

HCCH-WIPO Questionnaire on Identifying Actual and Practical Issues of Private International Law in Cross-Border Intellectual Property Dealings

Instructions for Completion

For the purposes of this Questionnaire, the term “intellectual property” includes the following categories of intellectual property: copyright and related rights; trademarks; geographical indications; industrial designs; protection against unfair competition; patents and utility models; layout-designs (topographies) of integrated circuits; protection of undisclosed information; protection of undisclosed information (trade secrets); and plant breeders’ rights. In addition, the term “cross-border IP disputes” refers to IP disputes that raise private international law questions.

When completing the Questionnaire, kindly answer only the questions that you consider relevant in light of your experience in this area, and specify when your response is specific to only certain types of IP rights. Please include or attach any relevant information on domestic, regional, or multilateral instruments and related provisions, actual IP cases (incl. references), and any statistics relating to cross-border IP disputes, as appropriate. Any additional information or material provided is equally welcome. Your cooperation in responding to this Questionnaire is greatly appreciated and will provide invaluable assistance to the Secretariats of HCCH and WIPO.

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German Association for the Protection of Intellectual Property

Information (for follow-up purposes)

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Questionnaire

1. Does your jurisdiction have statutory provisions or case law addressing, expressly or impliedly, PIL issues (jurisdiction, applicable law, recognition and enforcement of foreign judgments, administrative or judicial international cooperation) in cross-border IP disputes?

Yes

Please describe:

Yes. For defendants domiciled in the European Union, for jurisdiction agreements in favour of German (or other EU) courts and for validity disputes concerning IP rights registered in an EU Member State, jurisdiction in cross-border IP matters is governed by the Brussels Ibis Regulation (in particular Articles 4, 7(1), 7(2), 8(1), 24(4) and 25 Brussels Ibis Regulation). For defendants domiciled in Norway, Iceland or Switzerland, the Lugano Convention 2007 applies which largely follows the Brussels I rules. For defendants domiciled in a third state, the rules of the German Code of Civil Procedure apply (in particular §§ 12, 17, 23, 29, 32 Code of Civil Procedure; unless a bilateral treaty exists, which is the case for Israel, Tunisia and – arguably – the United Kingdom). For exclusive choice of court agreements, the Hague Convention of 30 June 2005 on Choice of Court Agreements applies.

The applicable law for contractual and non-contractual obligations is governed by the Rome I and Rome II Regulations (in particular Article 8 Rome II Regulation). The applicable law for other issues, in particular for issues concerning the IP right as such, is determined by autonomous German PIL which follows the lex protectionis principle (Federal Supreme Court, I ZR 90/09, GRUR 2013, 509 – UniBasic-IDOS). Recognition and enforcement is governed by the Brussels Ibis Regulation (for judgments from other EU Member States), by the Lugano Convention 2007 (for judgments from Norway, Iceland and Switzerland), by bilateral treaties, by the Hague Choice of Court Convention 2005 and by §§ 328, 722, 723 of the German Code of Civil Procedure. For EU unitary IP rights, special rules on jurisdiction and applicable law exist in the EU Trade Mark Regulation, in the EU Design Regulation and the EU Plant Variety Rights Regulation. Special rules would also apply once the Unitary Patent Court Agreement enters into force.

Please attach relevant provisions or case law:

2. Is your jurisdiction bound by any bilateral, regional or multilateral instrument(s) that, expressly or impliedly, govern or contain provisions addressing PIL issues (jurisdiction, applicable law, recognition and enforcement of foreign judgments, administrative or judicial international cooperation) in cross-border IP disputes?

Yes

Please describe:

See above question 1 (Brussels Ibis Regulation, Rome I and Rome II Regulations, EU unitary rights regulations, Lugano Convention, Hague Choice of Court Convention 2005, few bilateral conventions).

Please attach relevant instruments:

3. Have the courts of your jurisdiction referred to any policy guidelines or other sources (binding or non-binding) that address PIL issues (jurisdiction, applicable law, recognition and enforcement of foreign judgments, administrative or judicial international cooperation) in cross-border IP disputes?

