

## 出國報告（出國類別：其他）

# 出席「亞太經濟合作會議智慧財產權 專家小組（APEC/IPEG） 第 29 次會議及相關研討會」報告

服務機關： 經濟部智慧財產局  
司法院智慧財產法院

姓名職稱： 陳淑美 副局長  
陳怡靜 編譯  
林欣蓉 法官

派赴國家： 新加坡

出國期間： 98 年 7 月 26 日至 98 年 8 月 1 日

報告日期： 98 年 9 月 28 日

## 摘要：

本次 APEC/IPEG 第 29 次會議及相關研討會於 2009 年 7 月 27 日至 8 月 1 日於新加坡舉行，我方係由本局陳副局長淑美率陳編譯怡靜出席，針對我國新近通過之「網路服務提供者民事免責事由修正案」內容進行簡報，並就校園智慧財產權宣導行動計畫及專利加速審查計畫（AEP）之執行等提出書面報告。此外，本次非常榮幸邀請到司法院智慧財產法院的林法官欣蓉共同參與本次會議，針對我國智慧財產案件審理之發展情形提出簡報。

我方本次於會議中提出之相關簡報及資料文件，因準備充分，獲得各會員體代表之迴響並表示與我方就相關議題進行交流之意願，除協助其他會員體瞭解我方目前在智慧財產權保護法制及執行面的成果外，並進一步促進彼此的交流意願。

又明年 APEC 地主國將由日本擔任，依其規劃，在 IPEG 會議之前舉行智慧財產權高峰會議(WIPO High-Level Forum)，除亞太經濟合作會議之既有成員外，將邀請非洲、中東、拉丁美洲、加勒比海國家等，至少共 200 人以上參加，將成為國際智慧財產權領域之年度盛事，本局做為世界第六大專利局與第八大商標局，建議宜積極參與該會議，展現我國實力。

## 目 次

壹、目的與過程 .....	4
貳、第 29 次 IPEG 會前會議 .....	4
參、第 29 次 IPEG 會議情形 .....	5
肆、「Trading Ideas」研討會情形 .....	21
伍、雙邊會談情形 .....	25
陸、心得及建議 .....	29
柒、附錄 .....	30

## 壹、目的與過程

本次 APEC/IPEG 第 29 次會議及相關研討會於 2009 年 7 月 27 日至 8 月 1 日於新加坡舉行（相關議程如附件 1、2）；本局係由陳副局長淑美率陳編譯怡靜出席，本次非常榮幸由智慧財產法院林法官欣蓉共同參與本次會議，並針對我國智慧財產案件審理審理情形提出報告。

本次相關會議舉行時間如下：

- 7 月 27 日下午 4 時召開第 29 次 IPEG 會前會議。
- 7 月 28 日上午 9 時召開第 29 次 IPEG 會議，至次日下午 6 時結束。
- 7 月 30 日上午 9 時舉行「Trading Ideas」研討會，至次日下午 7 時結束。

此外，於前述會議舉行期間之空檔，亦陸續與加拿大、墨西哥、澳洲、菲律賓、香港、美國、印尼、新加坡、越南、日本等國代表進行雙邊會談。

以下將先說明 APEC/IPEG 第 29 次會議及研討會之參與情形，其次說明我方代表進行雙邊會談之內容。

## 貳、第 29 次 IPEG 會前會議

第 29 次 IPEG 會前會議於 7 月 27 日下午 4 時起進行，會中主席除說明會議進行之方式及確定各會員體之報告內容外，並進一步要求各會員體就第二天會議 7 月 29 日上午與 WIPO 秘書長(Director General) Dr. Gurry 進行早餐會的會談內容進行確認。

## 參、第 29 次 IPEG 會議情形

第 29 次 IPEG 會議於 7 月 28 日至 29 日假 APEC 主會場—Grand Copthorne Waterfront Hotel 舉行，謹將會議討論情形簡述如下（議程如附件 1，會議紀錄如附件 3）：

- 一、 議程 1：主席開場致詞：依據昨日會前會之共識，本日議程因日本（4c-iii）及俄羅斯（6b、8）等代表之簡報因行程安排關係，需提前至本日進行，議程上將有部分變動。至於 7 月 29 日與 WIPO 秘書長(Director General) Dr. Francis Gurry 會晤早餐會囿於場地限制，僅限各會員體代表團團長出席，鼓勵各會員體如有相關議題欲向 Dr. Gurry 提出者，應通知秘書處俾便先期彙整。
- 二、 議程 2a：IPEG 秘書處邀請 APEC 計畫管理部門說明對於各會員體所申請之 APEC 計畫，係依該計畫目標與 IPEG 之關連性(Relevance)、計畫設計與目標達成間的有效度(Effectiveness)、投入成本與預期產出間的效益比(Efficiency)、預期產出對各會員體、相關業界之影響(Impact)及後續發展可能性(Sustainability)等審查標準進行評估（評分比重相同，惟均需達最低標準），以利會員體之申請作業。另秘書處說明 APEC 網站各項文件之上線效率已有顯著提升，並請各會員體多加利用。
- 三、 議程 2b：TILF
  - （一）新加坡回報 2009 年 2 月於新加坡辦理「從意念到市場：技術移轉的優缺點」研討會(APEC-IPEG Seminar “From Mind to Market: The Highs and Lows of Technology Transfer” )之情形：新加坡感謝美國、澳洲及中國大陸推薦講者參與本次研討會，並表示藉由本次研討會之意見交換中瞭解：①與相關業界的合作應成為創意產業發展的重要一

環；②市場資金的挹注及科技轉移將有助於科技之資產化；③因應相應的科技、模式應有不同的策略考量。新加坡期待各會員體就此議題能與民間企業有進一步的交流合作，使 IP 業界就其 IP 資產能夠採取更具策略性的研發及管理。

- (二) 澳洲回報 2009 年 4 月於澳洲墨爾本辦理「對中小企業實施有效智慧財產權教育宣導競賽」(Conducting Effective Intellectual Property Rights Public Education & Awareness Campaigns for SMEs)情形：本次之 3 日研討會係由香港、新加坡及澳洲智慧財產相關官署共同舉辦，計有 17 個會員體參與，除由產業的觀點出發，帶領出席代表瞭解中小企業的機會、關注焦點及所面對的挑戰外，並藉由經驗分享針對如何設計、實施相關教育宣導進一步交換意見。此外，對於中小企業如何辨識、掌握並管理其 IP 資產、以及尋求管理該等資產之法律或產業諮詢之資源提供相關資訊及建議，並規劃於本(2009)年年底於 APEC 網站建置諮詢網站，提供中小企業參考。

- (三) 韓國回報「APEC 促進網路資訊流通訓練－網路學習計畫 (IP-Xpedite)」之辦理情形：本項課程提供線上課程（截至 7 月 24 日課程結束，已有 19 個會員體的 500 位學員完成線上學習課程）及實際授課課程（預定於 8 月 24 日至 28 日於韓國國際 IP 訓練機構舉辦，將提供 21 個會員體 42 位受訓名額）。我方代表首先表達對於韓國提供該等受訓機會的感激之意，並表示經向我方 30 位參與線上課程之受訓人員瞭解，渠等除表示獲益良多（尤其是 in house 專利工程師部分課程）外，所提供之課程相當有組織並具趣味性，惟有學員反映學習文憑（certificate）僅列有韓文，希望能夠韓、英文並列。澳洲、智利、印尼、越南、菲律賓及汶萊向韓方表達感謝之意，惟部分代表表示受訓人員遭逢技術上問題，將與韓方代表再行討論解決途徑。

四、 議程 2c：自籌經費研提計畫（self-funded）

（一）美國報告 6 月 9 日至 11 日辦理「檢察官及司法人員於執行智慧財產權之學術研討會」之情形：本次研討會於馬來西亞舉辦，計有 APEC 會員體、ASEAN 及太平洋島嶼等區域 115 位人員參與，針對目前 IPR 執行上之重要議題、跨國交易仿冒商品所衍生之公共健康及安全問題、跨國犯罪組織、網路著作權侵害所涉及之民事、刑事及行政程序相關問題、爭端解決、司法仲裁及如何賦予相當之裁罰等議題進行案例研習、意見交流及經驗分享（按我國係由臺灣板橋地方法院檢察署林檢察官修平出席是項會議）。

（二）美國報告 7 月 20 日至 23 日辦理「海關人員於智慧財產權邊境執行之研討會」之情形：本次研討會於夏威夷舉辦，計有 APEC 會員體、ASEAN 及太平洋島嶼等區域 120 位人員參與，針對邊境執行措施、執行相關注意事項及程序、如何運用科技破獲商業規模之盜版及仿冒案件、風險評估、職權發動調查、海關與民間企業之合作、跨國邊境執行策略等議題進行案例研析、意見交流及經驗分享，並赴當地國際機場之海關及邊境保護機構實地參訪（按我國係由財政部關稅總局 2 位同仁出席是項會議）。

五、 議程 3：IPEG 與投資貿易委員會（CTI）間的聯繫與互動：IPEG 主席 Mr. Selby 邀請 CTI 委員會主席於會中說明 CTI 近期各項活動的進展，俾利 IPEG 規劃未來會議及研究計畫之參考。

六、 議程 4a-i 地理標示( Geographical Indications, 以下簡稱 GI):墨西哥就「APEC 會員體保護地理標示(GI)問卷調查」提出進度報告，表示刻正依據已回應會員體之意見進行彙整。主席表示據悉目前僅有 4 會員體提供意見（按我國已提報），希望其他會員體能儘速將回應意見送給墨國。

七、 議程 4b-ii（針對中小企業智慧財產需求研提策略）：主席提出「為中小企

業彰顯智慧財產權工作報告」(蘇格蘭智慧資產中心向歐盟智慧財產權執行專家小組提出的報告)之流通文件供各會員體參考。

八、 議程 4c-i：(APEC 反仿冒盜版倡議)：美國就「APEC 會員體有關新科技對智慧財產權邊境管制之最佳實行方法報告文件」之進度更新報告，表示該份文件業已提供流通，希望各會員體能參考報告中所提出之最新技術，同時歡迎各會員體隨時更新相關科技發展資訊。中國大陸代表繼上次會議意見，重申此報告應屬資訊分享性質，報告名稱使用「最佳實行方法」(Best Practice)並不恰當，且所謂最佳實行方法亦將因國情及環境等因素而有不同觀察點。美國代表則回應本案自 2005 年研提以來，各會員體對報告名稱向無意見，且本報告原屬資訊分享性質，並未強制各會員體定需採行其中各項實行方法，且於報告目標中已明確揭示本項原則。

九、 議程 4c-ii：APEC 智慧財產權服務中心：對於日本建置中之 APEC 智慧財產權服務中心，美國代表徵詢目前已上線資訊之數量及請求提供資訊之數據，日方表示將於會後再行提供。IPEG 秘書處則補充報告，希望各會員體能上線協助檢視相關連結是否有效及正確，如有錯誤者請儘速向秘書處反映。

十、 議程 4c-iii：相關執行活動

(一) 美國報告「與智慧財產權相關之海關及邊境保護措施」：由美國海關及邊境保護局(U.S. Customs and Border Protection)就登錄系統(recordation)、近年查緝成效、查緝重點及程序、與業界及他國間的合作等進行報告。泰國代表徵詢美方是否能就登錄系統提供使用授權或相關技術協助，美方同意提供；至於泰方詢問海關人員於查緝失誤時遭遇之責任問題，美方表示或因國情及權限範圍不同，美國海關人員並未聽聞有類似情形發生。

(二) 日本報告「智慧財產權邊境保護之海關執行情形」：日本代表分就邊



境執执行程序、近年查扣數據分析及執行上之相關合作等進行報告，我方代表以 TRIPS 僅要求針對商標及著作權侵權案件進行查緝，依據日方報告，尚及於專利侵權案件，詢問此類案件之查緝數據及辨識專利之技術為何。日方表示相關數據將於會後再行提供（按日方於會後提供數據為 27 件），至於專利之辨識，海關會請學術界及業界人員提供相關協助。菲律賓代表則對日方除 TRIPS 所要求之輸入貨品管制外，針對輸出貨物亦進行相同管制表達進一步瞭解之意願。

- （三）香港報告「以海關觀點出發：與智慧財產權業界之策略聯盟」：香港代表表示海關為智慧財產權執行之權責機關，其調查權不限於邊境執行，國內相關 IP 侵權案件亦由其主管，並介紹有別於一般調查程序，為解決商展(exhibition)侵權之糾紛而設置之「快速行動機制(Fast Action Scheme)」。我方代表詢問海關管轄權限是否及於網路侵權（未涉及實體交易）案件之調查？少量侵權貨品案件(small quantity)遭遇權利人不願意配合之情形如何進行後續調查？權利人有無濫用「快速行動機制」之情形？港方代表回應表示海關有權調查網路侵權案件，且香港並設立特別行動小組(Special Task)協助調查相關案件；至於權利人不願配合的情形，因程序上需要權利人之辨識證言，因而如無權利人之合作，該案件之程序只能終止，惟實務上並未發生過類此情形（即使只是一片盜版光碟，也會前來協助鑑定）；有關權利人濫用「快速行動機制」之情形亦未曾聽聞。菲律賓代表則希望港方針對追蹤技術提供經驗分享。

- （四）中國大陸報告「智慧財產權邊境保護之海關執行情形」：中方報告其海關近年查扣的商品數量甚多，價值甚高，以消費性物品為大宗，海關在查緝作業上採取多元化措施，並與權利人合作，與他國海關進行資訊分享，以共同防制侵權。墨西哥代表詢問海關查緝是以職權發動為主，抑係以權利人請求為主？如何與外國海關進行何種程度的資訊分享？中方回應海關查緝行動中有 99%屬職權發動，至於

資訊分享，需循雙邊或多邊協議之模式，並依協議規範分享相關資訊。我方代表表示，依據相關簡報，顯見郵寄(postal channel)遭查扣之侵權貨品數量有遽增趨勢（高達 67%），此與我們長期以來認為船舶（10%）或航空貨運（3%）是侵權貨物主要入境管道的看法有很大的改變，海關是否針對此種趨勢有研議調整相關查緝方向之可能？主席亦回應海關針對不同類別商品及流通管道，確有研議不同查緝手段之必要。

- （五）美國更新「加強防止於電影院內非法盜錄」倡議案並提擬會員體就此項議題予以重視之相關文字，請於各會員體同意後提交納入部長級宣言。美國首先說明該國就電影院盜錄特別立法之背景及施行後成效，除宣示目的外，更利於執行，而目前澳洲、加拿大、香港、日本及美國等國家已採取此種立法（菲律賓及馬來西亞均研議中）。本議題引起各國代表熱烈的討論：中國大陸代表表示，此項議題如未經詳細討論即納入部長級宣言內容，有所不宜；至於倡議部分，因相關定義多所不明，且各國主管機關有別（中國大陸就分屬電視廣播及著作權兩個主管機關共同管轄），執行上亦有疑義。俄羅斯、墨西哥、智利、印尼支持中國大陸代表意見，認為需進一步研究並蒐集更廣泛的資訊始能獲致結論；加拿大、香港、日本、菲律賓、澳洲則支持美方意見。我方代表表示，有關部長級宣言文字部分，美方業依我方建議修正文字，已具相當彈性，因而我方表示支持；至於倡議所建議之 3 項措施，我方一部分已經達成，另一部分則屬可以完成，因而對於倡議亦表支持。由於正反雙方意見無法獲致共識，主席提議明日續行討論，並請美國與相關國家先行交換意見，惟截至會議結束，仍未獲進一步討論。

#### 十一、議程 4c-iv：與智慧財產權措施及政策相關之資訊交流：

- （一）智利更新並提出「APEC-IPEG 著作權之限制與例外調查報告」：該項

調查於前次會議中業完成報告初稿並經依據各會員體回應意見修正在案，本次會議係徵詢各會員體是否同意將該份文件公開流通。泰國代表表示因該國作業不及，請求再予展延提交意見時間。主席經徵詢各會員體是否同意公開流通而無反對意見後，為免延誤本份報告之公布，爰請智利將目前已定稿之報告提供公開流通，並保留相關欄位供各會員國更新其最新法制資訊。

