



INTELLECTUAL PROPERTY RIGHTS IN GEORGIA

RAISING AWARENESS

FINAL

Wednesday, October 12, 2011

This publication was produced for review by the U.S. Agency for International Development. It was prepared by Deloitte Consulting LLP.

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USAID ECONOMIC PROSPERITY INITIATIVE (EPI)

CONTRACT NUMBER: AID-114-C-10-00004

DELOITTE CONSULTING LLP

USAID/CAUCASUS

WEDNESDAY, OCTOBER 12, 2011

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DATA

Author: Timothy P. Trainer

Name of Component: Business Enabling Environment

Practice Area: Intellectual Property Rights (IPR)

Key Words: Awareness, Campaign, Counterfeit, Courts, Customs, Education, Enforcement, Evaluation, IPR, Media, Piracy, Police, Prosecutor, Sakpatenti

Reviewed by:

Irakli Demetrashvili, IPR Manager

Chris Thompson, Component Lead

ABSTRACT

Consultant spent three weeks in Georgia and met with business sector representatives and Sakpatenti officials. In addition, consultant conducted a series of IPR-related workshops (nine sessions) for representatives of the business sector and university students. Based upon the meetings and the series of workshops, significant work remains in order to raise IPR awareness among current and future business sector representatives sufficiently for IPR to serve as a tool for business and economic growth. Future IPR activity requires expanding the outreach to engage all elements of the IPR “system”— including the enforcement “community” that includes judges, prosecutors, and customs — so that the IPR “system” can provide a level of protection to owners that will stimulate investment and risk taking in the economy.

ABBREVIATIONS

AMCHAM	American Chamber of Commerce in Georgia
BAG	Business Association of Georgia
EPI	Economic Prosperity Initiative
EU	European Union
GSMEA	Georgia Small and Medium Enterprises Association
IPR	Intellectual Property Rights
JILEP	Judicial Independence and Legal Empowerment Project
SME	Small and Medium Enterprises
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
USAID	U.S. Agency for International Development
WTO	World Trade Organization

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I. EXECUTIVE SUMMARY

BACKGROUND

The IPR evaluation and resulting trip report from February 2011 identified numerous IPR-related challenges and listed many potential activities that the project could pursue in an effort to strengthen Georgia's IPR system. Regarding government agencies, the recommendations included activities needed to increase Sakpatenti's internal capabilities to modernize and raise efficiencies among its professional staff. Additionally, Sakpatenti was identified as the primary agency to engage in outreach in order to raise IPR awareness.

Other government entities, i.e., customs, judiciary, police, and prosecutors, were identified as specific future targets for IPR awareness raising and training regarding their specific IPR enforcement responsibilities roles in the IPR system. These government enforcement entities were identified and activities were outlined as part of a broad effort that would be necessary to create an effective IPR system.

More importantly, the February assessment concluded that the business community lacked sufficient basic IPR awareness that would allow it to use IPR to commercial advantage. Essentially, there were inadequate resources among government and the business sector to raise IPR awareness. Industry associations indicated an inadequate level of internal IPR knowledge to offer IPR awareness and education to their respective members and the business community at large. Moreover, for future business leaders, the outlook of IPR awareness was bleak due to the lack of IPR education at the university level.

Based on the February assessment, the recommendations were primarily aimed at a program of IPR awareness raising. In view of the critical need for businesses to identify assets that could be protected by the IPR legal regime, the business sector was identified as needing immediate attention.

FINDINGS/ACTIVITIES

In June, the EPI project, in cooperation with Sakpatenti, conducted activities to begin addressing the assessment needs identified in February. The consultant conducted nine IPR awareness sessions (three to audiences made up of business sector representatives and six to university students).¹ This initial outreach effort reached 394 business representatives and students (108 and 286, respectively).

