

Doc. prélim. No 13
Prel. Doc. No 13
avril / April 2001

**Rapport de la réunion d'experts sur les aspects de la propriété intellectuelle
de la future Convention sur la compétence et les jugements étrangers
en matière civile et commerciale**

Genève, 1er février 2001

établi par le Bureau Permanent

* * *

**Report of the experts meeting on the intellectual property aspects
of the future Convention on jurisdiction and foreign judgments
in civil and commercial matters**

Geneva, 1 February 2001

drawn up by the Permanent Bureau

*Document préliminaire No 13 d'avril 2001
à l'intention de la Dix-neuvième session de juin 2001*

*Preliminary Document No 13 of April 2001
for the attention of the Nineteenth Session of June 2001*

TABLE OF CONTENTS

	Page
1. GENERAL COMMENTS.....	3
2. EXCLUSIVE JURISDICTION CONCERNING REGISTERED INTELLECTUAL PROPERTY RIGHTS	4
Scope of Article 12(4) with respect to patents and trademarks	4
- <i>Patents</i>	4
- <i>Trademarks and Unregistered rights</i>	5
Article 12(5)	5
Article 12(6)	6
Other grounds of jurisdiction (in particular Article 10)	6
3. JURISDICTION RULES CONCERNING COPYRIGHT.....	7
4. OTHER QUESTIONS	7
a) <i>Provisional and protective measures (Article 13)</i>	7
b) <i>Article 37</i>	8
5. SCOPE OF THE PRELIMINARY DRAFT CONVENTION AND INTELLECTUAL PROPERTY RIGHTS	9
6. FUTURE WORK.....	10
 Annex 1 – Draft Agenda	 11
Annex 2 – List of Participants.....	12

**Report of the experts meeting on the intellectual property aspects
of the future Convention on jurisdiction and foreign judgments
in civil and commercial matters**

Geneva - 1 February 2001¹

drawn up by the Permanent Bureau

The meeting was opened by Professor Teun Struycken, Chairman of the Netherlands Standing Government Committee on Private International Law. He proposed that the meeting be chaired by Ms Andrea Schulz (Germany). This proposal was unanimously accepted. The Chair made a brief summary of the two-day WIPO conference, which preceded the experts meeting. She emphasised the fact that intellectual property (hereafter IP) is a huge field, that the various IP rights require separate examination and that, at least for some IP rights, the problems of jurisdiction, although distinct, are closely linked to questions of applicable law. The Chair suggested that the experts follow the outline of the draft agenda (see Annex 1), which was accepted by the meeting, and opened the floor for general comments.

1. General comments

The Japanese delegation distributed a paper reflecting Japan's concerns in relation with IP and the Hague Convention. This paper sets forth that Member States have agreed on an exclusive competence for proceedings on the registration, validity, nullity or revocation of patents, trade mark designs and other similar rights required to be deposited or registered (see Article 12, paragraph 4, preliminary draft Hague Convention). The paper then poses the question as to whether there should also be an exclusive jurisdiction for the infringement of registered IP rights and discusses the pros and cons of such an approach.

On behalf of the EU, an expert from Sweden noted that IP rights are of major importance in a world-wide convention. Therefore, it would be very useful to have rules on jurisdiction and recognition with respect to IP rights in the Hague Convention. However, these rules have to provide predictability and acceptable grounds for jurisdiction.

On behalf of the US delegation, it was pointed out that over 100 pages of comments received by the United States Patent and Trademark Office had been distributed by e-mail to the delegations and that copies were available at the meeting. Those comments demonstrated two things in particular: (1) almost uniform opposition in the private sector to the current text as it applies to intellectual property rights; and (2) great difficulty in understanding the structure of the draft convention text. It was pointed out that the US could not become a Party to a convention structured along the lines of the preliminary draft Convention. In particular, the US could not accept (*in personam*) jurisdiction in infringement on IP rights cases over a defendant who had no relation with the jurisdiction.

¹ The draft agenda adopted by the meeting is attached as Annex 1 to this Report. The list of experts present at this meeting is attached as Annex 2 to this Report.