- (二) 中國大陸更新防止智慧財產權濫用調查(Survey on Prevention of Abuse of IP Right)調查及智慧財產權保護作法之標準化研討會(Seminar on Practices of IPR Protection in Standardisation)兩項建議案：中國大陸代表表示權利濫用調查係為獲致更深入之討論，而標準化研討會將能促進會員體間之意見交換。該兩項建議案經我方、智利、俄羅斯同意贊助並給予支持，而美國則表示尚須進一步釐清相關定義（按據觀察，美方對於標準化研討會案並未明確反對，惟對權利濫用調查案則以提案文字定義不明等藉口，強力採取技術性杯葛）。主席建議本兩項議題留待明日一併決議，請中國大陸代表儘速就相關疑義與美國代表進行協調，惟截至會議結束，仍未獲進一步討論。
- (三) 美國更新「商標異議問卷」及「註冊及證明標章問卷」辦理情形：美方感謝已回應會員體（包括我國）之意見，兩份問卷將依會員體所提意見適度修改後，再行送請各會員體填寫，並於彙整後提擬調查初稿，請各會員體協助檢視。
- (四) 澳洲提出「澳洲近年著作權案例及相關發展」文件，主要涉及電視節目表是否可能有著作權、政府機關合理使用私人著作之範圍等討論及該國針對數位時代經濟(digital economy)研提之報告，均甚具參考價值，將轉請本局著作權組進行研析。
- (五) 我方簡介新近通過之「網路服務提供者民事責任免責事由（ISP 法案）」：我方由立法背景、法案內容及預期效益 3 層面介紹 ISP 法案，並說明現階段我方亟待解決之問題，在於協調權利人團體及 ISP 業

者，希望能協助雙方早日就三振條款之規範達成具體共識，俾利執行。美方代表讚賞本法案為甚為進步之立法，惟欲進一步瞭解，三振條款之執行如能達成共識，是否將具體明文於子法（實施辦法）？我方代表回應，依據本次修正條文之授權，實施辦法僅能規範通知文件及反通知文件之要項及 ISP 聯繫窗口應公告之資訊等事項，因而三振條款之執行事項將由 TIPO 採取行政指導的方式，協調權利人團體及 ISP 業者達成共識。日本代表詢問何以針對 4 類 ISP 業者，僅有連線服務業者無須執行「通知/取下」機制，而被鼓勵去執行「通知/通知」？以及我方如何藉由「行政指導」協助雙方達成共識？我方代表解釋，由於服務性質不同，在連線服務之提供上，侵權內容僅存在於使用者之電腦，而不會儲存於連線服務提供者之伺服器，因而連線服務提供者無從執行「取下」侵權內容，而為遏止點對點（P2P）侵權行為之氾濫，本法案鼓勵連線服務業者將侵權通知轉送予行為人，以期藉此發揮警示效果。至於 TIPO 之行政指導，權利人團體及 ISP 業者向來均相當尊重(rely heavily on)TIPO 之意見，且就此議題均表示請 TIPO 從中協調之強烈意願，因而執行上並無困難。

- （六）韓國報告該國「著作權保護政策之最新發展」，表示該國著作權法修正案業於本年 7 月 23 日起生效（按經會後詢問瞭解，本修正案原訂於 9 月生效，嗣因業界反映而提前實施），相關修正包括將「電腦軟體保護法」修正納入「著作權法」、原電腦保護委員會整併納入著作權保護委員會(the Korea Copyright Commission, KCC)，以及為防制網路侵權行為，修正規定：①著作權主管機關（文化、運動及觀光部 Ministry of Culture, Sports and Tourism, MCST）對重複非法上傳檔案之行為人，經送請 KCC 審查通過後，得命網路服務業者(Online Service Provider, OSP)對使用者給予警告，對於業經發送多次警告者，經 MCST 就是否暫停服務送請 KCC 審查通過後，MCST 將命 OSP 暫停該帳號(log in)使用權限 6 個月。②對於網路論壇(message board)載有

侵權資訊者，MCST 經送請 KCC 審查通過後，得命網路論壇取下侵權資訊，如該論壇經核發取下命令達 3 次以上者，經 MCST 就是否暫停服務送請 KCC 審查通過後，得命 OSP 暫時關閉論壇並公布違法事實。按韓國本次之修法雖亦有漸進式反應(graduated response)條款，惟與我國新近修正之著作權法三振條款有相當差異，本文件甚具參考價值，本局著作權組前已初步掌握該國修法內容，今日會議相關資料將轉請著作權組再行研析。韓國此一報告並未引起與會代表任何討論，可能是因報告者較年輕、資淺，未能清楚提示本次修法內容所致。又日本代表於會後向我方詢及昨日報告之 ISP 法案相關內容，表示該國甫修正著作權法，對網路服務提供者〈特別是搜尋服務提供者〉之安全港部分亦有所修正，相關資料於翻譯為英文後可提供我方參考，並希望與我方實務方面之資訊交流；香港及新加坡代表亦對我方 ISP 法案內容及實施狀況有高度興趣，表達可進一步資訊交流之意願。

十二、議程 4c-v：有線及經鎖碼衛星訊號竊取之因應對策：美國更新「防制有線及經鎖碼衛星訊號被竊取之最佳執行」研討會建議案，本案業於前次（第 28 次）會議中通過，贊助經濟體包括香港、中國、印尼及墨西哥。美國代表說明，預定於本年 12 月 14 日至 15 日於印尼首都雅加達舉辦本次研討會，規劃邀請著作權人、企業、廣播機構、各經濟體之立法機關、權責機關及執法機關人員共同與會，針對何種情形屬於訊號竊取(signal piracy)以及訊號遭竊取之經濟利益損失評估等議題進行研討。主席說明此項議題具重要性，希望各會員體能儘量派員參加（按本項議題前經與國家通訊傳播委員會(NCC)協調，該會已同意將派員參與與此項議題有關之國際研討會，本局業將此項訊息先行轉知 NCC 知照）。

十三、議程 5a-ii：專利取得程序合作倡議（APEC Cooperation Initiative on Patent

Acquisition Procedures)

- (一) 美國更新「落差分析 (gap analysis)」報告(該國原研提「APEC 經濟體專利取得程序合作倡議下，各經濟體進一步合作(“Patent Cooperation Initiative on Patent Acquisition Procedures – Roadmap for Further Cooperation”)」提案之一部分)，重申本分析主要針對各經濟體在專利審查上的容量與能力 (capacities and capabilities)，以及在審查容量 (examination capacity)、資訊技術基本設施 (information technology infrastructure) 與權責機關行政管理/人力資源 (office administration/human resources) 可能缺乏的經驗與資源等項目，進行研析比較(美國表示，目前僅少數會員(包括我國)提報資料。必須進一步繼續彙整)。
- (二) 日本更新說明「APEC 經濟體專利取得程序合作倡議下之促進一致性 (More Coherence under the APEC Cooperation Initiative on Patent Acquisition Procedures)」提案，強調本項提案主要針對已取得專利之檢索 (不論是由申請人申請、IPO 發動抑或各 IPO 間之資訊交換)，調查各經濟體專利權責機關檢索其他經濟體之相關申請程序及表格，以期能分析歸納出各經濟體在程序上有無共通性要件，藉此並希望最終能提出更具統一性而能有效相互檢索之方式。美國代表支持本項提案，並表示願意進一步合作，中國、智利及泰國代表就本提案之部分內容提出質疑(中國著重「專利審查涉及主權」議題)，經日本代表澄清並非對專利申請方面進行分析，而是由各會員體就他國之檢索與審查結果之相互參考，不涉及主權議題。最後主席經歸納相關提問，並請日本納入提案修正考量。

#### 十四、議程 5a-iii：迅捷權利之取得及保護

- (一) 澳洲說明其新近成立之「專利審查中心」設置情形，表示為處理專利審查積案、提升審查素質及維持專利審查專業人力，IP Australia

（位於坎培拉）考量墨爾本當地為繁華商業中心暨設有多所大學及研究機構等特性，於墨爾本成立第一個分支專利審查中心(Melbourne Patent Examination Centre)，以期吸引當地專業人力投入專利審查，並將依此設立經驗，考量於其他地點設置分支審查中心的可能性。又此審查中心完全不做在地之對外互動(不收件、不對外提供任何服務)，單純是分擔坎培拉之審查業務。主席笑說，最好的還是美國 USPTO 之在家審案。

（二）我方報告「智慧財產案件審理之發展」，由司法院智慧財產法院林法官欣蓉說明目前智慧財產法院之管轄範圍、組織架構及人力配置，並說明智慧財產法院與普通法院之最大差異在於智慧財產法院配置技術審查官（Technical Examination Officer, TEO），透過技術審查官之專業協助，法官得於民事侵權訴訟及刑事訴訟中自為判斷 IP 權利是否有效，而不待行政爭訟之認定，此外，行政訴訟中亦應審酌當事人所提出之新證據，依據智慧財產法院設立一年以來之統計資料顯示，上開新制之實施，確已大幅提昇 IP 案件審理之效能，並達成爭端一次性解決及促進 IP 案件裁判一致性之目標。主席首先感謝我方邀請專業法官出席說明此項議題，並由墨西哥、菲律賓、美國、中國及印尼代表分別就民事及行政案件之區別、審理程序與普通法院是否有差異、訴訟費用是否會因審理速度較快有所不同、當事人究竟偏好由普通法院或 IP 法院進行審理、IP 法官案件負荷量是否適當、如何培養專業審理經驗以及對 IP 法官有無訓練計畫之規劃等節提出詢問，經林法官回復說明略以，當事人如不服 TIPO 之准駁處分時應循行政救濟程序尋求救濟，其他 IP 侵權或契約爭議方循民事訴訟處理、IP 法院與普通法院就 IP 案件之審理程序及所須繳納之訴訟費用均相同、IP 法官案件負荷量確實相當繁重，以及 IP 法院對於現任法官及培訓 IP 法官均訂有相關培訓計畫進行說明外，並允諾於會後再行提供當事人擇選法院之數據。林法官會中曾表示，期

待在此論壇下有 IP 專業法官制度之各國 IP 法官能有進一步之交流機會。另印尼代表則建議，可在議程中加一個與 IP 法院運作之子題。主席回應，這是很好之建議，可以進一步思考。

- (三) 我方更新「專利加速審查計畫 AEP」執行情形，說明截至 6 月份為止，計有 218 件申請案，其中除 11 件因要件不符遭程序駁回外，其他 207 件申請案中，國外申請案件達 138 件，由美國、日本分居第一、第二位。至於請求 approved corresponding cases 之申請案件，則由美國及歐盟分居第一位及第二位。(會後新加坡代表對報告中細節問題前來詢問，我方代表已對之詳細說明)。

十五、議程 5b-ii：電子化資訊流通：墨西哥提報「IMPI 最新電子服務」，說明以往政府公報僅限於紙本，為方便民眾查閱，業於 3 月建置 SIGA 網站，供民眾線上查閱政府公報，並已將 136 年以來政府公報資料陸續建置上網，供民眾免費線上檢索。此外，針對與 IP 相關之各項資訊（如法規、重要判決見解等），以往 IPO 於蒐集資料並建置資料庫後，僅供內部使用，現亦經建置于 ViDoc 網站供民眾免費線上檢索。主席詢問該網站是否有英文資料可供查閱，墨西哥代表表示，目前已有將資料翻譯為英文及法文，並將依據使用者檢索需求進一步更新網站。

十六、議程 5c-ii：教育宣導

- (一) 香港說明「2008 年執行智慧財產權保護宣導調查」報告，表示依據 2008 年問卷調查結果，受訪者對於智慧財產權的瞭解較 2005 年提升 7%，有購買盜版商品意願者則降低約 7%。雖然八成以上受訪者認為買賣盜版或仿冒商品屬於觸法行為，但有四成受訪者認為購買原版 CD 並轉換為 MP3 供個人使用（在香港將有民事責任）並不違法。鑑於本項問卷調查甚具參考價值，將轉請著作權組參考。
- (二) 香港提出「2008 年企業界對智慧財產權所抱持態度之調查」報告，



表示依據問卷調查結果（向經登記在案公司發送問卷，計回收 1001 份，回收率達三成），有九成以上的企業對於智慧財產權有初步瞭解，但僅有四成六的企業認為政府應投注最大努力，致力於減少香港地區的 IP 侵權行為，較 2006 年之調查結果降低 9%；五成以上企業認為侵害他人智慧財產權之最嚴重後果為刑事責任，較 2006 年調查結果提高一成三，其次始為民事賠償及商譽損失；四成五以上企業誤認為只要在香港申請專利、商標及工業設計，就可以直接在中國受到保護。

- （三）澳洲於「促進小型企業於澳洲之發展—IP Australia 與企業中心之合作」報告中表示，基於澳洲大型企業已瞭解並熟悉如何管理及利用其 IP 資產，而小型企業對此等潛在資產之知識較為貧乏之觀察，IP Australia 與民間企業採取策略聯盟方式，並擇選小型企業最常前往尋求商業諮詢之企業中心(Business Enterprise Centre)共同合作，促進小型企業對 IPR 知識之接受度，進而提高小型企業的競爭力。
- （四）我方報告「校園智慧財產權行動計畫」執行情形，略以：在教育部主導下，各大專院校針對不盜版教科書及台灣學術網路之合法使用二大核心主題，採取各項措施，予以改善，成效卓著。中國代表對我方報告相當有興趣，詢及教育部對於各校到底如何進行評估（因為校園到底有無提升保護，很難有客觀量化之數據）。我方代表說明教育部之評估機制非常複雜、細膩，例如各校對於校園內影印店有無發送信函要求不得非法影印、學校教授是否與學生宣導不要侵害 IPR 等細節項目，每學期進行評估。有落實各細項之措施，即可獲得分數、績效，從而獲得好的考評。印尼代表詢問我國語文仲介團體之運作情形，及在校園中能否發揮有效之授權功能。我方代表說明，我國語文仲介團體屬新近成立之團體，其所被賦予之管理權限僅得佔整個語文著作 20%(為避免替代教科書書商之市場)。目前該團體尚在發展中。

#### 十七、議程 5c-iv：IP 之產生、利用及散布

- (一) 韓國簡報「對於地區性 IP 創意發展之支持，建構智慧財產城市 IP City：從智慧財產到區域性繁榮」，特別邀請目前建構 IP City 的光州市市長到場，報告該市依據 IP City 架構計畫發展的歷程及未來規劃。整體而言，該計畫主要是擇選中度規模、非工業為其經濟主力（如農業、簡單製造業）、經濟發展較為遲緩的城市，希望轉而以創意發展為主力，轉型為智慧財產城市，所採取之措施是與韓國智慧財產局（KIPO）合作，政府公務人員除加強智慧財產觀念之教育外，創設 IP Academy 提供當地居民 IPR 教育訓練，鼓勵居民投入 IP 創造及提供免費 IP 諮詢，期待藉此帶動當地經濟發展，並帶動區域性經濟繁榮。
- (二) 墨西哥簡報「有關 Tequila 及 Michoacan 之團體標章」，說明只有特定地區出產，且經通過國家認證標準的酒精飲料始能以 Tequila 為名販售，於國際間以出產地名稱 Appellation of Origin 及團體標章 Collective Mark 登記並受保護。至於 Michoacan 為墨西哥地區名稱，為墨國第 13 大經濟體，政府經提供產業改良技術、產品出口能力建構及相關協助後，使當地成為墨國第一個以起士、樂器、木質工藝品、陶藝品等產品受到集體標章及地理名稱保護之區域。

#### 十八、議程 5d：澳洲與中國大陸更新「IPR 能力建構條件之策略性考量調查」報告執行情形(目前僅少數國家，包括我國，已提報相關資料)。

#### 十九、議程 5e：

- (一) 檢閱 IPEG 目前執行中 13 件調查報告。
- (二) 討論 IPEG 集體行動計畫（Collective Action Plan），說明主要採取之行動及目前狀態。

#### 二十、議程 6b：研提新研究計畫

- (一) 俄羅斯提出「各國針對智慧財產權保護、利用及執行相關人員之訓練機構及發展」計畫，中國大陸及越南代表表示支持。但日本、澳洲及美國代表認為本項計畫之內涵文字相當令人混淆不解，於進一步釐清前不宜通過該項計畫。主席表示本次會議因會員體所研提之計畫尚有日本、韓國兩項計畫，需於明日一併表決並決定其順位，請俄羅斯就各會員體有所疑義之文字能設法於明日表決之前釐清。惟截至 7/29 會議結束，俄國均未能提出修正釐清文件，此議題將由俄國於 2010 年會議再行提出後繼續討論。
- (二) 韓國提案辦理「一城鄉一品牌 One Village One Brand」研討會計畫，說明品牌策略管理(Branding Strategy)在 IP 資產管理上的重要性，除能發揮 IPR 的最大效益，並能提高有形資產之價值，對於地區性商品尤有其重要性，惟發展中經濟體的生產者卻多不具備此種品牌發展能力。為加強對品牌發展之認識、促進相關技巧並加強能力建構，以及討論共同行動計畫，規劃於 2010 年 4 月辦理研討會，除邀請專家就此提供專業意見外，並進行案例研習及討論會議，會後並提出結論報告，以促進各經濟體對此議題之瞭解。本項提案經俄羅斯、秘魯、泰國及日本表示支持，經決議通過，為 ASF 贊助之計畫項目。
- (三) 日本提案「共同辦理 IP 學院雛議(IP Academy Collaborative Initiative)」(初稿)：為促進區域內各經濟體 IP 學院之合作，規劃藉由訓練課程之交流、講師資訊之交換及派遣、共同編纂訓練課程內容、線上資訊提供、協助成立新 IP 學院等步驟，達成共同促進 IP 知識及培訓專業人才的目標。中國、印尼、泰國、越南及菲律賓表示支持，我方代表亦表支持，惟詢問日方此項雛議是否會增加各 IP 學院之經費，並詢問所規劃之合作是指各 IP 學院必須採取一致性、多局之共同行動？抑是也可以雙邊之方式與特定之學院合作，但不與其他學院合作？日方回應資料之蒐集必是多局的，至於合作事項(例如指派講師支援講習)，採取雙邊或多邊型態均可。