Yes

Please describe:

Yes, but only rarely. Some Advocates General of the Court of Justice of the European Union have cited the Principles prepared by the European Max Planck Group on Conflict of Laws in Intellectual Property (or works which refer to these principles) in cases decided from 2011 to 2018 (Cases C-145/10, C-523/10, C-616/10, C-170/12, C-441/13, C-618/15, C-379/17; all on issues of jurisdiction). The UK Supreme Court has cited the CLIP Principles and the ALI Principles in one decision in 2011 (Lucasfilm v Ainsworth [2011] UKSC 39).

Please attach relevant instruments:

4. Have you faced any PIL-related challenges in cross-border IP disputes, including any gaps in the current framework or any other practical hurdles?

Yes

Please explain:

Yes, see the answer to question 32.

5. Please share with us if there is any statistical information regarding IP disputes with private international law issues available in your jurisdiction.

Beyond the data which can be found in generally accessible sources, we are not aware of specific statistical information.

Please attach relevant instruments:

Jurisdiction

Please respond to below questions either by reference to an applicable legal framework or to practical considerations.

6. Are there any practical or legal considerations that are relevant to selecting / establishing / challenging jurisdiction in a dispute arising out of a cross-border IP dealing?

Yes

Please explain the relevant considerations:

Yes: Depending on the jurisdiction in question and the parties involved the following issues will be of importance to decide which jurisdiction to choose:

- * Efficiency of the court system (e.g. availability of online proceedings, complexity of court proceedings, civil procedure rules, notably on initiating procedures, burden of proof, requirements to prove claims, standard of proof),
- * Language (e.g. specific chambers allowing oral hearings in other language than the national language),
- * speed of communication / decision taking,
- * quality / in-depth reasoning of judgements (notably to use judgement for parallel proceedings in other jurisdictions or worldwide settlement negotiations),
- * cost of the court system itself and the overall costs for attorneys and parties, as well as administrative burdens (is it a rather lean court proceeding or is it very complex),
- * implications for business secrets (e.g. pre-trial and trial discovery proceedings, legal privileges).

7. Is (habitual) residence / domicile, branch, agency or other establishment of the defendant the principal factor determining jurisdiction in cross-border IP disputes?

Yes

8. If the cross-border IP dispute concerns the validity, grant or registration of an IP right, would that require or permit jurisdiction rules to be applied that are different from the principal rule for jurisdiction?

Yes

Please explain:

Yes. As soon as the defendant raises invalidity of a registered IP right, the courts of the state of registration will have exclusive jurisdiction to determine the merits of the invalidity defence (Article 24(4) Brussels Ibis Regulation). Infringement proceedings outside the state of registration will have to be stayed, with the exception of proceedings for provisional measures (CJEU, C-616/10, ECLI:EU:C:2012:445 – Solvay).

9. If the cross-border IP dispute concerns contractual issues, would that require or permit jurisdiction rules to be applied that are different from the principal rule for jurisdiction?

Yes

Please specify the rules, and explain how these rules are applied in practice:

Yes. The plaintiff may, as an alternative to the general jurisdiction of the defendant's forum, bring his claim in the courts of the state where the place of performance of the obligation in question is located, Article 7(1)(a) Brussels Ibis Regulation, Article 5(1) Lugano Convention, § 29 German Code of Civil Procedure. According to the CJEU decision in „Falco Privatstiftung" (CJEU, C-533/07, ECLI:EU:C:2009:257) the specific jurisdiction rules for service contracts in Article 7(1)(b) 2nd indent Brussels Ibis Regulation are not applicable to license contracts. Therefore, the place of performance has to be determined under the applicable law for the specific obligation in question (CJEU, 12/76, ECLI:EU:C:1976:133 – Tessili). The CLIP Principles have proposed to regard the state for which the license is granted or the right is transferred as a uniform place of performance for contracts having as their main object the transfer or license of an intellectual property right (Article 2:201(2) CLIP Principles). This suggestion has not been taken up by German courts so far.

10. If the cross-border IP dispute concerns infringement of an IP right, would that require or permit jurisdiction rules to be applied that are different from the principal rule for jurisdiction?

