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**NOTE**

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Subject: 41st Session of the WIPO Standing Committee on the Law of Trademarks,  
Industrial Design and Geographical Indication (SCT)  
(Geneva, 8-11 April 2019)  
- Final EU/Member States statements

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Delegations will find at annex, for information, the EU/Member States statements as delivered at the above-mentioned WIPO meeting.

**41st Session of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs  
and Geographical Indications (SCT)**

**(Geneva, 8–11 April 2019)**

**Opening Statement**

**Agenda item 1**

Chair,

1. The EU and its Member States would like to congratulate you and your Vice-Chairs on your election and we wish you every success in guiding our work this week. We would also like to thank the Secretariat for its excellent preparatory work for this session.
2. Looking back to the previous SCT session, we recall with appreciation that we moved forward on all key topics and delegations maintained a constructive spirit. We welcomed the finalisation of a Questionnaire focussing on pertinent issues related to Graphical User Interface designs. We also made some progress in seeking a compromise solution as regards country names, as our informal discussions helped identify some outstanding issues about a more recent joint proposal on this topic. As to geographical indications, we already addressed the continuation of work touching upon some means of methodology and the selection of topics to structure future discussions.
3. Looking at the agenda of this meeting, first as regards industrial designs, we refer to the discussions held in relation to the Design Law Treaty during the General Assembly last year. Despite our willingness to engage in discussions on the facilitator's text, we had to note with regret that again no positive decision to convene a diplomatic conference could be achieved. We therefore reiterate our position that discussions on the DLT should not be held in this Committee.

4. In relation to GUIs, the Secretariat has prepared a compilation of responses to the Questionnaire circulated after our last meeting. We would like to thank the Secretariat for preparing document SCT/41/2 Prov, which sets out responses in a clear, coherent and appropriately detailed manner. While this is not the first such survey, it is certainly the most up-to-date. In all the responses we see a wealth of information which will no doubt prove useful in further debates on GUIs, icons and typefaces in the committee.
5. As regards the proposal submitted by Spain in document SCT/40/8 at our last session, the SCT discussed preparing and conducting a survey among Member States to determine how the protection provided for by Article 11 of the Paris Convention is implemented and how the term “official or officially recognized international exhibitions” is interpreted, in order to provide better understanding of the protection for designs potentially involved in these kind of events. We thank the Secretariat for preparing a draft questionnaire for consideration at this meeting, as contained in document SCT/41/3. In our opinion, the draft questionnaire covers all relevant issues that can be addressed for improving the knowledge regarding national law aspects, such as whether this priority right is explicitly mentioned in the national law, which type of exhibitions are included in the scope of the article and the nature of the right granted.
6. On the topic of country names, we discussed a number of proposals at the last SCT session. As regards the joint proposal contained in document SCT/39/8 Rev.2, the EU and its Member States would like to thank the delegation of Switzerland and other proponents for preparing a non-paper for the Informal discussions at SCT 40. We also thank the same proponents for elaborating two subsequent proposals for this session, contained in documents SCT/41/6 and SCT/39/8 Rev.3. Looking into the contents of these two new proposals, we welcome the separation of two distinct policy objectives that were both covered in the previously discussed versions. In our opinion, by means of this clear divide the original Joint Proposal has been further improved in the right direction. We reiterate our appreciation of the spirit of seeking consensus that is reflected in these proposals and we are ready to participate in continued discussions to further explore their potential advantages, in particular in respect of the proposal in document SCT/41/6.

7. Finally, turning to geographical indications, we offer our thanks and congratulations to the Secretariat for having completed the compilation of the replies to the two Questionnaires on geographical indications. We consider this process has so far been a valuable and constructive exercise in advancing the international debate on geographical indications. We also agree that the exercise should be advanced by agreeing a limited number of topics to be addressed in information sessions in future SCT meetings. The EU believes that the treatment of geographical indications as IPR on the internet is one such area where there are significant lacuna, unjustified divergences from treatment of other form of IPR, and of global significance. We therefore recommend topics tabled in document SCT/41/9 to be discussed at the information sessions accordingly.
8. Chair, the EU and its Member States are hopeful to have a successful meeting under your guidance. We look forward to continuing work and contributing constructively in discussions in all three key areas of the SCT.

Thank you.