二十一、 議程 7：邀請 ABAC 與本小組舉行共同會議：經 ABAC 代表說明規劃於共同會議中研議之議題項目後，決議通過，並請 ABAC 更新修正相關提案及說明內容。

二十二、 議程 8：其他事項：澳洲提出「品質管理策略」文件，說明基於更有效率地促進 IP 權利發展之目的，IP Australia 藉由年度內部檢視、文件及相關紀錄控管、過程查考及品質檢測、人員訓練、監控各項品質影響因素及成立品管委員會進行定期檢視等，進行該局內部品質管理。

二十三、 議程 9：討論並決定本次會議各項文件對大眾公開的項目。

二十四、 議程 10：討論下次會議相關事宜

（一）決定第 30 次至第 33 次會議主席：經決議，由墨西哥代表 Mr. Jorge Amigo（墨西哥智慧財產局局長）當選第 30 次至第 33 次會議主席。

（二）討論下次會議之相關事宜：第 30 次會議將在日本廣島市舉辦，預定於 2010 年 3 月 5 日至 6 日召開（會前會於 3 月 4 日召開）。

（三）邀請與會代表出席於日本舉行之 WIPO 高峰會談(High-Level Forum)：為發揮 IP 系統的功能並瞭解 IP 發展之潮流，預定於 2010 年 3 月 1 日至 2 日假東京舉辦 WIPO 高峰座談會，邀請各大洲經濟體 IP 主管機關首長及資深官員與會，就法律及行政、人力資源、機構及相關科技基礎建設等議題進行討論。

二十五、 各會員體代表於 98 年 7 月 29 日上午 8 時至 10 時與 WIPO 秘書長 Dr. Francis Gurry 會晤之早餐會：席間各會員體與 Dr. Gurry 討論 WIPO 目前研議中的各項議題及未來可能發展方向。有會員體代表詢及目前專利申請案件量銳減，是否會影響 WIPO 之營運，Dr. Gurry 表示，依目前數據評估，2009 年的營收大致減少 1.6%，營運上尚不致有問題，惟 2010 年、2011 年在營收評估上是否會對 WIPO 的營運產生影響，就不敢說了。我方代表

團團長則提及我方目前集體管理團體在運作上有諸多問題待解決，詢及此是否為全球性之共通問題？亦希望 WIPO 就此能否提供各國進一步的指導。Dr. Gurry 同意此問題確實亟待解決，表示可透過區域合作、技術協助等層面切入，惟對 WIPO 是否有所規劃及作為則未給予明確回復。至於 WIPO 目前談判中之議題，Dr. Gurry 對於許多議題經多年努力推動，仍無法獲致結論，處於原地打轉的現狀，表達強烈的挫折感，並呼籲各會員國能共同努力尋求突破。

## 肆、「Trading Ideas」研討會情形

新加坡為強調 IP 能力建構對產業發展的必要性及重要性，於本次（第 29 次）APEC/IPEG 會後舉辦「Trading Ideas」研討會，針對 IP 管理應用及商業化等議題，邀請產、官、學、研等部門人員出席共同研討，並邀請 WIPO 秘書長 Dr. Francis Gurry 及其他國際組織如 ABAC 參與，擴大交流層面，本次研討會係於 APEC/IPEG 相關會場—Furama Revierfront Hotel 舉行（議程詳附件 2）。

一、會議情形：本次會議採取座談會方式舉辦，並區分為「共同出席」及「分項討論議題」（出席人員可自行擇選有興趣場次）兩種型態。每一場次大致安排 2 至 3 位講者及 1 位主持人進行研討。

二、大致內容：

（一）第一日（7 月 30 日）上午舉辦開幕式，並安排 2 場次全體出席議程：

第 1 場針對金融危機對於智慧財產權的衝擊、企業對於 IP 資產所應採取之應變對策等進行研討。

第 2 場則以企業如何應對變動不居的市場為重心，討論 IP 如何成為企業重要發展平台、政府應如何協助企業發展 IP、企業在研發 IP

模式及區域經濟發展上所應採取之策略，以及如何應用雙邊或多邊協議規範加強 IP 於商業上之應用等進行討論。

(二) 第一日(7月30日)下午安排2場次分項討論議程，並區分為專利、商標及著作權3類：

專利第1場次：由申請到核准程序，研析專利程序的趨勢、法規及企業應該採取之考量及策略等。

專利第2場次：由最新的專利案件發展，研析企業可以利用的機會極可能會受到的威脅等，進一步探討企業在法律、商業及科技上可以採取的策略及相關策略可能導致的不良影響。又其中我國交通大學劉尚志教授以新加坡大學科技管理研究所客座講座之身分，亦參加會議，並擔任 Patent Trolls(專利蟑螂)議題之主講人。

商標第1場次：由品牌管理之專業觀點，評估、衡量品牌的作用及價值，除討論全球化經濟中品牌管理策略遭遇的挑戰外，並研析在全球化品牌的管理上可能遭遇的法律議題。

商標第2場次：研析商標法在網路世界所遭遇的挑戰，討論商標在網路上究以何者為主管機關？網域名稱與商標權人間的利益衝突以及商標法國際化是否為未來解決之道等進行討論。

著作第1場次：針對 Web 2.0 時代對於著作權的衝擊，討論使用者創造內容(UGC, User Generated Content)之言論自由與著作權保護間的衝突、傳統著作權法是否足以因應網路世界保護著作權的需求等議題。

著作第2場次：針對集體管理團體因應網路發展所應採取之策略，研析跨國授權利用、單一窗口授權全球性網路利用之可行性、以及研發協助著作權管理之科技等議題。

(三) 第二日(7月31日)上午安排全體出席及分項討論議程各1場次：  
全體出席：鑑於 IP 生態的浮動特性，針對企業對於 IP 企業對於 IP 管理服

務所應採取的態度為何？如何評鑑相關的服務品質？是否僅有大型企業需要此等服務等議題，進行相關討論。

分項討論：亞太地區 IP 資產化的最佳實務分享，分別邀請財務專家、政府官員或法律執業人員及企業代表發表其觀點及心得。

第 1 場：零售業及飲食(F & B, Food and Beverage)業

第 2 場：教育及媒體產業

第 3 場：資訊工程產業

(四) 第二日(7 月 31 日)下午安排分項討論議程 2 場次(區分為 IP 資產化、IP 管理及開放性創意發展下的 IP3 類議題)，並舉辦閉幕式：

IP 資產化第 1 場次：針對 IP 在資產分類上的重要性日增，研討 IP 資產化的正反兩面觀點、IP 資產化的評估是否有差異、以及是否各類 IP 均適合資產化等議題。

IP 資產化第 2 場次：針對 IP 融資可否成為挽救企業良方的良方，研討 IP 融資的優點、選擇以及如何促進企業發展。

IP 管理第 1 場次：針對現代企業所應採取之動態管理策略，討論在法律、商業經營及科技等層面之優先性斟酌、預測未來發展及如何因應、以及透過 IP 強化競爭上的優勢等議題。

IP 管理第 2 場次：針對 IP 授權前的充分調查準備(due diligence)，討論應調查事項及範圍、評估授權人(被授權人)在此項授權上可能產生的潛在風險、依整體性及未來性考量斟酌授權條件及金額等，以期創造最大的產值。

開放性創意(open source and open innovation)發展下的 IP 第 1 場次：針對 IP 保護及開放性創意發展間的平衡，討論 IP 保護是否已成為開放性創意發展的絆腳石、如何均衡兩者間的需求並促進雙方共贏、以及企業相關標準等議題。

開放性創意(open source and open innovation)發展下的 IP 第 2 場次：針對專利共享(patent commons)是否可能成為企業共贏的平

台，研議專利共享的條件、在開放性軟體及標準可能產生的機會及發展、以及透過專利共享機制保護此等開放性軟體及標準之相關策略及措施等議題。

### 三、觀察及心得

(一) 值得學習的會議安排：由本次議程安排、講者之擇選及會議場地安排上，均可見主辦單位的用心，舉例如下：

- 1、 議程安排上相當具有系統性，由各類智慧財產權受到現今網路環境衝擊之影響，演進到企業界、政府及決策機構及學術界對於 IP 資產的商業化及經濟危機應有之認識、因應對策及調整，頗值學習。
- 2、 講者之擇選上，並不限於亞太地區之學者專家，並邀請美國、英國、德國等地之企業家、法律實務人員共同出席，在討論角度及觀察視野上不致自我受限。
- 3、 又主辦國新加坡本次力邀安排到亞太地區主要智慧局之首長或副首長主持部分議程或主講部分議題，更令人印象深刻，包括：WIPO 秘書長 Dr. Gurry、匈牙利專利局(Hungarian Patent Office)局長 Dr. Miklos Bendzsel、歐洲專利局(European Patent Office, EPO)副總局長 Mr. Wim van der Eijk、澳洲智慧財產局(IP Australia)局長 Mr. Philip Noonan、菲律賓智慧財產局(Intellectual Property Office of Philippines)局長 Mr. Adrian Cristobal、越南智慧財產局(National Office of Intellectual Property of Vietnam)局長 Mr. Tran Viet Hung、韓國智慧財產局(Korean Intellectual Property Office, KIPO)局長 Dr. Jung-Sik Koh、墨西哥智慧財產局(Mexico Institute of Industrial Property)局長 Mr. Jorge Amigo、中國大陸國際知識產權局(State Intellectual Property Office, SIPO)田力普局長、加拿大智慧財產局(Canadian Intellectual Property Office)局長 Ms. Mary Carman、與香港知識產權署署長 Mr. Stephen Selby，各國菁英齊聚一堂，足見主辦國新加坡在國際智慧財產權領域之活躍度與企圖心。



- 4、 共同出席議程的會議場地，係以談話性節目的方式設計安排：講者在講授時安排講台及投影放射螢幕（左右各一），講台下則設有小型投影螢幕供講者作為放映簡報之控制參考；講授後之討論則安排排列為半圓形之沙發及圓桌，供主持人及講者可以圍桌暢談，並輔以新加坡著名景點為布景，在錄製效果上相當良好（詳如附件四照片）。

（二）足資借鏡需要避免的細節瑕疵：

- 1、 由於會議在飯店內舉行，出席人員報到及中午用餐時之動線安排都較為凌亂；此外，因共同出席場次之會議場所周遭即為餐廳及廚房區域，刀盤及廚房人員嚷嚷的聲音時有可聞，實已影響參與研討會人員之聆聽。
- 2、 由於本次研討會主辦單位儘量邀請各國 IP 主管官署首長出席演講或擔任主持人，然部分官員或因語言能力有別，或因對於講者資料較不熟悉，除延誤會議進度外，並影響其他講者之講授。

（三）由於本次研討會本局僅有 2 位出席人員，而分項討論議程多半區分為專利、商標、著作權 3 類，雖然各類議題均非常有趣並具有啟發性，出席人員只能忍痛放棄其中 1 類，甚為可惜。

（四）由本次相關研討議題，可以發現各國對於 IP 之資產化、IP 管理及企業發展所採取之策略等日益重視，尤其在經濟衰退的時代，更著重於政府及產業間的意見交流及合作，可為我國日後發展 IP 的一個規劃方向。

## 伍、雙邊會談情形

一、 與加拿大雙邊會談：

- （一） 依據雙方於 2009 年 2 月 APEC 會議晤談之共識，雙方簡報各自業務推動內容，俾加強雙方於業務推行上之瞭解。
- （二） 我方智慧局將於 2009 年 10 月在台北舉辦商標國際研討會，業先行透過我駐加拿大代表處經濟組邀請加方派遣專家來台擔任主講人，

相關費用由我方負擔。加方表示業接獲我方邀請，刻由商標主管單位評估是否派員與會中，將俟確定後即行與我方聯繫。

(三) 我方提議雙方日後能就智慧財產相關資訊系統交換經驗部分，加方表示同意。

(四) 關於雙方洽簽 IP 合作備忘錄案，加方同意持續進行對談。

二、 與墨西哥雙邊會談：台墨洽簽工業財產權合作協定一節，墨方已提供草案文字，刻正由本局函請外交部表示意見中。因而我方已邀請墨方代表 Mr. Amigo 於明年 2 月於出席在日本舉行之第 30 屆 IPEG 會議後，能順道來台完成 MOU 簽署，Amigo 局長欣然同意。

三、 與澳洲雙邊會談：

(一) 依據台澳去(2008)年 10 月簽署之「工業財產雙邊合作瞭解備忘錄」，本局原規劃於本(2009)年下半年安排 2 位商標審查人員赴澳參與該局訓練，並邀請澳方派遣 2 名新式樣審查人員來台受訓，惟澳洲基於相關訓練課程預期無法舉辦及無法支應人員來台受訓經費等因素，業確定均無法辦理。又澳方表示我方商標審查人員可望於明年赴該局參與訓練，另其也希望可派遣新式樣審查官來台受訓。

(二) 智慧局將於本(2009)年 10 月舉行商標國際研討會，我方業邀請並盼澳方能提供講師人選。澳方希望我方將「確定」日期明確告知，並明確表達我方希望講師講授之主題，以利澳方評估人員派遣，我方已再次向其確認旅費由我方負擔。

(三) 澳洲在今年 10 月第二週會與 WIPO 合辦「非傳統商標」研討會，其會徵求 WIPO 的同意，允許我國參加。不論結果如何，都會知會我方。

(四) 另我方提醒澳方，台澳合作瞭解備忘錄將於 2010 年 10 月失效，並表達我方需簽署合作備忘錄作為雙方合作之依據。澳方表示理解，

並建議可以在下一屆（第 30）APEC 會議進行更新備忘錄之相關準備及對談。

#### 四、 與菲律賓雙邊會談：

- （一）我方向菲方表示甫於 7 月間邀菲律賓智慧財產局法務處 Ms. Catherine Estrada 來台參加「專利間接侵權國際研討會（Symposium on Contributory Patent Infringement）」，並邀請菲方組團來台參加本年 9 月 24 日至 27 日舉行之「2009 年國際發明暨技術交易展」，菲律賓智慧財產局局長向 鈞長就雙方人員之交流合作表達感謝之意。
- （二）有關菲方所提 IPR/MOU 合作執行計畫，我方表示本局已詳細檢視，近日內會將我方意見經駐菲律賓經濟組轉知菲方（看得出菲方很有誠意要執行 MOU，並將對印尼之簽署產生重大影響）。

#### 五、 與香港雙邊會談：

- （一）香港和我方於「短片由我創」活動之辦理上，已奠定良好合作基礎，我方樂見於 2010 年將此活動擴大為兩岸三地合作辦理，俾促進 IP 領域之交流。港方則提議不妨擴大由兩岸四地（加入澳門）共同舉辦，並獲致我方初步同意（按仍以民間團體為白手套）。
- （二）我方感謝港方於本年 6 月對於 鈞長訪港之接待表示感謝。
- （三）雙方同意未來能就商標審查人員及專利、商標電子申請及審查品質控管（第 3 項係由港方建議）業務進行交流與合作。

#### 六、 與美國雙邊會談：

- （一）就美國所關切之我方各項 IPR 議題如 ISP 法案、集體管理團體修正草案、智慧財產法院、教育部校園保護智慧財產權行動方案、專利法修法及商標法修法邊境措施條文向美方說明。
- （二）針對台美未來加強合作方向，由於 Ms. Elaine Wu 本次並未出席會

議，業將國企組所建議之書面文件請 USPTO 官員轉交。

七、 與印尼雙邊會談：印方表示，對於智慧財產權合作備忘錄之簽署，前經規劃於 6 月 16 日在雅加達召開之「第三屆台印尼部長級經濟合作會議」簽署，雖因該會議延期舉行而暫予緩議，惟印方認為可行，未來可順勢繼續推動。

