

WIPO: An Overview

Std. WIPO Communications Division Text, adapted by Edward Kwakwa Senior Director, WIPO Santa Clara Summer Abroad Program, July 2018

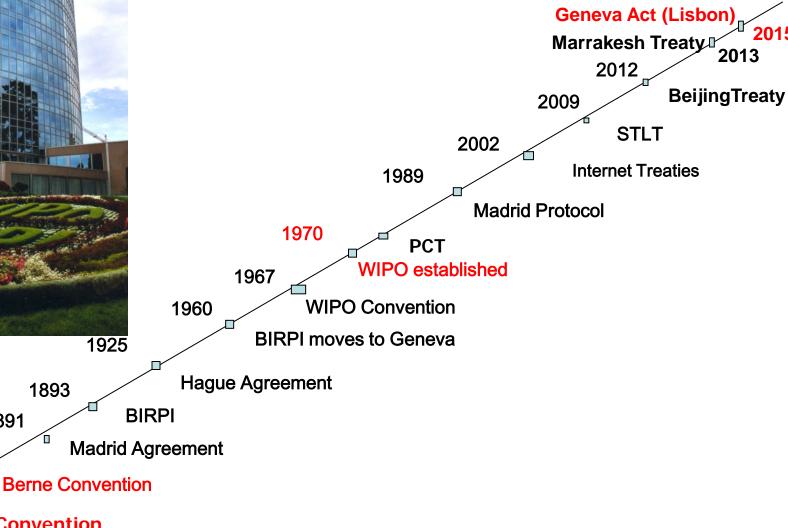
- WIPO: History, Facts and figures
- WIPO: Main activities (including registration systems)
- •TK, TCEs, & GRs (after TRIPs classes)
- WIPO-WTO collaboration





Paris Convention

Historical Milestones: 1883 to 2015





About WIPO



WIPO's Mission:

To enable governments, businesses and individuals in all member states to realize the potential benefits of IP as a driver of innovation and creativity

Status: An intergovernmental organization

Member States: 191

Observers: 350 +

Staff: 1,300 from 120 countries

Treaties Administered: 26

Decisions by: GA, CC, WIPO Conference

WORLD
INTELLECTUAL PROPERTY
ORGANIZATION



IP Outreach

~ for a shared understanding of the contribution and value of IP ~

Public Sector and Policy Makers



General Public and Civil Society



WIPO Areas of Activity

Economic Development

Norm Setting

(1)

Services to Industry

(2)

Global Infrastructure

(3)

Norm Setting



- AIM: Progressive development of international IP law for an IP system that is:
 - balanced/responsive to emerging needs
 - effective in encouraging innovation/creativity
 - sufficiently flexible to accommodate national policy objectives
- Topical issues reviewed/discussed in Standing Committees

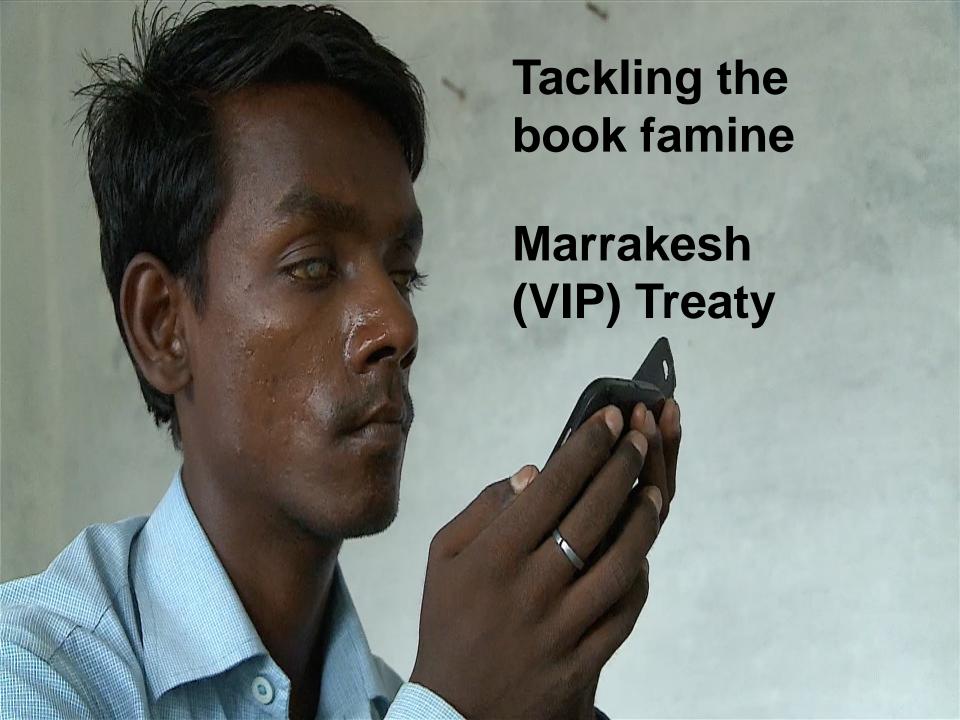














Standing Committees

- ~ International IP law-making: building consensus ~
- *Patents (SCP) (Patent Quality, E&Ls, Patents & Health, Client-Patent Adviser Privilege, Tech Transfer)
- Copyright & Related Rights (SCCR) (E&Ls Libraries/Archives, Broadcasting)
- Trademarks, Designs, Geographical Indications (SCT) (Design Law Treaty/Protection of country names against registration and use as TMs)
- Aim: (i) Build consensus on topical issues;
 - (ii) Take into account interests of all stakeholders for a balanced, reliable, efficient, user-friendly, cost-effective system.
- N.B. Enforcement issues are discussed within the <u>Advisory</u> Committee on Enforcement (ACE)





Norm Setting

Intellectual Property and Traditional Knowledge, Access to Genetic Resources, Folklore

Aim: Generate practical benefits from IP system to support: socio-economic development; cultural integrity of communities; address concerns of indigenous peoples ...