2. Exclusive jurisdiction concerning registered intellectual property rights

While many experts expressed the view that proceedings which have as their object the registration, validity, nullity and even revocation of registered rights should fall under the rule of exclusive jurisdiction (Article 12(4) of the preliminary draft Hague Convention), the US delegation raised questions about the need for exclusivity, and asked whether the real concern was exclusivity or concentration of jurisdiction. Some of the US private sector comments clearly oppose exclusive jurisdiction, and most of these comments favour exclusion of intellectual property rights from scope.

Scope of Article 12(4) with respect to patents and trademarks

Among the experts who favoured exclusive jurisdiction for proceedings having as their main object the validity of registered patents and trademarks, opinions were divided as to the question whether matters of infringement of registered IP rights should also fall within the scope of the exclusive jurisdiction. It was noted that it is generally understood that questions of infringement do not fall under the scope of the exclusivity provision (Article 16) of the Brussels and Lugano Conventions (except in the UK, where courts hold that the question of infringement is too intertwined with the question of validity to be treated separately).

Patents

The delegations of the UK and Australia indicated that in their view, the questions of validity and infringement are closely linked. Experience shows that it is almost inevitable that the defendant attacked for infringement of the patent will defend himself by attacking the validity of this patent. Moreover, in most national systems, the two questions are tried by the same courts, which are often specialised courts (exceptions include Germany and Austria). The danger of having two different courts, one trying the question of the validity of the patent and another one trying the infringement question, which will often not be in the country of registration, is that it could lead to different views on the width of the patent. This would run counter to the concept that a patent which grants a monopoly with respect to a certain product or process, can have only one scope, and not a different scope for validity than for infringement. In addition, patent law involves considerations of public policy. For all these reasons, these two delegations supported the view that exclusive jurisdiction should apply to both the validity and the infringement of the patent. On the question of which court should have exclusive jurisdiction, the answer was not definitive, but it was said that it could very well be the court of the country in which the IP right is registered. This view was also supported by the Chinese delegation.

A number of delegations, including Switzerland, Finland and Sweden, supported a more flexible view: co-ordination between the proceedings on validity and on infringement can be ensured by other ways than by providing that the court of the place of registration of the IP right has exclusive jurisdiction to hear all matters related to this right (validity issues as well as infringement issues). For instance, by a suspension of proceedings by the court seized with the infringement claim, pending a decision on the validity by the court of the place of registration of the IP right (this latter option would require an adaptation of Article 22). The German delegation observed, however, that in the case of the European "bundle patent" granted under the European Patent Convention (EPC), this

could mean that a court seized with infringement proceedings concerning a bundle of e.g. 13 national patents would then have to invite the parties to bring validity proceedings in each of the 13 countries concerned. The UK delegation strongly opposed such multiplication of litigation.

The delegations opposed to extending exclusive jurisdiction of the country of registration also to infringement claims equally pointed out that insofar as patent disputes were arbitrable, it seemed inconsistent to confer exclusive jurisdiction for such disputes upon State courts.

The expert of AIPPI raised another question to be taken into account: how to deal with IP rights which are registered in a non-Contracting State since Article 12(4) only refers to Contracting States (does Article 12(4) have a so-called reflex effect?). He added that this question had not been solved in the Brussels and Lugano Conventions.

Trademarks and Unregistered rights

An expert from the industry (International Trademark Association, hereafter INTA) indicated that in its current wording Article 12(4) would not encompass US trademarks, since, in the US, common law trademarks are not required to be registered. They are acquired by use of the mark and may, but do not have to, be registered. She further suggested that coverage by the Hague Convention be limited to rights covered by TRIPS. Another expert drew attention to the phenomenon of "well-known trademarks" under the Paris Convention, which are protected whether they are registered or not, and which could create problems in relation to the exclusive jurisdiction clause.

An expert from the UK emphasised that registered rights, common law rights and allied rights should all be treated in the same way. However, he said that his country had no experience so far with trying to distinguish between registered and unregistered trademarks under the Brussels or Lugano Conventions, which both make this distinction. Another expert noted that it was difficult to localise an unregistered trademark. In any event, under the Brussels or Lugano Convention, the defendant's forum would still be available. Finally, an expert mentioned that the question of the validity of a trademark is only seldom raised in a licence agreement litigation, as in general the licensee has no interest to obtain the invalidation of the mark he has been granted the right to use in his business by the license.