八、 與新加坡雙邊會談：星方表示，我方於本次會議所提各項議題，其均有高度興趣，未來可加強人員交流及進一步合作。

九、 與越南雙邊會談：

（一） 我方表示，越方 7 月 7 日送來的 MOU 草案文字，我方正在檢視中，越方請我方加快速度(speed up)以利其安排該局局長來台簽署事宜。

（二） 另，我方亦告知越南版權局有意安排在 2009 年來台訪問，學習我國光碟管理的法規訂定及實務運作情形。

十、 與日本雙邊會談：有關台日專利優先權證明文件之電子交換合作一節，經日方表示，雙方電子軟硬體設備及技術等問題如經研議可行者，建議於本年 11 月在日本召開之第 34 屆台日經貿會議中，由雙方共同提出合作方案。Mr. Omachi 特別詢問我方是否真的有「意願」，(即要確認我方不是被動、應付，而是真心誠意)，我方則表示的確有此意願。

## 陸、心得及建議

### 一、心得：

本次由參與「Trading Ideas」研討會各項議題之討論中，可以發現各國對於 IP 之資產化、IP 管理及企業發展所採取之策略等日益重視，尤其在經濟衰退的時代，更著重於政府及產業間的意見交流及合作，可為我國日後發展 IP 的一個規劃方向。

又由於本次研討會本局僅有 2 位出席人員，而分項討論議程多半區分為專利、商標、著作權 3 類議題，雖然各類議題均非常有趣並具有啟發性，出席人員只能忍痛放棄其中 1 類，甚為可惜。

### 二、建議：

（一）美國預定於本（98）年 12 月 14 日至 15 日於印尼首都雅加達舉辦之「防制有線及經銷碼衛星訊號被竊取之最佳執行」研討會，將針對目前各會員體相當關切之訊號竊取(signal piracy)之界定、相關科技發展及各國業界、政府於法律及政策層面應有之因應等重要議題進行討論，具相當之重要性，建議本局應與國家通訊傳播委員會（NCC）密切聯繫配合，積極參與，以進一步深入瞭解是項議題之內涵，俾得因應我國國情及現有法制，研析因應之道。

（二）智利提出之「APEC-IPEG 著作權之限制與例外調查報告」，內容相當完整，甚具參考價值，並於本次會議中由各會員體決議提供公眾流通，建議將此調查報告結果送請我國相關學者專家參考。

（三）有關美國「加強防止電影院盜錄」之倡議案，雖仍未獲通過，惟此項議題

業經相關著作權利人團體訴求多時，況由本次會議中各方之討論狀況，可以預見未來就此議題將有更廣泛討論，建議本局就此議題之後續發展允宜賡續蒐集資訊並深入研究，以預為準備。

(四) 又明年 APEC 地主國將由日本擔任，依其規劃，在 IPEG 會議之前舉行智慧財產權高峰會議(WIPO High-Level Forum)，除亞太經濟合作會議之既有成員外，將邀請非洲、中東、拉丁美洲、加勒比海國家等，至少共 200 人以上參加，將成為國際智慧財產權領域之年度盛事，本局做為世界第六大專利局與第八大商標局，建議宜積極參與該會議，展現我國實力。

## 柒、附錄

附件 1、第 29 次 IPEG 會議議程

附件 2、「Trading Ideas」研討會議程

附件 3、第 29 次 IPEG 會議紀錄（初稿）

附件 4、「Trading Ideas」研討會會場照片

## **APEC Intellectual Property Rights Experts' Group (IPEG)**

### **Agenda for the 29<sup>th</sup> IPEG Meeting 28- 29 July 2009 Singapore**

#### **1. Opening**

##### **(1a) IPEG Chair**

- The IPEG Chair will open the 29th IPEG meeting.

#### **2. Report on Previous Activity of IPEG**

##### **(2a) APEC**

- Update/ information from APEC Secretariat
- Update by Programme Director of Project Management Unit on the new project approval sessions
- Update by Programme Director of APEC Communication and Public Affairs

##### **(2b) TILF**

- Update by Singapore on "From Mind to Market - The Highs and Lows of Technology Transfer" Seminar
- Update by Australia on "Conducting Effective Intellectual Property Rights Public Education & Awareness Campaigns for SMEs" (CTI06/2008T)
- Update by Korea on "APEC Project for Training Intellectual Property Right Information Facilitators Using e-Learning Content – IP Xpedite" (CTI 21/2009T)

##### **(2c) Self-funded**

- APEC Colloquium for Public Prosecutors and the Judiciary on Intellectual Property Enforcement (IPEG 03/2009S )

- APEC Workshop on IP Border Enforcement for Customs Officials (IPEG 04/2009S)

**(2d) Other matters**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

**3. Interactions with CTI**

- To be advised.

**4. CTI Priorities**

**(4a) Support for WTO**

**Deepening the Dialogue on Intellectual Property Policy and Protection of Emerging Fields in IPR (Lead Economy: Convenor)**

**(4a-i) Protection for Geographical Indications (Lead Economy: Mexico)**

- Update by Mexico on a “Report on the Geographical Indications Regimes in APEC Economies”

**(4a-ii) Protection of Genetic Resources, Traditional Knowledge and Folklore (Lead Economy: Peru)**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

**(4a-iii) Protection of Plant Variety Protection Systems**

- Presentation by Singapore on a “Report on Survey of Plant Variety Protection Regimes in APEC Economies”

**(4b) Support for APEC Investment Facilitation Action Plan**

**Utilising new technology to improve investment environments**



- (4b-i) Providing adequate and effective protection of technology and related intellectual property rights

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

- (4b-ii) Developing strategies to meet intellectual property needs of SMEs.

- Paper by Chair on “Marking IPR Works for SMEs – Report of the IPR Enforcement Expert Group to the European Commission” (information paper)

#### **(4c) Trade and Investment Facilitation**

- (4c-i) APEC Anti-Counterfeiting and Piracy Initiative

Members will report the progress on implementation of the Initiative, and discuss how the IPEG should contribute to implement the initiative. (Lead Economy: Japan, Korea and USA)

- Update by the US on the “Best Practice Paper on Innovative Techniques for IPR Border Enforcement”

- (4c-ii) APEC IPR Service Centre (Lead Economy: Japan)

- Presentation by Japan on the Progress of Establishment of IPR Service Centres.

- (4c-iii) Enforcement Related Activities

- Update by the U.S. on the initiative on addressing the illegal use of recording devices to record or transmit movies off the screen.
- Presentation by Japan Customs on the IPR Border Enforcement

- (4c-iv) Exchange of Information Concerning IPR Measures/ Policies

- Update by Chile on the final report for the “APEC IPEG Survey on Copyright Limitations and Exceptions”
- Update by China on a proposal for a “Survey on Prevention of Abuse of IP Right”
- Update by China on a proposal for an “APEC IPEG Seminar on Practices of IPR Protection in Standardisation”
- Update by the U.S. on “APEC IPEG Survey on Opposition Proceedings”
- Update by the U.S. on the “APEC IPEG Survey on Certification and Collective Marks”
- Paper by Australia on recent Australian copyright cases and developments (*information paper*)
- Paper by Chinese Taipei on "An Introduction to the Newly Adopted ISP Bill of Chinese Taipei" (*paper with presentation*)
- Presentation by Korea on the recent development in copyright policy of Korea

(4c-v) Responding to Cable and Encrypted Satellite Signal Theft

- Update by the US on a proposal for an APEC satellite and cable signal theft initiative”
- Update by the U.S. on the “APEC Workshop on Effective Implementation of Best Practices Concerning Cable and Satellite Signal Piracy and Enforcement”

**(4d) Implementation of Pathfinder Initiatives**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

**(4e) Implementation of Transparency Standards**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

**(4f) Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs)**

- Presentation by Australia on “RTA/FTA Matrix”

## **5. Other Collective Actions of IPEG**

### **(5a) Support for Easy and Prompt Acquisition of Rights**

(5a-i) Establishing Internationally Harmonized IPR system (Lead economy: Japan)

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

(5a-ii) APEC Cooperation Initiative on Patent Acquisition Procedures (Lead Economies: Japan, Korea, Singapore, and USA)

- Update by the U.S. on “gap analysis” as part of its proposed “Patent Cooperation Initiative on Patent Acquisition Procedures - Roadmap for Further Cooperation”
- Presentation by Japan for more coherence under the APEC Cooperation Initiative on Patent Acquisition Procedures

(5a-iii) Papers related to Easy and Prompt Acquisition of Rights and Protection

- Paper by Australia on Australia’s new Patent Examination Centre (information paper)
- Paper by Chinese Taipei on "Intellectual Property Litigation Developments in Chinese Taipei" (*paper with presentation*)
- Paper by Chinese Taipei on "Update of the Accelerated Examination Program in Chinese Taipei" (*information paper*)

### **(5b) Electronic Processing of IPR-related Procedures**

(5b-i) Electronic Filing Systems (Lead Economy: USA)

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

(5b-ii) Dissemination of Information by Electronic Means: APEC IPEG

Website (Lead Economy: Australia)

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

### **(5c) IP Asset Management and Utilization**

(5c-i) Promoting IP Asset Management in APEC Economies (Lead Economy: USA)

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

(5c-ii) Raising Public Awareness (Lead Economies: Australia and Hong Kong, China)

- Paper by Hong Kong, China on "Survey on Public Awareness of Intellectual Property Right Protection 2008" (*information paper*)
- Paper by Hong Kong, China on "Survey on Business Attitudes to Intellectual Property 2008" (*information paper*)
- Paper by Australia on a new collaboration to promote small business growth in Australia (*information paper*)
- Paper by Chinese Taipei on "Chinese Taipei IP Protection on Campus" (*information paper*)

(5c-iii) Facilitation of Technology Transfer through Ensuring of IP Protection (Lead Economies: Australia)

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

(5c-iv) IP Creation, Utilization and Dissemination (Lead Economy: Korea)

- Presentation by Korea on its support for the creation of IP in local communities, "IP City: from IP to Regional Wealth"

#### **(5d) Capacity-building**

- Update by Australia and China on “Survey of Strategic Consideration of IPR Capacity Building in APEC Economies”

#### **(5e) Strategic Development of IPEG**

- Review of Inventory List of IPEG’s Surveys (IPEG Chair)
- Discussion on development of IPEG Collective Action Plan (IPEG Chair)

### **6. New Project Proposals**

#### **(6a) Formation of new Quality Assessment Framework Team**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

#### **(6b) Call for new project proposals**

- Presentation by Korea on its proposal for APEC Project on One-Village-One-Brand Seminar
- Presentation by Japan on the Intellectual Property Academy Collaborative Initiative
- Presentation by Russian of the APEC project "Organization and development of the system on national personnel training in the field of protection, use and enforcement of intellectual property objects".

### **7. Cooperation with Other Fora/ Stakeholders**

*Any member that wishes to identify its interests and make presentations will be invited to do so.*

### **8. Other Business**

- Paper by Australia on IP Australia’s approach to quality management (information paper)
- Update by Russian on the new legislation in the Russian Federation in the

field of intellectual property

## **9. Document Access**

Members will decide whether each document is to be made public or to be restricted.

## **10. Future Meeting**

- A new chair for the 30<sup>th</sup>-33<sup>rd</sup> IPEG Meeting.
- Invitation to APEC 30<sup>th</sup> IPEG Meeting in Japan
- Invitation to WIPO High-Level Forum in Japan

## **11. Report to the Next CTI**

The Chair will provide CTI with the Convenor's Report on the IPEG and forward that to IPEG Members for information.

## THURSDAY 30 JULY (DAY 1)

0830	<b>Registration</b>
0900	<b>Welcome and Opening Address</b> <i>Ms Liew Woon Yin, Director General, Intellectual Property Office of Singapore</i>
0915	<b>Plenary Session 1</b> <b>Keynote Speech: The Current Financial Crisis – Opportunity for the IP Landscape?</b> <p>Will internal financing demands reduce the appetite of companies to invest in IP in the current financial climate? Will the emerging optimism of IP as an attractive asset class for financiers diminish?</p> <p>This session seeks to explore the following issues:</p> <ul style="list-style-type: none"> <li>Impact of the financial crisis on the value of IP</li> <li>Impact of the financial crisis on the market for IP Exploitations</li> <li>Liquidity of IP</li> <li>Business models and strategies</li> </ul> <p>Moderator: <b>Mr Ian Fletcher</b>, Chief Executive, The UK Intellectual Property Office</p> <p>Keynote Speakers:</p> <p><b>Dr Francis Gurry</b>, Director General, World Intellectual Property Organisation (WIPO)</p> <p><b>Mr Hisamitsu Arai</b>, President &amp; CEO, Tokyo Small and Medium Business Investment &amp; Consultation Co. Ltd</p>
1045	Morning Tea
1100	<b>Plenary Session 2</b> <b>Keynote Speech: Businesses in the Global IP Ecosystem: Initiatives to Foster Innovation</b> <p>There is a clear need for economies to relook their guidance policy for businesses and development strategies in line with the new requirements of operating in today's volatile marketplace, while maintaining the underlying vision of building economies into first-class environments for business growth and development.</p> <p>This session explores the following issues:</p> <ul style="list-style-type: none"> <li>-Why and how IP may serve as an emerging platform in the business sector?</li> <li>-How the government's business guidance policy on Intellectual Property may evolve in the future?</li> </ul>

	<p>-What are the business directions in light of evolving IP models and regional trade developments?</p> <p>-How to leverage on treaties/FTAs for effective commercialization of IP for businesses?</p> <p><i>Moderator: <b>Ms Liew Woon Yin</b>, Director-General, Intellectual Property Office of Singapore (IPOS)</i></p> <p><i>Keynote Speakers:</i></p> <p><b>Prof Dr Joseph Straus</b>, Emeritus Scientific Member, Max Planck Institute for Intellectual Property, Competition and Tax Law, Munich</p> <p><b>Mr Stephen Selby</b>, Director of Intellectual Property, Intellectual Property Department, The Government of the Hong Kong Special Administrative Region</p>
1230	<p>Networking Lunch *</p> <p>Share your thoughts with like-minded people on IP issues at this session for close-up networking with eminent IP professionals and practitioners.</p>
Concurrent Sessions 1 - 3	
<p><b>Session 1: The Economics of Patents – A white elephant for businesses?</b></p> <p>Patent application is often seen as an expensive proposition to businesses. The returns may not be immediate nor obvious. With the increasingly aggressive patent litigations initiated by non-practicing entities also known as Patent Trolls, businesses can no longer ignore patents in their business activities. This session demystifies the Patent Prosecution Process and looks at the opportunities and threats that Patent Trolls may pose to businesses.</p>	
1400	<p><b>Patent Prosecution Today: From Application to Grant</b></p> <p>-Putting The Latest Changes To Patent Law Into Perspective</p> <p>-Attempts of harmonization policies to address patent issues</p> <p>-Patent strategy and business considerations</p> <p><i>Moderator: <b>Ms Audrey Yap</b>, Managing Partner, Yu Sarn Audrey &amp; Partners</i></p> <p><i>Speakers:</i></p> <p><b>Mr Wim van der Eijk</b>, Vice President, European Patent Office</p> <p><b>Prof. Dr. Heinz Goddar</b>, Partner, Boehmert &amp; Boehmert, Germany</p> <p><b>Mr Koichi Minami</b>, Deputy Commissioner, Japan Patent Office (JPO)</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1530	Afternoon Tea
1600	<b>Patent Trolls – Good or Evil?</b>



	<p>-Opportunities and threats to businesses: Current cases involving patent trolls</p> <p>-Legal, Business or Technological strategies</p> <p>-Advantages and disadvantages of these strategies</p> <p><i>Moderator: <b>Mr Joff Wild</b>, Editor, Intellectual Asset Management (IAM) Magazine</i></p> <p><i>Speakers:</i></p> <p><b>Professor Liu Shang-Jyh</b>, National Chiao Tung University, Chinese Taipei &amp; Visiting Professor, Engineering and Technology Management Division, National University of Singapore</p> <p><b>Mr Dedar Singh Gill</b>, Head, Intellectual Property Department and Trade mark Business Group, Drew &amp; Napier LLC</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<p><b>Session 2: Badges of Honour? - Trade Marks for Businesses in the Internet Age</b></p> <p>In today's Internet Age, brand management has moved to an international level. How can businesses leverage on this new opportunity? Is current Trademark Law sufficiently equipped to operate in this new level of globalization? Is there a need for an International Trademark Law? This session seeks to explore brand management in a global context and the unique challenges that the internet poses to trade mark owners.</p>	
1400	<p><b>Valuing, Leveraging and Defending Bands - An Expert's Business Perspective on Brand Management</b></p> <p>- Challenges in brand strategy formulation</p> <p>-Managing brands in a globalised economy</p> <p>-Legal issues in managing a global brands portfolio</p> <p><i>Moderator: <b>Dr. Miklós Bendzsel</b>, President, Hungarian Patent Office</i></p> <p><i>Speakers:</i></p> <p><b>Ms. Ivy Phuong Tran</b>, Vice General Director, Saigon Cosmetics Corporation, Vietnam</p> <p><b>Mr Owen Malone</b>, Intellectual Property Director, Fosters Group Ltd</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1530	Afternoon Tea
1600	<p><b>Seeing Double – The Challenges of Trade Mark Law on the Internet</b></p> <p>-Trade marks on the internet – Who is in-charge?</p>

