

Address to the Global Congress on Combating Counterfeiting and Piracy

November 14, 2005 Lyon, France

Mrs. Rita Hayes, Deputy Director General, World Intellectual Property Organization

It is a pleasure for me to be in Lyon this morning for this Second Global Congress on Counterfeiting and Piracy. I am very happy to see an even larger turnout than our last meeting, as the Congress continues to draw more participants and speakers from every region around the world. This is clear testament to the fact that counterfeiting and piracy remain persistent concerns to all of us in the international intellectual property community.

When we met last year in Brussels our goal was to develop a comprehensive understanding of the problem at hand, and to chart a course forward. I noted then that counterfeiting and piracy are global problems, in need of global solutions.

Is it not a fact that we are all participating in this Congress because counterfeiting and piracy remain a global concern? Has there been any recent change? Is there a good reason to be optimistic that we are making progress in finding a solution? At first glance, it would appear that we are leading a hopeless battle. We are aware that, for example, seizures at the borders of the European Union increased by 1000 % between 1998 and 2004 and customs cases involving fake goods more than doubled between 2003 and 2004.

But I would like to invite you to take a closer and more careful look. I believe that we are, indeed, witnesses of an important shift in perception of decision-makers. We can observe it in industrialized and developing countries as well as in emerging markets. This new perception has already resulted in appropriate strategies and concrete action in a number of countries. This encouraging development is in particular due to the restless efforts of the numerous individuals who are active in this field. Many of them also helped to organize, and participate, in this Congress.

I would also like to note that consumer attitudes and behavior are changing as well. To cite just one example, IFPI issued a report this summer noting that, while illegal music file sharing remained virtually flat during the first half of this year, the number of legal music downloads from legitimate sites more than tripled. Most importantly, we are witnessing a clear change in public opinion on the overall question of illegal downloads as well. I firmly believe that a growing number of consumers are realizing that unauthorized downloading is not only illegal, it is also wrong.

This is the result not only of successful court cases regarding illegal file sharing in more than a dozen countries – it is also the result of persistent and effective public awareness campaigns carried out by industry as well as governments and, last but not least, it is the result of a successful strategy offering legal downloading at competitive prices as an alternative.

I believe that all of us should be pleased that our efforts are starting to show results. Nevertheless, we all agree that we are only at the beginning – there is still much to achieve.

This will take continuing cooperation and coordination, between all of us who have a stake in what we can now truly call a concerted, global effort to combat counterfeiting and piracy.

More and more countries and enterprises realize that a large number of jobs have been created by IP-related industries around the world and that a considerable amount of foreign direct investment related to IP has been made. The growth in IP-related exports makes it evident that intellectual property is playing – and will continue to play – a major role in shaping the economic future of many countries.

It is against this background that counterfeiting and piracy are no longer widely considered to be victimless crimes. An ever-increasing number of countries are recognizing that it is in their national interest to pass laws that protect intellectual property rights, and to provide for efficient mechanisms to enforce those laws. Effective enforcement is needed in any country that sees economic benefit in the creative power of its people. In order to be successful in the global marketplace, all countries, industrialized as well as developing, need to adopt an effective intellectual property policy. They also need to integrate it into their overall economic plans and goals. Many of them have already taken steps in this direction in order to reap economic benefits. I am convinced that others will follow them quickly.

WIPO has been at the center of many efforts at the international level to set standards for national, regional and international IP protection and has successfully set up international application and registration systems. It plays also an important role in the field of IP enforcement without taking part or participating in enforcement actions as such.

Upon their request, we enter into a dialogue with countries and render advice on legislation on the protection and enforcement of IP rights and compliance with obligations under international agreements and treaties such as the TRIPS Agreement and the WIPO Internet Treaties, namely the WCT and the WPPT. Regarding provisions on the enforcement of IP rights, WIPO has further enhanced its legislative advice activities in the period since the First Global Congress. In addition, it offers an alternative dispute resolution system, which became widely used in the field of domain name dispute resolution.