The Chair noted that there seemed to be no consensus at this stage on the question whether to include infringement in the scope of any exclusive jurisdiction rule for registered patents and trademarks. She pointed out that even if both questions of validity and of infringement would fall under the same jurisdiction, they would not necessarily be tried before the same judge within that jurisdiction.

Article 12(5)

It was noted that the inclusion of Article 12(5) in the draft Convention might depend on whether infringement would fall under the exclusive jurisdiction clause of Article 12(4). The Chair indicated that there were two possible interpretations in that respect:

- if infringement is included in Article 12(4), Article 12(5) could remain in the draft Convention as a concurring jurisdiction. This is the view also taken in the Nygh/Pocar Report, Preliminary Document No 11;
- if Article 12(4) does not cover infringement, then, according to another opinion, Article 12(5) becomes necessary to make this explicit. The reason for this need is that the exclusive jurisdiction provision in Article 16(4) of the Brussels Convention, although almost identical to Article 2(4) of the Hague draft, has been interpreted by UK courts as including infringement actions, although not mentioned, whenever invalidity is raised as a defense or counter-claim in infringement proceedings. Given the absence of any binding authority for the interpretation of a future Hague Convention, any similar ambiguity therefore has to be avoided.

At this stage, there was no clarity as to which interpretations should prevail.

Article 12(6)

It became clear that Article 12(6) is only necessary if the jurisdiction for infringement (and other, *e.g.* licence litigation) actions is not exclusive under Article 12(4). The question then is how far the jurisdiction of a court in any State other than the State of registration reaches, namely if this court may decide on validity "as an incidental question". The point was raised that the concept of "incidental question" is quite different in civil law and common law countries. Delegations from common law countries gave examples of validity as a possible incidental question according to their understanding: validity of a patent as incidental to the lawfulness of the distribution of assets according to a will (yes); validity of a patent as incidental to an infringement suit (no, because infringement and validity were so closely intertwined that the question is regarded as "essential", not incidental), validity of patent in license litigation (yes or no, depending on the factual circumstances).

For a civil lawyer, there is no particular problem with the "incidental question" concept since a judgment does not have *erga omnes* effects with respect to an "incidental question" and since the question can always be re-decided at another stage by another judge. One expert asked what would be the effect of a decision on validity as "incidental question" in the State of registration of the IP right. He was of the opinion that the court seized by an infringement claim should be able to suspend and wait for a decision on the validity of the right rendered by the court of the place of registration of this right. Moreover, some experts saw problems arising under competition law if, on the same market, a right held by owner X was (incidentally, and therefore only with effect *inter partes*) held to be invalid in the relations between X and Y (following infringement proceedings between them), while the same right was held to be valid in the relations between X and everyone else.

No final conclusion was reached in respect of Article 12(6).

Other grounds of jurisdiction (in particular Article 10)

The foreseeability test posed in Article 10(1)(b) was discussed in relation with the principle of territoriality of IP rights. In that respect, several experts raised the concern that the foreseeability test could create problems, *e.g.* in cases of strict liability. In response to this remark, other delegations pointed out that in such cases the foreseeability test was simply redundant.

It was noted that because of the territoriality of IP rights, the act of infringement and the injury will, according to one opinion, always occur in the same jurisdiction, with the possible exception of the Internet. The foreseeability test would only come into play if one follows the opposite approach, *i.e.* in the cases in which the criteria of subparagraph (a) and (b) would lead to different jurisdictions. Certain experts were concerned about giving a wide interpretation to Article 10(1)(b), which could have as a consequence that pure economic loss would grant a basis for jurisdiction and emphasised that this is not desirable. The Chair referred to the Nygh/Pocar Report, pp. 59-60, which explains that Article 10(1)(b) excludes indirect harm.