	<p>-Domain Name system vs Rights of trade mark owners</p> <p>-The way forward - Internationalizing trade mark law?</p> <p><i>Moderator: <b>Dr Jorge de Paula Costa Avila</b>, President, National Institute of Industrial Property, Brazil</i></p> <p><i>Speaker(s):</i></p> <p><b>Ms Rhonda Steele</b>, Senior MPM/Marketing Properties Manager - Asia Pacific Mars Incorporated Legal Department, (Former President, International Trademark Association (INTA))</p> <p><b>Ms Tessa Lam</b>, Chief Information Officer and Co-Founder, IP Mirror</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<p><b>Session 3: Right Copy? – Copyright Issues for Businesses in the Media Sector</b></p> <p>The Internet is moving towards User-Centered Content. The success of Web Portals such as YouTube has put content introduction into the hands of the users. This has been seen as a hotbed for dissemination of copyright infringing materials. Is the copyright battle futile? What are the options for digital media copyright owners? Is compulsory licensing the solution?</p>	
1400	<p><b>Web 2.0 and its Impact on Digital Copyright Business</b></p> <p>-Host Site protection against uploading of copyright infringing materials by users</p> <p>-Restricting dissemination of infringing materials on Web 2.0 websites</p> <p>-Is the current Copyright Law adequate to protect digital copyright business in the Web 2.0 world?</p> <p><i>Moderator: <b>Ms Helen Daniels</b>, Assistant Secretary, Copyright Law Branch, Attorney-General's Department, Australia</i></p> <p><i>Speakers:</i></p> <p><b>Mr Michael Ellis</b>, President and Managing Director, Motion Picture Association, Asia Pacific</p> <p><b>Mr Lau Kok Keng</b>, Partner, Rajah &amp; Tan LLP</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1530	Afternoon Tea
1600	<p><b>Collective Management of Rights in the Online Environment</b></p> <p>-Organizing cross-border licensing of rights in the online environment</p>

	<p>-Positioning for a community wide license?</p> <p>-Technology in support of collective management of Rights.</p> <p><i>Moderator: <b>Mr Geoffrey Yu</b>, Senior Specialist Adviser, Ministry of Foreign Affairs, Singapore</i></p> <p><i>Speaker(s):</i></p> <p><b>Mr Ang Kwee Tiang</b>, Regional Director and Counsel, Asia-Pacific International Confederation of Societies of Authors and Composers (CISAC)</p> <p><b>Dr Stanley Lai</b>, Partner &amp; Head of IP/IT Dept, Allen &amp; Gledhill</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1730	End of Day 1
1900	Gala Dinner @ MEGU Event Hall, Singapore Flyer

**FRIDAY 31 JULY ( DAY 2 )**

0930	<p><b>Plenary Session 3</b></p> <p><b>Keynote Speech: IP Services for the Next Century – An Opportunity for Businesses?</b></p> <p>The IP Ecosystem is evolving rapidly. Innovative IP services are introduced to protect and exploit IP. How should businesses approach these new services? Are these new services only for the big companies?</p> <p>This session explores the following issues:</p> <ul style="list-style-type: none"> <li>-Relevance of the evolving IP services industry to businesses in hard times</li> <li>-Establishing and incentivising IP services to meet business needs in a cost –effective manner</li> <li>-Policies to encourage growth of IP services</li> <li>-Regulation of IP Services – Professional Standards &amp; Ethics</li> </ul> <p><i>Moderator: <b>Mr Philip Noonan</b>, Director- General, IP Australia</i></p> <p><i>Keynote Speakers:</i></p> <p><b>Mr James Kelly</b>, Global Head of Business Development, Invention Development Fund,Intellectual Ventures</p> <p><b>Mr Brad Huther</b>, President &amp; CEO, International Intellectual Property Institute (IIPI), Washington</p>
1000	Morning Tea
<b>Concurrent Sessions 4 - 6</b>	
<p><b>Successful commercialisation strategies and models</b></p> <p>This sharing session on best practices with companies in the Asia Pacific Region seeks to explore the role of IP in improving enterprise profitability through the strategic exploitation of IP in specific industry sectors.</p>	
<b>Session 4: Retail and F&amp;B Industry</b>	
1030	<p><i>Moderator: <b>Mr Adrian Cristobal</b>, Director General, Intellectual Property Office of Philippines</i></p> <p><i>Speakers:</i></p> <p><i>Financial Consultant/Expert – <b>Mr Luke Lim</b>, CEO,A.S Louken</i></p> <p><i>Government Official/Legal - <b>Ms Amy Roy</b>, General Counsel, Boost Juice Bars Australia</i></p> <p><i>Industry – <b>Mr Ricky Chew</b>, CEO, Fish &amp; Co</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<b>Session 5: Education and Media Services</b>	

1030	<p><i>Moderator: <b>Mr Tran Viet Hung</b>, Director-General, National Office of Intellectual Property of Vietnam</i></p> <p><i>Speakers:</i></p> <p><i>Financial Consultant /Expert – <b>Dr Royce Yuen</b>, Chairman, The Association of Accredited Advertising Agencies of Hong Kong</i></p> <p><i>Government Official/Legal – <b>Ms Joyce Tan</b>, Managing Director, Joyce A. Tan &amp; Partners</i></p> <p><i>Industry – <b>Ms Donna Lee</b>, Founder &amp; CEO, Kindergolf</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<b>Session 6: IT/Engineering Services Industry</b>	
1030	<p><i>Moderator: <b>Dr Jorge de Paula Costa Avila</b>, President, National Institute of Industrial Property, Brazil</i></p> <p><i>Speakers:</i></p> <p><i>Financial Consultant /Expert – <b>Dr Han Byung Joon</b>, Executive Vice President &amp; Chief Technology Officer, STATS ChipPAC Ltd</i></p> <p><i>Government Official/Legal – <b>Mr Walter Lee</b>, Senior Vice President and FellowExploit-Technologies, Agency for Science, Technology and Research (A*STAR)Head, Technology Transfer Network (TTN) Secretariat</i></p> <p><i>Industry – <b>Mr Kevin Theseira</b>, Managing Counsel, Legal Department, Agilent Technologies</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1215	<p>Networking Lunch *</p> <p>Share your thoughts with like-minded people on IP issues at this session for close-up networking with eminent IP professionals and practitioners.</p>
<b>Concurrent Sessions 7-9</b>	
<p><b>Session 7: Monetizing Intellectual Property</b></p> <p>IP assets are increasingly being recognised as key business assets. Furthermore, there is a desire on part of most IP owners to turn them from being a cost to a profit centre. As such, IP-backed securitization is being viewed with much optimism in recent years. This session discusses the potential and unique challenges that IP securitization presents to companies.</p>	
1345	<p><b>IP – An Increasingly Important Asset Class</b></p> <ul style="list-style-type: none"> <li>-Pros &amp; cons of using IP to back monetization</li> <li>-Is valuation for securitization different?</li> <li>-Are all forms of IP suitable for monetization?</li> </ul>

	<p><i>Moderator: <b>Ms Mary Carman</b>, Commissioner of Patents, Registrar of Trade-marks and Chief Executive Officer, Canadian Intellectual Property Office</i></p> <p><i>Speakers:</i></p> <p><i>Mr <b>Keoy Soo Earn</b>, Partner, Deloitte &amp; Touche, Singapore</i></p> <p><i>Professor Gordon Smith, Chairman, AUS Inc</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1515	Afternoon Tea
1530	<p><b>IP Financing – The new Elixir?</b></p> <ul style="list-style-type: none"> <li>-The attractions of IP Financing</li> <li>-IP Financing Options</li> <li>-Using IP Assets to finance growing Enterprises</li> </ul> <p><i>Moderator: <b>Mr James Nurton</b>, Managing Editor, Managing Intellectual Property (MIP)</i></p> <p><i>Speaker(s):</i></p> <p><i><b>Prof. Dr. Alexander J. Wurzer</b>, Director, Institute for Intellectual Property Management, Steinbeis University, Berlin</i></p> <p><i><b>Dr. Miklós Bendzsel</b>, President, Hungarian Patent Office</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<p><b>Session 8: IP Management</b></p> <p>To derive maximum benefit from IP assets in terms of revenue, reputation and market share, it is crucial to have dynamic portfolio management strategies and robust systems in place.</p>	
1345	<p><b>Dynamic Portfolio Management Strategies for Today's Businesses</b></p> <ul style="list-style-type: none"> <li>-A balanced portfolio management strategy - Legal, Business and Technology priorities</li> <li>-Forecasting future trends and adapting accordingly</li> <li>-Building competitive advantage through IP Rights</li> </ul> <p><i>Moderator: <b>Dr. Kajit Sukhum</b>, Assistant Director General, Department of Intellectual Property, Thailand</i></p> <p><i>Speakers:</i></p> <p><i><b>Dr Ian Heath</b>, Managing Consultant, FIRST THOUGHTS (Former Director-General, IP Australia)</i></p> <p><i><b>Mr Horacio Gutiérrez</b>, Vice President &amp; Deputy General Counsel, Intellectual Property &amp; Licensing, Microsoft</i></p>

	<p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1515	Afternoon Tea
1530	<p><b>IP Licensing Due Diligence That Creates Value</b></p> <ul style="list-style-type: none"> <li>-What to look for when presented with a licensing opportunity?</li> <li>-Evaluating potential risks associated with the licensee and their business</li> <li>-Aligning licensing with overall corporate strategy</li> </ul> <p>Moderator: Mr Jeffrey Chan, Deputy Solicitor-General, Attorney General's Chambers, Singapore</p> <p>Speakers:</p> <p><b>Mr Adam Liberman</b>, President, Licensing Executive Society International (LESI)</p> <p><b>Dr Andrew Serafini</b>, Partner, Fenwick &amp; West LLP</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<p><b>Session 9: IP in the Age of Open Source and Open Innovation</b></p> <p>Do IP rights contradict the spirit of Open Source and Open Innovation in promoting innovation and scientific advancement? How can IP rights complement this movement?</p>	
1345	<p><b>Balancing IP Protection and Open Innovation</b></p> <ul style="list-style-type: none"> <li>-IP Protection an obstacle for Open Innovation?</li> <li>-Balancing the needs of competitiveness with cooperation</li> <li>-IP Protection and industrial standards</li> </ul> <p>Moderator: <b>Dr Jung-Sik Koh</b>, Commissioner, Korean Intellectual Property Office</p> <p>Speakers:</p> <p><b>Professor Lim Yee Fen</b>, National University of Singapore (NUS)</p> <p><b>Dr Stanley Lai</b>, Partner &amp; Head of IP/IT Dept, Allen &amp; Gledhill</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1515	Afternoon Tea
1530	<p><b>Patent Commons – A possible platform for business leverage?</b></p> <ul style="list-style-type: none"> <li>-Navigating the Patent Commons – Types of Commitments by Contributors</li> <li>-Opportunities in Open Software and Open Standards</li> <li>-Protecting Open Software and Open Standards through Patent Commons</li> </ul> <p>Moderator: <b>Mr Jorge Amigo</b>, Director General, Mexican Institute of Industrial Property</p> <p>Speaker(s):</p>

	<p><b>Dr Cynthia Cannady</b>, Principal &amp; Founder, IPSEVA, USA</p> <p>Associate Professor <b>Susanna Leong</b>, National University of Singapore</p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
<p><b>Session 10:</b></p> <p><b>Roundtable Discussion – Business and IP in 2015: Inseparable Friends or Distant Bedfellows?</b></p>	
1715	<p>This final session looks at IP alongside regional trade developments, global financial issues and government policies, which may affect the success of businesses in the future. It will focus on some of the world's most important regions, including:</p> <ul style="list-style-type: none"> <li>-The North American landscape in five years' time</li> <li>-The Latin American landscape in five years' time</li> <li>-The East Asian landscape in five years' time</li> <li>-The ASEAN landscape in five years' time</li> </ul> <p><i>Moderator: Ambassador <b>Ong Keng Yong</b>, Ambassador-at-Large, Ministry of Foreign Affairs, Singapore</i></p> <p><i>Speakers:</i></p> <p><i>Mr <b>Tian Lipu</b>, Commissioner, State Intellectual Property Office (SIPO), China</i></p> <p><i>Mr <b>Adrian Cristobal</b>, Director General, Intellectual Property Office of Philippines</i></p> <p><i>Mr <b>Jorge Amigo</b>, Director General, Mexican Institute of Industrial Property</i></p> <p><i>Ms <b>Mary Carman</b>, Commissioner of Patents, Registrar of Trade-marks and Chief Executive Officer, Canadian Intellectual Property Office</i></p> <p>Panel dialogue</p> <p>Moderator &amp; All Speakers</p>
1845	End of Day 2



## 附件三 會議紀錄初稿

(FIRST DRAFT)

APEC Intellectual Property Rights Experts' Group  
Riverfront Ballroom,  
Grand Copthorne Waterfront Hotel, Singapore

### **Meeting notes of the 29<sup>th</sup> IPEG Meeting**

July 28<sup>th</sup>, 2009      9:00 -18:00

July 29<sup>th</sup>, 2009      10:00 -18:00

### **Introduction**

1. The 29th meeting of the APEC Intellectual Property Rights Experts' Group (IPEG XXIX) was held on 28-29 July 2009 at the Riverfront Ballroom, Grand Copthorne Waterfront Hotel, Singapore.

2. The Meeting was attended by representatives from the following APEC Member economies: Australia, Brunei, Canada, Chile, China, Hong Kong, China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, the U.S. and Viet Nam. The Chair of the IPEG, the Program Director of IPEG, the Assistant to the IPEG Chair also attended the meeting. A representative from the APEC Business Advisory Council also attended the 29<sup>th</sup> IPEG Meeting.

### **Agenda Item 1: Opening**

3. The Chair opened the 29th IPEG Meeting and welcomed all Members and guests back to Singapore.

### **Agenda Item 2: Report on Previous Activity of IPEG**

#### **(2a) APEC**

Update / Information from APEC Secretariat

4. The APEC Secretariat thanked the IPEG Chair and his assistant for their support in the preparation for the Meeting and thanked Singapore for their excellent organisation of the “Trading Ideas 2009” Symposium, which would take place after the IPEG Plenary Meeting. The Secretariat informed Members that the APEC Secretariat Report on APEC Development (2009/SOM2/IPEG/002) had not been printed out for Members but made available on IPEG area of AIMP. The report would also be posted to the Meeting Document Database after the meeting.

5. APEC Project Management Unit Team Leader, Ms. Evelyn Loh, gave a brief presentation on the latest updates of the Project Management Reform Agenda, and its implications for Project Approval Session Three to be carried out by the Budget Management Committee (BMC). Ms. Loh also put forward a Quality Criteria document for Assessing APEC Project Proposals for Members to consider.

#### **(2b) TILF**

#### Trading Ideas 2009 (CTI04/2009T) and “From Mind to Market – The Highs and Lows of Technology Transfer” Seminar (IPEG02/2009S)

6. Singapore gave a brief summary of “From Mind to Market – The Highs and Lows of Technology Transfer” Seminar, held in February 2009 together with a preview of “Trading Ideas 2009”, scheduled immediately after the Plenary Meeting. The Chair thanked Singapore for the excellent organisation and preparation for these well-received events.

#### Conducting Effective Intellectual Property Rights Public Education & Awareness Campaigns for SMEs (CTI06/2008T)

7. Australia concluded the joint project on IPR public education and awareness by Australia, Hong Kong, China and Singapore, for which the Seminar had been the final phase of the joint project. Australia thanked Members for their active participation. All materials from the Seminar would be made available on the website of the IPEG Public Education and Awareness Resources.

8. Hong Kong, China thanked Australia and Singapore for this

tripartite collaboration, as well as the active participation of Economies in the three projects. The final deliverable of the joint project, IPR Resource Tool for SMEs, would be available by the end of this year.

APEC Project for Training Intellectual Property Rights Information Facilitators Using e-Learning Content – IP Xpedite (CTI21/2009T)

9. Korea reported the progress of the Project IP Xpedite, which was well-received. Australia, Brunei, China and Chinese Taipei thanked Korea for this Project, and commented that the response had been overwhelming.

10. Malaysia and Viet Nam thanked Korea for the Project, and brought out some technical issues to Korea on this e-learning platform. Korea would contact Malaysia and Viet Nam to offer necessary technical assistance.

11. Philippines thanked Korea and would like to know the sustainability of the Project. Korea replied all materials of the Project would be available to the public, which would facilitate the dissemination of IP knowledge. The Chair also thanked Korea.