IGC: debate broad policy and legal questions; share practical experience; and develop practical tools and mechanisms

Status: Maturing process - common objectives/core principles.

Mandate: Accelerated text-based negotiations - 1+ int'l instruments that will ensure the effective protection of GRs, TK, TCEs.





Cooperation for Development

~ building IP capacity ~

Four Major Pillars based on partnership:

- Establish a strategic plan for IP in conformity with national dvpt plans
- 2. Strengthen IP laws and regulations for a balanced IP system that protects IP and also promotes innovation and creativity
- 3. Strengthen infrastructure esp. of IPOs for provision of 1st class services to all users/creative sectors & facilitate access to IP information from DBs around world
- Capacity-building training targeting all possible users (policy-makers, lecturers, creators, inventors)



What is the WIPO Development Agenda?

- To place development as the ultimate objective of the global IP system
- To make the IP system development friendly
- To take into consideration the specific needs and interests of developing countries and LDCs
- To ensure a balance between the rights of IP right holders and public interests
- To make development considerations integral to WIPO's work



Development Agenda for WIPO

- Adopted: September 2007
 - emphasis on use of IP for development
- Challenge: facilitate use of IP by developing countries for economic, social, cultural development
- 45 agreed proposals (6 clusters of activities)
 - Technical Assistance and Capacity Building;
 - Norm-setting, Flexibilities, Public Policy and Public Knowledge;
 - Technology Transfer, Information and Communication Technology (ICT) and Access to Knowledge;
 - Assessments, Evaluation and Impact Studies;
 - Institutional Matters including Mandate and Governance
- Committee on Development and Intellectual Property
 - monitor, assess, discuss and report on implementation of recommendations and discuss IP and development issues
- Development Agenda Coordination Division
 - Ensure agreed outcomes reflected in relevant programs



Global IP Infrastructure

~ improving operational efficiency ~

WIPO is coordinating with stakeholders to develop tools, services, platforms, standards, etc. that enable IP institutions to work more efficiently and provide better and high quality services.

For this purpose, WIPO uses the Internet and other networks, interoperable data standards, computers and databases in the virtual and knowledge economy.



Global IP Infrastructure

~ for an efficient & accessible IP system that benefits all ~

Activities include:

- Technical assistance for modernizing IP offices;
- Capacity building & networking by Technology Innovation Support Centers (TISCs)
- Common platform for e-data exchange among IPOs
- Tools (international classifications in TMs/design (IPC, Nice classification)
- Standards & technical agreements
- Databases (PATENTSCOPE, Global Brand DB, WIPO Lex etc)
- Forum for exchanging experience and lessons learned (Global Symposium of IP Authorities)





WIPO Academy

~ strengthening IP skills ~

- Provides training to promote use of IP for development in line with evolving IP landscape
- Int'l, interdisciplinary approach to IP education
- Face-to-face training/distance learning
- Aims to promote international cooperation to enhance human IP capital through global networking with stakeholders and partners
- PROGRAMS:
 - Professional Development (IPOs)
 - Distance Learning Program (expanding portfolio of courses)
 - Academic Institutions and Executive Program
 - Summer Schools Program

http://www.wipo.int/academy/en/



THE ECONOMICS AND STATISTICS DIVISION

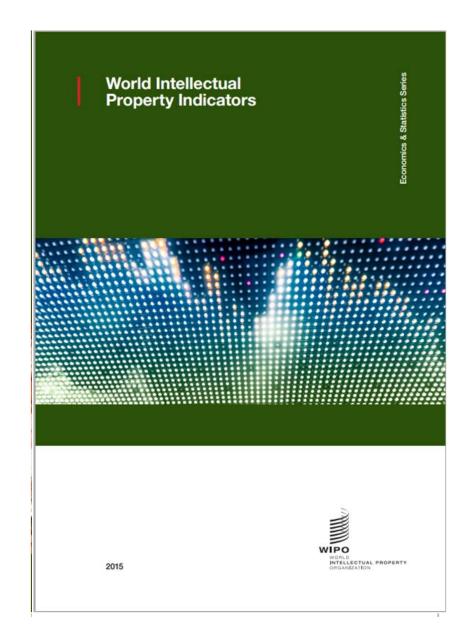
The Division applies statistic and Economic analysis to the use of WIPO services.

Reflects the Growing
Consensus on the
importance of the
Economic
Dimension of IP.

This structure also improves WIPO economic insight on IP Development.



