



CC/92/5

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE

**Ninety-Second Session
Geneva, October 27, 2016**

OBSERVERS IN UPOV BODIES

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

1. The purpose of this document is to provide background information to assist the Consultative Committee in its consideration of relevant matters concerning observers in UPOV bodies.

Table of contents

I.	BACKGROUND	1
II.	AD HOC INVITATIONS.....	2
III.	INTERNATIONAL INSTITUTE FOR IP MANAGEMENT (I ³ PM)	2
IV.	EUROPEAN LAW STUDENTS' ASSOCIATION (ELSA)	3
ANNEX I: OBSERVERS IN UPOV BODIES		
ANNEX II: I ³ PM LETTER		
ANNEX III: I ³ PM STATUTES		
ANNEX IV: I ³ PM WRITTEN STATEMENT		

I. BACKGROUND

2. The "Rules Governing the Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies" (Granting Rules) (see http://www.upov.int/export/sites/upov/members/en/pdf/rules_observer_status.pdf) provide that "[t]he Consultative Committee will be informed, on a regular basis, of the list of observer States and organizations in UPOV bodies and *ad hoc* invitations to attend a particular session of a UPOV body" (Granting Rules, paragraph 8). At its seventy-seventh session, held in Geneva on April 3, 2009, the Consultative Committee agreed that the item "Granting of Observer Status to States, Intergovernmental Organizations and International Non-Governmental Organizations in UPOV Bodies and Access to UPOV Documents" should become a standard item for the October sessions of the Consultative Committee (see document CC/77/11 "Report", paragraph 56).

3. The Consultative Committee noted, at its seventy-eighth session held in Geneva on October 21, 2009, that a document entitled "Observers in UPOV Bodies" would be prepared for the October sessions of the Consultative Committee containing the list of observers in UPOV bodies, a report on *ad hoc* invitations to attend a particular session of a UPOV body and any request from intergovernmental and international non-governmental organizations for granting of observer status in UPOV bodies (see document CC/78/5,

paragraph 3 and document CC/78/15 "Report", paragraphs 58 to 60). The list of observers in UPOV bodies is contained in the Annex to this document (see also <http://www.upov.int/members/en/observers.html>).

II. AD HOC INVITATIONS

4. In accordance with the Granting Rules (see Granting Rules, paragraph 2(a)(iii), 2(c)(iii) and 2(e)(iii)) the Consultative Committee is hereby informed that, since the eighty-eighth session of the Consultative Committee, experts from the following Organizations have been issued with *ad hoc* invitations:

(a) the IUBS Commission for the Nomenclature of Cultivated Plants to attend the first meeting of the Working Group on Variety Denominations (WG-DEN), held in Geneva on March 18, 2016; and

(b) the African Regional Intellectual Property Organization (ARIPO) to attend to attend the fifty-second session of the Technical Committee (TC), held in Geneva on March 14 to 16, 2016, and the seventy-third session of the Administrative and Legal Committee (CAJ), held in Geneva on October 25, 2016.

5. *The Consultative Committee is invited to note the ad hoc invitations issued to experts, as reported in paragraph 4 above.*

III. INTERNATIONAL INSTITUTE FOR IP MANAGEMENT (I³PM)

6. The Consultative Committee, at its ninetieth session, held in Geneva on October 28, 2015, considered document CC/90/16 "Request of the International Institute for IP Management (I³PM)".

7. The Consultative Committee, at its ninetieth session, agreed to invite I³PM to be present, at the relevant part of the item on observers in the program for its ninety-second session in October 2016, in order to explain how its statutes provided the basis to determine "competence in areas of direct relevance in respect of matters governed by the UPOV Convention" (see document CC/90/19 "Report on the Conclusions", paragraph 45).

8. The conclusion of the Consultative Committee was communicated to I³PM on November 13, 2015, and the invitation to I³PM to make a brief presentation at the relevant part of the item on observers was communicated to I³PM on July 29, 2016. On October 17, 2016, I³PM provided the Office of the Union with a letter confirming its presence at the ninetieth session of the Consultative Committee, together with the revised Statutes of I³PM and a written statement, which will be presented during the session. Those attachments are reproduced, in English only, as Annexes II, III and IV of this document, respectively.

9. The changes made to the version of the Statutes of I³PM that was considered by the Consultative Committee at its ninetieth session have been summarized as follows by Mr. Gauthier Obrecht, President of I³PM:

- changes of Articles 9, 10, 11, 15 for accommodating an I³PM Advisory Board;
- changes of Articles 2, 4-7, 21 for allowing I³PM membership for organizations (including observer status);
- further change of Article 10 for creating substitute positions for I³PM board members;
- further change of Article 11 for allowing single signature power for any of the Board Members instead of only the President.

10. *The Consultative Committee is invited to consider the request of I³PM for the granting of observer status to the Council.*

IV. EUROPEAN LAW STUDENTS' ASSOCIATION (ELSA)

11. The request of the European Law Students' Association (ELSA) for the granting of observer status to the Council and the CAJ is contained in document CC/92/19 "Request of the European Law Students' Association (ELSA)".

12. The Consultative Committee is invited to note that the request of the European Law Students' Association (ELSA) will be considered on the basis of document CC/92/19.

[Annexes follow]

OBSERVERS IN UPOV BODIES

1. STATES

<i>State</i>	<i>*</i>	<i>Council</i>	<i>CAJ</i>	<i>TC</i>	<i>TWPs</i>
Algeria	2	✓	✓	✓	
Armenia	1	✓	✓		
Bangladesh		✓			
Barbados	2	✓			
Bosnia and Herzegovina	1	✓	✓		
Brunei Darussalam	2	✓			
Burkina Faso	1	✓			
Burundi		✓			
Cambodia	2	✓			
Côte d'Ivoire	1	✓			
Cuba	2	✓			
Cyprus	2	✓			
Djibouti		✓			
Dominica		✓			
Egypt	1	✓	✓	✓	
El Salvador	2	✓			
Fiji		✓			
Gabon	1	✓			
Ghana	1	✓	✓	✓	✓
Greece		✓	✓		✓
Guatemala	1	✓		✓	
Guyana		✓			
Honduras	1	✓	✓		
India	1	✓	✓	✓	
Indonesia	2	✓			
Iran, Islamic Republic of	1	✓			
Iraq	2	✓			
Jamaica	2	✓			
Kazakhstan	1	✓	✓		
Lebanon		✓			
Libya	2	✓			

* 1: States which have initiated with the Council the procedure for becoming members of the Union.

2: States which have been in contact with the Office of the Union for assistance in the development of legislation on plant variety protection.

CC/92/5
Annex I, page 2

<i>State</i>	<i>*</i>	<i>Council</i>	<i>CAJ</i>	<i>TC</i>	<i>TWPs</i>
Luxembourg		✓			
Madagascar		✓			
Malawi		✓			
Malaysia	1	✓	✓	✓	✓
Mauritius	1	✓	✓	✓	
Mongolia		✓			
Pakistan	2	✓	✓		
Philippines	1	✓			
Saudi Arabia	2	✓	✓	✓	✓
Senegal	1	✓			
Seychelles		✓			
Sri Lanka		✓			
Sudan	2	✓			
Suriname		✓			
Syrian Arab Republic		✓			
Tajikistan	1	✓	✓	✓	
Thailand	2	✓	✓	✓	
Tonga	2	✓			
Turkmenistan	2	✓	✓		
Uganda		✓			
United Arab Emirates	2	✓			
Venezuela (Bolivarian Republic of)	1	✓	✓	✓	✓
Yemen	1	✓			
Zambia	2	✓			
Zimbabwe	1	✓	✓	✓	

2. INTERGOVERNMENTAL ORGANIZATIONS

<i>Intergovernmental organization</i>	**	<i>Council</i>	<i>CAJ</i>	<i>TC</i>	<i>TWP</i>
African Regional Intellectual Property Organization (ARIPO)	1	✓			
Andean Community		✓			
Bioversity International (former International Plant Genetic Resources Institute, IPGRI)		✓	✓	✓	✓
Consultative Group on International Agricultural Research (CGIAR)		✓			
European Free Trade Association (EFTA)		✓	✓		
European Patent Office (EPO)		✓	✓		
Food and Agriculture Organization of the United Nations (FAO)		✓		✓	
International Seed Testing Association (ISTA)		✓		✓	✓
Organisation for Economic Co-operation and Development (OECD)		✓		✓	✓
South Centre		✓	✓		
The World Conservation Union (IUCN)		✓			
United Nations Development Programme (UNDP)		✓			
United Nations Environment Programme (UNEP)		✓			
United Nations Industrial Development Organization (UNIDO)		✓			
World Bank		✓			
World Intellectual Property Organization (WIPO)		✓	✓		
World Trade Organization (WTO)		✓	✓		

** 1: Organizations which have initiated with the Council the procedure for becoming members of the Union.

2: Organizations which have been in contact with the Office of the Union for assistance in the development of legislation on plant variety protection.

3. INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

<i>International non-governmental organization</i>	<i>Council</i>	<i>CAJ</i>	<i>TC</i>	<i>TWPs</i>
African Seed Trade Association (AFSTA)	✓	✓	✓	✓
Asia and Pacific Seed Association (APSA)	✓	✓	✓	✓
Association for Plant Breeding for the Benefit of Society (APBEBES)	✓	✓	✓	✓
Association of European Horticultural Breeders (AOHE)	✓			
Biotechnology Industry Organization (BIO)	✓			
Commission for the Nomenclature of Cultivated Plants of the International Union for Biological Sciences (IUBS)	✓			
Committee of Agricultural Organizations in the European Union (COPA)	✓			
Committee of National Institutes of Patent Agents (CNIPA)	✓			
CropLife International	✓	✓	✓	✓
European Coordination Via Campesina (ECVC)	✓	✓	✓	✓
European Federation of Agents of Industry in Industrial Property (FEMIP)	✓			
European Organisation of Agricultural, Rural and Forestry Contractors (CEETTAR)	✓			
European Federation of Pharmaceutical Industries' Associations (EFPIA)	✓			
European Seed Association (ESA)	✓	✓	✓	✓
General Committee for Agricultural Co-operation in the European Union (COGECA)	✓			
International Association for the Protection of Intellectual Property (AIPPI)	✓			
International Association of Horticultural Producers (AIPH)	✓	✓	✓	
International Chamber of Commerce (ICC)	✓			
International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA)	✓	✓	✓	✓
International Federation of Industrial Property Attorneys (FICPI)	✓			
International Seed Federation (ISF)	✓	✓	✓	✓
Seed Association of the Americas (SAA)	✓	✓	✓	✓
Union of European Practitioners in Industrial Property (UNION)	✓			
Union of Industrial and Employers' Confederations of Europe (UNICE)	✓			
World Farmers' Organisation (WFO)	✓	✓	✓	

[Annex II follows]

ANNEX II / ANNEXE II / ANLAGE II / ANEXO II

[In English only / En anglais seulement / Nur auf Englisch / En Inglés solamente]



International Institute for IP Management

UPOV

Attn. **Francis Gurry**, Secretary General UPOV and
Director General WIPO
Peter Button, Vice Secretary General UPOV
Yolanda Huerta, Legal Counsel UPOV

14th October 2016

34, chemin des Colombettes
CH-1211 Geneva 20

Via e-mail to Yolanda.Huerta@UPOV.int

Re: Request for grant of Observer status at the UPOV Council

Dear Sirs,

As per I³PM's original request, dated 29th May 2015, for the granting of Observer status as an International NGO to the Council of UPOV; your responses dated 15th June 2015, 13th November 2015 and 29th July 2016; we thank you for the invitation to appear before the Consultative Committee on 27th October 2016 at 2:30pm.

We confirm the participation of representatives, Gordan Hyland (Vice President & Economic Chair I³PM) and Ulf Schaberg (member of I³PM), who will be present and happy to reply to questions of the Committee.

We submit in advance a written statement attached to this letter, supporting the short presentation to be given in the ninety-second session of the Consultative Committee, and for completeness sake a slightly amended copy of Statutes (adopted 29th October 2015, effective 1st November 2015). Both can be distributed amongst the Committee members in advance of the meeting.

We re-emphasize interest in Observership, and respectfully request its granting.

Best regards,

A handwritten signature in blue ink, appearing to read 'G. Obrecht', is written over a blue horizontal line.

Gauthier Obrecht

President I³PM

Gauthier.Obrecht@I3PM.org

Enc. Written Statement, copy of updated statutes

President: Dr. Gauthier Obrecht
Vice-President: Gordan Hyland
Secretary General: Vincent Couteau
Treasurer: Dr. Martin Wilming

International Institute for IP Management (I3PM)
Friedtalweg 5
CH-9500 Will (SG)
www.i3pm.org

[Annex III follows /
L'annexe III suit /
Anlage III folgt /
Sigue el Anexo III]

ANNEX III / ANNEXE III / ANLAGE III / ANEXO III

[In English only / En anglais seulement / Nur auf Englisch / En Inglés solamente]

I3PM – International Institute for Intellectual Property Management**STATUTEN****ARTIKEL 1****Gegenstand, Benennung, Sitz**

¹ Zwischen Managern* von geistigem Eigentum (nachfolgend: *IP Managern*) ist ein internationales Institut gegründet worden unter dem Namen:

„I3PM – International Institute for Intellectual Property Management“

(nachfolgend: *Institut*).

² Das Institut ist nicht auf wirtschaftliche Zwecke gerichtet und wurde auf unbestimmte Zeit gegründet als Verein im Sinne von Art. 60 ff des Schweizerischen Zivilgesetzbuchs, mit (vorläufigem) Sitz wie folgt:

I3PM – International Institute for
Intellectual Property Management
Friedtalweg 5
CH-9500 Wil (SG)
Schweiz

Dieser Sitz kann durch einstimmigen Beschluss des Vorstands oder durch Entscheidung der Generalversammlung (Art. 17, Abs. 2) an jeden anderen Ort verlegt werden.

³ Das Institut soll im Handelsregister eingetragen werden.

ARTIKEL 2**Ziele**

¹ Das Institut verfolgt das allgemeine Ziel, Probleme, die das Management von geistigem Eigentum (IP) und den Berufsstand der Mitglieder des Instituts betreffen, zu erörtern, zu ihnen Stellung zu nehmen und diese Stellungnahme beratend oder gutachtlich oder als Vorschläge an Behörden oder sonstige interessierte Kreise weiterzugeben.

² Im Besonderen stellt sich das Institut die Aufgabe:

- Die beruflich-kollegialen Verbindungen zwischen IP Managern aus verschiedenen Ländern zu festigen und ihre beruflichen Beziehungen zu fördern;

* Aus Gründen der Lesbarkeit wird in den Statuten nur die männliche Form verwendet; die weibliche Form wird hierunter mit verstanden.

STATUTES**ARTICLE 1****Object, Name, Seat**

¹ An international association of Intellectual Property Managers* (henceforth: *IP Managers*) is established under the name:

„I3PM – International Institute for Intellectual Property Management“

(henceforth: *Institute*).

² The Institute is a non-profit association, established for an unlimited term according to Art. 60 of the Civil Code of Switzerland (*Verein*) and having its (preliminary) seat as follows:

I3PM – International Institute for
Intellectual Property Management
Friedtalweg 5
CH-9500 Wil (SG)
Switzerland

This seat can be transferred to any other place by unanimous decision of the Bureau or by decision of the General Meeting (Art. 17, clause 2).

³ The Institute shall be registered in the Commercial Register.

ARTICLE 2**Aims**

¹ The general purpose of the Institute is to study problems relating to the management of intellectual property (IP) and to the profession of the members of the Institute, to come to conclusions on these problems and to convey these conclusions to the authorities and other interested parties as recommendations or opinions or as drafts.

² The Institute more particularly proposes:

- to strengthen the bonds of professional confraternity between IP Managers of various countries and to facilitate their professional relations;

* For the sake of readability only the male form is used in the Statutes; the female form shall be understood as equally encompassed.