These sessions were conducted in Tbilisi, Kutaisi, and Batumi. Each session contained two components that addressed the importance of IPR to businesses, as addressed by the consultant, and more specific details of Georgia's IPR legislation that was addressed by Sakpatenti staff. A simple evaluation form was prepared for feedback from the business sector representatives. Based on the business sector feedback from the Kutaisi and Batumi sessions, the evaluation forms reflect the fact that 80% of the participants indicated a better

¹ EPI project staff managed registration at each session and has a list of all attendees.

understanding of IPR after the consultant's presentation and 90% had a more positive impression of IPR after the consultant's presentation.

Although the students were not asked to fill out the evaluations, our observations of their level of interaction demonstrate their interest in IPR and the need to continue exposing students (future workforce and potential entrepreneurs) to what IPR is, how it can benefit them, and how IPR may enrich them in their careers. Based upon the interaction with students and comments during sessions, several indicated that they had active plans to start businesses and that the IPR awareness sessions were invaluable to them regarding information necessary to make informed decisions on how to proceed in creating their businesses and with regard to a business plan.

Finally, in conjunction with the direct outreach to the business community and students, IPR was promoted via interviews with television news, taped television program, and print media.² As a result, the consultant conducted print media interviews as well as television news interviews and one television program that will air later in July.

RECOMMENDATIONS

First, regarding the **business community**, the EPI project should continue support for the outreach effort. Direct IPR awareness sessions for the business community, coorganized with Sakpatenti, should be increased. The project should work with AMCHAM, GSMEA, and BAG in an effort to identify more business sector representatives who might benefit from greater IPR awareness. Having just concluded awareness sessions, the contact details now in the Project's possession can be used to ask previous attendees what additional sessions they wish to see offered and to use these contacts to identify other business sector representatives who may wish to attend IPR sessions.

Having begun the outreach effort, the Project can offer the basic awareness sessions as well as follow-on sessions that build upon the initial awareness sessions by providing a "level 2" session that introduces the business sector to the enforcement system that they should be aware of and employ in order to protect the IPRs that they acquire from Sakpatenti, i.e., provide basic information about how they might enlist the judiciary, customs, prosecutors, and others in the enforcement system *after* acquiring their legal rights.

In view of the lack of resources within the various business associations, the Project could consider a program of increasing the capacity of the associations to provide IPR educational sessions to the business community.

Second, the **legal community** is also in need of improved awareness of the IPR system. As a direct supportive arm to businesses, the Project should consider working with Sakpatenti to build up its outreach to the legal community so that more lawyers raise their competency levels to provide IPR-related legal services to the business community. This would be a basic introduction into the needs of businesses to have legal support for applying for various forms of IPR to Sakpatenti and how the legal community can assist with IPR disputes once IPRs are acquired, including work with customs and prosecutors. Absent an informed and

² EPI project arranged the media events, including a taped television program, print media interviews, and luncheon roundtable event with journalists.

competent legal community, businesses will not be able to take full advantage of protecting the rights provided by the IPR legal framework.

Third, as the project engages the business community and promotes increased use of IPRs, this should increase the business community's expectations in its ability to protect its assets and obtain the level of enforcement the law provides. Therefore, the Project should offer basic-level sessions on IPR awareness and the roles of the **courts, prosecutors, and customs**³ in the IPR enforcement system. In view of the minimum enforcement requirements of the WTO TRIPS regarding civil, criminal, and border enforcement, all the government "players" in the IPR enforcement system need to have a basic understanding of what the various types of IPR protect and how they differ as well as detecting potential violations and resolving disputes.

Related to the minimum levels of IPR protection and enforcement is Georgia's desire to have increased economic ties with the EU. This will also create increased demands for improving the IPR enforcement system. Thus, other international IPR enforcement agreements and provisions arising from those agreements, e.g., the Anti-Counterfeiting Trade Agreement, will likely add to the enforcement obligations that Georgia will need to meet.

Finally, outreach to **universities** should continue as students represent the future workforce and potential business owners, but given the current priorities, outreach to students should not be a priority over current business owners or the government officials who are involved in enforcement.

³ Although outside the scope of this project, the local police are also a critical part of the IPR enforcement system and should be considered by the donor community for assistance in connection with IPR.

