our strong interest in enhancing international cooperation and improving technical knowledge on patentability requirements. We are convinced that developing a high-quality, efficient patent system globally will contribute significantly to removing trade barriers and driving economic prosperity.
8. The EU and its Member States look forward to engaging in constructive discussions throughout this session.

Thank you.

## Reactive Statement on Ukraine

Chair,

1. The European Union and its Member States express solidarity with Ukraine and support the sovereignty and the territorial integrity of Ukraine within its internationally recognised borders.
2. We demand Russia to immediately stop its invasion of Ukraine and cease all violations of international law. Russia must instantly and completely withdraw its troops from the whole territory of Ukraine and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognised borders.
3. The European Union and its Member States remain committed to seeing Russia and its leadership held fully accountable for waging a war of aggression against Ukraine and for other most serious crimes under international law, as well as for the massive damage caused by its war. The negative impacts on the Ukrainian IP ecosystem are again reported by WIPO in document A/65/7.
4. We, therefore, welcome the decision made during the 65th series of meetings of the Assemblies of the Member States of WIPO under agenda item 18, titled '*Assistance and Support for Ukraine's Innovation and Creativity Sector and Intellectual Property System*'. The EU and its Member States are looking forward to the proper implementation of this decision.

Thank you.

## Agenda item 5

### Report on the international patent system: certain aspects of national/regional patent laws

(SCP/36/2)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States. We would like to thank the WIPO Secretariat for preparing SCP/36/2 and for updating the SCP electronic forum website. We also want to express our gratitude to Algeria, Chile, China and the Syrian Arab Republic for their important input.
2. Keeping the SCP electronic forum up to date is essential to enhance our understanding of regional patent legislation and national patent systems, and to maintain the forum's value as a source of reference. We therefore continue to encourage all WIPO Member States to provide information on recent developments concerning national and regional IP laws, as we can all benefit from such valuable information.
3. In relation to recent developments within the EU, we are pleased to report that the Unitary Patent system has now completed its first year of operation after having entered into effect on 1 June 2023. Over 37,000 requests for unitary effect were filed, resulting in more than 35,000 Unitary Patents being registered. This means nearly one in four granted European patents has resulted in the registration of a Unitary Patent. The system saw strong uptake, with 64.2% of proprietors based in the European Patent Organisation's 39 contracting states, 16.1% from the US, 6.0% from China, 3.8% from Japan, and 3.3% from the Republic of Korea. Notably, 35.5% of all Unitary Patents in Europe in 2023 were held by smaller European companies and start-ups. The new Unified Patent Court, which provides a single, specialised patent jurisdiction for the EU Member States participating in the Unitary Patent system, has received 476 cases by end of August 2024, enhancing legal certainty and transparency. This successful implementation highlights the system's effectiveness and its potential to drive further innovation in Europe.

4. We would also like to take this opportunity to inform the SCP about other patent-related initiatives currently under consideration within the EU. In April 2023, the European Commission brought forward proposals for several legislative initiatives. Firstly, a reform of the EU supplementary protection certificate (SPC) regime; secondly, an initiative on compulsory licensing; and thirdly, an initiative to create a licensing framework for standard-essential patents (SEPs). All these proposals are currently being discussed in the European Parliament and the Council of the European Union, and we will be happy to report to future SCP meetings on developments in the legislative negotiations of these files.

Thank you.

## **Agenda item 6**

### **Exceptions and limitations to patent rights**

(SCP/36/3)

(Other related documents: SCP/14/7 and SCP/19/6)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States. We extend our gratitude to the WIPO Secretariat for their efforts in preparing the draft reference document on the exception concerning the extemporaneous preparation of medicines, as outlined in SCP/36/3.
2. We believe that the document provides an excellent overview of this exception, and we value the substantial amount of work undertaken by the Secretariat to highlight the similarities and differences in its implementation in different jurisdictions. We would like to note the fact that the implementation of the exception has not raised any significant issues across various countries and related litigation remains infrequent. Nonetheless, the comprehensive analysis of the legal frameworks, conditions and scope of these exceptions across jurisdictions provides valuable insights for WIPO Member States.
3. The EU and its Member States look forward to hearing contributions from other delegations and to engaging in a productive discussion on this agenda item.

Thank you.

