

WFCC Patent & Industrial Property Committee
Summary report of activities 2000 – 2004

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Introduction

The activities of the WFCC Patent & Industrial Property Committee have been focused on the developments in the matter of intellectual property rights (IPR) related to genetic resources, considering its impact on the operations of culture collections in the world. IPR related to genetic resources have been top issues in two main fora.

The “*Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*” (IGC), established under the auspices of the World Intellectual Property Organization (WIPO), has concentrated on examining the relationship between intellectual property and genetic resources in the areas of contractual agreements for access to genetic resources, legislative, administrative and policy measures to regulate access to genetic resources, and the protection of biotechnological inventions.

The CBD working groups and assemblies are working to set up international rules to implement the principles of ABS stated in articles 1, 15 and related.

Follow up and lobbying in international bodies

WFCC has the status of permanent observer at the World Intellectual Property Organization (WIPO), in recognition for its work in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. This treaty is a corner stone in the implementation of the patent system in biotechnology inventions involving microbiological resources.

In WIPO, the Committee chair represented WFCC during most of the 6 sessions of the “*Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*” (IGC), which all took place in Geneva (April 30 to May 3, 2001; December 10 to 14, 2001; June 13 to 21, 2002; December 9 to 17, 2002; July 7 to 15, 2003; March, 15 to 19, 2004). The IGC deals with intellectual property related to genetic resources, a matter that lay at the crossroads of the Convention on Biological Diversity (CBD) and the Trade-Related Aspects of Intellectual Property Rights (TRIPS). The orientation or the decisions taken by the IGC can affect operations of biological resources centers such as culture collections. The IGC has already acknowledged the work done by WFCC members in a document [1] prepared for the purpose of the second session. We can also underline that the status of permanent observer of WFCC has been revitalized during this period.

Since ABS issues tackled in the CBD “*Ad Hoc Open-Ended Working Group on ABS*” have an impact on IPR and propose IPR as one way to organize benefit-sharing, the Committee is also following the ABS issues in the various

competent forum of the CBD. In the CBD arena, the Committee has been pleading for applicable solutions and alternatives based on technical facts, practical constraints and scientific evidence instead of counterproductive or inapplicable rules resulting from political negotiations and arrangements where practical considerations are often badly overlooked.

Members of the Committee have been actively involved in CBD meetings as individual experts, as official representatives of their respective countries or much better as WFCC representatives. The position of WFCC in this matter is that the “*Bonn guidelines on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization*” [2] are a good framework to design appropriate branch / sectorial implementation such as the MOSAICC [3] initiative. WFCC participation to the CBD ABS forum is acknowledged in several CBD documents [4].

Key CBD meetings attended by WFCC members included the first meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing in Bonn, Germany (22 to 26 October 2001), the Open-ended expert workshop on capacity-building for access to genetic resources and benefit-sharing (2 to 5 December 2002 - Montreal, Canada), and the second meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing (1 to 5 December 2003 - Montreal, Canada).

Participation to international venues

Providing information and training on IPR related to genetic resources to WFCC members is important because the role of culture collections is not limited to providing microbiological material and services. Answering the needs of customers, culture collections are increasingly becoming consultants and brokers in legal administrative matters such as IPR, import-export modalities and other commercial transactions.

The Committee has not yet published a handbook on IPR related to microbial genetic resources but it hopes to open a website soon dedicated to this topic. Nevertheless, to disseminate information about IPR and to make culture collections aware of their impact in their daily operations, the Committee has organized, facilitated or participated to several international venues.

It has organized, in coordination with WIPO, the Workshop on “Intellectual Property Rights related to Microbial Genetic Resources”. A one-day workshop on intellectual property rights (IPR) related to microbial genetic resources (MGR) as a satellite meeting to the IX International Congress of Culture Collections (Melbourne, 28 July 2000).

It has induced the organization of a Conference on the Budapest Treaty and the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. This conference was organized in Casablanca, Morocco, on 16 and 17 April 2002, by WIPO' Arab office and Patent Law office, the Moroccan National Center for Scientific and Technical

Research and the Moroccan Organization for Industrial and Commercial Property.

The Committee chairman has participated to the «International Symposium on Microbial Resources» at the Yunnan University, Kunming, PR.China. (6 to 9 August 2002) to present the role of Intellectual Property Rights to support biotechnology developments and industrial use of microbial resources.

The Committee is also actively involved in the issue of property rights related to biodiversity data as well as data and database protection. This topic is becoming increasingly important because the information related to microbiological resources are as important as the resources themselves.

The Committee presented this issue during the workshop entitled “Towards a global infrastructure for microbial information” jointly organized by WFCC, the Global Biodiversity Information Facility (GBIF) and the Belgian Coordinated Collections of Micro-organisms (Brussels, 27 – 28 October 2003).