The question was asked whether the scope of Article 10(1) should not be limited for infringements on IP rights made via the Internet. It was said in that respect that an individual who puts something on the web which is legal in his country, cannot foresee that it is illegal in another country where the downloading occurs.

The Chair noted that at this stage of the discussion there seemed to be a consensus that in infringement cases act and injury fall together, in the same State, and that therefore the foreseeability test is redundant. This was contested by one delegation. However, the Chair indicated that opinions seemed divided on the question of the Internet, and that maybe safe harbour clauses would be an option to consider.

3. Jurisdiction rules concerning copyright

The experts discussed whether copyrights should also fall under the scope of exclusive jurisdiction provided for by Article 12(4) of the preliminary draft Convention. It was pointed out that in the field of copyrights, questions of applicable law and jurisdiction are very closely linked and that the country of protection principle is not so widely recognised with respect to copyrights as it is for patents and trademarks. In some countries, copyrights are required to be registered, in other countries they are created by operation of law but may be registered (for instance, in the US), and in a third group of countries they come into being and exist without formalities or registration. In that respect, it was mentioned that non-registered copyrights are difficult to localise, since there is no visible attachment. Once a copyright exists in one country (whether registered or not), it also exists in other countries by the effect of international conventions (Bern Convention) and customary principles. Hence, the importance of consolidating all the claims against a copier under different laws in one single court.

The experts then discussed briefly the implications of Articles 4, 6 and 10 of the draft Convention for copyrights.

The Chair summed up the discussion by noting that none of the experts had supported exclusive jurisdiction for copyrights, whether registered or not.

4. Other questions

a) Provisional and protective measures (Article 13)

The experts discussed whether there were particular IP questions to be addressed in Article 13. It was pointed out that the concept of "property" in the present Article 13(2) was not defined. According to some experts, the meaning of "property" should be understood widely, including both tangible and intellectual property. Article 13 would then also be applicable with respect to IP rights. One expert indicated that the possibility

to take provisional measures against a service provider should be included in Article 13. Another expert suggested replacing "and" by "or" at the end of Article 13(3)(a).

b) Article 37

The experts of the European Commission reminded that, further to the general rules of the Council Regulation having replaced the Brussels I Convention, any disconnection clause will have to cover the specific regimes concerning jurisdiction which are contained in Community secondary legislation, in particular those dealing with unitary Community IP rights (Community Trademark, Community breeder's right in a new plant variety and, in a very near future, Community Design rights and a Community Patent).

To give an example, the Council Regulation (EC) n. 40/94 of 20 December 1993 on the Community Trademark stipulates that the Office for the Harmonization in the Internal Market (OHIM), a Community agency located at Alicante (Spain), has jurisdiction to decide direct actions concerning the revocation or the invalidity of the Community Trademark. Such decisions are subject to appeal before the Court of First Instance and, on points of law only, to further appeal to the Court of Justice of the European Communities, but, if they are not appealed, they have the value of *res judicata* in the EU-Member States. A limited number of specialised courts of the Member States have been given jurisdiction to hear actions of infringement of Community Trademarks according to a set of rules of conflict which allow the plaintiff in each case to choose among two possible fora:

- ?? the court for the place where the acts of infringement have been committed, having a territorial jurisdiction limited to the country where the court is situated, or
- ?? the court of the Member State where the defendant has his domicile, with a jurisdiction extending to the whole territory of the European Union. If the defendant has no domicile within the EU, a number of subsidiary jurisdiction rules lead in each case to the determination of a court with this broad jurisdiction (in the Member State where the defendant has an establishment; if this does not apply, in the Member State where the plaintiff has his domicile; if this does not apply, in the Member State where the plaintiff has an establishment; finally, if none of these criteria apply, before the Spanish courts, Spain being the country which hosts the OHIM).

These rules apply also to defendants domiciled in third countries. Each of the courts having jurisdiction for infringement, territorially limited or not, has also jurisdiction to decide the issue of validity of the Community Trademark, if the issue is raised by counterclaim in the infringement action. If the court revokes or invalidates the trademark, the effect is *erga omnes* and on the whole territory of the EU. Agreements of choice of forum or the entering of an appearance by the defendant before a court which has no jurisdiction under the previous rules are possible, but exclusively before one of the specialised national courts designated by the Member States. Such courts are also entitled to deal with the validity of the Trademark if the issue is raised as a counterclaim, with effect *erga omnes* and for the whole territory of the EU.