## Agenda item 7

### Quality of patents, including opposition systems

- **Use of artificial intelligence (AI) technology for generation of new technical solutions or in R&D processes (presentations by external experts)**
- **Sharing session on the use of various tools, including AI, for effective patent examination procedures and challenges faced by IP Offices in developing, deploying and using such tools**

(SCP/36/4 and SCP 36/5)

(Other related documents: SCP/17/7, 8 and 10, SCP/18/9, SCP/19/4, SCP/20/11 Rev., SCP/23/4, SCP/24/3, and SCP/30/5)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States.
2. The quality of patents, including opposition systems, remains a matter of paramount importance for the EU and its Member States. As such, we would like to reaffirm our unwavering support and commitment to advancing discussions on this topic.
3. Artificial intelligence (AI) holds a strategic significance for the EU, and we view it as a key priority. However, we recognise that AI's creative potential introduces a range of challenges in the realm of intellectual property policy. We are therefore pleased to see several AI-related topics included in this session and particularly look forward to the sharing session focused on AI's role in improving patent examination procedures. We are optimistic that exchanging knowledge and practical experiences will enable all WIPO Member States to harness AI's potential to improve efficiency, enhance patent quality, and address recent patentability challenges posed by this evolving technology.
4. In this context, we would like to thank the WIPO Secretariat for updating the background document on Patents and Emerging Technologies contained in document SCP/36/5. We are confident that this document will serve as an invaluable resource for navigating the fast-moving technological developments classified under the broad umbrella of AI.



5. Additionally, we welcome the expert presentations on the use of AI in generating innovative technical solutions and in research and development (R&D). These insights into best practices, tools and strategies for integrating AI into R&D will prove highly beneficial.
6. Turning to the study on the Unity of Invention, the EU and its Member States express gratitude to the Secretariat for compiling and analysing the information contained in SCP/36/4. The study clearly underscores the essential role that the unity of invention principle plays in ensuring efficient patent procedures and enhancing legal certainty.
7. The EU and its Member States remain fully committed to reaching substantial progress on the core issue of the quality of patents. We look forward to engaging in a meaningful and constructive dialogue on this agenda item.

Thank you.

## Agenda item 8

### Patents and Health

- **Initiatives on publicly accessible databases of patent status information concerning medicines and vaccines (updates) and a sharing session on experiences of Member States in using these databases**

(SCP/36/6)

(Other related documents: SCP/16/7 and 7 Corr., SCP/17/11, SCP/24/4, SCP/26/5)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States. The EU and its Member States would like to thank the Secretariat for the update of document SCP/26/5 on constraints faced by developing countries and least developed countries in making full use of patent flexibilities and their impacts on access to affordable especially essential medicines for public health purposes in those countries (document SCP/36/6).
2. The EU and its Member States continue to be of the opinion that the current international IP legal framework is sufficiently adapted and flexible to provide solutions, including compulsory licensing, should voluntary agreements fail to offer an adequate solution. As highlighted in this document prepared by the Secretariat, issues around the full use of patent flexibilities relate to both the national implementation through transposition of international law as well as the use of national provisions by individual stakeholders. In respect of the latter, the document underlines that clarity of law, sufficient depth of implementing regulations, simplified and transparent administrative and judicial procedures, and a clear decision-making process have positive effects on the use of compulsory licences. In that respect, the document notes that the COVID-19 has prompted some countries to modify compulsory licensing laws.
3. This is also the case in the European Union. The European Commission presented, in April 2023, a legislative proposal for an EU Regulation introducing an EU-level compulsory licensing mechanism for crisis situations. This proposal is still being discussed among co-legislators.

4. The European Union and its Member States reiterate their support for voluntary licensing. Voluntary licensing initiatives have proven to be the most efficient and rapid means to ensure broad, timely and fair access to vaccines and medicines. Voluntary agreements also represent the best approach to promote innovation in the field of health, where the development of cutting-edge technologies generally requires large investments. Those investments can only be secured in the context of a well-functioning system for intellectual property rights, taking into consideration the importance of voluntary agreements.
5. The COVID-19 pandemic has underscored the importance of cooperation efforts in ensuring a broad, affordable and equitable global access to quality, safe and effective diagnostics, treatments and vaccines in the fight against COVID-19 towards public health objectives. The EU and its Member States therefore remain committed to support these cooperation efforts as regards the issue of access to vaccines and medicines, at all levels and among all relevant actors, including public authorities, research institutions, companies and other organisations.
6. The European Union and its Member States consider that a careful balance between incentives in favour of both innovation and access to medicines remains key to effectively tackle the issues surrounding patents and health. Within the SCP, we would welcome continuing the discussions and sharing good practices in this respect.