**(2c) Self-funded**

APEC Colloquium for Public Prosecutors and the Judiciary on Intellectual Property Enforcement (IEPG03/2009S) & APEC Workshop on IP Border Enforcement for Customs Officials (IPEG04/2009S)

12. The U.S. gave a brief oral update on two Projects. Materials for the two Projects would be available on the website of the USPTO Academy, APEC Secretariat and ASEAN Secretariat.

13. Australia, Japan, Mexico and Peru thanked the U.S. for these capacity building and experience sharing activities for the APEC Economies. The Chair thanked the U.S. for their generosity in sponsoring both Projects.

**Agenda item 3: Interactions with CTI**

14. The CTI Chair, Ms. Elizabeth Chelliah, attended the Meeting and gave an oral update on the FTA/RTA and the interaction between APEC and ASEAN. She also noted that supply chain connectivity remained an important topic in CTI. CTI Chair also noted that it was her last term as CTI Chair.

15. The Chair thanked the CTI Chair for her comprehensive overview of the CTI's work. He pointed out to the CTI Chair the importance of having representatives from customs authorities in the IPEG Meeting.

#### **(2d) Other Matters**

There were no discussions or interventions on this item.

#### **Agenda item 4: CTI priorities**

##### **(4a) Support for WTO – deepening the dialogue on intellectual property policy and protection of emerging fields in IPR**

###### **(4a-i) Protection for geographical indications**

###### Report on the Geographical Indications Regimes in APEC Economies

16. Mexico gave a brief update on the development of the Report. Four Economies had already responded. Mexico and the Chair encouraged Members to respond the Report.

###### **(4a-ii) Protection of genetic resources (GR), traditional knowledge (TK) and folklore**

###### Protection of Genetic Resources, Traditional Knowledge and Folklore

17. Peru gave an oral update on the initiative on developing a living document summarising the protection of genetic resources, traditional knowledge and folklore, and invited Members to provide

comments.

**(4a-iii) Protection of Plant Variety Protection System**

There were no discussions or interventions on this item.

**(4b) Support for APEC Investment Facilitation Action Plan**

**Utilising New technology to Improve Investment Environment**

**4(b-i) Providing Adequate and Effective Protection of Technology and Related Intellectual Property Rights**

There were no discussions or interventions on this item.

**(4b-ii) Developing Strategies to Meet Intellectual Property Needs of SMEs**

Making IPRs Work for SMEs – Report of the IPR Enforcement Expert Group to the European Commission

18. The Chair put forward an information paper about the European Commission Report, kindly summarized and made available by the Scottish Intellectual Asset Centre, for Members' information.

**(4c) Trade and investment Facilitation**

**(4c-i) APEC Anti-counterfeiting and piracy initiative**

Best Practice Paper on Innovative Techniques for IPR Border Enforcement

19. The U.S. gave a brief oral presentation on the Paper and invited Members to give updates to the Paper.

20. China thanked the U.S. for their efforts and reiterated China's concern on the title of the Paper, where the phrase "Best

Practice” used in the title might leave an impression of norm-setting. The Chair appreciated the remark made by China, and emphasised the importance of working on the basis of IPEG’s previous achievements and agreements.

21. To clarify the purpose of the Paper, China prompted Members to consider re-naming the Paper as an “Experience Sharing Paper”. The Chair suggested Members should avoid any paper or initiative that would leave an impression of setting norms and standards in future. It was understood the current Paper was experience-sharing in nature and the existing title would remain unchanged since it had already been endorsed by the AMM in 2007. .

22. The U.S. encouraged Members to provide feedback on the Paper, and noted that the purpose of the Paper was elaborated in the second paragraph, which stressed that the Paper was intended to give an opportunity to Members to share experience, without suggesting any particular techniques for other Economies to adopt.

23. Thailand appreciated the effort of the U.S. in updating the Paper, and pointed out that the U.S. had an excellent computer programme for use in IPR border enforcement. A representative from the U.S. Customs and Border Protection would introduce the computer programme in the coming Agenda Item on IPR Enforcement.

#### **(4c-ii) APEC IPR Service Centre**

##### Progress of Establishment of IPR Centres

24. Japan gave a brief update on their initiative on up-dating information on the IPR Service Centres. The Secretariat thanked Japan for its continuous effort on maintaining the IPR Service Centres and encouraged Members to inform Japan of any relevant updates.

25. The U.S. asked what proportion of IPR service centre

handled enquiries were answered manually and what proportion was handled automatically. Japan would supply relevant statistics to the U.S. after the Meeting. The Chair appreciated the kind effort of Japan.

**(4c-iii) Enforcement related activities**

U.S. Customs and Border Protection's Enforcement Efforts Related to Intellectual Property Rights

26. A representative from the U.S. Customs and Border Protection gave a brief introduction to the enforcement efforts in relation to intellectual property rights protection. The Chair thanked the U.S. for the comprehensive presentation and asked which control points witnessed the largest number of seizures of goods related to the IPR infringements. The U.S. responded the control points on the West Coast had the largest number of seizures.

27. Thailand thanked the U.S. and noted that during a previous WCO Meeting the U.S. had demonstrated a computer programme, which calculated the risk factors associated with a particular shipment and boosted effectiveness in identifying counterfeit shipments. Thailand wondered if this computer programme could be made available to Members.

28. Thailand would also like to know the difference between the existing trademark registration system provided by IP offices and the trademark recordation system provided by the Customs; as well as the ex-officio powers currently enjoyed by the U.S. Customs and Border Protection.

29. The U.S. responded that the request to share the computer software, Pro-Logic, among Members would be relayed to their Headquarters. The U.S. explained the trademark recordation system provided rights-owners better protection for deterring counterfeit shipments, while the registration system was a vital in establishing legal protection of trade marks. The U.S. also noted there were differences on the ex-officio powers enjoyed by customs

authorities across the Asia Pacific Region.

30. The Chair asked if a foreign trademark owner could register his trademark in the online recordation system of the U.S. Customs and Border Protection. The U.S. replied all foreign trademark owners were able to register trademarks in the online recordation system. The Chair suggested that Members informed their local enterprises of this trademark recordation system.

31. Thailand asked what fees were charged for using the trademark recordation system. The U.S. said that the fees should be nominal and would supply the exact amount after the Meeting.

32. The Chair noted that under the current U.S. copyright provisions, copyright owners should provide copies of their publications to the Library of Congress. He asked the difference between the trademark recordation system and the system for registering copyright with U.S. Library of Congress. He asked whether similar recordation arrangements were required for copyright works. The U.S. responded further information would be available after the Meeting. Thailand and the Chair thanked the presentation on the trademark recordation system of the U.S. Customs and Border Protection.

33. Indonesia noted that the TRIPS Agreement played an important role in IPR-related border enforcement, and wondered why only trademark and copyright infringing activities on a commercial scale were currently covered, and hence required to be criminalised according the TRIPS Agreement. The Chair appreciated the comments made by Indonesia and pointed out the historical backgrounds of the differences in protection of different intellectual property rights across world economies. The Chair pinpointed that the TRIPS Agreement provided for ex-officio action against trademark and copyright infringement on a commercial scale. Economies were free to extend their existing ex-officio authority to combat infringement of or IP rights if they deemed it necessary to do so.



## Japan Customs Report on IPR Border Enforcement

34. A representative from Japan Customs gave a brief presentation on its IPR border enforcement. The Chair thanked Japan and would like to know if the existing forum with Korea and China would also invite participation of other Economies. Japan replied the forum would continue its existing format.

35. Chinese Taipei thanked Japan for the presentation and asked about the annual number of inspections performed for suspected patent infringements and who carried out the inspections. Japan replied in 2008, there were 70,000 inspections performed for suspected patent infringements; before the inspections were carried, Japan Customs would consult experts for their opinion first. Indonesia also thanked Japan for the presentation, and her efforts in combating patent infringement.

36. Mexico also appreciated the effort of Japan Customs in combating patent infringement, which had exceeded the enforcement requirements as specified in the TRIPS Agreement. Furthermore, despite not having ex-officio powers, the enforcement authority in Mexico worked closely with the private sector and rights-owners on gathering intelligence on IPR-infringements.

37. Philippines echoed the views of Indonesia and Mexico, and noted that domestic customs laws could supplement the TRIPS Agreement and provide a more comprehensive protection against IPR-infringement. On the other hand, Philippines would like to know how Japan Customs would screen her export goods against IPR-infringements. Japan replied that both import and export were subject to similar screening and inspection procedures.

38. The Chair acknowledged that the coverage of the TRIPS Agreement was limited and encouraged more experience-sharing amongst Members on the latest IPR-protection and enforcement strategies. Thailand suggested patent infringement could be criminalised. The Chair encouraged Members to have a general discussion on customs enforcement.

### Hong Kong Customs' Perspective – Strategic Partnership with the IPR Industry

39. A representative from Hong Kong Customs gave a brief presentation on the partnership between Hong Kong Customs and the local IPR industry in combating IPR-infringement. The Chair thanked Hong Kong, China and asked if the partnership covered areas other than trademark and copyright. Hong Kong, China replied only trademark and copyright infringements were criminal offences in Hong Kong, China.

40. Japan thanked Hong Kong, China and would like learn how the Hong Kong Brand Protection Alliance (HKBPA) partnered with the Hong Kong Customs. Hong Kong, China replied that since there was no pre-recording system in Hong Kong, China, HKBPA maintained a list of rights-owners and provided intelligence on suspected infringing behaviour in trade fairs and exhibitions to Hong Kong Customs.

41. The Chair followed up the question and asked what kind of assistance the HKBPA's lawyers would provide to the Hong Kong Customs. Hong Kong, China replied the lawyers from the HKBPA would prepare necessary documents, such as the registration certificates of trademarks, to facilitate the operations of the Hong Kong Customs.

42. Chinese Taipei thanked Hong Kong, China for the presentation and asked if this partnership with local IPR industries targeted also the online infringement. Chinese Taipei would also like to know if there were rights-owners who refused to enforce their IPRs even if there were sufficient evidence; and if there was any abuse of the existing reporting mechanism for the online auction websites. Hong Kong, China replied there was a dedicated team to combat online infringements. And from experiences of Hong Kong, China, most rights-owners were willing to provide assistance in identifying suspected goods. Hong Kong, China replied there was no evidence of the abuse of the reporting mechanism for the online

auction websites.

43. Indonesia asked if Hong Kong Customs had any measures to monitor export goods. Hong Kong, China replied that all control points would hold all suspected infringing goods, regardless of import or export. Furthermore, Hong Kong Customs appreciated any intelligence from the rights-owners for both import and export goods. The Chair supplemented that according to a 2008 UNCTAD Report, Hong Kong, China was an important re-exporter of creative products.

44. Philippines added a final suggestion that Economies could share intelligence of the international movements of suspected infringing goods.

#### China Customs on IPR Border Enforcement

45. A representative from the China Customs gave a presentation on the border enforcement strategies relating to IPR protection. The Chair thanked China for the comprehensive overview of the efforts of China Customs on the IPR protection.

46. Mexico appreciated the presentation and asked the inspection rate for export containers performed by the China Customs. Furthermore, Mexico would like to know the issue of legality of performing inspection and the international cooperation in sharing intelligence to combat IP infringements. China replied the exact inspection rate could be provided after the Meeting, while the China Customs performed the inspections based on the ex-officio authority. Under the US-China Memorandum of Understanding and Korea-Japan-China Fake Zero Project, there were mechanisms to allow Economies to exchange intelligence for combating IP infringements.

47. Indonesia thanked China for the presentation, and suggested that international buyers should place orders only for genuine goods. The Chair reckoned that in a long run, all purchase orders placed should only be for genuine goods. China replied that

many factories in China produced goods according to the orders of purchase. China Customs had tried his best to address the problem.

48. Chinese Taipei thanked China for the presentation. Chinese Taipei suggested that postal channel had become one of the major ways to smuggle infringing goods. The Chair echoed this view, adding that with the proliferation of e-commerce in small items – particularly fake medicines – use of postal services for smuggling was a significant issue worldwide..

49. To conclude, the Chair thanked customs authorities for their active participation in the IPEG meeting. With no intention of norm-setting, the Chair encouraged Members to give more experience-sharing presentations on “TRIPS-PLUS” enforcement efforts. In discussing the enforcement efforts against patent infringement, the Chair encouraged Members to take the potential cost that might be incurred in cross-border trade into consideration.

Initiative on Addressing the Illegal Use of Recording Devices to Record or Transmit Movies off the Screen

50. The U.S. thanked the co-sponsors of the Initiative. To allow more time for discussion, the U.S. did not propose any text for inclusion into the Statement of the Chair of the Meeting of APEC Ministers Responsible for Trade.

51. The U.S. reiterated that IPEG was an appropriate forum to discuss and examine the Initiative, while the U.S. aimed at proposing a text for inclusion into the Joint Declaration of the APEC Ministerial Meeting with possible inter-sessional discussion and then endorsement.

52. The U.S. reported that they had addressed all the preliminary responses from Members and acknowledged that the availability of DVD-burning devices and the high penetration of the broadband Internet also contributed to the proliferation of the unauthorised camcording.

53. The U.S. said that the proposed text was general in describing the situation of the unauthorised camcording without any concrete recommendations. The U.S. would appreciate to address the issue through diverse approaches.

54. The U.S. commented that the rapid development of information and communication technology contributed to the proliferation of unauthorised camcording activities. With the assistance of digital watermark technology, it had been found that 80-90% of the pirated DVD or pirated copies on the Internet originated from unauthorised camcording activities. As the date of movie screenings differed between Economies, there was evidence that the pirated copies of the latest movies could be transferred from one Economy to another within 24 hours.

55. Unauthorised camcording activities could easily migrate from one Economy to another. After the U.S. had introduced a new provision to combat unauthorised camcording in cinemas on the Federal level, it was found that the authorised camcording activities had moved from the U.S. to Canada. Consequently, the U.S. called on Members to make joint efforts in combating unauthorised camcording in the APEC Region.

56. The U.S. acknowledged that the current copyright provisions, based on the TRIPS Agreement, offered some protection against unauthorised camcording. Given the devastating effect of unauthorised camcording across the movie industries on a multinational level, the U.S. noted that a dedicated provision would facilitate Economies in combating the unauthorised camcording activities.

57. The U.S. explained that the Initiative had adopted a multidimensional approach to combat the unauthorised camcording, including suggestions on public education programmes, better enforcement and dedicated legislative provisions.

58. The Chair thanked the U.S. for its explanation. The Chair

recognised that Member Economies could choose to adopt different approaches to combat the unauthorised camcording since, APEC operated on the basis of non-binding, voluntary commitments.

59. China thanked the U.S. for the introduction to the Initiative. China would like to have more discussion on the Initiative inter-sessionally, such as on the definition of unauthorised camcording, before making any proposal to the APEC Ministerial Meeting. China noted that the issue of unauthorised camcording was a multidisciplinary topic where IPEG alone would be not able to resolve the issue in full. As such China advised the U.S. to take a step-by-step approach to address the issue.

60. Russia thanked the U.S. for the presentation and asked for more time to study the issue from different perspectives before concluding any recommendation to Ministers.

61. The U.S. supplemented that unauthorised camcording was defined as “the unauthorised shooting and transmitting a copyrighted work off the screen in cinemas”.

62. Canada thanked the U.S. for the presentation and had offered to be a co-sponsor of the Initiative. Canada appreciated a further discussion on the Initiative and shared that Canada had legislation in place to combat the unauthorised camcording. In June 2007, a provision had been passed in Canada to make unauthorised camcording inside cinemas a criminal offence. The provision was aimed at fighting against pirated copies of movies. There had been three convictions since the legislation came into effect.

63. Hong Kong, China thanked the U.S. and had offered to be a co-sponsor of the Initiative. Hong Kong, China had a dedicated provision for combating bootlegging of movies inside cinemas, where the unauthorised possession of recording devices inside the premise of cinemas was made illegal. Hong Kong, China stressed that both effective public education and consistent enforcement were essential. Hong Kong, China was in a close partnership with

rights-owners and cinema operators in conducting public education. Hong Kong Customs conducted over 1,100 patrols in cinemas in 2008.

64. Japan thanked the U.S. and offered to be a co-sponsor of the Initiative. Japan had a specific legislation in place since 2007. Japan was convinced that specific legislation was effective in deterring unauthorised camcording activities.

65. Mexico agreed and regarded specific legislation as an effective way to address the issue of unauthorised camcording. Mexico was trying to revise some of its relevant legislation. Mexico would appreciate more time for Members to discuss before proposing any text to Ministers.

66. Philippines thanked the U.S. and shared that the relevant legislation were under revision so as specifically to combat the unauthorised camcording activities. Chinese Taipei reckoned the proposed text to the Ministers had addressed all concerns raised by Chinese Taipei, and appreciated the multidimensional approach adopted by the U.S.