The disconnection clause should also safeguard future developments like the one presently envisaged by the Commission proposal for a Regulation on the Community Patent, where, instead of national courts, new Community tribunals are provided with exclusive jurisdiction in matters of validity and infringement of the future Community patents.

It was also recalled that, apart from the task of safeguarding the functioning of the internal Community system, the disconnection clause should also cover other regional systems like the Lugano Convention in Europe or other Agreements which might have been concluded in other regions of the world (e.g. Mercosur).

The experts discussed the European Patent Convention. This instrument, to which at present twenty European States are Parties, provides for the grant of the European patent by a centralised procedure before the European Patent Office in Munich. After it has been granted, the patent operates as a bundle of national patents in each of the States designated. For validity proceedings, the plaintiff has to sue in each of the jurisdictions of the States designated in the patent. The jurisdiction for infringement actions concerning a European Patent is governed in the EU and EFTA States by the Brussels and the parallel Lugano Conventions. In case of infringement of the patent in several States, the actions can be consolidated before the court of the defendant's domicile, or, if there are several co-defendants, before the court of the seat of the main defendant under the so-called "*spider in the web*" formula. An additional protocol to the European Patent Convention is at present being negotiated. The idea is to set up in future a common international court where validity and infringement issues of European patents would be heard. Participation to this common court would be optional for the States Parties to the European Patent Convention.

At the request of the US delegation, the experts of the European Commission and the Council of the EU committed themselves to send to the Permanent Bureau a list of all the relevant European instruments in this field as well as the texts of those instruments in English and French. Upon request of the German delegation, the Chair reminded the delegations to provide the Permanent Bureau with the text of all relevant instruments to which they were a Party and which they wanted to be considered within the framework of a disconnection clause. The US delegation requested that delegations also indicate *how* such disconnection should be envisaged.

5. Scope of the preliminary draft Convention and intellectual property rights

The Chair asked whether, in conclusion, IP rights should fall under the scope of the draft Convention.

An expert from the UK indicated that his country was very concerned about the idea of splitting jurisdiction for validity and infringement, especially for patents. If a uniform approach for patents cannot be found, the whole question should be kept out of the draft Convention.

Several experts (of Switzerland, Spain, Germany, France and the ICC) expressed their support for keeping IP rights on the agenda and including these rights in the scope of the draft Convention. Their main arguments in favour of retaining IP in the draft Convention were the fact that IP plays an increasingly important role in practice and that, because IP questions are so closely linked to other questions such as contract law or commercial law,

carving them out of the draft Convention would lead to great difficulties in applying the Convention.²

6. Future work

The experts discussed the planning of future work, in view of the meeting which will be held in Ottawa from 26 February-2 March 2001. The experts suggested that besides e-commerce, the following topics should be discussed in Ottawa:

- intellectual property rights;
- protective and provisional measures;
- the activity based rule for jurisdiction;
- the disconnection clause of Article 37.

The experts were invited to present suggestions and/or working papers in preparation of the forthcoming meeting.

The Chair affirmed the statement of the French delegation that issues be dealt with by working from the 1999 preliminary draft Convention text. The US delegation objected to this suggestion, reminding those present that the decision of the Special Commission on General Affairs and Policy of May 2000 to proceed through June of 2001 on a consensus basis was inconsistent with debating language in a non-consensus text, and that a consensus process requires that all delegations work to build up a convention text on which broader agreement exists.

The Chair concluded the discussion by stating that the two positions could in her view be reconciled because, ultimately, it would not make a difference whether one started from the 1999 draft and deleted those parts on which there was no consensus, or whether one started from scratch, as suggested by the US delegation, but making use of those elements of the 1999 draft on which there was consensus.

² The delegation of the United States of America has requested that it be noted here that most of the private sector comments received and distributed by the US delegations express opposition to inclusion of IP rights within the scope of the Convention (see *supra*, General Comments).