- beruflich interessante Informationen aus den verschiedenen Ländern zu sammeln und diese ihren Mitgliedern zugänglich zu machen;
 - mit offiziellen und privaten Organisationen, die sich mit Fragen des Managements von geistigem Eigentum beschäftigen, vertrauensvolle und enge Beziehungen herzustellen und aufzubauen;
 - die Förderung der Ausbildung und Weiterbildung ihrer Mitglieder und anderer am Management von geistigem Eigentum interessierten Personen, beispielsweise durch Konferenzen, Seminare, Vorträge, etc.
- to collect information of professional interest in the various countries and to make available the same to its members;
 - to establish and maintain trustful and cordial relations with official or private organizations dealing with questions in the field of Intellectual Property Management;
 - to promote the training and continuing education of its members and those interested in the Management of Intellectual Property, e.g. through conferences, seminars, lectures, etc.

ARTIKEL 3 ***Sprache***

¹ Die offizielle Sprache des Instituts ist Englisch, vorbehaltlich der weiteren Bestimmungen dieses Artikels.

² Betreffend die Auslegung der Statuten sind der deutsche und der englische Text gleichermassen verbindlich.

³ Das Institut kann zur Kommunikation mit Behörden insbesondere an ihrem Sitz jede geeignete oder notwendige Sprache benutzen.

ARTICLE 3 ***Language***

¹ The official language of the Institute is English, subject to the further provisions of this Article.

² With respect to the construction of the Statutes, the German and the English text are equally authentic.

³ The Institute may use any language that is suitable or necessary for communication with authorities especially at its seat.

ARTIKEL 4 ***Arten von Mitgliedern***

¹ Das Institut setzt sich zunächst aus Einzelmitgliedern zusammen.

² Regierungs- und Nicht-Regierungsorganisationen, die sich mit IP Management befassen, kann Beobachterstatus gewährt werden; dieser gilt nicht als Mitgliedschaft. Beobachterstatus wird per Beschluss des Vorstands gewährt, basierend auf wechselseitigen Beitragsvereinbarungen.

ARTICLE 4 ***Categories of members***

¹ The Institute is initially composed of individual members.

² Official or private organizations dealing with IP Management can be granted observer status, however this does not qualify as membership. Observer status is granted upon decision of the Bureau based on reciprocal fee arrangements.

ARTIKEL 5 ***Aufnahmebedingungen***

¹ Der Vereinigung können zunächst nur Einzelmitglieder beitreten.

² Jeder IP Manager, sofern er den Anforderungen an die Ehrenhaftigkeit, Sittlichkeit und Befähigung entspricht, kann als Einzelmitglied beitreten; detaillierte Informationen betreffend die notwendige Befähigung werden bereitgestellt unter

ARTICLE 5 ***Conditions of admission***

¹ Only individual members may initially join the Institute.

² Any IP Manager, provided that he fulfils the desired conditions as to honorable character, moral character and ability may join as an individual member; detailed information concerning the required ability shall be made available under

<http://www.i3pm.org>

ARTIKEL 6

Aufnahmeverfahren für Einzelmitglieder

¹ Jeder IP Manager, der die Bedingungen des Artikels 5, Absatz 2, erfüllt und dem Institut beitreten will, muss dem Generalsekretär einen schriftlichen Aufnahmeantrag zuleiten, welcher eine ausdrückliche Anerkennung der Statuten und – soweit bereits existent – der Standesregeln für die Berufsausübung des Instituts enthält, und in dem über sich geeignete Angaben gemacht werden, die das Institut über seine einschlägige Ausbildung, die Art seiner Tätigkeit und den Zeitraum seiner Berufsausübung unterrichten.

² Der Vorstand entscheidet über den Aufnahmeantrag gemäss Art. 11, Abs. 2.

³ Das Verfahren über einen Aufnahmeantrag, dem nicht stattgegeben wurde, wird innerhalb des Institut geheim gehalten.

ARTIKEL 7

Fälle von Unvereinbarkeit und Ausschluss

¹ Aus dem Institut kann ausgeschlossen werden:

1. Jedes Einzelmitglied gemäss Artikel 5, Absatz 2, das
 - (a) durch einen Gerichtsbeschluss betroffen ist, der seine Ehrenhaftigkeit in Frage stellt, oder der sich Verfehlungen hinsichtlich seiner Ehrenhaftigkeit oder seines korrekten beruflichen Verhaltens hat zu Schulden kommen lassen; oder
 - (b) die Regeln guten kollegialen Verhaltens verletzt hat.
2. Jedes Mitglied der Vereinigung, das
 - (a) nach einer durch den Vorstand festgesetzten Frist versäumt, die in Kraft befindlichen Statuten, die Geschäftsordnung und die Standesregeln für die Berufsausübung oder die von Der Generalversammlung oder vom Vorstand aufgrund der diesem übertragenen Befugnisse gefassten Beschlüsse zu befolgen; oder
 - (b) seinen Mitgliedsbeitrag für das laufende Jahr nicht gezahlt hat und dies binnen dreier Monate nach einer

<http://www.i3pm.org>

ARTICLE 6

Admission procedure for individual members

¹ Any IP Manager fulfilling the conditions laid down in Article 5, clause 2, and desirous of joining the Institute, shall send to the Secretary General an application in writing acknowledging express adhesion to the Statutes and – as far as already existing – the code of professional conduct of the Institute and making known the information necessary to inform the Institute of his respective education, the nature of his activity and the time during which he has been practicing his profession.

² The Bureau shall decide upon the application, according to Art. 11, clause 2.

³ The procedure relating to a candidature not accepted by the Executive Committee shall be kept secret within the Institute.

ARTICLE 7

Cases of incompatibility and expulsion

¹ The following may be expelled from the Institute:

1. Any Individual Member according to Article 5, clause 2, who
 - (a) is the subject of a court judgement involving his honorable character, or who has been deficient in honor or in professional conduct; or
 - (b) has violated the rules of good confraternity.
2. Any member of the Institute who
 - (a) after a period of time fixed by the Bureau, fails to conform to the Statutes, the code of professional conduct in force or to decisions taken by the General Meeting or the Bureau in accordance with the powers conferred to it; or
 - (b) who, not having paid his subscription for the actual year, has not put this in order three months after a reminder.

Mahnung nicht nachgeholt hat.

ARTIKEL 8
Austritte

Mitglieder können aus dem Institut zum Ende eines Kalenderjahres austreten, vorausgesetzt dass der Generalsekretär mindestens drei Monate vor Ablauf des Kalenderjahrs schriftlich informiert wurde.

ARTIKEL 9
Präsident und Vizepräsident des Instituts

¹ Die Wahl des Präsidenten und des Vizepräsidenten wird an der Generalversammlung abgehalten. Ihre Tätigkeit ist ehrenamtlich. Der Amtsantritt erfolgt sogleich nach Ende der Sitzung, in der die Wahl stattgefunden hat.

² Der Präsident des Instituts führt auf den Sitzungen des nach Artikel 10 gebildeten Vorstandes und des Beirates, sowie auf der Generalversammlung den Vorsitz.

³ Der Vizepräsident vertritt den Präsidenten in seinem ganzen Zuständigkeitsbereich, wann immer der Präsident verhindert ist oder wenn er vom Präsidenten dazu aufgefordert wird.

ARTIKEL 10
Vorstand und Beirat des Instituts

¹ Der Vorstand der Vereinigung wird durch den Präsidenten, den Vizepräsidenten, den Generalsekretär und den Generalschatzmeister gebildet.

² Der Präsident, der Vizepräsident, der Generalsekretär, der Generalschatzmeister und die Beiräte werden für die Dauer einer Periode zwischen zwei Generalversammlungen gewählt oder wiedergewählt.