Major Economic Studies on IP





The Global Innovation Index

RANKING 2015

- 1. SWITZERLAND
- 2. UNITED KINGDOM
- 3. SWEDEN
- 4. NETHERLANDS
- 5. UNITED STATES OF AMERICA
- 6. FINLAND
- 7. SINGAPORE
- 8. IRELAND
- 9. LUXEMBOURG
- 10. DENAMRK
- 11. HONG KONG (CHINA)
- 12. GERMANY
- 13. ICELAND
- 14. REPUBLIC OF KOREA
- 15. NEW ZEALAND

RANKING 2016

- 1. SWITZERLAND
- 2. SWEDEN
- 3. UNITED KINGDOM
- 4. UNITED STATES OF AMERICA
- 5. FINLAND
- 6. SINGAPORE
- 7. IRFI AND
- 8. DENMARK
- 9. NETHERLANDS
- 10. GERMANY
- 11. REPUBLIC OF KOREA
- 12. LUXEMBOURG
- 13. ICELAND
- 14. HONG KONG (CHINA)
- 15. CANADA





WIPO's Global IP Services

~ Providing cost-effective business solutions ~

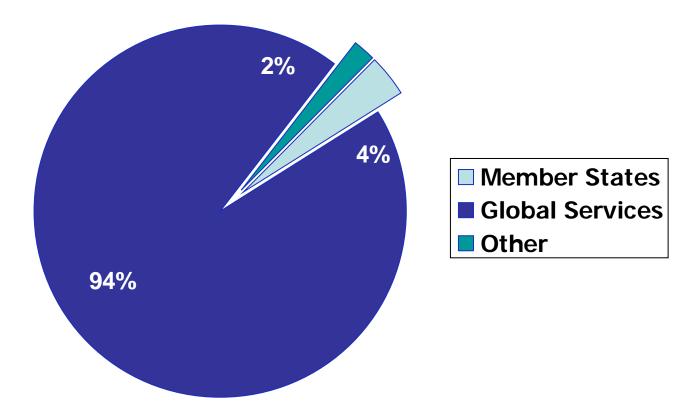
Core income generating business areas:

- ✓ Patent Cooperation Treaty (Patents)
- ✓ Madrid System (Trademarks)
- ✓ Hague System (Industrial Designs)
- ✓ Lisbon System (Geographical Indications)
- ✓ WIPO Arbitration and Mediation Center

Aim: continue to offer first class services that are costeffective, easy to use, and add value.

> WORLD INTELLECTUAL PROPERTY ORGANIZATION

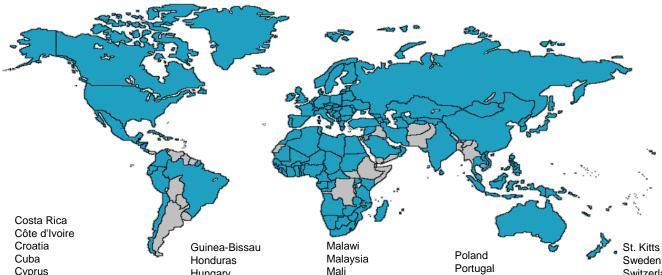
WIPO's Main Sources of Income



Budget 2016-2017: CHF 707 million
Budget 2018-2019: CHF 826 million (10.4% wipo growth)

152 PCT States





Algeria Angola Antiqua and Barbuda

Armenia

Australia Austria Azerbaijan Bahrain

Albania

Barbados Belarus Belaium Belize

Benin

Bosnia and Herzegovina Botswana

Brazil

Brunei Darussalam

Bulgaria Burkina Faso Cambodia Cameroon Canada

Central African Republic

Chad Chile China Colombia Comoros Congo

Cyprus Czech Republic Democratic People's Republic of Korea Denmark Diibouti Dominica

Dominican Republic

Ecuador Egypt FI Salvador **Equatorial Guinea**

Estonia Finland France, Gabon Gambia Georgia Germany Ghana Greece Grenada Guatemala

Guinea

Hungary Iceland India Indonesia Iran (Islamic Republic of) Ireland Israel

Italy Japan Jordan Kazakhstan Kenya Kuwait Kyrgyzstan

Lao People's Dem Rep. Latvia

Lesotho Liberia Libvan Arab Jamahiriya

Liechtenstein Lithuania Luxembourg Madagascar

Malta Mauritania Mexico

Monaco Mongolia Montenegro

Morocco Mozambique Namibia Netherlands New Zealand Nicaragua

Niger Nigeria Norway Oman

Panama Papua New Guinea

Peru **Philippines** Portugal Qatar

Republic of Korea Republic of Moldova

Romania Rwanda

Russian Federation

Saint Lucia Saint Vincent and the Grenadines

San Marino Sao Tomé e Principe

Saudi Arabia Senegal Serbia Seychelles Sierra Leone Singapore

Slovenia South Africa

Spain Sri Lanka Sudan Swaziland

Slovakia

St. Kitts and Nevis

Switzerland

Syrian Arab Republic

Tajikistan Thailand

The former Yugoslav Republic of Macedonia

Togo

Trinidad and Tobago

Tunisia Turkev Turkmenistan Uganda Ukraine

United Arab Emirates United Kingdom

United Republic of Tanzania United States of America

Uzbekistan Viet Nam 7ambia Zimbabwe

WIPO

WORLD INTELLECTUAL PROPERTY ORGANIZATION

UN Member States not yet in PCT

Afghanistan

Andorra*

Argentina**

Bahamas

Bangladesh*

Bhutan

Bolivia

Burundi

Cape Verde

Democratic Republic of

Congo

Eritrea

Ethiopia

Fiji

Guyana

Haiti

Iraq

Jamaica

Kiribati

Lebanon

Maldives

Marshall Islands

Mauritius**

Micronesia

Myanmar

Nauru

Nepal

Pakistan

Palau

Paraguay**

Samoa

Solomon Islands

Somalia

South Sudan

Suriname*

Timor-Leste

Tonga

Tuvalu

Uruguay**

Vanuatu

Venezuela

Yemen

(41)