In the field of norm setting, WIPO was able to make an important step forward. Following an agreement reached in the WIPO General Assembly in October, it is now envisaged that a Diplomatic Conference on the conclusion of a broadcasting treaty be held in December 2006 or early 2007. This treaty would have significant consequences for the rights of broadcasting organizations and the enforcement thereof. A growing signal piracy problem in many parts of the world, including piracy of digitized pre-broadcast signals, has made the need for such a new treaty obvious.

WIPO is also undertaking considerable efforts to inform the public of negative consequences of counterfeiting and piracy for consumers, right holders and national economies. In many awareness raising, education and training events, we draw attention, in particular, to health and safety risks caused by fake medicines, foodstuffs and certain spare parts, from which any innocent consumer may suffer.

Awareness raising of policy makers and of law enforcement officials of the magnitude of the problems caused by counterfeiting and piracy and the need to make the combat thereof a priority is at the heart of many activities organized by WIPO in a large number of countries of all regions. On the enforcement website of WIPO, you can find such activities listed.

Together, we made some important steps since the First Global Congress.

First, there is increasing cooperation among all stakeholders in the framework of the Global Congress activities, which have already resulted in a number of successful events, namely

two Global Congresses in Brussels and Lyon and three regional forums in Rome, Shanghai and Rio de Janeiro. The WIPO Regional Symposium on the Protection and Enforcement of IP Rights in Malaysia in September 2005 with the active participation of IGOs and NGOs that work together to organize this Global Congress as well as the workshop for law enforcement officials in Kazakhstan in June 2005 involving WIPO and UNECE, WCO, the WCO IPR Advisory Group and USAID are other examples for successful cooperation and coordination.

Second, there is an increasing understanding of the problem and the urgent need for determined action among decision-makers in national Governments, regional organizations and the private sector. As a consequence thereof, the combat of counterfeiting and piracy is becoming one of the priorities of Governments and the political will is growing to take the necessary measures, to instruct law enforcement officials and to educate consumers by appropriate means.

Awareness, training and education will also be the main theme of the next session of the WIPO Advisory Committee on Enforcement (ACE) planned to be held from May 15 to 17 of next year. In this meeting, a number of speakers from developing and industrialized countries from all regions will inform of their activities and experiences. Their presentations are also expected to be supplemented by country-specific documents on the national experience prepared by experts from the respective countries.

The initiative of WIPO to enhance the experience of judges in the handling of IP disputes and cases of counterfeiting and piracy is another important part of the enforcement activities of WIPO. It has already shown promising results. The discussion on the advantages of specialization of a certain number of judges in the field of enforcement led to, and will continue to produce, a growing number of specialized judges and specialized courts in many countries. An overview is provided in a recent survey by the International Bar Association (IBA), to which WIPO provided inputs. Many WIPO colloquia for judges or magistrates in Asian, African, Arab and Central European and Latin American countries enabled an exchange of experiences among judges on how to deal with IP cases in an efficient manner. WIPO guide and case books, in particular for lawyers and the judiciary in developing countries with civil and common law tradition, are under preparation and a common law case book setting out the most important parts of a large number of decisions rendered will be available in the near future. We hope that these efforts will result in quicker and better decisions for the benefit of right holders and the economy at large.

Concerning the economic importance of the combat of counterfeiting and piracy, WIPO organized an expert meeting on measurement and statistical issues last month, i.e., in October 2005, together with OECD. Furthermore, WIPO held, at the beginning of this month, another expert meeting with the aim to base, on the results of the discussions, a handbook on measuring copyright piracy. These activities will help to establish a solid basis in form of reasonably reliable figures and convincing arguments that not only countries where a great number of counterfeit and pirated goods are sold but also countries where large quantities are produced predominantly for exportation are losing considerable economic benefits.

Counterfeiting and piracy are global problems, which call for global solutions and require global coordination and global cooperation between developed and developing countries, different intergovernmental organizations, the various ministries and institutions within countries and the private sector. While we are still far away from a major reduction in scope of counterfeiting and piracy, there are already important signs for a change in perception and political determination and readiness for action. There are, therefore, good reasons to continue and intensify our joint work with the goal of ensuring effective enforcement of IP

rights. I am confident that it will be for the benefit of all, developed and developing countries alike.