Yes

Please specify the rules, and explain how these rules are applied in practice:

Yes. The plaintiff may, as an alternative to the general jurisdiction of the defendant's forum, bring his claim in the courts of the state where the harmful event occurred or may occur, Article 7(2) Brussels Ibis Regulation, Article 5(2) Lugano Convention, § 32 German Code of Civil Procedure. According to CJEU case law, the mere availability of a website in an EU member state is sufficient to establish tort jurisdiction in case of alleged copyright infringement (CJEU, C-170/12, ECLI:EU:C:2013:635 – Pinckney; CJEU, C-441/13, ECLI:EU:C:2015:28 – Hejduk). The German Federal Supreme Court follows the same approach with regard to § 32 German Code of Civil Procedure (Federal Supreme Court, I ZR 43/14, GRUR 2016, 1048 – An Evening with Marlene Dietrich), which is of importance for claims against parties from outside the EU. The broad interpretation of the provisions opens opportunities for plaintiffs to bring their claims before the courts in their home states. The CLIP-Principles therefore suggest to introduce limiting criteria for tort jurisdiction in Article 2:202. Different from the (overly) generous approach towards jurisdiction, a finding of infringement under substantive law will require that the Internet activity is somehow directed to the state of protection (CJEU, C-5/11, ECLI:EU:C:2012:370 – Titus Donner; CJEU, C-324/09, ECLI:EU:C:2011:474 – L'Oréal; CJEU, C-173/11, ECLI:EU:C:2012:642 – Football Dataco; Federal Supreme Court, I ZR 222/17, GRUR 2020, 647 – Club Hotel Robinson). It should also be noted that special rules apply with regard to unitary EU rights, which differ in several aspects from Article 7(2) Brussels Ibis Regulation. Most importantly, the wording of Article 125(5) EU Trademark Regulation (and in Article 82(5) Community Design Regulation) that tort jurisdiction is vested "in the courts of the Member State where the act of infringement has been committed or threatened", has been interpreted by the CJEU to mean that in order for jurisdiction being established under that Article, the alleged infringer must have engaged in "active conduct" in the Member State where the court seized with the infringement claim is located (CJEU C-360/12, ECLI:EU:C:2014:1318 – Coty Germany v First Note). In case of display on the internet of allegedly infringing advertising and sales offers this means that competence lies with the courts in the Member State(s) where the consumers or traders to whom the message is directed are located, notwithstanding that the decisions and steps initiating the display were taken in another Member State (CJEU C-172/18, ECLI:EU:C:2019:674 – AMS Neve). The position previously endorsed by the Federal Supreme Court, that jurisdiction under Article 125(5) EU Trade Mark Regulation is only vested in the courts of the Member State where the causal event giving rise to the infringement took place – was thereby rendered obsolete (Federal Supreme Court, I ZR 164/16, GRUR 2018, 84 – Parfummarken).

11. If the cross-border IP dispute concerns claims of entitlement to or ownership of an IP right, would that require or permit jurisdiction rules to be applied that are different from the principal rule for jurisdiction?

No

Please specify the rules, and explain how these rules are applied in practice:

No. The general rules of jurisdiction apply also to ownership disputes. Exclusive jurisdiction for validity does not include ownership issues (CJEU, C-341/16, ECLI:EU:C:2017:738 – Hanssen Beleggingen). The Kyoto Guidelines propose a specific ground of jurisdiction for ownership disputes.

12. If the cross-border IP dispute concerns several claims, such as those mentioned in questions 8-11, would the jurisdiction rules or considerations be different than those required or permitted in individual claims?

Uncertain

Please specify the rules, and how these rules are applied in practice:

Uncertain. We are not sure that we fully understand the question. In general, jurisdiction depends on the nature of the claims and the grounds of jurisdiction invoked, not on the number of claims brought. If an action is based both on a contractual and a delictual claim, a court competent on the basis of jurisdiction for the delictual claim shall not be competent also for the contractual claim (CJEU, 189/87, ECLI:EU:C:1988:459 – Kalfelis; this position has been criticised but does not seem to have been abandoned).

13. Would the above considerations be different if they concern an IP right subsisting or registered in another jurisdiction?

Uncertain

Please explain:

Uncertain. This depends on the ground of jurisdiction. If the IP right subsists or is registered in another jurisdiction, the place where the damage occurred (not necessarily the place of the event giving rise to it) for the purposes of tort jurisdiction (Article 7(2) Brussels Ibis Regulation, § 32 German Code of Civil Procedure) will be located in that jurisdiction. Moreover, the fact that an IP right subsists in another jurisdiction may impact the place of performance for the purposes of contractual jurisdiction (Article 7(1) Brussels Ibis Regulation, § 29 German Code of Civil Procedure).

