

AN OVERVIEW OF THE INTER-RELATIONSHIP BETWEEN WIPO AND WTO

S. Amulya*

ABSTRACT

This article gives a general overview of how the World Trade Organization and the World Intellectual Property Organization (WIPO) interact (WTO). This paper begins by describing how WIPO and the WTO support global trade and the preservation of intellectual property rights, then examines how WIPO and WTO work together to create international frameworks and accords, with an emphasis on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and also covers the interrelationship between WIPO and WTO in other IP-related sectors, such as Geographical Indications (GIs), and emphasises the significance of making sure that IP rules and regulations don't contravene international agreements or prejudice foreign firms. The article continues by highlighting the necessity for continuous cooperation between WIPO and WTO to handle growing concerns including digital trade and the influence of artificial intelligence on intellectual property.

INTRODUCTION

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) are two international organizations that significantly shape global economic policies. Both organizations work toward the promotion of trade and economic development, but they have different objectives and functions. This article provides an overview of the inter-relationship between WIPO and WTO, including their respective roles, functions, and the ways in which they collaborate to promote international trade.

ROLE AND FUNCTION OF WIPO

WIPO is a specialized agency of the United Nations that aims to promote the protection of intellectual property (IP) rights worldwide. Its primary function is to develop and administer international treaties and agreements related to IP rights, including patents, trademarks, and copyrights. WIPO also assists member states in developing IP policies and legal frameworks and offers training capacity-building programs to help countries enforce their IP laws.

*BA LLB, CMR SCHOOL OF LEGAL STUDIES.

¹1) Promoting Innovation and Creativity:

One of the primary roles of WIPO is to promote innovation and creativity by providing a framework for the protection and enforcement of IP rights. WIPO works to facilitate the development of international IP norms and standards, which helps ensure that IP rights are protected consistently and equitably across countries and regions.

WIPO also provides support and technical assistance to countries that are developing their IP systems, including training and capacity-building programs. These programs help to promote innovation and creativity by ensuring that innovators and creators have the knowledge and resources they need to protect their IP rights.

2) Administration of International Treaties and Agreements:

WIPO is responsible for the administration of a number of international IP treaties and agreements, including the Patent Cooperation Treaty (PCT), the Madrid Agreement and Protocol for the International Registration of Marks, and the Hague Agreement for the International Registration of Industrial Designs. These treaties and agreements provide a framework for the international protection of patents, trademarks, and industrial designs, which helps to facilitate international trade and investment. WIPO is responsible for the registration and administration of these international IP rights, which helps to ensure that they are protected in a consistent and equitable manner across countries and regions.

3) Promotion of IP Rights:

²WIPO plays a critical role in promoting the importance of IP rights and the benefits they provide to society. WIPO works to raise awareness of the importance of IP rights among policymakers, industry stakeholders, and the general public. WIPO also provides education and training programs aimed at promoting IP awareness and understanding. These programs help to promote respect for IP rights and ensure that innovators and creators are able to fully realize the economic and social benefits of their innovations and creations.

¹ World Intellectual Property Organization. (n.d.). About WIPO. Retrieved from <https://www.wipo.int/about-wipo/en/>

² Drahos, P. (2006). The World Intellectual Property Organization and the World Trade Organization. In Global Intellectual Property Rights (pp. 70-86). Edward Elgar Publishing.

4) Provision of IP Services:

WIPO provides a range of IP services to individuals, businesses, and organizations around the world. These services include the registration and administration of international IP rights, such as patents, trademarks, and industrial designs. WIPO also provides arbitration and mediation services for the resolution of IP disputes. These services help to ensure that IP disputes are resolved in a timely and cost-effective manner, which helps to promote innovation and creativity by providing a framework for the resolution of disputes related to IP rights.

5) Development of IP Policies and Frameworks:

WIPO plays a critical role in developing IP policies and frameworks that promote innovation and creativity while protecting IP rights. WIPO works with its member states to develop international IP norms and standards, which help ensure that IP rights are protected consistently and equitably across countries and regions.

WIPO also works to develop policies and frameworks related to emerging issues in the IP field, such as digital technology and AI-generated content. These policies and frameworks help to ensure that IP rights are protected in a rapidly evolving technological landscape.

ROLE AND FUNCTION OF WTO

The WTO is a global organization that aims to promote free trade and economic development. Its primary function is to provide a forum for member countries to negotiate trade agreements and resolve trade disputes. The WTO's rules and regulations are designed to promote fair and open trade, and its members agree to abide by these rules to ensure a level playing field for all countries.

The primary function of the WTO is to provide a framework for international trade that is based on rules, transparency, and predictability. The WTO achieves this function through a range of activities, including:

³1) Negotiating and implementing trade agreements: The WTO is responsible for negotiating and implementing multilateral trade agreements among its member states. These

³ World Trade Organization. (n.d.). About the WTO. Retrieved from https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm

agreements cover a wide range of issues related to international trade, including tariffs, non-tariff barriers, and intellectual property rights. The WTO also provides a framework for the resolution of disputes related to these agreements.