Also in

discussions with

GCC Patent

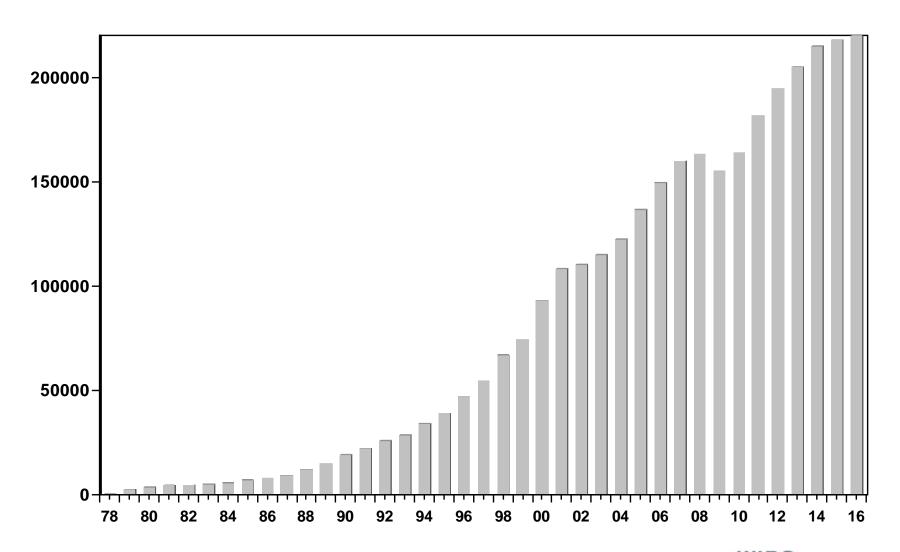
Office about

linking its system

to PCT

WORLD
INTELLECTUAL PROPERTY

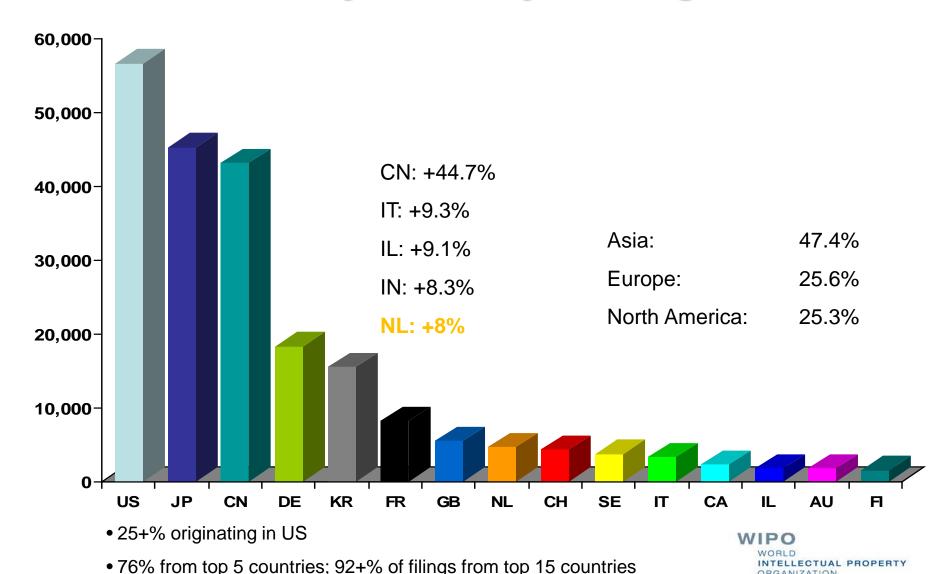
PCT Applications



2016: 233,000 (+7.3%)

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International applications received in 2016 by country of origin



PCT Applications 2014 & 2015 - Top 10 Countries



214,500 international applications in 2014

218,000 in 2015

233,000 in 2016



Top 10 PCT Applicants in 2015

- 1. Huawei
- 2. Qualcomm
- 3. ZTE
- 4. Samsung
- 5. Mitsubishi
- 6. Ericsson
- 7. LG Electronics
- 8. Sony
- 9. Philips
- 10. Hewlett-Packard



Top 10 PCT Applicants in 2016

- 1. ZTE
- 2. Huawei
- 3. Qualcomm
- 4. Mitsubishi
- 5. LG Electronics
- 6. Hewlett-Packard
- 7. Intel
- 8. BOE Technology
- 9. Samsung
- 10. Sony