## **Industrial designs**

**(Docs SCT/41/2 Prov. and SCT/41/3)**

### **Agenda item 5**

Chair,

1. In addressing the topic of Graphical User Interface (GUI), icon and type face/type font designs at recent SCT sessions, most delegations including the EU and its Member States have been in favour of further work in particular on the tie between the product and the design and on how that affects the scope of protection, as well as on representation of animated GUIs. We shared common understanding that currently existing divergences should be directly addressed and further work on these issues can pave the way for a more harmonised approach.
2. At our last session, on the basis of a draft questionnaire contained in document SCT/40/2 as well as some detailed technical comments made at that meeting, the Secretariat succeeded in preparing a new version of the Questionnaire taking on board all comments made. Building on such efforts, the SCT adopted the Questionnaire as contained in document SCT/40/2 Rev for circulation to participants. We welcomed the finalisation of this Questionnaire focussing on pertinent issues related to GUIs.
3. In accordance with the decision taken at SCT 40, the Secretariat has prepared a compilation of all returns received by 30 January 2019 for consideration at this meeting. We would like to thank the Secretariat for preparing document SCT/41/2 Prov, which sets out responses in a clear, coherent and appropriately detailed manner. While this is not the first such survey, it is certainly the most up-to-date and detailed. In our view, this new survey explores, by means of specified and additional questions, issues such as, in particular, the link of these types of designs to the product indication; the use and effect of disclaimers; prior art searches; and viewing requirements including animated designs. In all the responses we see a wealth of information which will no doubt prove useful in further debates on GUIs, icons and typefaces in the committee. Therefore, we can fully support the compilation to be used as reference for further work on selected pertinent issues for such designs and stand ready to provide further information on the common practice developed by the European Union Intellectual Property Office and the EU Member States in the European Cooperation Network.

4. We reiterate our view that although issues concerning novel technological designs are also interesting and relevant, there already exist problems to solve in the field of currently known forms of graphical user interface and icon designs. We continue to believe that we should have a phased approach and first channel discussions around existing and well perceptible differences that can, and should be, immediately addressed. However, we also remain interested in hearing more about other novel technological designs from user associations.
5. As regards the proposal submitted by Spain in document SCT/40/8 at our last session, the SCT discussed preparing and conducting a survey among Member States to determine how the protection provided for by Article 11 of the Paris Convention is implemented and how the term “official or officially recognized international exhibitions” is interpreted. We thank the Secretariat for preparing, in accordance with the decision taken at SCT 40, a draft questionnaire for consideration at this meeting, as contained in document SCT/41/3. In our opinion, the draft questionnaire covers all relevant issues that can be addressed for improving the knowledge regarding national law aspects, such as whether this priority right is explicitly mentioned in the national law, which type of exhibitions are included in the scope of the article and the nature of the right granted. Should the SCT decide to proceed further on this issue, we can support the draft questionnaire to serve as the basis for further work .

Thank you.

## Protection of Country Names against Registration and Use as Trademarks

(Docs SCT/32/2, SCT/39/8 Rev.3 and SCT/41/6)

### Agenda item 6

Chair,

1. On the topic of country names, we discussed a number of proposals at the last session of the SCT. As regards the joint proposal contained in document SCT/39/8 Rev.2, the EU and its Member States would like to thank the delegation of Switzerland and other proponents for preparing a non-paper for the Informal discussions at SCT 40. We also thank the same proponents for elaborating two subsequent proposals for this session, contained in documents SCT/41/6 and SCT/39/8 Rev.3. As we commented before, we note with interest that these proposals would not imply any legislative exercise, nor do they envisage any disruption of existing practices on descriptiveness and distinctiveness. We remain of the opinion that the creation of a new “norm setting” instrument may not be the most appropriate way to address this issue.
2. Looking into the contents of these two new proposals, we welcome the separation of two distinct policy objectives that were both covered in the previously discussed proposal in SCT/39/8 Rev. 2. In the new documents, we can see that on the one hand, the policy objective of protecting country names and geographical names of national significance against their registration as distinctive signs, such as trademarks, is addressed by the proposal in document SCT/39/8 Rev.3. On the other hand, the policy objective of protecting country names and geographical names of national significance against their delegation as top-level domain names in the DNS is addressed by the proposal in document SCT/41/6. In our opinion, by means of this clear divide the original Joint Proposal has been further improved in the right direction.

