

## PRESENTATION ACRLI (REGIONAL CONFERENCE) 23 JANUARY 2010

### INTRODUCTION

Our presentation will be focusing on **THE MAIN FINDINGS OF THE NATIONAL REPORT ON IPR IN LEBANON**.

It is important for us to point out that this Report has evolved around two major principles:

We are living in a new era that cannot address the issue of invention and intangible intellectual property as things were when Victor Hugo raised the subject of literary property. In other words, searching for what must be done and what must be accepted can only be dealt within the framework of FUNDAMENTAL FREEDOMS that must remain protected and promoted, without monopolistic restrictions on the one hand, and on the other hand there has to be ACCEPTABLE AND NECESSARY LIMITS in the protection of intellectual property in general.

Having respected those rules or principles, we have been trying to be, in our Report, as realistic and objective as possible regarding our legal and administrative and judiciary environment in Lebanon.

It was important for us to keep in mind:

- 1- The spirit of our rule of law in Lebanon and its protection – regarding business in Lebanon/investments
- 2- As well as the strengths and the weaknesses of Intellectual property law

As you may know, Lebanon has already started restructuring his intellectual property field and its protection; but work still has to be done. And it is the reason why we have structured our Report around three major ideas:

IPR legal framework in Lebanon (I)

Assessing IPR in Lebanon (II)

And finally IPR development and reform proposals (III).

#### **I- The legal framework in Lebanon revolves around legislation and institution:**

##### **A- Legislation:**

- 1- Domestic legislation: in Lebanon we have done what he had committed doing: we have adopted general and special texts that also constitute the basis of our intellectual and industrial property field. Nevertheless, part of our legal needs hasn't been achieved yet which make it impossible for us to claim that we in Lebanon are today fully protected regarding our intellectual and industrial property laws.

2- As for International conventions: We are all aware that globalization and the specific nature of intellectual property (which is immaterial and has obviously an international essence) shouldn't be compartmentalized at all (this obviously applies to satellites, internet, dishes, e-commerce and so on.. this also apply to industrial property). It is the reason why Lebanon is aware that in order to join international conventions, he must be in conformity with international criteria and legislation. His affiliation to the WTO has therefore been delayed. And it is one of the reasons why our Report had to be as accurate as possible.

B- Now regarding our **Institutions**: many efforts have been made especially within the Ministry of Interior, the Ministry of economy and trade, the Ministry of Culture and the Ministry of public health in order to reinforce and be in conformity with the legal framework that has to be set in the intellectual property field.

Other institutions have also been having a major role within the IP protection field such as:

- The Office fighting against computer crimes and intellectual property frauds at the judicial police
- Customs
- The judicial authority

## **II- ASSESSING IPR IN LEBANON**

### **A- Strengths of the Lebanese IPR protection system**

- 1- We are lucky to have in Lebanon a generally coherent and appropriate legislative framework. Now it is true that work has to be done in order to access international principles and conventions but we are on the right tracks in order to join some of the most efficient legal systems in the world.
- 2- On a more practical basis, and we chose to put this aspect amongst the strengths of the Lebanese IPR protection system, we do have penalties imposed by legislative texts (imprisonment from one month to three years and a fine ranging from five million to fifty million Lebanese pounds knowing that this penalty can be doubled in case of repetition) but it is important that these penalties are aggravated (maybe we can consider replacing figures by percentages of estimated losses which is certainly more dissuasive than paying the ridiculous amount of maximum fifty million Lebanese pounds when gains of millions of dollars has been made fraudulently).
- 3- Also amongst the strengths of the Lebanese IPR protection system we can note the resilience and speed of registration with the MOET: some procedures only take a few days and aren't expensive nor complicated.

- 4- We can also note the establishment of a specialized office in the judicial police in order to fight against intellectual property crimes which led to a clear improvement of the fight against different intellectual property frauds or crimes.
- 5- And finally we can also point out the efficiency of the urgent matters judiciary (which means fast and effective verdicts protecting the right holders from the impending dangers that threaten them).