DRAFT AGENDA

1. **General comments**
2. **Exclusive jurisdiction concerning registered intellectual property rights (patents, trademarks, models and designs)**
 - a) **Article 12 – to be discussed separately for (1) patents and (2) trademarks (required/not required to be registered)**
 - ?? **Scope of Article 12(4)**
 - Should “revocation” be treated like “validity, nullity”?
 - Should infringement actions be included?
 - ?? **Article 12(5) and (6)**
 - Relationship between the two paragraphs?
 - Incidental question issue (e.g. in infringement and license litigation) – counterclaims.
 - Possible solutions if validity is raised as incidental question:
 - Infringement court declines competence in favour of court in the State of registration.
 - Infringement court stays proceedings and invites parties to bring proceedings on validity in the State of registration.
 - Infringement court decides also on the incidental question (effect concerning *res judicata*: none/*inter partes*/*erga omnes* depending on national civil procedure law).
 - b) **Other grounds of jurisdiction (in particular Articles 10, 6 and 3)**
 - Article 10: place where the act/injury occurred (territoriality).
 - Foreseeability test.

If time permits:

 - Limitation by Article 10 (4)?
 - Preventive relief (Article 10 (3)).
 - Article 6.
 - Article 3.
3. **Jurisdiction rules concerning copyright**
 - No exclusive jurisdiction.
 - Article 10: place where the act/injury occurred.
 - Article 4 (Choice of court clauses).
4. **Other issues, if time permits**
 - a) ***Lis pendens*/forum non conveniens**
 - b) **Provisional and protective measures**
 - Can the present Article 13 serve as a basis?
 - Possible alternatives?
 - c) **Article 37**

Issues to be kept in mind:

 - Community trademark.
 - BeNeLux trademark.
 - Community patent and European Patent Agreement.
 - Other?
5. **Scope of the preliminary Draft Convention and Intellectual Property Rights**
 - Include/exclude all/some IP rights from scope?

- How? (qualification/delimitation)

Liste des participants
List of participants

Réunion d'experts du 1er février 2001
Meeting of experts of 1 February 2001

REPRESENTANTS D'ÉTATS MEMBERS DE LA CONFERENCE
REPRESENTATIVES FOR MEMBER STATES OF THE CONFERENCE

Allemagne / Germany

Mr *Rolf Wagner*, Ministerialrat; Federal Ministry of Justice, Berlin
Mr *Dietrich Welp*, Ministerialrat; Federal Ministry of Justice, Berlin
Ms *Andrea Schulz*, Regierungsdirektorin, Federal Ministry of Justice, Berlin

Australie / Australia

Mr *David Bennett*, Solicitor-General of Australia, Sydney
Ms *Jessica Wyers*, Assistant Director, Development & Legislation, IP Australia, Woden
Ms *Annabelle Bennett*, Barrister, Sydney

Belgique / Belgium

Monsieur *Jean-Pierre Bedin*, Conseiller Adjoint, Administration de la Législation civile et des Cultes, Ministère de la Justice, Bruxelles

Bulgarie / Bulgaria

Mrs *Simona Takova*, Head of Private International Law Department, Ministry of Foreign Affairs, Sofia

Canada

Ms *Anna Marie Labelle*, Industry Canada, Legal Services, Commercial Law Division, Ottawa

Chine / China

Mr *Hu Bin*, Third Secretary, Treaty and Law Department, Ministry of Foreign Affairs, Beijing
Ms *Liu Xiaoyan*, Official, Treaty And Law Department, Ministry of Foreign Affairs, Beijing
Ms *Wang Yanhong*, Official, National Bureau of Intellectual Property, Beijing
Ms *Leung Ka-Lai Ada*, Senior Solicitor, Intellectual Property Department, Hong Kong Special Administrative Region

République de Corée / Republic of Korea

Mr *Suk Kwang Hyun*, Professor, College of Law, Hanyang University, Seoul

Croatie / Croatia

Mr *Krešimir Sajko*, Professor, Chair of Private International Law at the Zagreb Faculty of Law; Director of the Institute of International and Comparative Law