2) Monitoring and enforcing trade rules: The WTO monitors and enforces the rules established in its trade agreements. It does so by conducting regular reviews of the trade policies and practices of its member states and by facilitating the resolution of disputes related to these policies and practices.

3) Offering technical support and increasing capacity: The WTO provides technical assistance and capacity-building programs to developing countries to help them participate effectively in international trade. These programs include training, workshops, and other forms of assistance designed to help developing countries comply with WTO rules and participate more fully in the global economy.

4) Cooperating with other international organizations: The WTO cooperates with other international organizations, such as the World Intellectual Property Organization (WIPO), to promote international trade and economic development. The WTO also works closely with the United Nations and other multilateral organizations to promote sustainable development and poverty reduction.

In addition to these functions, the WTO also plays a critical role in promoting transparency and predictability in international trade. The WTO's trade agreements provide a framework for the regulation of international trade that is based on clear rules and procedures. This framework helps to promote stability and predictability in international trade, which in turn helps to promote economic growth and development.

WIPO-WTO COOPERATION

WIPO and WTO have collaborated extensively over the years to promote the protection of intellectual property and facilitate international trade. The cooperation between the two organizations is based on the recognition that IP rights are an essential component of international trade and that the rules and regulations governing international trade can have a significant impact on the protection and enforcement of IP rights.

HISTORICAL BACKGROUND

The relationship between WIPO and the WTO can be traced back to the Uruguay Round of multilateral trade negotiations, which led to the creation of the TRIPS Agreement. The TRIPS Agreement established minimum standards for the protection and enforcement of intellectual property rights in international trade, and it is enforced by the WTO. WIPO provided technical assistance during the negotiation of the TRIPS Agreement, and it continues to work closely with the WTO in implementing the agreement.

AREAS OF COLLABORATION

WIPO and the WTO collaborate on a range of issues related to intellectual property protection and international trade, including the promotion of intellectual property rights as a tool for economic growth and development. Some specific areas of collaboration include:

- **TRIPS Agreement-** The most significant area of cooperation between WIPO and WTO is in the development of the Agreement on Trade-Related Aspects of Intellectual Property Rights (**TRIPS**). TRIPS is a multilateral agreement that sets out the minimum standards for the protection and enforcement of IP rights that WTO members must adhere to. It covers a broad range of IP rights, including patents, trademarks, copyrights, and trade secrets. WIPO has played a critical role in the development of TRIPS, as it is responsible for administering several of the international treaties that form the basis of the agreement. WIPO has also provided technical assistance to developing countries to help them implement TRIPS, and it has worked closely with WTO to promote the effective enforcement of IP rights.
- **Geographical indications-** WIPO-WTO cooperation has also extended to other areas of intellectual property, such as geographical indications (GIs). GIs are a type of IP that identifies the geographical origin of a product and its unique qualities, such as taste, aroma, and texture. WIPO administers the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, which provides a system for the international registration of GIs. WTO also includes provisions related to GIs in the TRIPS agreement, misleading or deceptive indications of source. WIPO and WTO collaborate on developing policies and frameworks related to GIs to promote fair and open trade practices and to protect the IP rights of producers of GI products.

- **Intellectual property-** One important aspect of the inter-relationship between WIPO and WTO is the role of intellectual property in promoting innovation and economic growth. Intellectual property rights, such as patents and trademarks, incentivize innovation by allowing inventors and creators to profit from their ideas and creations. This, in turn, encourages investment in research and development, leading to economic growth and job creation. However, there are also concerns that excessive IP protection may stifle innovation and limit access to essential goods, such as life-saving drugs. To balance these concerns, ⁴WIPO and WTO collaborate on developing IP frameworks and policies that strike a balance between protecting IP rights and promoting innovation and access to essential goods. The WIPO Indigenous Intellectual Property Program also works to raise awareness of IP issues among indigenous and local communities and to provide technical assistance and capacity building to help these communities protect their IP rights.
- **⁵Public health** - One area where this balance is particularly important is in the area of public health. Access to affordable medicines is a critical issue in many developing countries, where access to life-saving drugs can be limited by high prices and limited availability. To address this issue, WIPO and WTO have collaborated on developing policies and frameworks that promote access to essential medicines while protecting the IP rights of pharmaceutical companies. One example of this collaboration is the Doha Declaration on TRIPS and Public Health, which was adopted by WTO members in 2001.⁶ The declaration affirmed the right of developing countries to use TRIPS flexibilities, such as compulsory licensing, to address public health challenges, including access to affordable medicines. This declaration helped to balance the need for IP protection with the need for access to essential medicines, particularly in developing countries. Another example is the WIPO Re: Search program, which was launched in 2011. This program brings together researchers, pharmaceutical companies, and other stakeholders to promote research and development of new treatments for neglected diseases, such as malaria and tuberculosis. The program

⁴ Correa, C. (2015). WIPO and WTO: Cooperation on Intellectual Property and Trade. In *Intellectual Property and Development: Understanding the Interfaces* (pp. 245-269). Springer, Cham

⁵ World Trade Organization. (n.d.). TRIPS and pharmaceutical patents. Retrieved from https://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm

promotes collaboration and knowledge-sharing between stakeholders, while also providing IP-related incentives to encourage research and development.