The Committee chair has also participated to the GBIF Experts’ Meeting on biodiversity data, databases and property rights issues. (Royal Botanic Garden, Madrid, Spain, 1-2 March 2004). The purpose of this meeting was to design the rules applicable to providers and users of data accessed via the GBIF portal.

The participation of the Committee chair to the WFCC workshop on “Commercial Use of Microbial Diversity” during the 13th International Symposium on the Biology of Actinomycetes (Melbourne, 1 to 8 December 2003) was an opportunity to enlarge the dialogue with companies and public authorities on the financial and administrative management of culture collections.

The Committee also participated in the WFCC-USFCC-BCCM-CCMM/CNRST [5]. Training course on Management of Culture Collections of Microorganisms (Rabat, 3-7 May 2004). We believe that such training is most useful when culture collections have to evolve from traditional depository facilities to biological resource centers which supposes that management is also evolving. Indeed, managing activities are broadening from pure scientific and technical management of microbial assets to businesslike management including control of the operational legal, regulative and commercial aspects. This move is necessary for a culture collection to survive in a competitive environment and to participate in global science.

Involvement in international projects

To revitalize the work initiated during the WFCC workshop on Economic Value to Microbial Genetic Resources (12 August 1998, Halifax, Canada), the Committee chair has initiated and leads the project MOSAICS [6] which seeks the development of an integrated system to manage the Access and Benefit Sharing (ABS) issues related to microbial resources. This project is funded by the Directorate General Research of the European Commission. It has three

operational objectives, including the development of adapted or new reliable ways to value microbial resources. The Committee chair secured the participation of WFCC and of five culture collections from different continents.

In short, during the period 2000-2004.

- The WFCC Patent and Industrial Property Committee contributes to revitalize the WFCC status of **permanent observer at the World Intellectual Property Organization (WIPO)**, by actively participating to the “***Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore***”.
- The committee is following the **Access and Benefit-Sharing (ABS)** issue in the various competent fora of the **Convention on Biological Diversity** because ABS has an impact on IPR. It is pleading for applicable solutions designed by professionals for professional microbiologists.
- The committee is **organizing informative and work sessions on IPR related to microbial resources** when financial support is possible, in the context of international scientific venues or during training courses.
- The committee is also involved in the issue of property rights related to biodiversity data, including **data and database protection**, notably in the framework of the **Global Biodiversity Information Facility**.

References

1] “Operational principals for intellectual property clauses of contractual agreements concerning access to genetic resources and benefit-sharing”. WIPO/GRTKF/IC/2/3; September 10, 2001.

2] The *Bonn Guidelines* were defined during the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing in Bonn, Germany, from 22 to 26 October 2001. They were adopted at the sixth meeting of the Conference of the Parties.

3] MOSAICC stands for “*Micro-Organisms Sustainable use and Access regulation International Code of Conduc* “. The aim of the project was to design a tool for microbiologists to implement the CBD at the microbial level, in accordance with other relevant rules of international and national laws. It was funded by the European Commission (Directorate General Research). MOSAICC was issued in spring '99, following a workshop where about 40 experts of 15 different nationalities were invited to comment and amend the proposal. The MOSAICC Code of Conduct now available on internet (<http://www.belspo.be/bccm/mosaicc>) is the result of five successive drafts improved through dialogue between MOSAICC partners (including WFCC and

WFCC members) and other experts. Although written two years earlier, MOSAICC is fully compatible with the Bonn guidelines.

4] Review of options for access and benefit-sharing mechanisms (II. D. 2. 36.) (UNEP/CBD/ISOC/3; 11 March 1999). CBD Intersessional meeting on the operations of the Convention (ISOC, Montreal, 28-30 June '99). This document mentions the WFCC document on "Access to Genetic Resources within the Framework of the CBD" and the MOSAICC project funded by the European Union.

- Report of the Panel of experts on Access and Benefit-Sharing on the work of its first meeting. Contents D. The concept and procedure of prior informed consent .p.6 and paragraph 124 p.30 (UNEP/CBD/COP/5/8; 2 November 1999)
- COP-5 conclusions V/26 A. 6. «[The COP] Notes that, voluntary measures, including guidelines, may help ensure realization of the objectives of the Convention, and to that end invites the parties to consider promotion of their use.» (UNEP/CBD/COP5/23 & 23/ANX3; 22 June 2000)
- CBD Ad Hoc Open-Ended working Group on Access and Benefit-Sharing (First meeting, Bonn, 22-26 October) Development of draft international guidelines on access and benefit-sharing - Elements for consideration in the development of guidelines and other approaches for access to genetic resources and benefit-sharing (UNEP/CBD/WG-ABS/1/3; 11 August 2001).

5] USFCC : US Federation for Culture Collections
BCCM: Belgian Coordinated Collections of Micro-organisms
CCMM: Moroccan Coordinated Collections of Micro-organisms
CNRST : Moroccan National Center for Scientific and Technical Research

6] Micro-organisms Sustainable use and Access management International Conveyance System (see <http://www.belspo.be/bccm>)