II. APPENDICES

- A. BACKGROUND**
- B. METHODOLOGY**
- C. FINDINGS**
- D. RECOMMENDATIONS**
- E. ADDITIONAL INFORMATION**

A. BACKGROUND

The February 2011 IPR assessment identified numerous IPR-related challenges and listed many potential activities that the EPI project could undertake in an effort to strengthen Georgia's IPR system. Regarding government agencies, the recommendations included activities needed to increase Sakpatenti's internal capabilities to modernize and raise efficiencies among its professional staff. Additionally, Sakpatenti was identified as the primary agency to engage in outreach in order to raise IPR awareness because it had the greatest level of IPR knowledge.

Other government entities that have a role in the system of IPR protection and enforcement, e.g., customs, judiciary, police, and prosecutors, were identified as specific future targets for IPR awareness raising and training regarding their specific IPR enforcement responsibilities IPR system. These government enforcement entities were identified and activities were outlined as part of a broad effort that would be necessary to create an effective IPR system. Promoting IPR in the business community without promoting improvements in IPR enforcement would leave out half of the overall IPR system and increase the likelihood of significant dissatisfaction with the IPR framework as a whole because of an inability to properly protect assets in the market.

The February 2011 assessment concluded that the business community lacked sufficient basic IPR awareness that would allow it to use IPR to commercial advantage. Essentially, there were inadequate resources among government agencies and the business sector to raise IPR awareness. Industry associations indicated an inadequate level of internal IPR knowledge to deliver IPR awareness and education to their respective members and the business community at large. Moreover, for future business leaders, the outlook for IPR awareness was bleak due to the lack of IPR education at the university level.

Based on the February assessment, the activities just completed to begin the process of implementing the recommendations arising from the February report. The IPR awareness sessions before nearly 400 people, business representatives and students, are a "first step" to address the needs identified in February. In addition, the project continued its efforts to improve its dialogue with business groups, such as AMCHAM, BAG, and GSMEA, by meeting with their representatives and to confirm their willingness to support future efforts at IPR awareness raising. The business associations expressed their willingness to support project efforts for future awareness sessions.

In addition to the business groups, the EPI project is continuing its efforts to identify other projects that may be engaged in IPR activities or wish to pursue IPR activities in order to identify potential informal partnership arrangements. As a result, the IPR consultant met with the JILEP representative to gain a better understanding of any developments regarding IPR training for judges and how this might be accomplished. In addition, a meeting with a representative of the EU Delegation to Georgia resulted in an exchange of information as the EU is interested in promoting improved IPR protections as well as an IPR awareness campaign.

Thus, the February recommendations and implementation of those recommendations would meet the objectives of both the United States. and EU by promoting improved

business and government sector understanding of how IPR contributes to economic development and the need to support economic development with a strong IPR enforcement system provided by government entities, such as customs, police, prosecutors, and judges.

B. FINDINGS

The IPR consultant conducted nine IPR awareness sessions in three cities in June 2011. All sessions included a general IPR awareness component that underscored the importance of the various forms of IPR to businesses and how IPR can contribute to revenue generation. Sakpatenti's component of each of these sessions was to provide specifics on how rights are formally acquired in Georgia under the laws procedural requirements.

Based upon the active engagement of students at the universities, it is clear that much more can be done to raise IPR awareness among young adults in the university environment who are the future contributors to the economy.

Regarding the business sector, increased efforts are needed to continue to engage members of the existing business associations as well as businesses that are not associated with any groups. Therefore, it will be important to use new and existing business sector contacts to identify other business representatives who may be interested in future IPR awareness sessions.

Although a simple evaluation was used, the information obtained from some of the business sector attendees reflects a strong positive reaction to the IPR awareness sessions. Based upon the 80% who indicated a better understanding of IPR after the sessions and 90% who had a more positive impression of IPR after the sessions, this is likely to result in a desire for more IPR related, information and, hopefully, increased interest in obtaining and securing their legal rights.