Top PCT Applicants 2016

() of published PCT applications

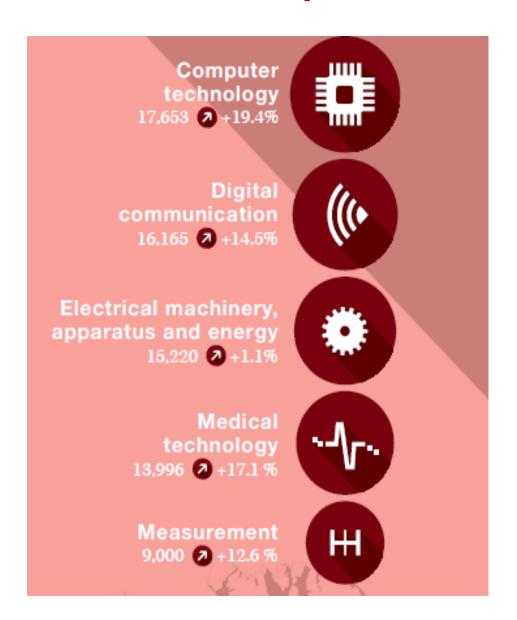
- 1. ZTE—CN (4,123)
- 2. Huawei Technologies—CN (3,692)
- 3. Qualcomm—US (2,466)
- 4. Mitsubishi Electric—JP (2,053)
- 5. LG Electronics—KR (1,888)
- 6. Hewlett-Packard—US (1,742)
- 7. Intel—US (1,692)
- 8. BOE Technology Group—CN (1,673)
- 9. Samsung—KR (1,672)
- 10. Sony—JP (1,665)
- 11. Ericsson—SE (1,608)
- 12. Microsoft—US (1,528)
- 13. Bosch—DE (1,274)
- 14. Sharp—JP (1,205)
- 15. Panasonic—JP (1,175)
- 16. Shenzhen China Star Optoelectronics—CN (1,163)
- 17. Siemens—DE (1,138)
- 18. Philips—NL (1,137)
- 19. Halliburton—US (1,097)
- 20. Olympus— JP (1,077)



Top University PCT Applicants 2016

- 1. University of California (US)
- 2. MIT (US)
- 3. Harvard University (US)
- 4. Johns Hopkins (US)
- 5. University of Texas (US)
- 6. Seoul National University (KR)
- 7. University of Tokyo (JP)
- 8. Stanford University (US)
- Hanyang University (CN)
- 10. University of Florida (US)
- 11. University of Pennsylvania (US)
- 12. University of Michigan (US)
- 13. Korea University (KR)
- 14. Shenzhen University (CN)
- 15. Korea Advanced Institute of Science and Technology (KR)
- 16. Tsinghua University (CN)
- 17. China University of Mining and Technology (CN)
- 18. CalTech (US)
- 19. King Abdullah University of Science and Technology (SA)
- 20. Kyoto University (JP)

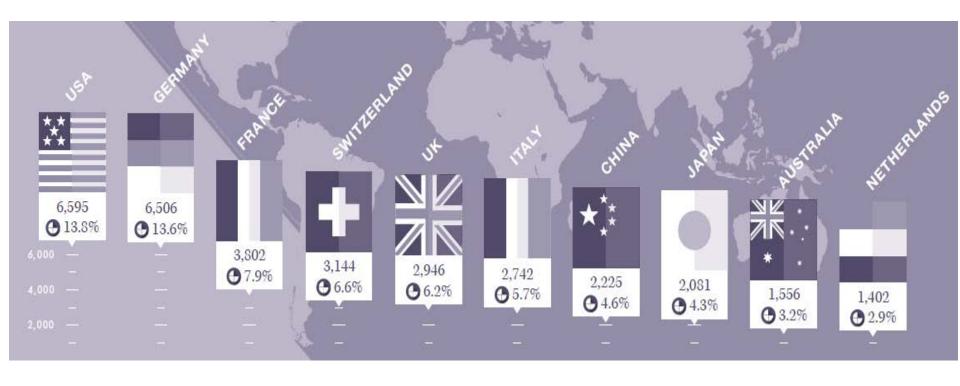
Top 5 Fields of Technology



Number of published applications and growth rate 2013-14



MADRID Applications 2014 - Top 10 Countries



Record 52,550 applications in 2016 7.2% growth on 2015 100 contracting parties

INTELLECTUAL PROPERTY

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Top 10 Madrid Applicants in 2015 (position in 2014 indicated in brackets)

- 1. Novartis (1)(CH)
- 2. Lidl (4)(DE)(replaced Glaxo Group)
- 3. L'Oreal (6)(FR)
- 4. Richter Gedeon Nyrt (65)(HU)
- 5. Philips Electronics (9)(NL)(replaced Nestle)
- 6. Daimler AG (14)(DE)
- 7. Apple (16)(US)
- 8. Biofarma (8)(FR)
- 9. Boehringer (7)(DE)
- 10. Glaxo Group (2)(UK)

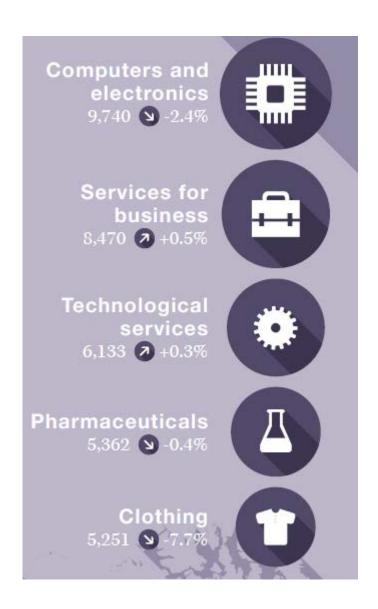


Top 10 Madrid Applicants in 2016 (position in 2015 indicated in brackets)

- 1. L'Oreal (3)(FR)
- 2. Glaxo Group (10)(UK)
- 3. Bayerische Motoren (17)(DE)
- 4. Richter Gedeon Nyrt (4)(HU)
- 5. Novartis (1)(CH)
- 6. Philips Electronics (5)(NL)
- 7. Boehringer (9)(DE)
- 8. Biofarma (8)(FR)
- 9. Daimler AG (6)(DE)
- 10. Nestle (15)(CH)