In addition to public health, WIPO and WTO collaborate on a range of other issues related to including traditional knowledge and cultural expressions. Traditional knowledge refers to the knowledge and practices of indigenous and local communities that have been passed down through generations. Cultural expressions refer to the traditional artistic and cultural works of these communities, such as music, dance, and crafts. These forms of knowledge and expressions are often at risk of mis⁷appropriation and exploitation, particularly in the context of globalization and digital technology. To address these issues, WIPO and WTO work together to develop policies and frameworks that protect the IP rights of indigenous and local communities while promoting cultural diversity and innovation. For example, WIPO has developed a number of initiatives aimed at protecting traditional knowledge and cultural expressions, such as the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, and the Traditional Knowledge Digital Library.

CASE LAW

One of the most significant cases involving the inter-relationship between WIPO and WTO is the US - Section 110(5) Copyright Act case. In this case, the US had introduced a provision in its Copyright Act that exempted certain performances of copyrighted works from the need to obtain a license or pay royalties to the copyright owner. The provision was intended to benefit non-profit organizations, such as schools and libraries.

However, the provision was challenged by the European Union (EU) on the grounds that it violated the TRIPS Agreement, which required WTO members to provide adequate protection for copyrighted works. The EU argued that the provision amounted to an unfair trade practice, as it gave US organizations an unfair advantage over their European counterparts. The WTO Dispute Settlement Body ultimately found in favour of the EU, ruling that the US provision was inconsistent with the TRIPS Agreement. The case highlighted the importance of ensuring that IP laws and policies do not discriminate against foreign entities or violate international obligations.

⁶Abbott, F. M., & Reichman, J. H. (2017). The Doha Round's public health legacy: strategies for the production and diffusion of patented medicines under the amended TRIPS provisions. *Journal of International Economic Law*, 20(1), 39-74.

⁷United States — Section 110(5) of US Copyright Act [WTO | dispute settlement - the disputes - DS160](#)

EMERGING CHALLENGES AND THE IMPORTANCE OF CONTINUED COLLABORATION

Despite the successes of both WIPO and the WTO in promoting international trade and intellectual property protection, there are several emerging challenges that require continued collaboration between the two organizations. These challenges include:

1) **Technological advancements:** Rapid technological advancements, particularly in the digital realm, have created new challenges for intellectual property protection and enforcement. The rise of online piracy and counterfeiting has made it difficult for intellectual property owners to protect their rights and has also created new challenges for enforcement agencies. WIPO and the WTO must work together to develop effective strategies for addressing these challenges.

2) **Access to Medicines:** The intersection between intellectual property rights and access to medicines has been a longstanding issue of concern, particularly for developing countries. While the TRIPS Agreement includes provisions that allow for the issuance of compulsory licenses for pharmaceutical products in certain circumstances, there are still challenges in balancing the need for intellectual property protection with the need for affordable access to essential medicines.

3) **Climate change:** Climate change is a major global challenge that has significant implications for international trade. Climate change can affect the availability of natural resources, impact supply chains, and create new trade barriers. WIPO and the WTO must work together to develop strategies for promoting sustainable trade practices and reducing the environmental impact of international trade.

4) **Economic inequality:** Economic inequality is a major global challenge that has significant implications for international trade. Unequal access to resources and opportunities can limit the ability of developing countries to participate fully in international trade, while also creating challenges for developed countries. WIPO and the WTO must work together to develop strategies for promoting inclusive economic growth and reducing economic inequality.

5) **Geopolitical tensions:** Geopolitical tensions between countries can create new challenges for international trade and intellectual property protection. Trade disputes and conflicts can impact the ability of countries to enforce intellectual property laws and can also create new

barriers to trade. WIPO and the WTO must work together to promote dialogue and cooperation between countries, and to develop strategies for resolving trade disputes peacefully.

In order to address these challenges, it is important for WIPO and the WTO to continue to collaborate and strengthen their partnership. Continued collaboration between the two organizations will help to promote a more coordinated approach to international trade and intellectual property protection and will help to ensure that emerging challenges are addressed in a timely and effective manner. Another area of importance for continued collaboration is the area of capacity building and technical assistance. Developing countries often lack the resources and expertise needed to fully participate in international trade and to effectively protect their intellectual property rights. WIPO and the WTO can work together to provide training and technical assistance to these countries, helping them to develop the skills and knowledge needed to participate more fully in the global economy.

CONCLUSION

In conclusion, the inter-relationship between WIPO and the WTO is a critical component of the global trading system and the protection of intellectual property rights. While the two organizations have distinct mandates and areas of focus, there are several areas of collaboration where they work together to promote international trade and intellectual property protection. As the global trading system continues to evolve and face new challenges, the importance of continued collaboration between WIPO and the WTO in addressing these challenges will only become more apparent and also help to together develop policies and frameworks that promote fair and open trade practices while protecting intellectual property rights.