³ Der Generalsekretär und der Generalschatzmeister können von einem Vize-Generalsekretär und einem Vize-Generalschatzmeister unterstützt werden. Sie nehmen die Zuständigkeit wahr, wenn der Generalsekretär und/oder der Generalschatzmeister verhindert sind. Vize-Generalsekretär und Vize-Generalschatzmeister können an der Generalversammlung gewählt oder wiedergewählt werden für die Dauer einer Periode zwischen zwei Generalversammlungen gemäss Art. 15.

⁴ Ein Beirat kann eingerichtet werden. Der Beirat des Instituts berät den Vorstand. Der Vorsitzende

ARTICLE 8
Resignations

Members may resign from the Institute at the end of a calendar year, provided that the Secretary General has been notified in writing at least three months before the end of the calendar year.

ARTICLE 9
President and Vice-President of the Institute

¹ The elections of the President and the Vice-President are held at the General Meeting, and these duties are honorary. Office is assumed at the end of the session at which the election is held.

² The President of the Institute shall preside at the meetings of the Bureau and the Board as defined in Article 10, and at the General Meeting.

³ The Vice-President replaces the President in all his duties whenever the President is prevented from attending, or if he is requested by the President to do so.

ARTICLE 10
Bureau and Advisory Council of the Institute

¹ The Bureau of the Institute is formed by the President, the Vice-President, the Secretary General and the Treasurer General.

² The President, the Vice-President, the Secretary General, the Treasurer General and other Board members are elected or re-elected for the period of time between two General Meetings.

³ The Secretary General and Treasurer may respectively be assisted by a Vice Secretary General and a Vice Treasurer. They assume responsibility when the Secretary General and/or Treasurer are prevented. Both the Vice Secretary General and the Vice Treasurer can be elected or re-elected at the General Meeting for the period of time between two General Meetings according to Article 15.

⁴ An Advisory Board may be established. The Bureau is assisted by the Advisory Board of the In-

des Beirats ist ein Alterspräsident des Instituts, vorzugsweise der letzte. Der Vorsitzende des Beirats hat die Aufgabe, die Aktivitäten des Beirats zu koordinieren.

Der Beirat umfasst:

- Alterspräsidenten, welche statutenmäßige Mitglieder sind;
- Externe Mitglieder oder Mitglieder des Instituts, vorzugsweise aus der Wirtschaft oder der Forschung, die von jedem Mitglied oder von jedem Vorstandsmitglied oder von jedem Mitglied des Beirats vorgeschlagen werden können und welche vom Vorstand ausgewählt werden.

Der Vorsitzende des Beirats hat die Aufgabe, ausgewählte Mitglieder des Beirats zum Einsitz im Beirat einzuladen.

stitute. The Chairman of the Advisory Board will be one of the former Presidents of the Institute, by preference the latest. The Chairman of the Advisory Board has the task to coordinate the Advisory Board's activities.

The Advisory Board comprises:

- former Presidents, who are members by right of the Statutes;
- External Members or Members of the Institute, preferably from industry or academia, who can be suggested by any Member of the Bureau or by any Member of the Advisory Board and who are elected by the Members of the Bureau.

The chairman of the Advisory Board has the task to invite elected Advisory Board Members to join the Advisory Board.

ARTIKEL 11 ***Zuständigkeitsbereich des Vorstandes und des Beirates***

¹ Der Vorstand, dessen Mitglieder der Generalversammlung verantwortlich sind, übernimmt die Aufgabe und Verantwortung der Führung des Instituts. Hierfür werden so oft wie nötig Vorstandssitzungen einberufen, die zumindest im Rahmen einer Telefonkonferenz oder Videokonferenz abgehalten werden.

² Insbesondere gilt: Der Vorstand

- trifft uneingeschränkt Beschlüsse über Angelegenheiten im Rahmen der laufenden Geschäfte des Instituts. Der Präsident hat Einzelunterschriftsberechtigung für das Institut, die weiteren Mitglieder des Vorstandes Kollektivunterschriftsberechtigung zu zweien;
- entscheidet über Aufnahmeanträge von Einzelmitgliedern (aufgrund einer begründeten Stellungnahme der Aufnahmekommission, falls eine solche eingerichtet ist);
- entscheidet über die Vorschläge der verschiedenen ständigen oder zeitweiligen Ausschüsse;
- kann ein Mitglied des Instituts dazu bestellen, ein Mitglied des Vorstandes in der Ausführung seiner Tätigkeit zu unterstützen.

ARTICLE 11 ***Duties of the Bureau and the Advisory Council of the Institute***

¹ The Bureau, whose members are responsible to the General Meeting, assumes the duties and responsibilities of the Institute. Towards this end, the Bureau shall meet as often as necessary, which meetings shall at least be conducted as a telephone conference or video conference.

² In particular, the Bureau

- shall make absolute decisions regarding issues within the scope of the ordinary administration of the Institute. The Members of the Bureau have single signatory power for the Institute;
- takes decisions regarding the admission of Individual or Corporate Members (on the basis of a reasoned opinion of the Admission Commission if an Admission Commission is installed);
- takes decisions regarding the proposals of the various permanent or temporary commissions;
- may appoint a member of the Institute for helping one of the members of the Bureau in the achievement of his task.

³ Der Vorstand fasst Beschlüsse mit einfacher Mehrheit. Im Falle der Stimmgleichheit entscheidet das Votum des Präsidenten.

³ The Bureau takes decisions by simple majority. In case of equality of votes the president's vote shall be decisive.

⁴ Schriftlicher Zirkularbeschluss des Vorstands ist zulässig; ebenso Beschluss via Telefonkonferenz oder Videokonferenz, gefolgt von schriftlicher Bestätigung.

⁴ Circular resolution of the Bureau in writing is admissible; as well as resolution by a telephone conference or video conference, followed by written confirmation.

⁵ Der Vorstand kann dem Institut nicht angehörende Persönlichkeiten, die einen bedeutenden Beitrag zur Förderung des Managements von geistigem Eigentum geleistet haben, zu Ehrenmitgliedern ernennen. Ehrenmitglieder sind nicht zur Zahlung des Mitgliedsbeitrags (Art. 19) verpflichtet.

⁵ The Bureau may appoint as Honorary Members eminent personalities not belonging to the Institute who have made a significant contribution to the promotion of the Management of Intellectual Property. Honorary Members are not obliged to pay the annual subscription (Art. 19).

⁶ Der Beirat des Instituts ist ein beratendes Organ, dessen Aufgabe es ist, den Vorstand zu beraten und Beiträge zu Themen im Zusammenhang mit IP Management zu machen.

⁶ The Advisory Board of the Institute is a consultative body the task of which is to advise the Bureau and to provide input in all kinds of IP Management topics.

⁷ Eine der Hauptaufgaben des Beirats ist die Einrichtung eines laufenden Austauschs über aktuelle Themen des IP Managements mit Wirtschaft und Wissenschaft. Insbesondere wird von Mitgliedern des Beirats erwartet, aktuelle Themen aus ihrem Wirtschafts- bzw. Forschungszweig zu benennen und/oder Beiträge zu aktuellen Forschungsthemen betreffend IP Management zu liefern. Ein Ziel ist es, tatsächliche und wirtschaftszweig-spezifische Fragestellungen betreffend IP Management den Forschungsinstituten zuzuleiten und Forschungsergebnisse der Industrie zugänglich zu machen. Die Verfahrensordnung des Beirats ist in der I3PM Verfahrensordnung festgelegt.

⁷ One of the main goals of the Advisory Board is to establish an ongoing communication with industry and academia on current IP Management topics. In particular, the members of the Advisory Board are expected to provide current IP Management topics from their respective industries and/or to provide input regarding current IP Management research topics. One goal is to channel real world industry specific IP Management questions into research institutions and to provide the research results back into industry. The governing rules for the Advisory Board are specified in the I3PM Governing rules.

⁸ Der Präsident des Instituts kann die Präsidenten anderer an der Tagesordnung des Beirats interessierter Kommissionen einladen, den Sitzungen des Beirates beizuwohnen.

⁸ The President of the Institute may ask the Presidents of other Commissions interested in the Agenda of the Advisory Board to attend the meetings of the Advisory Board.