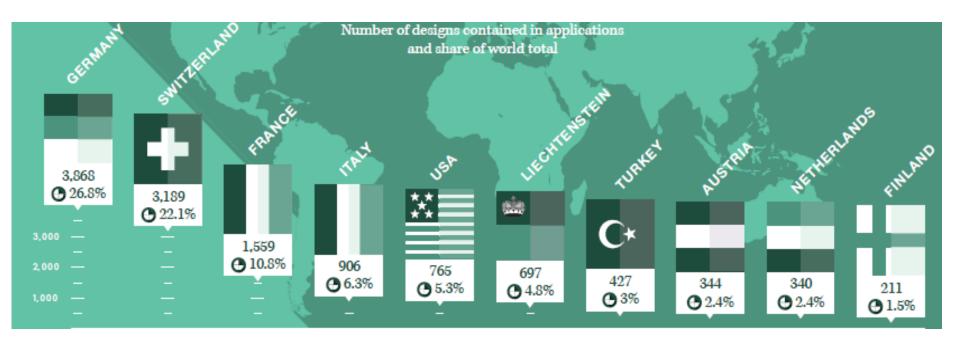
Top 5 Classes



Number of classes specified in international registrations and growth rate 2013-14



The Hague System - Top 10 Countries in 2014



18,716 designs in international design applications (13.9% growth over 2015) 64 contracting states



Top 10 Hague countries in 2016

- 1. Germany
- 2. Switzerland
- 3. Republic of Korea
- 4. U.S.A.
- 5. Netherlands
- 6. Italy
- 7. Japan
- 8. Turkey
- 9. Sweden
- 10. U.K.



Top 10 Hague Applicants in 2015

- 1. Samsung (KR)
- 2. Swatch (CH)
- 3. Fonkel Meublemarketing (NL)
- 4. Volkswagen (DE)
- 5. Procter & Gamble (US)
- 6. Thun (IT)
- 7. Gilette (US)
- 8. Thomas Sabo (DE)
- 9. Legero (AT)
- 10. Cartier (CH)



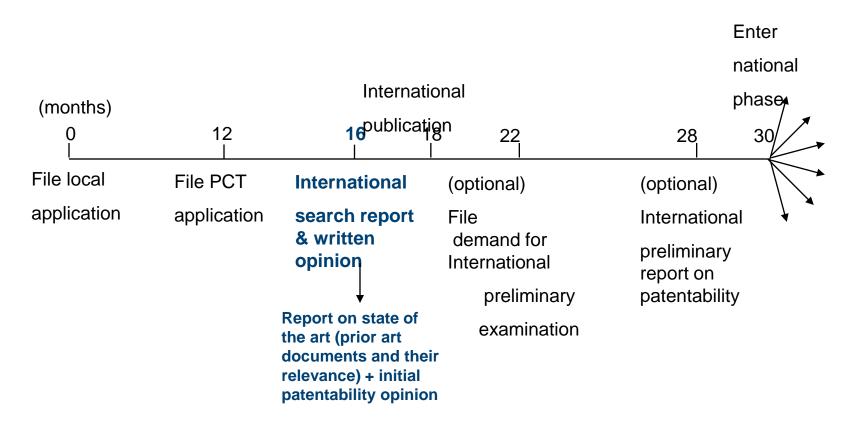
Top 10 Hague Applicants in 2016

- 1. Fonkel Meublemarketing (NL)
- 2. Samsung (KR)
- 3. LG Electronics (KR)
- 4. Swatch (CH)
- 5. Procter & Gamble (US)
- 6. Volkswagen (DE)
- 7. Renault (FR)
- 8. Microsoft (US)
- 9. Wenko-Wenselaar (DE)
- 10. Kronoplus (Cyprus)



The PCT System

--typical use, in more detail





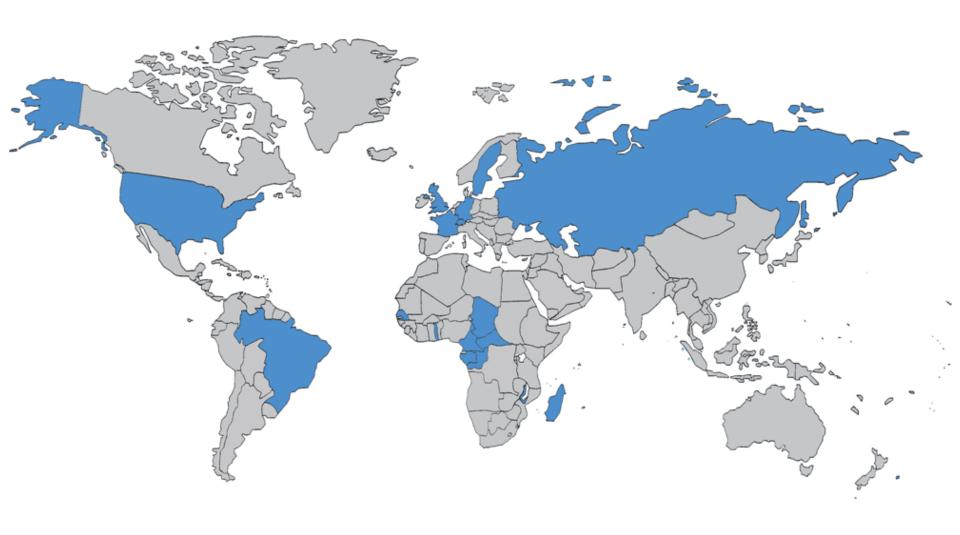
PCT International Searching Authorities

The ISAs are the following 23 offices:

Australia, Austria, Brazil Canada, Chile, China Egypt, Finland, India Israel, Japan Republic of Korea Russian Federation Singapore, Spain Sweden, Turkey Ukraine United States of America **European Patent Office** Nordic Patent Institute Visegrad Patent Institute The Philippines – Oct 2017



The PCT in 1978



PCT Coverage Today



General remarks on the PCT system

- The PCT system is a patent "filing" system, not a patent "granting" system. There is no "PCT patent" or "global patent"
- The decision on granting patents is made exclusively by national or regional Offices in the national phase
- Only inventions may be protected via the PCT by applying for patents, utility models and similar titles
- Design and trademark protection cannot be obtained via the PCT. There are separate international conventions dealing with these types of industrial property protection (the Hague Agreement and the Madrid Agreement and Protocol, respectively)

Certain PCT Advantages

The PCT, as the cornerstone of the international patent system, provides a worldwide system for simplified filing and processing of patent applications, which:

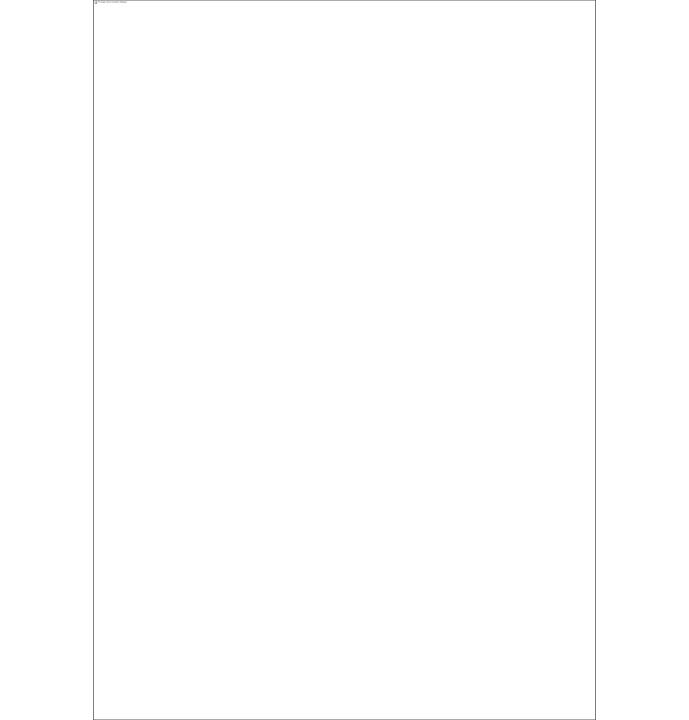
- 1. postpones the major costs associated with internationalizing a patent application
- 2. provides a strong basis for patenting decisions
- 3. harmonizes formal requirements
- 4. protects applicant from certain inadvertent errors
- 5. evolves to meet user needs
- 6. is used by the world's major corporations, universities and research institutions when they seek international patent protection

PCT Challenges (1)

- Trying to keep PCT from being politicized like certain other parts of WIPO's work
- Quality of international work products
- Building trust between patent offices, so duplicative international phase and national phase processing can be reduced
- Language issues
- Helping developing countries benefit from PCT
 - Top 15 countries responsible for 92.7% of IAs published in 2014
 - Top 32 countries filed approx. 96% of IAs
 - The other 4% of filings are spread across 110 countries

PCT Challenges (2)

- Making PCT accessible to applicants of all types from all Contracting States (for example, SMEs)
- Helping PCT users stay abreast of new developments and strategies
- Unscrupulous companies/individuals who want to mislead PCT applicants into paying unrelated and unnecessary fees



WIPO AMC fee reduction for PCT users

- AMC=WIPO Arbitration and Mediation Center
 - AMC offers a 25% reduction in the Center's registration and administration fees where at least one party to the dispute has been named as an applicant or inventor in a published PCT application

Type of fee	Amount in dispute	Expedited Arbitration	Arbitration
Registration fee	Any amount	USD 1,000	USD 2,000
Administrati on fee	Up to 2.5M	USD 1,000	USD 2,000
	Over 2.5M and up to 10M	USD 5,000	USD 10,000
	Over 10M	USD 5,000 +0.05% of amount over \$10M up to a maximum fee of \$15,000	USD 10,000 +0.05% of amount over \$10M up to a maximum fee of \$25,000

Type of fee	<u>Mediation</u>
Administration fee	0.10% of the value of the mediation, subject to a maximum of USD 10,000

Global Issues

Emphasis: The positive relationship between

innovation & IP

Main focus:

- Climate Change
- Public Health
- Food Security

Practical solutions to leverage innovation:

- WIPO Green
- WIPO Re:Search

WIPO-WTO Cooperation

- Preamble to TRIPS
- 95 WIPO-WTO Agreement (1996)
- 3 areas:
 - Deposit of Laws and Regulations
 - Implementation of 6ter of Paris for TRIPS
 - Legal-Technical Assistance to WIPO/WTO
 - Advice to Panels
 - Joint Symposia
 - Joint Initiatives (eg 1998 & 2001)

WIPO-WTO (ctnued)

- Incorporation of WIPO treaties in TRIPS
- Practical application of WIPO Treaties
 - Eg Appendix to Berne Convention
 - Eg Integrated Circuits Treaty
- WTO Dispute Settlement Panels

Characteristics of TK and TCEs

- Are handed down from generation to generation, either orally or by imitation
- Reflect a community's cultural and social identity
- Are often made by "authors unknown" and are regarded as "belonging" to a community under customary laws
- Are constantly evolving, developing and being recreated within a community

