

Harmonised Patent Law stalled at WIPO

(A note from Dr. Gopakumar G. Nair)

SPLT (Substantive Patent Law Treaty) talks were in progress under WIPO (World Intellectual Property Organisation) at the SCP (Standing Committee on the Law of Patents) for the last 2 to 3 years.

Proposals were put forward from time to time to SCP of WIPO, to include harmonized definitions and interpretations of prior art, grace period, novelty, non-obviousness etc., so that these basic patent law principles and features are common in all member-countries of WTO/TRIPs. Discussions were also in progress on other issues like traditional knowledge and folklore, genetic resources, patent disclosures etc.

A compromise plan initiated by the Director General of WIPO, Dr. Kamil Idris at Casablanca, and presented thereafter at June 1 to 2, 2005 meeting of the SCP at WIPO was not adopted because of the opposition to such harmonization of substantive issues like Novelty, Non-obviousness, Prior Art, grace period etc. from the Government representatives from India, Brazil and Argentina along with a few others.

India, Brazil and Argentina put up an alternate proposal that the SCP should continue to work on all issues and the entire harmonization treaty, including provisions of Technology Transfer, anticompetitive practices and safe-guarding public interest flexibilities [compulsory licences, Doha (para 6) and others].

The failure of the discussions at SCP in the first week of June 2005, puts the SPLT on hold indefinitely as no agreement could be reached as to the modalities and scope of the future work of the Committee (SCP on SPLT), thanks to the opposition from India, Brazil and Argentina.