⁹ Der Präsident der Vereinigung kann die Präsidenten anderer an der Tagesordnung interessierter Kommissionen einladen, der Sitzung des Beirates beizuwohnen.

⁹ The President of the Society may ask the Presidents of other Commissions interested in the Agenda to attend the meetings of the Advisory council.

¹⁰ Darüber hinaus kann der Präsident des Instituts eine ausserordentliche Sitzung des Beirats anberaumen, auf Basis einer von ihm unter Konsultation des Vorstands ausgearbeiteten Tagesordnung. Es ist Aufgabe des Vorsitzenden des Beirats, diese Sitzung einzuberufen und die Mitglieder des Beirats einzuladen.

¹⁰ Moreover, the President of the Institute shall be entitled to summon an extraordinary Advisory Board Meeting on the basis of an Agenda prepared by him in consultation with the Bureau. It is the task of the Chairman of the Advisory Board to organize the meeting and to invite the Members of the Advisory Board.

ARTIKEL 12
Aufnahmekommission

ARTICLE 12
Admission Commission

Eine Aufnahmekommission kann eingerichtet werden. Die Aufnahmekommission führt Erkundigungen durch und erarbeitet eine mit Gründen versehene Stellungnahme. Sie ist aus mindestens drei Mitgliedern zusammengesetzt, von denen einer der Präsident der Aufnahmekommission ist. Die Mitglieder der Aufnahmekommission werden von der Generalversammlung gewählt.

An Admission Commission may be installed. The Admission Commission carries out inquiries and draws up an opinion, indicating grounds. It is composed of at least three members one of whom shall be the Chairman of the Admission Commission. The members of the Admission Commission shall be elected by the General Meeting.

ARTIKEL 13
Statutenkommission

ARTICLE 13
Statutes Commission

Eine Statutenkommission kann eingerichtet werden. Der Statutenkommission obliegt es, auf Verlangen des Vorstandes, Vorschläge zur Erstellung oder Änderung der Statuten, der Geschäftsordnung und der Landesregeln für die Berufsausübung vorzubereiten. Ihr Präsident wird von der Generalversammlung gewählt. Ihre Mitglieder werden durch ihren Präsidenten nach Befragung des Vorstandes ernannt.

A Statutes Commission may be installed. The Statutes Commission is charged with preparing, at the request of the Bureau, the proposals for the draft and modification of the Statutes, to the rules and to the Code of Professional Conduct. Its President is elected by the General Meeting. Its members are chosen by its President after consultation with the Bureau.

ARTIKEL 14
Aus- und Fortbildungskommission

ARTICLE 14
Training and Education Commission

Eine Aus- und Fortbildungskommission kann eingerichtet werden. Die Aus- und Fortbildungskommission fördert die Aus- und Fortbildung von Mitgliedern des Instituts und aller am Management von geistigem Eigentum interessierten Personen gemäss Artikel 2. Ihr Präsident wird von der Generalversammlung gewählt. Die Mitglieder der Kommission werden nach Beratung mit dem Vorstand durch ihren Präsidenten ernannt.

A Training and Education Commission may be installed. The Training and Education Commission promotes the training and continuing education of members of the Institute and others interested in the Management of Intellectual Property, in accordance with Article 2. Its president is elected by the General Meeting. The members of the Commission are chosen by its President after consultation with the Bureau.

ARTIKEL 15
Wahl des Präsidenten, des Vizepräsidenten, des Generalsekretärs, des Generalschatzmeisters, der Mitglieder des Beirates und der Präsidenten der verschiedenen Kommissionen

ARTICLE 15
Elections of the President, the Vice-President, the Secretary General, the Treasurer General, the members of the Advisory Council and the Presidents of the various Commissions

Alle Wahlen werden von der Generalversammlung in geheimer Abstimmung durchgeführt, getrennt für jedes Amt. Wenn im ersten Wahlgang eine absolute Mehrheit der abgegebenen, gültigen Stimmen nicht erzielt wird, erfolgt ein zweiter Wahlgang. Wenn auch dieser noch keine absolute Mehrheit ergibt, wird ein dritter Wahlgang zur Ermittlung einer relativen Mehrheit abgehalten. Bei Gleichheit entscheidet das Los. Die Wahlen bzw. Wiederwahlen erfolgen für die Dauer zwischen zwei Generalversammlungen.

Any election is effected by secret ballot, separately for each office. If, at the first ballot, an absolute majority of validly given votes is not obtained, a second ballot is held. If this still fails to produce an absolute majority, a third ballot, with relative majority, will be held. In case of equality, lots will be drawn to decide. The election or re-elections are for the period of time between two General Meetings.

ARTIKEL 16
Generalversammlung

ARTICLE 16
General Meetings

¹ Alle Mitglieder werden zu einer Generalversammlung wenigstens einmal innerhalb von zwei (2) Jahren eingeladen, wenigstens sechs (6) Monate vor dem geplanten Termin.

² Anträge müssen schriftlich bis spätestens drei (3) Monate vor dem Termin der Generalversammlung bei dem Generalsekretär eingehen, um für die folgende Generalversammlung berücksichtigt zu werden.

³ Die Tagesordnung der Generalversammlung wird gemeinschaftlich vom Präsidenten, dem Vize-Präsidenten, dem Generalsekretär und dem Generalschatzmeister erstellt und mindestens zwei (2) Monate vor dem vorgesehenen Termin der Generalversammlung schriftlich an die Mitglieder verschickt.

⁴ Bis spätestens einen (1) Monat vor dem vorgesehenen Termin der Generalversammlung steht den Mitgliedern die Möglichkeit der Briefwahl offen; ein zu benutzender Vordruck wird mit der Tagesordnung verschickt. Für die Berücksichtigung entscheidet der Tag des Eingangs des Wahlbogens beim Generalsekretär.

⁵ Insbesondere gilt: Die Generalversammlung

- kann eine Geschäftsordnung und die Standesregeln für die Berufsausübung festlegen;
- erteilt Organen des Instituts Entlastung von ihren Aufgaben;
- legt die Höhe des Minimal-Mitgliedsbeitrages fest;
- beschliesst über vorgeschlagene Änderungen der Statuten.

⁶ In der Generalversammlung führt der Präsident des Instituts den Vorsitz, der durch die anderen Mitglieder des Vorstandes unterstützt wird.

ARTIKEL 17 **Abstimmungen der Generalversammlung**

¹ Die Generalversammlung ist jedenfalls beschlussfähig, wenn rechtzeitig vor der Generalversammlung die Wahlbögen für die Briefwahl an die Mitglieder verschickt wurden. Soweit nichts anderes bestimmt ist, genügt die einfache Mehrheit der abgegebenen, gültigen Stimmen.

² Eine Mehrheit von drei Vierteln ist für das Festsetzen des Mitgliedsbeitrages, für die Änderung der Statuten und des Sitzes des Instituts sowie für

¹ All members are convened to a General Meeting at least once every two (2) years, at least six (6) months before the scheduled date.

² Requests are to be received by the Secretary General at least three (3) months before the scheduled date of the General Meeting in order to be considered for the forthcoming General Meeting.

³ The agenda of the General Meeting is drawn up jointly by the President, the Vice-President, the Secretary General and the Treasurer General and are furnished to the members in writing at least two (2) months prior to the scheduled date of the General Meeting.

⁴ The members may vote in writing until (1) month prior to the scheduled date of the General Meeting, latest; a printed form to be used shall be sent out with the agenda of the General Meeting. The day of receipt of the voting brief with the Secretary General shall be decisive for consideration at the General Meeting.

⁵ In particular, the General Meeting

- may determine the rules and the code of professional conduct;
- discharges the members of the Bureau from responsibility of their mandates;
- determines the amount of the minimum subscription;
- Decides regarding proposed amendments to the Statutes.

⁶ The General Meeting is presided over by the President of the Institute, assisted by the other members of the Bureau.

ARTICLE 17 **Votes of the General Meeting**

¹ In any case, the General Meeting may validly meet if the voting briefs for a vote in writing have been sent out to the members in due time. Subject to any explicit prescription to the contrary, the simple majority of validly given votes shall suffice.