TOTAL ATTENDEES: 394 (108 business; 286 students)

Kutaisi

Ilia Tsereteli State University: 80

Batumi

Shota Rustaveli University: 39

Tbilisi

Tbilisi State Medical University: 30

Georgian Technical University: 54

Ilia State University: 59

Tbilisi State University: 24

EVALUATIONS (Business sector only)

TBILISI:

14 evaluation forms out of 42 attendees* (Rating 1 to 5; 5 being the best result)

- Q. 1 had an average of 4.1 regarding the effectiveness of the method used to deliver the material.
- Q. 2 had an average of 4.0 to the question about improved understanding of IPR after the session.
- Q. 3 had an average 3.5 as to having a more positive view of IPR after the session.

KUTAISI

34 evaluation forms out of 39 attendees

- Q. 1 had an average of 4.29 regarding the effectiveness of the method used to deliver the material.
- Q. 2 had an average of 3.94 to the question about improved understanding of IPR after the session.
- Q. 3 had an average 4.26 as to having a more positive view of IPR after the session.

BATUMI

17 evaluation forms out of 27 attendees

- Q. 1 had an average of 4.58 regarding the effectiveness of the method used to deliver the material.
- Q. 2 had an average of 4.65 to the question about improved understanding of IPR after the session.
- Q. 3 had an average 4.82 as to having a more positive view of IPR after the session.

Kutaisi/Batumi: 51 evaluations collected from business attendees

Q.1:

53% rated the answer to this question as a 5 (strongly agree regarding the effectiveness of the method of delivery of the material).

33% rated the answer to this question as a 4 (agree regarding the effectiveness of the method of delivery of the material).

13.7% rated the answer to this question as a 3 (neither agree nor disagree).

1.9% rated the answer to this question as a 2 (disagree with the effectiveness of the method of delivery of the material).

Q. 2:

43.1% rated the answer to this question as a 5 (strongly agree that the presentation improved understanding of IPR).

37.2% rated the answer to this question as a 4 (agree).

17.6% rated the answer to this question as a 3 (neither agree nor disagree).

1.9% rated the answer to this question as a 2 (disagree that the presentation improved understanding of IPR).

Q. 3:

56.8% rated the answer to this question as a 5 (strongly agree that they have a more positive view of IPR after the session).

33% rated the answer to this question as a 4 (agree that they have a more positive view of IPR after the session).

7.8% rated the answer to this question as a 3 (neither agree nor disagree).

1.9% rated the answer to this question as a 2 (disagree that they have a more positive view of IPR after the session).

C. RECOMMENDATIONS

EPI project/Sakpatenti: University IPR Awareness

While Sakpatenti has tended to emphasize the need for increased IPR awareness among the law faculty students, the IPR consultant advises that any IPR awareness program for universities should *not* take a narrow approach that focuses the IPR topic to students of the law faculties. In fact, greater IPR emphasis should be on the business, economic, engineering, and science faculties because these students are likely to be in the private sector, conducting research and seeking to enter business management positions. At the university level, the fact that we cannot predict what endeavor students will eventually pursue dictates a much broader approach to IPR awareness, not a narrow approach. As a result, to the extent that the project continues to provide IPR awareness to university students, consultant recommends strongly against an approach that engages future lawyers and diminishes interaction with students of other faculties in view of the economic development aspect to IPR.

EPI Project: Next steps (outline below; tentatively for the fall): the following outline is provided for consideration by USAID and project management based upon the activities that were begun in June 2011.

To the extent that the IPR awareness sessions are arranged for the fall and there is agreement about a “case-study” approach that engages the enforcement officials, additional preparatory time in advance will be necessary, which implies an “early decision” about the fall trip and dates. This necessarily requires EPI project staff to reach out to the relevant government agencies in order to arrange these sessions in advance so that materials can be prepared and translated.