Thank you.

## Agenda item 9

### Confidentiality of communications between clients and their patent advisors

(SCP/36/7)

(Other related document: SCP/25/4)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States.
2. The issue of confidentiality of communications between clients and their patent advisors continues to be of significant importance to the EU and its Member States, and we welcome the inclusion of this topic in the agenda. Patent applicants and patent holders must be able to seek legal counsel with the assurance that their communications will not be subject to forced disclosure. Without such protection, both the quality and the enforceability of patents could be compromised.
3. We thank the Secretariat for preparing the compilation of court cases, contained in document SCP/36/7. The cases cited in the document are illustrative examples of the importance of awarding the communications between clients and patent practitioners the same level of confidentiality as in the case of attorneys-at-law. Likewise, we thank the Secretariat for incorporating the content of this document into the WIPO webpage on laws and practices relating to this important topic.
4. The EU and its Member States have long maintained that aligning the diverse legal frameworks of WIPO Member States in this area, regardless of their level of development, would greatly benefit users of the patent system. In this regard, we advocate for an approach that respects the differences between legal systems while aiming to ensure that communications with foreign patent advisors receive the same protection as those under national law.
5. The EU and its Member States believe that this is a highly relevant topic and should be further discussed at the SCP.

Thank you.

## **Agenda item 10**

### **Transfer of technology**

- **Sharing session by Member States on policy experiences on Standard-Essential Patents (SEPs) and Fair, Reasonable and Non-Discriminatory (FRAND) licensing related issues**
- **Roundtable on patent inventorship and ownership with respect to university inventions and their implications for technology transfer**

(Other related documents: SCP/32/6 and SCP/34/7 Rev.)

Thank you Chair,

1. I am taking the floor on behalf of the European Union and its Member States.
2. The process of technology transfer is pivotal in fostering both innovation and development. It creates mutually beneficial outcomes in international economic relations, which is why this topic remains a key priority at the European Union level.
3. We look forward to the sharing session and the roundtable discussion scheduled for this session of the Committee. In the sharing session, we hope to get to know more about practical experiences on Standard-Essential Patents (SEPs) and Fair, Reasonable and Non-Discriminatory (FRAND) licenses, an issue of utmost interest for the EU and its Member States given that a proposal for a regulation on the matter was published by the European Commission in April 2023 and it is currently under discussion in the European Parliament and the Council of the European Union. The roundtable discussion presents a valuable platform for exchanging views and experiences concerning inventorship and ownership of university inventions. This is a matter of significant consequence, as it directly influences the incentives for researchers to innovate and the ability of universities to commercialise academic inventions.
4. While the EU and its Member States continue to place strong emphasis on the importance of technology transfer, we would like to underscore that the CDIP is also addressing this issue. Therefore, we believe it is crucial for the SCP to avoid duplicating the efforts already underway within the CDIP.

5. Additionally, we reiterate our support for updating the WIPO webpage on technology transfer, particularly with respect to information concerning national, regional, and international platforms for technology exchange and licensing.

Thank you.

## **Agenda item 10**

### **Transfer of technology**

#### **Proposal by the Delegation of Canada for a Report and Compilation of Information on Standard-Essential Patents (SCP/36/11)**

Thank you Chair,

1. The EU and its Member States welcome and support the proposal by the delegation of Canada for a report and compilation of information on standard essential patents to be presented at the 37th session of the Standing Committee on Patents (SCP). It is crucial that such an exercise does not duplicate the existing body of information or ongoing endeavours of several jurisdictions to enhance transparency in the SEPs ecosystem. SEPs play a critical role in incentivizing standardization and innovation, enabling technology transfer, and ensuring uptake of cutting-edge technologies for novel use cases across various sectors.
2. We look forward to engaging in productive discussions on this important topic.

Thank you.

## **Agenda item 11**

### **Closing Statement**

Thank you Chair,

1. Hungary, speaking on behalf of the EU and its Member States, would like to thank you for your able leadership and efficiency in guiding us through this session.
2. We would also like to thank the Secretariat as well as the interpreters for the hard work carried out throughout the week.
3. We note with satisfaction the valuable information shared during this week. The EU and its Member States welcome the outcome of this session, as reflected in the Summary by the Chair.
4. We look forward to future information gathering, studies and activities as agreed at this session and included in the future work.
5. The EU and its Member States reiterate our commitment to advance the work of the SCP under all topics on the agenda.

Thank you.

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