Espagne / Spain

Ms *Cristina González Beilfuss*, Professor of Private International Law, Barcelona University
Ms *Ana Parades Prieto*, Counsellor, Spanish Mission

Etats-Unis d'Amérique / United States of America

Ms *Jennifer Lucas*, Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Arlington, Virginia
 Mr *Michael S. Keplinger*, Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Arlington, Virginia
 Mr *Michael Donohue*, Federal Trade Commission, Washington, D.C.
 Mr *Ronald Brand*, Professor, University of Pittsburgh Law School
 Mr *Marc Pearl*, Shaw Pittman, Washington, D.C.
 Ms *Manon Ress*, Essential Information, Washington, D.C.
 Ms *Marla C. Poor*, U.S. Copyright Office, Office of Policy and International Affairs, Library of Congress, Washington, D.C.

Finlande / Finland

Mr *Justice Gustaf Möller*, Supreme Court Of Finland, Helsinki

France

M. *Olivier Tell*, magistrat à l'administration centrale du Ministère de la Justice, Service des Affaires européennes et Internationales, Paris
 Mme *Anne Verron*, Chargée De Mission, Service du Droit international et communautaire
 Mme *Michèle Weil-Guthmann*, Conseiller à la Représentation Permanente de la France auprès de l'Office des Nations-Unies
 Mme *Anne le Morvan*, Chargée de mission au Bureau de la propriété littéraire et artistique, Ministère de la Culture, Paris

Irlande / Ireland

Mr *Feargal O'Dubhghaill*, Office of the Attorney General, Dublin

Japon / Japan

Mr *Masato Dogauchi*, Professor, Faculty of Law, University of Tokyo
 Mr *Shunichi Enomoto*, Deputy Director, Industrial Property Legislation Office, Patent Office
 Mr *Kentaro Endo*, Deputy Director, International Affairs Division, Copyright Office, Agency For Cultural Affairs
 Mr *Hidetaka Kinami*, Official, International Affairs Division, Copyright Office, Agency for Cultural Affairs
 Mr *Takashi Yamashita*, First Secretary, Permanent Mission of Japan to the International Organization in Geneva, Geneva
 Mr *Toru Sato*, First Secretary, Permanent Mission of Japan to the International Organization in Geneva, Geneva

Norvège / Norway

Mr *Jostein Sandvik*, Legal Advisor, Norwegian Patent Office, Oslo

Pays-Bas / Netherlands

M. *Antoon (Teun) V.M. Struycken*, professeur à la Faculté de droit de l'Université catholique de Nimègue; président de la Commission d'Etat néerlandaise de droit international privé
 M. *Frans J.A. van der Velden*, conseiller au Ministère de la Justice, La Haye
 Mr *Ton Heukels*, Co-ordinating Legal Adviser, Ministry of Justice, The Hague

Roumanie / Romania

Mrs *Rodica Parvu*, Director General, Romanian Office for Copyright, Bucharest
 Mrs *Constanta Moraru*, Head of International Co-operation Department, Romanian State Office for Inventions and Trademarks, Bucharest

**Royaume-Uni de Grande-Bretagne et D'Irlande du Nord
United Kingdom of Great Britain and Northern Ireland**

Mr *Justice Laddie*, Royal Courts of Justice, London
 Mr *Trevor C. Hartley*, Professor of Law, London School of Economics and Political Science
 Mr *Peter M. Beaton*, Head of Civil Justice and International Division, Scottish Executive Justice Department, Edinburgh
 Mr *Oliver Parker*, Legal Adviser, Lord Chancellor's Department, London
 Ms *Liz Coleman*, Deputy Director, Intellectual Property Policy Directorate, Patent Office, London
 Mr *W.R. Cornish*, Professor, Magdalene College, Cambridge

Slovénie / Slovenia

Mr *Kreso Puharic*, Professor, Faculty of Economics; Chair of Law Department, Ljubljana

Suède / Sweden

Ms *Cecilia Renfors*, Director, Division of Procedural Law and Civil Enforcement, Ministry of Justice, Stockholm
 Mr *Henry Olsson*, Special Government Adviser, Ministry of Justice, Stockholm
 Mr *Michael Hellner*, Special Adviser, Ministry of Justice, Stockholm