FUTURE ACTIVITIES

****This outline is provided in order to plan for meeting/workshop scheduling for each day of the future trip.****

1. Business Sector

- a. June Business Sector IPR Awareness Workshop: Follow-up
 - i. Contact, at random, attendees⁴
 1. What topics should be covered during future sessions?
 2. Ask for contact information of subject matter expert (SME) representatives who did NOT attend in order to expand SME contact list.
 3. Ask if they are aware of other groups of business representatives that might exist other than GSMEA (industry specific?).
- b. Identify/contact additional business groups, e.g., Chamber of Commerce and others
- c. Fall:
 - i. June 2011 attendees would be invited to a second round to address issues they have identified + introduction into the use of the enforcement system.

⁴ Contact business representatives, not lawyers, who attended the session.

- ii. Newly identified business representatives to receive IPR session similar to June session (i.e., “Intro” sessions).

2. Legal Sector

- a. Georgia Bar Association/Others
 - i. Availability of IPR counseling
 - ii. Level of IPR awareness among legal community
 - iii. Potential provider of IPR awareness info to business sector
 - iv. Partnering with GSMEA/commercial organizations

3. Government Sector⁵

- a. IPR Awareness workshop for government entities involved in protection/enforcement:
 - i. Police
 - ii. Customs
 - iii. Prosecutors
 - iv. Judges
 - v. Other
- b. Separate workshops for each
 - i. Basic level: address the legal authority and role of each listed in 2(a).
 - ii. The workshop would provide an overview of how each IPR law gives legal authority.
 - iii. Provide a “walk-through” using a fictitious/real case fact pattern to illustrate application of legal authority (prepare and deliver as case student interactive approach).
 - iv. Role of IPR owners in enforcement
- c. Joint
 - i. Second level: workshops that bring together customs/police/prosecutors in order to promote:
 1. Knowledge of roles of others in the enforcement system
 2. Coordination among enforcement entities
 3. Information exchange, and
 4. Referral of cases, if necessary

4. Business Government Joint Sessions

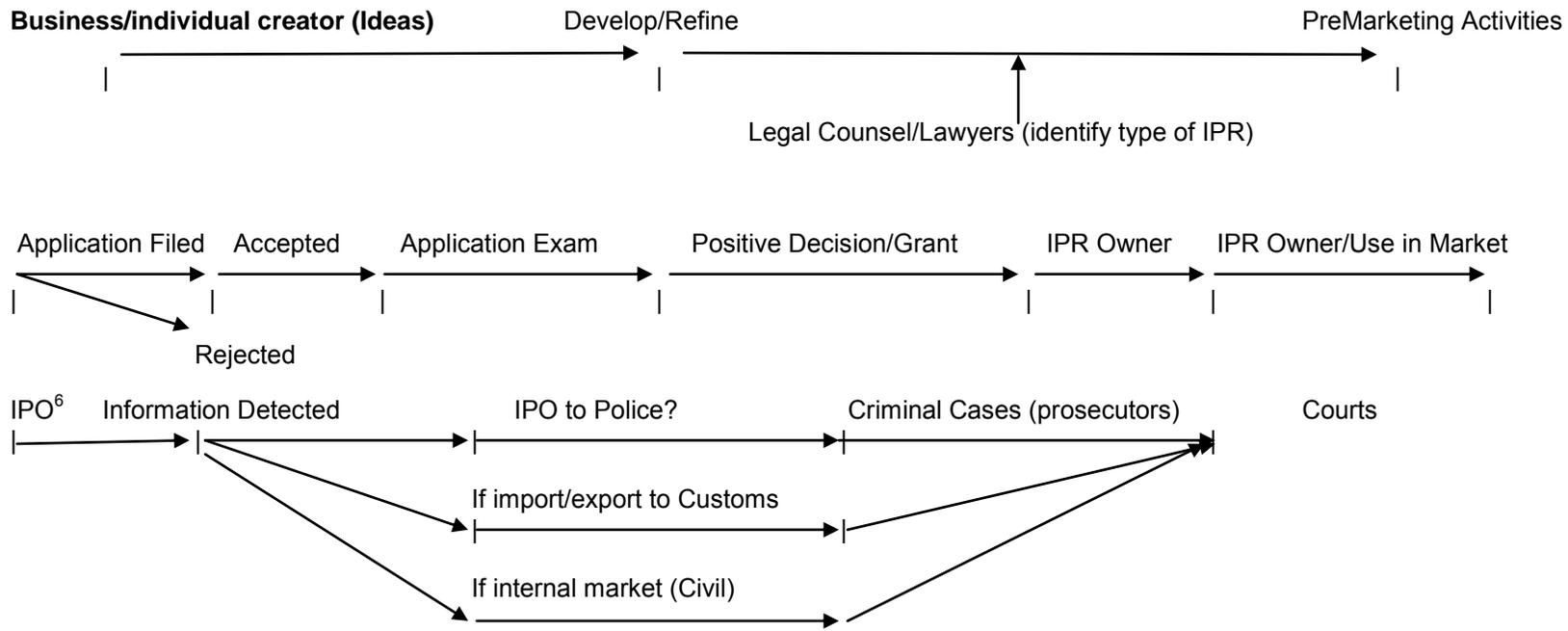
- a. Provide an opportunity to address their respective responsibilities.
- b. Allow for interaction between IPR owners/enforcement officials.
- c. Address issues that hinder effective enforcement.
- d. Increase mutual understanding of the enforcement system in the presence of each other/reduce confusion and misunderstandings.