² A majority of three quarters is necessary for the fixing of subscriptions, for amending the Statutes and the seat of the Institute and for establishing

die Aufstellung von für alle Mitglieder verbindlichen Standesrichtlinien und Standesregeln für die Berufsausübung erforderlich.

³ Eine Dreiviertelmehrheit bedeutet, dass die Zahl der Ja-Stimmen mindestens das dreifache der Nein-Stimmen beträgt.

⁴ Bei allen Abstimmungen, die Mehrheiten oder Einstimmigkeit erfordern, werden Enthaltungen nicht berücksichtigt.

the code of professional conduct and professional rules which are to be binding on all members.

³ A three-quarters majority means that the number of affirmative votes is at least three times the number of the negative votes.

⁴ Abstention votes are to be ignored as regards to all majority and unanimity votes.

ARTIKEL 18 ***Ausserordentliche Entscheidungen***

¹ Ausserordentliche Entscheidungen können zwischen den Generalversammlungen im Rahmen einer schriftlichen oder elektronischen Abstimmung unter den Mitgliedern getroffen werden, sofern mindestens ein Viertel der Mitglieder gemeinsam einen Antrag auf eine solche Entscheidung dem Generalsekretär vorlegt.

² Eine solche Vorlage muss vom Vorstand binnen drei (3) Monaten nach Eingang beim Generalsekretär zur Abstimmung gebracht werden.

³ Der Vorstand kann den Mitgliedern eine Frage zur ausserordentlichen Entscheidung im schriftlichen oder elektronischen Verfahren mit einer Frist von zwei (2) Monaten (Eingang beim Generalsekretär) vorlegen.

⁴ Das Ergebnis aller solcher ausserordentlichen Abstimmungen ist unabhängig von der Wahlbeteiligung gültig.

ARTIKEL 19 ***Mitgliedsbeitrag und Bilanzierungszeitraum***

¹ Jedes Einzelmitglied ist verpflichtet, den Mindest-Jahresmitgliedsbeitrag für das laufende Kalenderjahr bis spätestens 31. Januar auf ein vom Institut zu bezeichnendes Konto zu zahlen. Die Höhe des aktuellen Mitgliedsbeitrags und das Konto wird unter <http://www.i3pm.org> publiziert.¹

² Der Bilanzierungszeitraum entspricht dem Kalenderjahr.

ARTIKEL 20 ***Haftungsbegrenzung***

Die Mitglieder des Instituts haften nur bis zur Hö-

ARTICLE 18 ***Extraordinary Decisions***

¹ Extraordinary decisions may be taken in between the General Meetings, either in writing or electronically, provided that at least one quarter of the members request so in writing with the Secretary General.

² Such a request shall be brought to ballot within three (3) months after receipt with the Secretary General.

³ The Bureau may submit a question to the members for extraordinary decision in written or electronic proceedings with a time limit of two (2) months (receipt with the Secretary General).

⁴ The result of all such extraordinary ballots shall be valid irrespective of the voter participation.

ARTICLE 19 ***Subscription and Accounting Period***

¹ Each individual member shall pay an annual subscription to a bank account to be named by the Institute corresponding to the said minimum annual subscription for the current calendar year until 31 January, latest. The actual amount of the subscription and the bank account shall be published under <http://www.i3pm.org>.¹

² The accounting period corresponds to the calendar year.

ARTICLE 20 ***Limited Liability***

The members of the Institute are only liable for

¹ Aktueller Mitgliedsbeitrag 2015: € 50,-- p. a. / Actual Subscription 2015: € 50,-- p. a.

he des Mitgliedsbeitrags für Verbindlichkeiten des Instituts, soweit dies nicht zwingendem Recht widerspricht.

commitments of the Institute up to the annual subscription, with the provision that mandatory legal provisions are not contradicted.

ARTIKEL 21
Inkrafttreten der Statuten

Diese Fassung der Statuten wurde an der Generalversammlung vom 29. Oktober 2015 verabschiedet und ist gültig ab dem 1. November 2015.

ARTICLE 21
Entry into force of the statutes

The present version of the Statutes has been agreed on at the General Meeting of October 29, 2015 and are effective as from 1 November 2015.

ANNEX IV / ANNEXE IV / ANLAGE IV / ANEXO IV

[In English only / En anglais seulement / Nur auf Englisch / En Inglés solamente]



WRITTEN STATEMENT

in preparation to the ninety-second session of the
Consultative Committee on October 27, 2016

in support of the presentation of the representatives of the International Institute for
Intellectual Property Management (I³PM) in relation to its request to be granted
observer status in the UPOV Council

Executive Summary

The International Institute for Intellectual Property Management (in the following "I³PM") has requested observer status as International NGO to the Council of UPOV on May 29, 2015.

This statement shall further support said request and shall particularly address how the institutes purpose and activities, as founded on its statutes and as realized by the activities of the institute and of its members, do establish its competence of direct relevance in respect of matters governed by the UPOV convention, particularly for the following reasons:

- **I³PM is an established organization of Intellectual Property Managers** – fulfilling the formal requirements of UPOV observer status.
- **Intellectual Property management is of growing importance for business** – the emphasis of I³PM's competence and work is placed on management issues over the full range of IP.
- **IP and IP Management are fundamental for the agribusiness sector** – active in all technical and industrial fields, and in view of the innovation challenge in agriculture, I³PM consider the agribusiness sector of utmost importance to its activities. In this area plant variety protection forms an essential piece of IP.
- **I³PM is an organization very comparable to other observers at UPOV** – and finds in the existing observer organizations a peer group of its own organization. I³PM is not able to identify any competence it might be lacking which is of direct relevance in respect of matters governed by the UPOV convention in comparison with its peer group amongst UPOV observers.

This is explained further in the following presentation.

President: Dr. Gauthier Obrecht
Vice-President: Gordon Hyland
Secretary General: Vincent Couteau
Treasurer: Dr. Martin Wilming

International Institute for IP Management (I3PM)
Friedtalweg 5
CH-9500 Willi (SG)
www.i3pm.org

I³PM is an established organization of Intellectual Property Managers

The International Institute for Intellectual Property Management (I³PM) is a non-profit association and an international association of intellectual property (IP) practitioners¹. No restriction is placed upon the definition of intellectual property, i.e. all types of intellectual property are the subject of I³PM's statutory purposes and conducted activities.

I³PM was founded nine years ago and currently has 91 listed members from 23 countries ranging from Asia over Europe to North America, representing a broad range of industries and IP management industry experience (including the agribusiness sector). I³PM members are active in law firms, consulting firms and in the industry as IP managers, patent attorneys and European Patent Attorneys. Members generally have at least ten years work experience and/or a master's degree in IP-management².

The I³PM Advisory Board³, chaired by Peter Bittner (former President I³PM), provides a channel between academia and industry on current issues of interest. Current Board members include Brian Hinman (CIPO of Philips), Udo Meyer (CIPO of BASF), Cornelis Schueller (Head of IP at Nestle), Prof. Bo Heiden (University of Gothenburg – CIP), Prof. Alexander Wurzer (CEIPI Strasbourg), Thibaud Lelong (CEIPI Strasbourg), Marcel Bogers (University of Copenhagen) and Yann Ménière (chief economist EPO). We are currently also in discussions with another representative from the administrative domain.

The general purpose of I³PM is to "study problems relating to the management of intellectual property (IP) and to the profession of the members of the Institute, to come to conclusions on these problems and to convey these conclusions to the authorities and other interested parties as recommendations or opinions or as drafts."⁴

The emphasis of I³PM's activities is put on the management of IP, particularly on the interplay between economic, legal and corporate aspects.

Study of pertinent problems and conveyance of conclusions to authorities usually occurs via engagement of close relationships, including observer-like relations. I³PM presently holds Observer status at and actively participates in two Committees, SCP (Standing Committee on the Law of Patents, PCT Working Group) and CDIP (Committee on Development and IP). I³PM has close relationships to CEIPI in Strasbourg, particularly to the Master in Intellectual Property Law and Management (MIPLM) executive program,

¹ Article 1 I³PM Statutes.