Now of course, we are also aware that we do have major weaknesses in Lebanon's IPR protection system. And we should try to be as realistic as possible in order to overcome them.

#### **B- Weaknesses of the Lebanese IPR protection system**

Although we do have in our administrative and judicial fields whatever it takes to guarantee a good protection regarding IPR in Lebanon as well as specialized teams highly motivated and Ministries who are convinced of the necessity of fighting against piracy, weaknesses in the Lebanese IPR protection system are to be pointed out:

- 1- Regarding the legal impediments, we have found several gaps in the laws in force as well as in draft laws as we have pointed out in our Report
- 2- But one of the biggest weaknesses we actually have in Lebanon is practical impediments related to the work of administrative institutions in general.

For example: the lack in the number of staff and in equipments, the budgetary problem, as well as more relevant problems due to the fact that IP is not a priority in state policy and of the judicial authority as well.

Also regarding the judicial backlog, there are some expensive judicial fees as well, and a lack of familiarity with the IPR subject, some slowness of legal procedures and poorness of sanctions and fines after years of litigation, as we pointed out earlier.

We can also point out the lack of employees within the Ministries of Economy and trade or the Ministry of Interior. Or even the budget of these Ministries which is too low, and so on... All these matters need urgent reforms of the law and it is the reason why we ended up our Report with a few reform proposals as follow:

#### **III- IPR DEVELOPMENT AND REFORM PROPOSALS**

It is crucial that we adopt a comprehensive alternative vision for the protection of our intellectual property rights in Lebanon. This perception is as u can see built around three integrated themes:

- 1- Laying the basis of a scientific strategy to fight IP crimes (and this can be made by preparing official studies on the IP industry in Lebanon as well as raising awareness)

- 2- Adopting a comprehensive work plan to Activate IPR Protection by addressing the problems encountering the legislative framework, the administrative institutions, the practical fight of IP crimes and the judiciary in Lebanon.
- 3- The third theme revolves around the adoption of a financial plan to encourage creation and promoting IP as a cultural and economic wealth by facilitating the access to finance and create tax incentives to encourage IP productions.

Now all those themes take their source from *two fundamental elements*:

- 1- Respect of the law, of the *rule of law*. This element has to be considered in a frontal way and is not only related to the IP field. It is a general way of living. Unfortunately we are very slow in adopting laws and applying them. And this is reason why results are deficient. It has been caused in Lebanon by the absence of a state based on rule of laws for years.
- 2- Getting rid of our *bad habits* in Lebanon: those bad habits are the lack of respect towards IP in general by living an everyday delinquency, hacking and indifference regarding other people's rights or properties. Adopting a law on intellectual property was a hard thing to do and provoked a big problem at the parliament. And that's maybe because many private interests were at stake: from dish providers to product forgery or counterfeiting, to selling copied DVDs with no control whatsoever (we can also give the example of the fake medicines that were seized in Lebanon yesterday in several pharmacies: they also provoked further diseases amongst people who have bought them, which obviously doubles the responsibility of those who took part of the crime). Hacking, copying, stealing has always been, unfortunately, an industry of its own. This is why we ought to do something in order to educate the lay man and set a few principles in people's minds that ought to be respected and understood. And probably the biggest principle would be the respect of the other.

## CONCLUSION

Maybe in the years to come all this debate will be a bit obsolete. Because while we are thinking of protecting our intellectual property, many countries are thinking of liberating some of their intellectual properties because they have realized that some aspects of it are vital and essential for their citizens.

Many projects of opening free access to WIFI are now being studied and applied in many cities, as well as opening free access to medications in some poor countries (Regarding AIDS illnesses and other illnesses).

Now maybe the solution, the most realistic solution would be the most balanced one: protecting IP in all its aspects as a rule but choosing to be more liberal regarding vital and urgent matters.

But then again, it would be interesting to see how such a balance can be measured.

Thank you