Exclusive jurisdiction

14. Would certain IP matters fall under exclusive jurisdiction of a court of your jurisdiction?

Yes

Which IP matters?

See Article 24(4) Brussels Ibis Regulation: for proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered, irrespective of whether the issue is raised by way of an action or as a defence, the courts of the EU Member State in which the deposit or registration has been applied for, has taken place or is under the terms of an instrument of the Union or an international convention deemed to have taken place, have exclusive jurisdiction. Moreover, exclusive jurisdiction can be the result of an exclusive choice of court agreement (Article 25 Brussels Ibis Regulation).

15. Would the above exclusive jurisdiction rules / considerations be different between registered and unregistered IP rights?

Yes

Please explain:

Article 24(4) Brussels Ibis Regulation applies only to registered IP rights.

16. Would the above exclusive jurisdiction rules / considerations be different if the IP issue is raised by way of an action, defence or counterclaim?

No

Please explain:

As a consequence of the CJEU Case C-4/03, ECLI:EU:C:2006:457 – GAT/LuK, the words "irrespective of whether the issue is raised by way of an action or as a defence" have been added in Article 24(4) Brussels Ibis Regulation.

Prorogation of jurisdiction

17. Are there circumstances where the parties' agreed choice of forum may be denied in the claims raised in questions 8, 11 and 14?

Yes

Please explain:

Exclusive jurisdiction for proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered cannot be altered by way of a choice of court agreement (Article 25(4) Brussels Ibis Regulation).

Preliminary questions

18. Would a court deal with a matter that falls under the exclusive jurisdiction of a court of another State differently, if the matter is raised as a preliminary question or as the main subject matter of the dispute?

No

Please explain:

Article 24(4) Brussels Ibis Regulation applies "irrespective of whether the issue is raised by way of an action or as a defence".

Multiple defendants/Consolidation

19. When there are multiple defendants located in different States that are involved in an IP dispute (e.g., subsidiaries of the same multinational company), can courts in your jurisdiction consolidate proceedings so as to sue all the defendants?

Yes

Please specify the options, conditions and any particular challenges in practice:

Article 8(1) Brussels Ibis Regulation establishes jurisdiction for a co-defendant "where he is one of a number of defendants" in the courts for the place where the "anchor defendant" is domiciled, "provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings". Article 8(1) Brussels Ibis Regulation applies only to co-defendants domiciled in EU Member States (CJEU, C-645/11, ECLI:EU:C:2013:228 – Sapir). For co-defendants domiciled outside the EU (and the Lugano States), the German Code of Civil Procedure applies which does not have a provision comparable to Article 8(1) Brussels Ibis Regulation. The limitation to defendants in EU Member States is sometimes perceived as a weakness of German law.

Online IP activities

20. Are there specific rules or considerations in determining / establishing / challenging jurisdiction over IP matters relating to the internet, e.g., with regard to ubiquitous infringement?

No

Interim, including protective, measures

21. Would a court in your jurisdiction be competent to decide or grant interim, including protective, measures in relation to an IP right subsisting or registered in another jurisdiction?

Yes

What are the conditions and / or particular challenges in this regard? Please explain:

This is possible in principle, provided that a ground of jurisdiction for such measures exists and this ground permits interim measures in relation to the foreign IP right.

Decline jurisdiction or stay proceedings

22. In cross-border IP disputes, in view of proceedings brought elsewhere, may a court in your jurisdiction stay the proceedings or decline to hear a dispute over which it has jurisdiction?

Yes

Please specify the grounds or the mechanism (by the application of the forum non conveniens doctrine or by the existence of parallel proceedings in a foreign State, or other situations), and the conditions for its declining jurisdiction or staying the proceedings:

Article 29 Brussels Ibis Regulation (for proceedings in other EU Member States) and § 261 of the German Code of Civil Procedure (by analogy) require a stay of proceedings, in the latter case only if the judgment resulting from the foreign proceedings will be recognised in Germany.