3. As regards the latter new proposal in document SCT/41/6, in general we are supportive of the underlying rationale as explained on pages 1 to 4 of the document. We can associate ourselves with the principles endorsed in the Second Special Sessions Report supported by the SCT in 2002, as contained in document SCT/S2/8. We also appreciate that the proposal embraces the objective to grant a rights protection mechanism at the second level of the DNS for geographical indications and country names, as promoted in a previous joint proposal co-sponsored by a number of EU Member States in document SCT/31/8 Rev. 8. We would, however, like to make some more detailed comments highlighting some elements in this proposal that are more critical for us in the course of further technical discussions at this meeting.
4. Turning to the new proposal in document SCT/39/8 Rev. 3, we continue to have concerns about a general prohibition of the registration of country names and geographical names of national significance as distinctive signs such as trademarks if the sign consist exclusively of such a name or if it would amount to the monopolisation of such a name.
5. We reiterate our appreciation of the spirit of seeking consensus that is reflected in these proposals and we are ready to participate in continued discussions to further explore their potential advantages.

Thank you.

## Geographical Indications

(Docs SCT/40/5, SCT/40/6 and SCT/41/7)

### Agenda item 7

Chair,

1. The EU and its Member States offer their thanks and congratulations to the Secretariat for having completed the compilation of the replies to the two Questionnaires on geographical indications.
2. We consider this process has so far been a valuable and constructive exercise in advancing the international debate on geographical indications. We also agree that the exercise should be advanced, in line with the conclusions of the Chair at the 40th session, by agreeing a limited number of topics to be addressed in information sessions in future SCT meetings.
3. Such topics should, in the EU's view, address significant challenges confronting the global IPR community, as they pertain to geographical indications. They should be issues of wide interest across the membership and should be confined to subjects under the scope of the SCT.
4. The EU believes that the treatment of geographical indications as IPR on the internet is one such area where there are significant lacuna, unjustified divergences from treatment of other form of IPR, and of global significance. We therefore recommend the topics tabled by the EU in document SCT/41/9 to be discussed at the information sessions.

Thank you.

## **Geographical Indications: proposals for information sessions**

**(Docs SCT/40/5, SCT/40/6, SCT/41/7, SCT/41/8 and SCT/41/9)**

### **Agenda item 7**

Chair,

1. The EU and its Member States consider the compilation of the replies to the two Questionnaires on geographical indications has so far been a valuable and constructive exercise in advancing the international debate on geographical indications. We also agree that the exercise should be advanced, in line with the conclusions of the Chair at the 40th session, by agreeing a limited number of topics of interest confined to the scope of the Questionnaires to be addressed in information sessions in future SCT meetings.
2. We tabled questions on protection of GIs on the internet in document SCT/41/9. We also take note of the proposals tabled by the United States in document SCT/41/7 and by Switzerland in document SCT/41/8. We should encourage the wider membership to table proposals for debate on GIs on subjects of concern.
3. In our opinion the treatment of geographical indications as IPR on the internet is one such area where there are significant lacuna, unjustified divergences from treatment of other form of IPR, and of global significance. We therefore recommend the first topic “Geographical indications as intellectual property titles in the operation of DNS and in the dispute resolution policies” from the proposal submitted by the EU in document SCT/41/9 to be discussed at the information session to be held at the next 42nd SCT.
4. For the management of these sessions, selection of speakers and timing, we look for guidance from the Chair.
5. Chair, the EU and its Member States are looking forward to engage constructively on the topics selected for the GI information sessions.

Thank you.

## Closing Statement

### Agenda item 9

Chair,

1. The EU and its Member States would like to congratulate you for guiding us through our agenda successfully this week.
2. On the topic of designs, we welcome the extension of the deadline to submit additional responses to the Questionnaire on Graphical User Interface, Icon and Typeface/Type Font Designs to further expand the volume of information available. We also appreciate the finalisation of a Questionnaire on temporary protection provided to industrial designs at certain international exhibitions under Article 11 of the Paris Convention. We would like to thank the Secretariat for their efforts to take on board all comments made by delegations at this meeting, as reflected in document SCT/41/3 Rev.
3. We also worked hard in addressing the topic of country names. In particular, our informal discussions have helped identify some outstanding issues concerning the joint proposal contained in document SCT/41/6. We thank the proponents for their efforts to facilitate reaching consensus and for preparing two revisions during this session. We remain open to continue discussions on this issue.
4. On the topic of Geographical Indications, we welcome the decision to organise an information session at SCT 42 to discuss three topics submitted by each of the proponents of the lists of topics tabled at this meeting. We look forward to engaging constructively on each of the selected topics in order to advance the international debate on geographical indications. We encourage the wider membership to table proposals for debate on GIs on subjects of concerns and we hope that we will be able to agree on some particular topics for further discussion to be conducted at SCT 43.
5. Chair, we are hopeful that this Committee will continue to have fruitful discussions on all three key areas at our next meeting.

Thank you.