² Article 5.2 I³PM Statutes.

³ As a result of last year's general meeting, the Statutes have clarified and expanded the role of the Advisory Board in Art. 11 I³PM Statutes.

⁴ Article 2.1 I³PM Statutes.

and MIPLM's alumni form the basis of our association. Observerships and other close relationships, thus, form an integral component as our membership regards such relations as integral to the association. This can be further derived from I³PM's aim to "collect information of professional interest in the various countries and to make available the same to its members" and to "establish and maintain trustful and cordial relations with official or private organizations dealing with questions in the field of Intellectual Property Management"⁵.

I³PM additionally promotes "the training and continuing education of its members and those interested in the Management of Intellectual Property, e.g. through conferences, seminars, lectures, etc."⁶. Since its existence, I³PM and its members have organized General Meetings including lectures on the topics of IP management and conducted and co-organized a considerable number of conferences and seminars; I³PM has fostered and supported publications in the field, as documented by numerous articles published on its core competence IP Management (Refer to **Annex 1** – I³PM activities).

I³PM plans its next General Meeting 2017 to be located in Geneva and intends to include participation of the bodies it holds Observer status to. This may also give an opportunity for UPOV to meet particularly the plant variety protection specialists of the association.

Intellectual Property Management is of growing importance for businesses

The emphasis of I³PM's competence and work is placed on management issues over the full range of IP. As context; of the approx. 5,000 globally listed public companies almost 80% of their market capitalization value is attributable to intangible assets of which codified intellectual property is the most tangible⁷. The global codified intellectual property bank is estimated to be at least \$6Trillion, which should be compared to an approx. \$60Trillion annual Global GDP⁸. Patents contribute the bulk of value but trademarks are a strong second, i.e. a mix of all forms of IP⁹. Qua patents for example, it has been published that in a typical company's portfolio 5% of the patents hold 90% of the portfolio's value whereas 70% are almost worthless¹⁰. Further, according to EPO

⁵ Article 2.2 I³PM Statutes.

⁶ Article 2.2 I³PM Statutes.

⁷ Components of S&P500 Market Value, <http://www.oceantomo.com/ocean-tomo-300/>

⁸ IMF.org (2010)

⁹ "\$700B up for grabs through more effective management of the World's 500 most valuable brands" by David Haigh & Mike Rocha, BrandFinance.com

¹⁰ Harhoff et al. (2003): Exploring the Tail of Patent Value Distribution, in Granstrand (ed.) Economic law and Intellectual Property, 279-309.

published material, approx. one third of granted patents may later be ruled invalid¹¹. In this era of open innovation and outsourcing combined with recent attempts of creating formal IP markets it is clear that even within any single form of IP there exists a corporate governance issue of financial efficiency¹². Proper guardianship is thus of utmost importance.

The management of these assets is a still developing discipline merging the skill-sets of law, finance/economics and strategy. In this regard CEIPI Strasbourg is a pioneer driving the field via its Master in Intellectual Property Law and Management (MIPLM) executive degree. MIPLM's alumni form the basis of our association I³PM. Currently approximately 90% of members hold this degree and we make a conscious continuous effort to diversify the membership basis.

Against this context we note the vital importance of protecting plant-related innovation, including plant variety protection, and its importance to the global economy.

IP and IP Management are fundamental for the agribusiness sector

Agriculture is of greatest importance for mankind as a requirement to nourish a growing world population with, at the same time, a growing scarcity of arable land in the world. The food security problem is often referred to as a major challenge of humankind. A key to any solution is, amongst social and political aspects, innovation in agricultural solutions, to provide the basis to grow food production by a predicted more than 60 percent by 2050 to feed the expected 9.7 billion – 2 billion more – people on the planet at that time¹³.

With the importance of innovation and a rapidly advancing technification of the breeding of new plant varieties, the status and future development of the global intellectual property systems will play an important – if not fundamental – role in this global challenge. The intellectual assets of breeding companies encompass all forms of IP, including knowhow, brands and trademarks, patents, and particularly additionally plant breeders' rights and plant variety protection. The UPOV systems have since its creation been a cornerstone of protecting innovation of plant breeders.

IP Management relates to the creation, defence and exploitation of intellectual assets for commercial value creation of companies. IP Management is by definition more complex

¹¹ EPO post-grant opposition procedure: van de Kuilen, Aalt (2013). "Successful European oppositions: Analysis for the patent information professional". *World Patent Information*. Elsevier. 35 (2): 126–129.

¹² IPXI.com

¹³ Food and Agricultural Organization (FAO) of the United Nations (2015).

in the area of plant innovation compared to other technical areas, first of all by the availability of more IP tools in comparison to other technical fields.

In addition, a constant increase of counterfeiting products and illegal propagation of protected varieties can be observed, requiring agribusiness and breeding companies to strengthen its expertise and activities in *defending* its intellectual assets, further emphasizing the importance of IP management in breeding companies. Plant variety protection in combination with the other IP rights are of greatest importance for this aspect of IP management.

The complex interplay between different IP systems adds further complexity to IP strategies of companies in this sector, not only between trademarks and plant variety protection (denomination), but also between the plant variety protection system and the patent systems, as materialized in the so-called Tomato/Broccoli proceedings before the European Patent Office¹⁴.

The legal status and future developments in the plant variety protection systems are and will be a crucial element in managing intellectual assets for companies value creation in this sector, and ultimately, for the innovation challenge in agriculture. For the success of agribusiness and breeding companies, IP strategy and IP management excellence in this field will be a crucial factor.

In view of these developments, and as I³PM is active in all technical and industrial fields, I³PM considers the agribusiness sector an area of high importance of its activities, and in this area plant variety protection and UPOV form an essential piece of IP.

I³PM is an organization very comparable to other observers at UPOV

Finally, I³PM has made an effort to better understand any competence it might nevertheless be lacking which is of direct relevance in respect of matters governed by the UPOV convention, particularly in comparison to those non-governmental organizations that have been granted observer status at UPOV.

Interestingly, it can be observed that it is *IP Management* as a discipline which forms the bridge between the three focus areas of the admitted International NGO UPOV observers, namely

- commerce (e.g. ICC and UNICE),
- industry (e.g. BIO, EFPIA, CIOPORA...) and

¹⁴ EPO Enlarged Board of Appeal decisions G2/12, G2/13.

- intellectual property (e.g. CNIPI, FEMIP, AIPPI, FICPI and UNION).

It is the actual definition of IP management, and the very goal of our association, to act as a bridge between these areas of interest representing the intertwined interests of all as they interact in practice. Approx. one third of I³PM's membership base comes from the relevant industries (Bio, Pharma, Agriculture) of which at least half have specifically expressed support in seeking Observer status with UPOV.

I³PM has been granted Observer status at WIPO in 2013, and is participating in SCP/PCT-WG and CDIP Committees, where in the latter it is the only such association.

I³PM statutes apply a deliberately non-specific, all-encompassing definition of intellectual property. It is also worth noting that no specific requirements of professional bar-membership are imposed by I³PM, in order to permit IP managers to become members of I³PM who may not have formal legal training and who would otherwise be excluded from pure (patent) attorney or other legal associations.

As far as UPOV is concerned, it will be well known that many of the actual users of plant variety protection systems dealing with plant variety protection matters are IP specialists and IP managers working for UPOV user companies, yet many of these PVP specialists will not have enjoyed a formal legal training, let alone been admitted to a bar association.