67. Australia welcomed the Initiative and reckoned that damage of the unauthorised camcording to the film industry was significant. Australia thought that general copyright legislation could be enough to deter unauthorised camcording, as long as copyright infringement was a criminal offence. Chile thanked the U.S. and appreciated a further discussion on the Initiative before recommending a text to Ministers.

68. The Chair summarised that unauthorised camcording was recognised as a challenge in a number of Economies. Some of them had already taken action to tackle the challenge. The Chair also summarised that there was more than one approach to address the challenge and encouraged Members to identify effective examples of practices to combat unauthorised camcording.

69. The U.S. reported there were media coverage of the

unauthorised camcording in the National Geographic magazine, a television programme broadcast on the Australian Channel 7, and a book published by an American non-profit institute, RAND Corporation.

70. The Chair thanked the U.S. for the information on media coverage and acknowledged the concerns of China. The Chair encouraged the U.S. to discuss the proposed text with Members in detail.

71. China thought that progress of the Initiative was too fast and would appreciate more time for discussion. Indonesia echoed the views of Mexico and China requesting more time to discuss the proposed text before recommending to the Ministers. The Chair thought that the U.S. had been sincere in consulting Members fully and encouraged Members to discuss actively with the U.S. Japan reiterated her support to the Initiative.

72. The U.S. appreciated Members' active discussion on the Initiative and acknowledged the importance of having a further discussion. The U.S. proposed to recommend a text to the Ministers, which acknowledged the situation of the unauthorised camcording without suggesting specific remedies.

28. In particular, the U.S. would like to understand the view of China that IPEG alone was not able to discuss the Initiative in full. China explained the definition of unauthorised camcording was unclear while the issue of copyright was administrated under more than one ministry in many Economies.

74. The Chair thanked Members' for their active discussion and encouraged Members to pocket the points of consensus reached so far and develop them during the inter-sessional discussion.

#### **(4c-iv) Exchange of information concerning IPR Measures/ Policies**

Final Report for APEC IPEG Survey on Copyright Limitations and



## Exceptions

75. Chile gave a brief introduction to the Final Report and thanked Members' for their comments and input during drafting of the Final Report. The Chair thanked Chile for their great effort on summarising the copyright limitations and exceptions in various Economies and regarded the Final Report as being of great value to external parties, such as academia. The Chair recommended Members to endorse the Final Report to enable the public access.

China thanked Chile and supported the Chair's recommendation.

76. Chile noted that copyright legislations were changing according to the social development, while the Final Report was a snapshot of the current development in the copyright limitations and exceptions. The U.S. suggested Chile to put a time-stamp on the Final Report, with an intention to maintain the Report as a living document.

77. Thailand agreed to endorse the Final Report despite difficulties in finalizing translation into Thai for internal consultation. Chile agreed to put a time-stamp on the Final Report. IPEG endorsed the Final Report for APEC IPEG Survey on Copyright Limitations and Exceptions.

## Consultation on Copyright Legislation in Canada

78. Canada noted that a new round of consultation on its copyright legislation had commenced in July 2009, with an intention to revise the current legislation. Members could visit the website below to see the development of the consultation:

<http://www.copyrightconsultation.ca/>

## Survey on Prevention of Abuse of IP Rights

79. China gave a brief update on the development of the Survey on Prevention of Abuse of IP Rights. The Chair thanked China for the update.

80. The U.S. thanked China and invited China to highlight any changes made to the Paper and the proposed Survey. China explained the introduction to the Survey was substantiated while the format of the Survey had been re-organised. The expression of the questions in the Survey had also been revised.

81. Russia thanked China for their efforts and regarded the issue of abuse of IP Rights was an important topic. Chinese Taipei supported the Survey in principle, since the IPR system should serve the interests of the general public. Chinese Taipei regarded the data collection exercise of the Survey as an important step. Peru also supported the Survey.

82. The U.S. suggested that the definition of “abuse of IP right”’s was not clear and the U.S. was not able to respond to the Survey. Furthermore, the U.S. explained that competition law and the IPR system were two different concepts and the U.S. was not able to endorse the Survey.

83. Japan echoed the view of the U.S. and called for more discussion on the Survey. Mexico had some concerns over the Survey since the idea of “IP right abuse” was not distinguished from competition law in the Survey.

84. Viet Nam supported the Survey. Chile suggested the issue of the abuse of IP right should be discussed in the context of Article 8. of the TRIPS Agreement

85. China thanked Peru, Russia, Chinese Taipei and Viet Nam for their support; and thanked Japan, Mexico and the U.S. for their questions and concerns. China thought that the Survey itself would allow Members to gain a better understanding of the issue of the IP rights abuse, while competition and monopoly law could be discussed together with the IP rights.

86. Thailand suggested there were some cases in the U.K. discussing competition and IPR abuse. Philippines suggested that

it was vital to establish a definition of the “IPR abuse” and the items in the Survey should be revised. China reckoned different stakeholders would have different understandings of IPR abuse.

87. The Chair concluded that no consensus had been reached and encouraged Members to continue the discussion on this Agenda Item.

#### Seminar on Practices of IPR Protection in Standardisation

88. China gave a presentation on IPR protection in standardisation. The U.S. supplemented that they had had regular communication with China on the proposed Seminar, and would like work further with China through bilateral meetings.

89. Chinese Taipei thanked China for the clear presentation and noted that the proposed Seminar had been discussed for a long time. Chinese Taipei acknowledged that the proposed Seminar did not intend to set any norm and hence would like to co-sponsor the proposed Seminar. Chile and Russia also offered to be co-sponsors of the proposed Seminar.

90. The Chair encouraged China and the U.S. to discuss the proposed Seminar bilaterally. The U.S. proposed to discuss the proposed Seminar inter-sessionally with China, and invited the Secretariat to explain the project proposal submission procedures. The Chair replied that all project proposals endorsed by IPEG should be submitted to CTI for consideration by 19 August 2009.

91. China encouraged the U.S. to actively participate in the discussion with agencies and reiterated that the proposed Seminar had no norm-setting intention.

#### APEC IPEG Survey on Opposition Proceedings

92. The U.S. gave an oral update on the Survey, for which the data collection exercise had completed by June 2009. The U.S. would circulate a draft summary of the completed Survey by

September 2009 for comments.

93. Thailand had sent a request to the U.S. for explaining the definitions of some terms used in the Survey. The U.S. would check the request and provide the definitions as soon as possible.

#### APEC IPEG Survey on Certification and Collective Marks

94. The U.S. gave an oral update on the Survey, to which Members were invited to respond by September 2009. After the data collection exercise, the U.S. would circulate a draft summary for comments.

95. Thailand requested to extend the consultation period of the Survey items for a week, as they would like to comment on the Survey items. The U.S. replied that the consultation period had passed, and some Economies had already responded to the Survey. The Chair encouraged Thailand and the U.S. to work together on a best-effort approach.

96. Thailand would like to suggest additional items into the Survey without changing the existing ones. The U.S. agreed to add additional items into the Survey. The Chair thanked the U.S. for its flexibility.

#### Australian Copyright Cases and Developments

97. Australia gave an oral update on a court judgement on copyright in compilations, such a timetable of television programmes, and a ruling made by a court in New South Wales regarding the use of copyrighted works by the Government. Australia also introduced some government reports regarding various copyright issues, such as copyright enforcement, use and re-use of the public information, copyright issues in contract laws and reporting copyright infringement in the online environment. The Chair thanked Australia for the information.

#### An Introduction to the Newly Adopted ISP Bill of Chinese Taipei

98. Chinese Taipei gave a brief presentation on the new bill for the Internet service providers. The Chair thanked Chinese Taipei for their follow-up on the topic.

99. The U.S. thanked Chinese Taipei and **praised the ISP bill a very progressive legislation. Besides, The U.S.** asked if the enforcement of the “graduated response” provision would be incorporated into the implementation regulation. Chinese Taipei replied that due to the implementation regulation authorized by the ISP bill has been limited to the details of the “notice and take down” mechanism, the “graduated response” would be fulfilled otherwise by the consensus reached by the ISPs, copyright holders and subscribers. And TIPO would provide assistance in the negotiation between the parties.

100. Japan thanked Chinese Taipei and asked about why only the Internet Access Provider(IAP)s are to apply the Notice-and-Notice System and how could TIPO provide assistance in the abovementioned agreement. Chinese Taipei explained that IAPs provide only access to the Internet and hence only the Notice-and-Notice System was applied to IAPs. The other 3 categories of ISPs were required to join the Notice-and -Take-down System, whereby ISPs would take down all infringing contents from the server. As to the implementation module of the “graduated response” provision, the copyright holders and the ISPs both rely heavily on TIPO’s opinion and have expressed their strong will to have TIPO’s assistance. Thus Chinese Taipei would actively engage IAPs and ISPs during the consultation and offer assistance to them.

#### Recent Development in Copyright Policy of Korea

101. Korea gave a brief oral update on the latest development of the copyright policies in Korea. The Chair thanked Korea and encouraged Members to communicate with Korea on the copyright developments after the Meeting.

#### New IP Legislation in Viet Nam

102. Viet Nam introduced the developments in their IP legislation. After the joining the WTO in 2007, Viet Nam had been modernising its legal system; and in June 2009, the National Assembly of Viet Nam passed the new IP legislation. The new IP legislations were up to international standards and covered a wide range of IPRs. The penalties for IP infringements had been increased while the definitions of IP infringements used by the criminal courts were now on par with WTO standards.

103. The Chair thanked and encouraged Viet Nam to submit a written report on these developments. The U.S. appreciated the efforts made by Viet Nam as the U.S. had been working closely with Viet Nam on modernising the legal frameworks and the enforcement capacity.

**(4c-v) Responding to cable and encrypted satellite signal theft**

APEC Workshop on Effective Implementation of Best Practices  
Concerning Cable and Satellite Signal Piracy and Enforcement

104. The U.S. gave a brief oral update on the Workshop. The Workshop had been endorsed by TELWG, which provided an opportunity for various stakeholders to share experience and opinions. The Workshop was now scheduled on 14-15 December 2009 in Jakarta, Indonesia. The Chair thanked the U.S. and encouraged Members to participate in the Workshop and understand the issue of cable and satellite piracy.

105. China suggested that the title of the Workshop should be changed to “Experience Sharing” instead of “Best Practices”; and noted that “copyright theft” and “copyright piracy” were used interchangeably. China expressed that “theft” was a mere stealing behaviour and “piracy” was stealing assets for other commercial purposes.

106. The Chair noted the preference of “piracy” over “theft”. Indonesia regarded the scope of copyright piracy was too board. Thailand echoed the view of Indonesia and invited the U.S. to

provide speakers from the academic field at the Workshop. The Chair encouraged Members to have a more substantial discussion on the technical aspects during the Workshop.

107. China reiterated her concern over the title of the Workshop. The Chair emphasised the Workshop had already been endorsed by IPEG and appreciated any flexibility the U.S. might offer. The U.S. would consider the suggestions from China, and emphasised that representatives from all relevant disciplines would be invited to participate in the Workshop. The Chair encouraged the U.S. to address Members' concerns.

#### **(4d) Implementation of Pathfinder Initiatives**

There were no discussions or interventions on this item.

#### **(4e) Implementation of Transparency Standards**

There were no discussions or interventions on this item.

#### **(4f) Regional Trade Agreements (RTAs) / Free Trade Agreements (FTAs)**

108. Recognising RTAs/FTAs was a priority of CTI, Australia encouraged those who had not responded or wished to submit an update to do so.

### **Agenda item 5: Other Collective Actions of IPEG**

#### **(5a) Support for Easy and Prompt Acquisition of Rights**

##### **(5a-i) Establishing Internationally Harmonized IPR system**

There were no discussions or interventions on this item.

##### **(5a-ii) APEC Cooperation Initiative on Patent Acquisition Procedures**

Patent Cooperation Initiative on Patent Acquisition Procedures –  
Roadmap for Further Cooperation: Gap Analysis

109. The U.S. gave a brief oral update on the Gap Analysis. Nine Economies had responded to the Gap Analysis, which covered mainly factual aspects of the capacity and resources of each patent office. The Gap Analysis would assist Economies in identifying such capacity and resources and hence the U.S. encouraged Members to participate in the Gap Analysis. The U.S. would use the findings of the Gap Analysis to correlate with the Roadmap.

110. The Chair thanked the U.S. and encouraged Members to participate in the Gap Analysis. Thailand thanked the U.S. and noted that there were similar exercises being conducted in other organisations, such as the EU-US Gap Analysis. The U.S. reckoned that the Gap Analysis conducted in IPEG was complementary to other efforts. The IPEG Gap Analysis was a snapshot of patent offices, with an intention to share experiences.

111. Chinese Taipei thanked the U.S. TIPO had been handling patent applications in Chinese Taipei and there was a discussion on changing the status of TIPO from a government agency into a statutory trading fund. Chinese Taipei would like to know the statutory status of the IP offices in APEC Economies.

112. The Chair noted that there were many variations, ranging from a government to a private institute. Philippines shared that their IP office was a government agency operating as a trading fund. Singapore said that their IP office was self-funded organisation with a independent statutory status. Mexico said that their IP office was self-funded. Australia said that their IP office was a federal government agency on a self-funding basis.

113. The Chair concluded that there was a range of possibilities. Chinese Taipei appreciated all the information provided by Members.

More Coherence under the APEC Cooperation Initiative on Patent



## Acquisition Procedures

114. Japan gave a presentation on their initial ideas on more coherence under the APEC Cooperation Initiative on Patent Acquisition Procedures. The Chair thanked Japan and noted that the directions given by Ministers were less extensive than the proposals from Japan. The Chair expressed his impression that these initial ideas came mainly from the business community. The Chair noted that IPEG would give first priority to the directives from Ministers.

115. China noted that the format of search reports was different from Economy to Economy. China reckoned that harmonisation was important, and regarded WIPO as a better forum to work on the harmonisation of the format of search reports. China further noted that applicants from developing Economies often encountered difficulties during patent applications in the developed Economies.

116. The U.S. thanked Japan for the presentation and was glad to see the progress on the Patent Acquisition Survey. Chile promised to provide comments to Japan, and noted that Members should observe the autonomy of each Economy in the patent application process. Thailand suggested that any analysis on the formality of the patent application should also discuss the advantages and disadvantages of different approaches.

117. Japan thanked Members for their comments. Japan reiterated that the initial ideas suggested a harmonised application format for a search report on patent, instead of a harmonised search report itself. Japan had no intention of harmonising the systems of patent acquisition, nor to compare the system of patent acquisition of one Economy with another. Rather, each Economy could have its own autonomy in designing the system of patent acquisition.

118. China further expressed their concerns over difficulties encountered by the patent applicants from the developing Economies while filing a patent application in the developed Economies. The Chair encouraged China and Japan to conduct

further discussion on the Agenda Item.

#### Patent Prosecution Highway

119. Russia gave an oral presentation on the Patent Prosecution Highway. Russia shared some of their views on the Patent Cooperation Treaty, especially on recognising search reports conducted by International Search Authority and other foreign IP offices. The Patent Prosecution Highway offered an opportunity for Russia to recognise foreign search reports, and hence shorten the time for processing a patent application.

120. Russia had signed Memorandums of Understanding with Japan and Korea on the Patent Prosecution Highway, and was in discussion with some European Economies. The Chair thanked Russia for sharing their view on increasing use of the Patent Prosecution Highway.

121. China shared a similar view with Russia, where under Patent Cooperation Treaty, the long application lead time and high application fee were the major obstacles for patent applicants from developing Economies. The Chair reassured China that Japan had no intention to seek any endorsement from IPEG on the previous Agenda Item, and encouraged Members to approach Japan to further discuss the previous Agenda Item.

122. Mexico thanked Japan, Korea, Russia and the U.S. for bringing up this Agenda Item, and exchanged their views on the development of the Patent Cooperation Treaty on the international search and the preliminary examination.

123. The Chair thanked Members for their participation and encouraged inter-sessional discussion on the Agenda Item, with possible participation from ABAC.

#### **(5a-iii) Papers related to Easy and Prompt Acquisition of Rights and Protection**

### Australia's New Patent Examination Centre

124. Australia gave a brief introduction to the new Patent Examination Centre in Melbourne. Mexico and Chile asked if the Patent Examination Centre carried out only patent examination. Australia replied the Patent Examination Centre conducted only patent examinations, while the main office in Canberra carried out other functions.

### Intellectual Property Litigation Developments in Chinese Taipei

125. Judge Lin from Chinese Taipei gave a presentation in the intellectual property litigation developments. The Chair thanked Judge Lin and asked what other cases the IP Court handled. Judge Lin replied that the IP Court handled a variety of litigation, such as those relating to competition.