Suisse / Switzerland

M. *Alexander R. Markus*, chef de Section du droit international privé, Office fédéral de la Justice, Berne
 M. *Andreas Bucher*, professeur à l'Université de Genève
 M. *Stefan Luginbuhl*, Conseiller juridique, Division Droit & Affaires internationales, Institut Fédéral de la Propriété Intellectuelle, Berne

Turquie / Turkey

Mrs *Hülya Çetin*, Inspection Judge at the European Union Co-ordination Department, Ministry of Justice, Ankara

Observateurs / Observers

**REPRÉSENTANTS D'ORGANISATIONS INTERGOUVERNEMENTALES
REPRESENTATIVES FOR INTERGOVERNMENTAL ORGANISATIONS**

**Organisation Mondiale De La Propriété Intellectuelle (OMPI)
World Intellectual Property Organization**

Ms *Joëlle M. Rogé*, Director-Advisor, Sector for Progressive Development of International Intellectual Property Law, WIPO, Geneva
 Mr *Alan Datri*, Head, Industrial Property Law Enforcement Section, Industrial Property Law Division, WIPO, Geneva
 Mr *Philippe Berchtold*, Head Patent Law Section, Industrial Property Law Division, WIPO, Geneva
 Mr *Christian Wichard*, Senior Legal Officer, Trademark Law Section, Industrial Property Law Division, WIPO, Geneva

**Commission Européenne
European Commission**

Mme *Anne-Marie Rouchaud*, administrateur principal, Service juridique, Commission européenne, Bruxelles

Mme *Mirjam Söderholm*, administrateur principal, D.G. Markt, Commission européenne, Bruxelles
 Mr *Michael Wilderspin*, Administrator in the Unit "Judicial cooperation in civil matters", European Commission, Brussels
 Mr *Christian Auinger*, expert national, D.G. Markt, Commission européenne, Bruxelles
 Mr *Vincenzo Scordamaglia*, Expert, Athens

**Conseil De L'union Européenne
 Council Of The European Union**

M. *Fernando R. Paulino Pereira*, Administrateur Principal à la Direction générale "H" (Justice et Affaires Intérieures), Secrétariat général, Bruxelles

**REPRÉSENTANTS D'ORGANISATIONS NON GOUVERNEMENTALES
 REPRESENTATIVES FOR NON-GOVERNMENTAL ORGANISATIONS**

**Chambre De Commerce Internationale (CCI)
 International Chamber Of Commerce**

Mr *Stefan Bernhard*, Senior Partner, Lagerlöf & Leman, Stockholm

International Trademark Association (INTA)

Ms *Judith Sapp*, Preti, Flaherty, Beliveau, Pachios & Haley, Llc, Portland, ME

Association Internationale Pour La Protection De La Propriété Industrielle (AIPPI)

Mr *Sierd J. Schaafsma*, De Brauw Linklaters & Alliance, The Hague, Netherlands

International Federation Of The Phonographic Industry (IFPI)

Ms *Maria Martin-Prat*, Deputy General Counsel, Director of Legal Policy, International Federation of the Phonographic Industry, London
 Ms *Ute Decker*, Legal Advisor, Legal Policy Department, International Federation of the Phonographic Industry, London
 Ms *Shira Perlmutter*, Vice-President and Associate General Counsel, Intellectual Property Policy, AOL Time Warner Inc, New York
 Mr *Yoshio Kumakura*, Chairman of the Committee of the draft Hague Convention, Japan Patent Attorneys Association (JPAA), Tokyo

Présidente de la Réunion / Chair of the Meeting

Ms *Andrea Schulz*, Regierungsdirektorin, Federal Ministry of Justice, Berlin

**SECRÉTARIAT DE LA CONFÉRENCE DE LA HAYE
 HAGUE CONFERENCE SECRETARIAT**

M. *Hans Van Loon*, Secrétaire Général / Secretary General
 M. *Christophe Bernasconi*, Premier Secrétaire / First Secretary

Secrétaire Rédacteur / Recording Secretary

Mme *Alexandra Schluep*