Territorial scope of remedies

23. Are there circumstances where a remedy granted by a court in your jurisdiction may have extraterritorial legal effect, such as an award of damages incurred in a foreign country or an injunction outside the forum?

Yes

Please explain, including any requirements:

In principle this is possible. For example, damages can be awarded for the infringement of an IP right in a foreign country, provided that the action is brought in a ground of jurisdiction which is broad enough to encompass such actions (e.g. jurisdiction at the defendant's domicile or based on a jurisdiction agreement) and no exclusive jurisdiction applies (e.g. because invalidity of a registered right is invoked as a defence). In other grounds of jurisdiction, for example jurisdiction at the place where the damage occurred, no extraterritorial remedies can be granted. As a consequence, the effect of injunctions will be limited to the state of protection.

Applicable law

24. Please respond to the applicable law questions below for specific types of disputes, in your jurisdiction:

a) In a validity, grant or registration dispute concerning registered IP rights, would the law of the State in which the registered right is granted or registered be exclusively applicable?

Yes

b) In an offline infringement dispute, would the law of the place of infringement be applicable?

Yes

Please specify the place of infringement: the place where the alleged infringing activities occurred, or the place where the damage sustained, or others.

According to Article 8(1) Rome II Regulation, the law applicable to a non-contractual obligation arising from an infringement of an intellectual property right shall be the law of the country for which protection is claimed. However, Article 8 is only relevant for the infringement as such and the remedies, see Article 15 Rome II Regulation. For other issues like validity, ownership and transferability, the autonomous German private international law principle of *lex loci protectionis* applies. It should also be noted that here, again, special rules apply in case of unitary EU IP rights (Article 8(2) Rome II Regulation).

c) In an online infringement dispute, would the law of the place of uploading be applicable?

Yes

d) In a contractual dispute relating to an IP right, such as licensing, would the parties' choice of law always be respected?

Yes

e) In a contractual dispute relating to an IP right, such as licensing, in the absence of a parties' choice of law or the parties' choice is found to be invalid, would the law governing the contract be the applicable law to the dispute?

Yes

f) In a dispute concerning initial title or ownership, would the law of the State for which protection is sought be the applicable law?

Yes

g) In a dispute concerning transferability, would the law of the State for which protection is sought be the applicable law?

Yes

h) In a dispute concerning security rights in IP, would the law of the State where the grantor has his/her domicile or (habitual) residence at the time of the creation of the security right be applicable?

No

Please explain, specifying the applicable law(s):

Security rights in IP will be governed by the lex protectionis.

i) Are there other types of IP disputes that would encounter applicable law issues?

Yes

Please explain:

For example disputes involving collecting societies and disputes concerning the FRAND defence (see below question 32).

25. In cross-border IP disputes, would a court in your jurisdiction apply different laws to different claims in the same suit in relation to the same rights?

Uncertain

Please elaborate.

We do not fully understand what is meant by "in relation to the same rights" (IP rights granted by the same country, or IP rights granted by different countries in relation to the same protected matter, e.g. an invention, a work or a sign).

26. Can a foreign law chosen by the parties be set aside by a court of your State in cross-border IP cases?

Yes

On what bases? Please explain:

If the matter is not considered as contractual, choice of law is not possible (see Article 8(3) Rome II Regulation for non-contractual obligations). If the matter is contractual and does not concern consumer or employment contracts, the choice of law will be respected, subject to internationally mandatory provisions and public policy.

Recognition and Enforcement

27. Have you experienced difficulties in having an IP-related judgment recognised and / or enforced outside the State where it was given?

Uncertain

28. Does your jurisdiction have recognition and enforcement rules specific for foreign IP-related judgments?

No

29. Does your jurisdiction have any specific grounds to refuse the recognition and / or enforcement of a foreign IP judgment?

No

Please explain:

The general rules to refuse recognition and enforcement for any kinds of foreign judgments apply.

Provisional measures or interim decisions

30. Can provisional measures or interim decisions relating to IP rendered in a foreign State be recognised and / or enforced in your jurisdiction?