126. Mexico thanked Judge Lin for the presentation and asked about the "IP right validity in civil and criminal actions". For patent infringement, Judge Lin explained that patent owners could file a civil action in the IP Court for monetary compensation. On the other hand, Judge Lin noted a patent applicant could also file a case in the IP Court against the administrative procedures carried out by TIPO.

127. Mexico followed up the previous question on the criminal action against patent infringement. Judge Lin clarified that patent infringement was not criminalised and hence the IP Court did not handle criminal cases relating to any disputes in patent law.

128. Philippines asked the difference between filing a case in the District Court and IP Court. Judge Lin replied that the IP Court had technical experts to expedite the process of litigation. Philippines followed and asked the cost of filing a case in IP Court. Judge Lin replied that the cost would depend on the nature of the case, which was largely similar to the cost in ordinary courts.

129. The U.S. thanked Chinese Taipei and commented that

rights-owners would tend to file in IP Court as the court of first instance. The U.S. would like to know the capacity of the IP Court. Judge Lin replied that the statistics would be available after the Meeting, and said that the IP Court had eight judges and was already working at full capacity.

130. China shared their experience in IP litigation handled by IP Tribunals, and asked if there were any dedicated training programmes provided to IP judges. Judge Lin replied that the IP Court adopted case management procedures where evidence was requested to be submitted in advance. Furthermore, Judge Lin added that annual training courses and other overseas opportunities were provided to IP judges, while a familiarisation programme was available to new judges.

131. Indonesia shared that there was a dedicated IP court in Indonesia, and suggested a special meeting on the latest development of IP courts. Furthermore, Indonesia proposed to add a new agenda item on IP courts development in the coming IPEG Meeting. The Chair thanked Indonesia for the proposal and agreed to add a new agenda item.

#### Update on the Accelerated Examination Programme in Chinese Taipei

132. Chinese Taipei gave an oral update on the accelerated examination programme. Chinese Taipei encouraged Members to utilise the accelerated examination programme. The Chair thanked Chinese Taipei for the presentation.

### **(5b) Electronic Processing of IPR-related Procedures**

#### **(5b-i) Electronic Filing Systems**

There were no discussions or interventions on this item.

#### **(5b-ii) Dissemination of Information by Electronic Means: APEC IPEG Website**

### IMPI's New Electronic Services

133. Mexico gave a brief introduction to their newly launched electronic services. The Chair thanked Mexico and asked if the system was available in languages other than Spanish and capable of text or image search. Mexico replied that the system was in Spanish, with an intention to provide also English in future. Mexico also noted that all documents were searchable with a user-friendly interface.

## **(5c) IP Asset Management and Utilization**

### **(5c-i) IP Asset Management and Utilization**

#### APEC HRD-CBN Strategic Intellectual Asset Management for Emerging Enterprises Projects

134. Japan gave an oral introduction to the Projects and invited IPEG Members to participate in this Project endorsed by HRD-CBN. The Chair thanked Japan for the information and provided a brief description of HRD-CBN.

### **(5c-ii) Raising Public Awareness**

#### Survey on Public Awareness of Intellectual Property Right Protection 2008 & Survey on Business Attitude to Intellectual Property 2009

135. Hong Kong, China gave an oral introduction to both Surveys. The Chair thanked Hong Kong, China for the update.

#### A New Collaboration to Promote Small Business Growth in Australia

136. Australia gave an oral introduction to a new collaboration to promote small business growth. The Chair thanked Australia for the information.

### Chinese Taipei IP Protection on Campus

137. Chinese Taipei gave an oral introduction to the IP protection on campus. The Chair thanked Chinese Taipei for the effort on promoting IP awareness on campus.

138. China appreciated the “carrot-approach” adopted by Chinese Taipei and asked how Chinese Taipei evaluated its effectiveness. Chinese Taipei replied there was a complex evaluation system in place to monitor the progress and hence effectiveness of the Project. China appreciated the information.

139. Indonesia asked why the IP curricula only applied to university students. Chinese Taipei replied that the Project targeted illegal photocopying shops, which were rampant around universities. Indonesia continued to question if the copyright collective societies were responsible for collecting royalties. Chinese Taipei replied that there were copyright collective societies but their service was limited.

### **(5c-iii) Facilitation of Technology Transfer through Ensuring of IP Protection**

There were no discussions or interventions on this item.

### **(5c-iv) IP Creation, Utilization and Dissemination**

#### Support for the Creation of IP in Local Communities “IP City: from IP to Regional Wealth”

140. Mayor Il Bong HWANG, of Nam-Gu Gwangju, Korea, gave a presentation on the IP City in Korea. The Chair thanked Mayor Hwang for this interesting and innovative presentation.

141. Mexico thanked Mayor Hwang and asked how the Academy in the IP City delivered training. Korea replied the Academy had a physical establishment while the class-size was

around 400. Mexico asked Korea how to vet the patent application for subsidies. Korea replied that all patent applications were subsidised without vetting. Mexico asked if the IP City had targeted to attract any particular industries. Korea replied that the education and medical sectors were targeted.

142. Thailand thanked Mayor Hwang and asked if the Academy had collaborated with any organisations. Korea replied that the education centre of KIPO had provided assistance to the Academy. Korea would be able to provide more information on the collaboration after the Meeting.

143. Korea clarified that the presentation was the initial idea from the IP City Government for Members' information. The Chair thanked Mayor Hwang for the presentation and encouraged Members to discuss further with Mayor Hwang after the Meeting.

#### Use and Dissemination of IP "The Case of Tequila and Michoacan on Collective Marks"

144. Mexico gave a presentation on collective marks. The Chair thanked Mexico for the presentation.

145. China thanked Mexico for the presentation and asked the difference between geographic indications, appellations of origin and collective marks. Mexico explained the difference between these rights, and provided historical background of the discussion conducted in WIPO on geographic indications and appellation of origins. China further questioned if geographic indications and appellations of origin were parallel systems. Mexico emphasised that different Economies had adopted different systems.

146. Philippines shared their experience in collective marks, where small and medium enterprises had difficulty in obtaining the collective marks. Mexico shared the Mexican appellation of origin system, where 13 authorities were allowed to endorse an appellation of origin of tequila.

## **(5d) Capacity Building**

### Survey of Strategic Consideration of IPR Capacity Building in APEC Economies

147. Australia gave an oral update on the development of the “Survey of Strategic Consideration of IPR Capacity Building in APEC Economies”. Australia and China encouraged Members to participate in the Survey. Members could submit responses online or through e-mail. Australia and China would report back to Members during the coming Meeting in Japan.

148. China thanked Australia for the update and encouraged Members to participate in the Survey, which would provide a basis for future work. The Chair thanked Australia and China and noted that the project proposal from Russia suggested a similar framework of training, which made reference to the result of the Survey.

## **(5e) Strategic Development of IPEG (continuation)**

### List of Surveys in Progress in IPEG

149. The Chair invited Members to update the List of Surveys in IPEG.

### IPEG Collective Action Plan

150. The Chair invited Members to update the IPEG Collective Action Plan.

## **Agenda item 6: New Project Proposals**

### **(6a) Formation of New Quality Assessment Framework Team**

There were no discussions or interventions on this item.

### **(6b) Call for New Project Proposals**



### APEC Project on One-Village-One-Brand Seminar

151. Korea gave a presentation on the Project Proposal for an APEC Project on One-Village-One-Brand Seminar. The Chair thanked Korea for the Project Proposal and queried whether the Seminar, targeting rural audiences some of whom may have limited foreign language skills, would be conducted only in English. Korea supplemented that local participants were encouraged to join the Seminar, while English to Korean translation service would be provided.

152. Japan, Mexico, Peru, Philippines, Russia and Thailand offered to be co-sponsors of the Project Proposal. Thailand would like to know if the Project Proposal followed by other projects for the sake of sustainability. Korea replied that a step-by-step approach was being adopted, while the proposed Seminar was a pilot project where other activities would follow.

153. Chile shared a similar concern on the language issue and would like to know if the Secretariat had a separate budget for translation services. Secretariat replied that APEC did not usually approve a budget for translation but encouraged Members to request an exception for the translation budget when submitting a Project Proposal.

154. The Chair encouraged Members to take a best-effort approach to make project materials as accessible to the local communities as possible. Chile suggested Korea could translate the project materials to Korea after the Seminar.

155. With six co-sponsors and no other concerns, the Chair concluded that IPEG endorsed the Project Proposal and recommended it to CTI for consideration.

### Intellectual Property Academy Collaborative Initiative (iPAC)

156. Japan gave a presentation on some initial ideas for developing a collaborative initiative on intellectual property training. Japan emphasised that this was not a project proposal but just initial ideas, and invited Members to provide comments. The Chair thanked Japan and

noted that lawyers, as patent agents, were required to participate in continuous learning programmes in many jurisdictions.

157. China thanked Japan for these initial ideas and wondered if these initial ideas covered only patents. And if only patent was covered, China suggested renaming the Initiative as a Patent Academy. China also had concerns on the possible impacts on the Patent Prosecution Highway. The Chair noted that Japan proposed covering all types of intellectual property.

158. Chinese Taipei thanked Japan for their creative ideas and supported the Initiative as it also had an IP Academy. Chinese Taipei asked about the operation of the proposed IP Academy and the possible costs involved. The Chair suggested that Members could further comment on these project ideas inter-sessionally.

159. Indonesia had just established an IP Academy and would like to share experience with other IP academies on courses and programmes. As such, Indonesia supported the Initiative. Singapore appreciated the initial ideas from Japan and noted that the IP Academy in Singapore had some connections with other IP academies in the Asia Pacific Region.

160. Thailand noted that there was an IP centre in Thailand and supported the Initiative. Viet Nam also had a similar organisation which functioned as a training base in the IP field. Viet Nam supported the Initiative.

161. Philippines supported the Initiative and noted Philippines was setting up an IP Research and Training Institute. Philippines asked if the Initiative also covered research. Australia appreciated the Initiative and was interested to learn if Japan had any existing collaboration with other IP academies.

162. Japan replied to China that the proposed IP Academy would not touch on the Patent Prosecution Highway. Japan replied to Chinese Taipei that the IP Academy would rely on a web-based information exchange platform while Japan would consider financing the hosting cost of the IP Academy Homepage. Japan replied to Singapore that Japan

was considering having collaboration with the Global Network on Intellectual Property Academies of WIPO. Japan replied to Philippines that a research element would be included, while the exchange of research fellows was under consideration.

163. China expressed concern on the possible duplication of effort with other initiatives in other IP fora. China encouraged Japan to develop a concrete project proposal in 2010. Russia would support all training initiatives in general and echoed the view of China to avoid any duplication of effort. The Chair noted that the IP Academy proposed by Japan was not a separate entity but a platform leveraging on the existing facilities and extracting added values from established IP academies. Japan added that the Initiative would also mutually benefit the Global Network on Intellectual Property Academies of WIPO.

Creating APEC Framework for Intellectual Property Protection and Use:  
Training for Officials

164. Russia gave a brief presentation on the Project Proposal of the “Creating APEC Framework for Intellectual Property Protection and Use: Training for Officials”. The Chair thanked Russia and noted all Project Proposal should be submitted to CTI by 19 August 2009.

165. China supported the Project Proposal and commented that the Project Proposal was well-organised. China encouraged a further discussion on other logistical issues.

166. Japan asked for details of the proposed training and had concerns on the proposed legal harmonisation. Russia reiterated the Project Proposal would follow standards envisaged in the TRIPS Agreement.

167. Viet Nam supported the Project Proposal and looked forward to participating in the Project. Indonesia supported the Project Proposal and regarded it as good for capacity building amongst Members.

168. Australia thanked Russia and echoed the views of Japan that the scope of the Project Proposal was unclear, especially on the proposed

harmonisation of IP. Since there were a number of capacity building projects in place, Australia would like to know if there were any added values of the Project Proposal. The Chair also asked how this Project Proposal would be distinctive from the WIPO Academy. Russia replied the proposed training offered a more flexible programme with a wider scope in content.

169. The U.S. appreciated the efforts of Russia and noted that the concept of harmonisation of IP protection was unclear. As the intention of the proposed training was left unexplained, it was not clear how the proposed training was distinctive from other training activities.

170. Russia expressed its willingness to make changes in the wording of the Project Proposal. The Chair appreciated more capacity building programmes in general, and encouraged Russia to refine and be flexible about the expressions used in the Project Proposal.

171. The U.S. commented that there were unanswered questions on many issues and would appreciate a further discussion on the Project Proposal. The U.S. suggested revisiting the Project Proposal in the coming Meeting.

172. Australia appreciated the efforts of Russia and echoed the views of the U.S. on conducting further discussions, in order to avoid any duplication with other IPEG activities.

173. The U.S. further explained that it was unacceptable to the U.S. to have phrases such as “APEC Framework” and “harmonisation” repeatedly appearing in the Project Proposal. The U.S. would appreciate more explanations of these phrases.

174. Mexico noted that there were many IP training courses available, and Members should examine the Project Proposal carefully. Furthermore, Mexico pointed out that WIPO had already offered distant-learning courses, and invited Russia to investigate the cost-effectiveness of these distant-learning courses. Mexico also felt that the concepts of “APEC Framework” and “harmonisation” were unclear.

175. Russia noted the differences in the IP systems between Economies, and further clarified that the concepts of the “APEC Framework” was to allow officials to acquire IP knowledge at an advanced level.

176. Both Australia and the U.S. requested inter-sessional discussions with Russia on the Project Proposal. The Chair encouraged Members to discuss the Project Proposal further.

177. Korea thanked Russia for the Project Proposal and offered to be co-sponsor. Russia would consider comments from Members and re-submit the Project Proposal to IPEG.

### **Agenda item 7: Cooperation with Other Fora/ Stakeholders**

#### ABAC Representative to IPEG on a Further Collaboration

178. A representative from ABAC proposed to hold a dialogue session with ABAC, at the margin of the coming 30<sup>th</sup> IPEG Meeting in Japan. The Chair thanked ABAC for their proposal and noted that it was the duty of IPEG to engage ABAC. The Chair further suggested a morning session would be a reasonable timeslot for the proposed dialogue, and emphasised that the proposed dialogue should have a focussed topic for discussion.

179. Japan supported the proposal and suggested inviting experts from the enforcement authorities and SCCP to attend the dialogue. The Chair concluded that IPEG endorsed a dialogue session with ABAC at the margin of the 30<sup>th</sup> IPEG Meeting, and invited ABAC to propose a topic for discussion after the Meeting.

### **Agenda item 8: Other business**

#### IP Australia’s Approach to Quality Management

180. Australia gave an oral presentation on their quality management systems. The Chair thanked the presentation. Hong Kong, China appreciated the presentation and would further discuss with Australia after the Meeting.

### New Legislation in the Russian Federation in the Field of Intellectual Property

181. Russia gave a brief presentation on the new intellectual property legislation in Russia. The Chair thanked Russia for the presentation.

182. Mexico thanked Russia for the presentation and asked who would be the owner of an appellation of origin. Russia replied the owner of the appellation of origin was Rospatent (the national patent office) of the Russian Federation.

### **Agenda item 9: Document Access**

183. Members decided at the meeting which documents could be made public or to be restricted.

### **Agenda item 10: Future Meeting**

#### New Chair for the 30<sup>th</sup> – 33<sup>rd</sup> IPEG Meeting

184. Mexico offered Mr. Jorge AMIGO as a candidate for the Chair for the 30<sup>th</sup> – 33<sup>rd</sup> IPEG Meetings. The Chair reiterated the importance of providing an assistant to handle daily administrative matters of IPEG.

185. There were no other candidate and the Chair concluded that IPEG endorsed to recommend to CTI that Mr. AMIGO be appointed as next Convenor of IPEG for 2010-2011.

#### Invitation to 30<sup>th</sup> IPEG Meeting in Japan

186. Japan gave a presentation on the logistics of the 30<sup>th</sup> IPEG Meeting. The 30<sup>th</sup> IPEG Meeting would be held on 5<sup>th</sup> – 6<sup>th</sup> March 2009 in Hiroshima, Japan, with the Pre-meeting on 4<sup>th</sup> March 2009. Japan cordially invited Members to attend the Meeting.

#### Invitation to the WIPO High-Level Forum in Japan

187. Japan gave a presentation on the “WIPO High-Level Forum on the

Global Intellectual Property Infrastructure for Promotion of Innovation”, scheduled on 1<sup>st</sup> – 2<sup>nd</sup> March 2009 in Tokyo, Japan. Japan cordially invited Members to participate in the Forum.

#### **Agenda item 11: Report to the Next CTI**

188. The Chair would prepare an IPEG Chair’s Report to CTI by September 2009. Before submitting to CTI, the Chair would solicit comments and feedback from Members.

#### **Closing remarks**

189. The Chair thanked Members for actively participating in the two-day meeting, and expressed Members appreciation for Singapore’s hospitality arrangements.

#### 附件 4 「Trading Ideas」研討會會場照片