While this will prevent many actual practitioners in plant variety protection matters from being represented in associations like AIPPI, FICPI, CNIPA or UNION (observers of UPOV), this is not the case with I³PM membership as long as sufficient IP Management qualification and/or experience is proven. Insofar, I³PM is rather comparable to FEMIP (also observer to UPOV). (For further details refer to **Annex 2**)

I³PM brings a broad snapshot of profile and backgrounds to the table. Those members specifically interested in a UPOV relation come from: legal firms, plant industry, biotech industry, pharma industry, accounting, national IP body, tech industry and consulting. Their background skillset includes: present chair fruit section CIOPORA, former national representative to UPOV & WIPO, national IP-body specialist, wine chemistry, agricultural & forestry research, fruit industry, molecular medicine/oncology, molecular biology/genetics, biotech/chemistry, engineer agronomy & life sciences, finance & accounting, HiTech, foreign trade/business economics, legal standards, briefs, contracts, standards & litigation, and consulting.

I³PM, thus, finds in UPOV observer organizations with an IP professional membership a peer group of its own organization, each observer with slightly different focus, yet I³PM is unable to identify any competence it might be lacking which is of direct relevance in respect of matters governed by the UPOV convention in comparison with its peer group. Any further explanation is highly welcome to clarify the UPOV observer requirements to allow I³PM to address any remaining questions or concerns.

Annex 1

I³PM Activities

I³PM, in fulfillment of its statutory goals and objectives, promotes training and continuing education of its members and those interested in the Management of Intellectual Property. Since its existence, I³PM and its members have organized General Meetings including lectures on the topics of IP management and conducted and co-organized a respectable number of conferences and seminars:

2016

- I³PM-Beta-Ceipi Conference at Misha, Strasbourg: Intellectual Property and Digitalization – challenges and opportunities (rescheduled this week to Spring 2017)

2015

- General meeting in Brussels, guest speaker from EUIPO/OHIM/DG-Trade IP-unit
- I³PM-Beta-Ceipi Conf at Misha, Strasbourg: IP-mgmt challenges in an open innovation environment
- CEIPI/WIPO/INPI Technology Transfer and Licensing Training Program.

2014

- I³PM at EuroBrand Forum in Vienna
- partnership explored with IPAN in the UK, leading to official visit at Chancery Lane in London 2015.

2013

- granted WIPO Observer status under intl. NGO category, two active Observers dispatched (SCP/PCT-WG and CDIP Committees) 2014 onwards.
- General meeting in Lichtenstein, in conjunction with the European IP-Forum, with guest speakers from Protegas, Liechtenstein Post Office and IPR Alliance

2011

- General meeting in Strasbourg
- INTIPSA partnership established
- EPI/I³PM seminar on patent portfolio management

2010

- Working Groups established and active:
 - Professional Qualification Commission (attempt to formalise post-MIPLM a generic minimum academic requirement for IP-mgrs, continues with guest lectures/course in the topic at various bodies),
 - Economics Study Group (most tangible outputs include the published book reviews, some papers & IPAN relationship),
 - Industries Patent Observatory

2009

- General meeting in Munich

I³PM organizes an annual conference with CEIPI and the Economics Department of Strasbourg University which is a mix of member, academic and industry speakers. This also gives an opportunity for learning, networking and open discussion on trends in the field of IP-management. A bi-annual general meeting, next scheduled for Geneva in 2017, gives another such opportunity with guest speakers from organizations such as the EUIPO (then OHIM) at the October 2015 gathering.

As a result of last year's general meeting, the Statutes have clarified and expanded the role of the Advisory Board which seeks to provide a channel between academia and industry on current real life problems of interest to study. Current I³PM Advisory Board members include Brian Hinman (CIPO of Philips), Peter Bittner (I³PM), Bo Heiden (University of Gothenburg), Thibaud Lelong (CEIPI), Cornelis Schueller (Head of IP at Nestle), Marcel Bogers (University of Copenhagen), Udo Meyer (CIPO of BASF) and Yann Ménière (chief economist EPO). The first meeting was supported also by Bent Lundsager who is chairman of the "I³PM meets academia" initiative.

Members themselves are well qualified, have/had exciting contributory international careers in the corporate world/legal practice, are frequently well published in their respective fields, or have served as advisors to corporate executive boards or governments. e.g. many I³PM members contributed to the textbook "IP-Manager" edited by Dr. Wurzer; Donal O'Connell's (former Director of IP, Nokia) books "Inside the Patent Factory" and "Harvesting External Innovation: managing external relationships and intellectual property"; Gordan Hyland's (former chief strategist, CTO Office Sony HQ Tokyo) report to the Irish Prime Minister's Office "Establishing an intellectual property (IP) backed financial securities market in Ireland", various members of Philips IP&S (the largest filer of patents at the EPO), Ulf Schaberg (former Global IP Lead V&S, Syngenta) etc.

List of publications under I³PM include:

- A Value Based IP Management Approach, by Peter Bittner
- A Short Introduction to Intellectual Property (IP) Law, by Pierre Roquefeuil
- Challenges for IP Managers in the Software industry, by Peter Bittner
- Impact of the Global Economy Crisis on Patenting Strategies, by Martina Rangel
- Outsourcing of IP activities – How IP- Managers can benefit, by Thomas Kretschmer
- Strategy for external patent attorneys serving internal IP-management and acting as IP-managers, by Paul Rosenich
- Theory of the Patent System, by Nikola Totzev

- Trolls and the Five Forces, by Peter Bittner and Bent Lundsager
- Visions for IP Managers - From job description to job reality, by Gauthier Obrecht
- Geistiges Eigentum erfolgreich managen, by Philipp Hammans
- IP Management in the Software Industry, by Peter Bittner and Matthias Zahn (German): http://www.vksi.de/fileadmin/downloads/magazin/VKSIMagazin_6.pdf, VKSI-Magazin No. 6, pages 24/25
- Piraten vs. Eigentum: Den Zeitgeist verpasst, by Peter Bittner (German), CHIP-Magazin 08/2012, pages 30/32
- Motor der Technik, zur Philosophie des Patent Systems, by Nikola Totzev (German)
- IT und Recht - Patente als Schutzmechanismen für technische Erfindungen, by Peter Bittner and Matthias Zahn (German): http://www.vksi.de/fileadmin/downloads/magazin/VKSIMagazin_7.pdf, VKSI-Magazin No. 7/2012, page 32
- IP Assets - Treiber für nachhaltige Wertsteigerung. (02.05.2013) by Peter Bittner (German)
- Proprietäre Software und Offenheit – Widerspruch oder Gelegenheit? (10.06.2013) by Peter Bittner (German)
- IP Dashboard: Measuring and Managing IP Performance, summer school: "Economics and Strategic Management of Intellectual Property" University of Bologna, Alma Graduate School Bologna 10-14 June 2013. (by Peter Bittner and Bent Lundsager)

Annex 2

Peer observer associations

Reviewing the landscape of International NGOs the appropriate I³PM peers are the IP-organizations.

- CNIPA: 16 national institutes as members, patent attorneys.
- FEMIP: umbrella organization for diverse patent/industrial property/IP bodies in Germany (VPP), Austria, Belgium, Luxembourg, Denmark, Finland, Sweden, Switzerland & France, e.g. VPP (<http://vpp-patent.de/01-Darstellung-des-VPP.htm>) seems analogous to I³PM. No constraint on the definition of IP.
- AIPPI: statutes (<http://aippi.org/about-aippi/bylaws/statutes-of-aippi/>) refer only to intellectual property; regulations (<http://aippi.org/about-aippi/bylaws/regulations-of-aippi/>) define IP under Section-J Rule36 to include "plant varieties"; & protocol (includes those for representatives of the body to the external world).
- FICPI: IP-representatives licensed to act before national bodies capable of granting those IP-rights (<http://www.ficpi.org/about-ficpi/who-are-ficpi-members/>). Standard enough aims, nothing special (<http://www.ficpi.org/about-ficpi/principal-aims/>). No constraint on the definition of IP.
- UNION: origin was 1961 22 patent attorneys, later expanded to "intellectual property" practitioners. Refined in the Aims as the field of patents, designs, trademarks & "related questions". Art 4 of the Statutes limits membership to essentially those recognized/licensed to practice before EPO (patents) or OHIM (trademarks), primarily.
(<http://union-ip.org/union/WebObjects/union.woa/wa/whatIsUnion?wosid=E1FXVcyJOP5fJLWebkxLX0>)