Uncertain

Please explain:

The answer depends on the applicable rules:

(1) German civil procedure rules allow only for recognition and enforcement of judgments (§§ 328, 722 Code of Civil Procedure), a term which is (in the German Code of Civil Procedure) generally understood to exclude recognition and enforcement of foreign provisional measures and interim decisions. Germany is, however, a Member of the European Union and thus subject to EU law and also party to bilateral and multilateral agreements relating to the recognition and enforcement of foreign decisions. EU law and international agreements take precedence over the above rule, which, therefore, are only applicable to judgments from third states, for example most Asian countries, Canada, the US and South Africa.

(2) Foreign interim decisions from courts of EU Member States are recognized and enforced in Germany pursuant to Articles 2(a), 39 ff. Brussels Ibis Regulation, if the decision is from the court which would be competent also in the main proceeding pursuant to the Brussels Ibis Regulation (to avoid forum shopping, a competence existing only under national laws would not result in the interim decision being recognised and enforced). Decisions in ex parte procedures may be enforced in Germany only if the decision is served upon such party before any enforcement against such party takes place. Article 39 Brussels Ibis Regulation provides that interim decisions will be directly enforceable without requirement of an additional German enforcement judgement (see also § 1112 Code of Civil Procedure).

(3) Enforcement of interim decisions from EFTA Member States (Iceland, Norway, Switzerland) is subject to the "Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters" of October 30, 2007 ("Revised Lugano Convention"), which is more or less identical to the above Brussels Ibis Regulation – with the notable exception that Article 32 Lugano Convention does not explicitly deal with recognition and enforcement of interim decisions. The prevailing view seems to be that interim decisions can be recognised and enforced under the Lugano Convention at least where they have been rendered by a court which would be competent also in the main proceeding. Arguably, also interim decisions from other courts could be recognised, but this is uncertain.

(4) Enforcement of interim measures from UK is presently unclear – UK had voiced its interest after Brexit to adhere to the Lugano Convention but the EU Commission declined the request. Whether this implies a revival of former multilateral or bilateral agreements is most uncertain, probably only the general German rules (§§ 328, 722 Code of Civil Procedure) will apply.

31. If courts in your jurisdiction do recognise or enforce foreign IP-related judgments, do they recognise and/or enforce non-monetary part of the judgments, such as injunctions?

Yes

Please explain:

There is no distinction between the recognition of monetary and non-monetary judgments, the same criteria apply.

Others

32. Are there any other PIL issues arising in cross-border IP disputes which are not addressed above?

Yes

Please explain:

Yes. We may mention a few points which could merit further analysis:

(1) Open Source License Disputes

The present questionnaire does not seem to reflect the specific legal and economic situation in Open Source license disputes:

(a) Open Source license terms in general are drafted based on a US law understanding. They are, however, enforced globally and thus will be subject to the jurisdiction of foreign courts who do not have such US law understanding.

(b) Ownership and thus the right to bring an action in most cases either (i) cannot be attributed to one or a small number of authors or (ii) the number of authors is so big that the regular procedural rules on ownership, right of action etc cannot be applied properly.

(2) Applicable law in relation to collecting societies.

(3) Jurisdiction, applicable law and recognition and enforcement in FRAND-disputes: It could be analysed whether, on the basis of the reasoning that royalty rates for certain FRAND disputes have to be set worldwide, a court of a specific country which possibly only has jurisdiction as one of several places of infringement may endeavour to set such rates for the entire dispute between the parties.

(4) Relationship between a global convention on choice of law in IP to regional integration instruments (e.g. EU unitary rights). In principle, it could just be referred to the rules of the regional organisation, but sometimes these rules establish a forum actoris (see Article 125(2) EU Trade Mark Regulation; Article 82(2) Community Design Regulation; Article 101(2)(b) EU Plant Variety Rights Regulation) which could conflict with a potential future international convention.

(5) Law applicable to violation of trade secrets: In Germany, there have been a few cases which discuss the applicable law for trade secrets as it is uncertain whether the lex protectionis should apply.

Future work

33. In inviting WIPO to cooperate with HCCH on this questionnaire, the governing body of the HCCH recognized the need for further work on the intersection of private international law and IP (Conclusions and Decisions of HCCH Council on General Affairs and Policy 2020).

Please share any observations or suggestions that you may have on possible future activities by HCCH and WIPO in relation to the PIL and IP interface, such as greater awareness raising and educational initiatives, enhanced judicial cooperation or coordination, or continued discussion within the HCCH Jurisdiction Project.