Traditional knowledge

- Content or substance of knowledge which results from intellectual activity in a traditional context
- Includes know-how, skills, innovations, practices, and learning
- Not limited to a specific technical field and may include, for example, traditional agricultural, environmental, medicinal knowledge, and any traditional knowledge associated with cultural expressions and genetic resources

Traditional cultural expressions

Forms in which traditional knowledge and culture are expressed, communicated and manifested



May be tangible, intangible or mixed



Ex: songs, performances, crafts, names, art, narratives, designs

Genetic Resources

- GRs are subject to regulations on access and benefit-sharing set by:
 - The Convention on Biological Diversity (CBD)
 - The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD (Nagoya Protocol)
 - The International Treaty on Genetic Resources for Food and Agriculture (ITPGRFA) of the FAO

And all

As implemented by regional and national systems

Intellectual property and genetic resources

- Genetic resources, as encountered in nature, are not "intellectual property"
- They are not creations of the human mind and cannot be directly protected as IP

WHERE DOES IP FIT IN?

Two IP-related questions/issues

- Inventions based on or derived from GRs may be patentable (or subject to other forms of IP rights).
 - Preventing the grant of erroneous patents over GRs that do not fulfill the requirements of <u>novelty</u> and <u>non-obviousness</u>
 - "quality of patent examination" issue

- Using the patent/IP system to ensure and track compliance with ABS systems in national laws established pursuant to the CBD, Nagoya, FAO Treaty
 - "transparency/mutual supportiveness" issue

- Proposed responses/solutions include:
 - <u>databases/information systems</u>, information exchange, patent examination guidelines
 - <u>mandatory disclosure requirement</u>, i.e. to make it mandatory for patent applications to show the source of origin of GRs, as well as evidence of PIC and a benefit-sharing agreement
 - and/or managing patent/IP rights through <u>contract</u> (IP clauses in mutually-agreed terms)

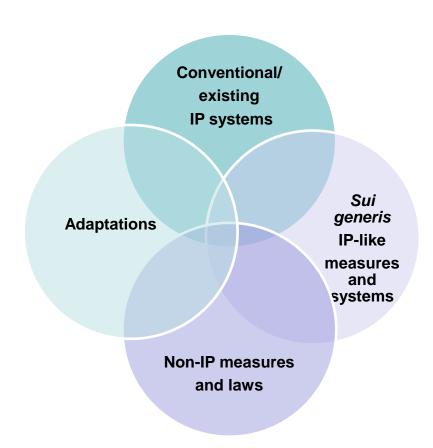
Relationship with intellectual property Where do TK and TCEs fit?

- TK and TCEs are innovations and creative expressions of indigenous and local communities
- They are products of creative intellectual activity; so they are "intellectual property"
 - Ex: traditional art, music, medicine...
- But since they are "traditional", they cannot be fully protected by existing IP systems due to inherent inadequacies of the system:
 - Originality
 - Use in commerce
 - Novelty
 - Etc..

- Until recently, TK and TCEs were considered as belonging to the common heritage of humanity.. In the "public domain"
- Today, growing awareness of:
 - The risk of erosion of local knowledge systems
 - The economic potential for communities and industries
 - Their value as cultural "assets" part of social and cultural identity
 - Vulnerability to misuse and misappropriation

Protection with intellectual property rights

- Of course, TK and TCEs should be preserved, conserved and safeguarded..
- But should they get <u>IP</u> <u>protection</u>, and if so, how?
 - Protection with conventional/existing IP systems
 - Adaptation of conventional/existing IP systems
 - Sui generis protection
- Non-IP measures and laws



Sui generis IP protection of TK and TCEs

- TK and TCEs would be recognized as a form of "intellectual property" i.e., as comprising creations and innovations of the human mind
- The protection of TK and TCEs would be provided by a special system or mechanisms based on the kinds of measures, principles and values that underlie the system established for the protection of intangibles (the intellectual property system)

- Features of this intellectual property system include:
 - Property rights (e.g. exclusive rights) and nonproperty rights (e.g. moral rights, unfair competition, right to equitable compensation)
 - Balance and proportionality: IP rights do not provide absolute and perfect control: limitations and exceptions/limited term/the role of the 'public domain'

Some policy objectives of protection

- Promote respect for traditional cultures
- Prevent misuse and misappropriation
- Be able to control and exploit
- Encourage community innovation and creativity
- Promote economic development and legitimate/appropriate trading opportunities
- Ensure remuneration for third party use
- Ensure acknowledgement
- Prevent the acquisition of unauthorized IP rights

Some key questions to be considered when developing a *sui generis* system of protection

- Why protect? *Aims and objectives*
- What to protect? Subject matter
- Who should benefit? Beneficiaries
- What acts should be forbidden? *Scope*
- Should there be exceptions and limitations?
- For how long? *Duration*
- Should there be formalities?
- What sanctions or penalties apply?
- Should rights be retrospective?
- How should foreign right holders be treated?

WIPO's work on GRs, TK and TCEs

- Find the appropriate role of IP in the protection, preservation and promotion of TK, TCEs and GRs
 - Normative development
 - Capacity building





WIPO IGC



- WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)
 - Created in 2000, first session in 2001
 - 34th session, June 12 16, 2017
 - Meets two to three times a year. 2018, 4X
 - Forum where negotiations take place for an international legal instrument on TK, TCEs and GRs
 - IGC participants: Member States, indigenous and local communities, business, civil society and other NGOs