⁵ SAKPATENTI to participate in all, but we should reconsider how they will inject information regarding their role so that it is more properly adapted to fit these sessions and OUR time constraints.

OVERSIMPLIFIED FLOW CHART

(DOES NOT INCLUDE THE NECESSARY STEPS FOR ALL THE "PLAYERS", E.G., CUSTOMS)

Start



⁶ IPO: Intellectual property owner

D. ADDITIONAL INFORMATION

1. MEETINGS

Ms. Virginie Cossoul
Attache, Trade Issues
EU Delegation to Georgia
T 995 322 2943 763
Virginie.cossoul@eeas.europa.eu

Mr. Nick Nanuashvili, Lawyer
Business Association of Georgia
T 995 322 202 217
nnanuashvili@bag.ge

Mr. George Welton
Executive Director
AMCHAM
T 995 322 305 613
g.welton@amcham.ge

Ms. Marian Kululashvili
BRAVO/Cop Society Board Member
T 995 539 409 340
m.kululashvili@bravorecords.ge

Mr. George Jugeli
JILEP
T 995 322 505 404
gjugeli@ewmi-jilep.org

Mr. Kakha Kokhraidze
Vice President
GSMEA
T 995 322 389 833
kkokhraidze@gsmea.ge

2. USAID/U.S. EMBASSY MEETING

The meeting to debrief USAID about the June activities was broadened and included Charles “Chuck” Vetter, economic officer, and Saul Hernandez, U.S. Embassy, Public Affairs Section. The enlarged meeting was prompted by an e-mail from James “Michael” Harvey of the Embassy’s Public Affairs Section who inquired about my availability to travel to Tbilisi in the fall to conduct a series of IPR awareness sessions. In view of my presence in Georgia when this request was received and my response to the Embassy, a broader discussion ensued.

First, we discussed the possibility of having a second IPR “expert” in Georgia during the fall when the next EPI project’s IPR activities are to be scheduled. Based on this discussion, Tim Trainer, EPI project’s IPR consultant, provided contact details of Ms. Chunnie Wright to the Embassy staff on or about July 6.

Second, Charles Vetter indicated that the Embassy was considering partnering with Business Software Alliance on an IPR campaign regarding the software piracy issue. Related to this possibility, Tim Trainer, subsequent to the meeting, recommended to the Embassy that the campaign try to identify Georgian software developers who are victims of software piracy and could act as advocates for the protection of software. Alternatively, the Embassy should explore the possibility of finding computer/electronics retailers whose retail business have been financially injured by decreased revenues as a result of software piracy.

Third, the meeting with USAID and Embassy officials addressed alternative IPR awareness tools. Specifically, a brief discussion addressed an online interactive IPR tool. Based upon this discussion, Tim Trainer provided passwords and user names to USAID and Embassy staff in order for them to access the tool and determining the feasibility of such a tool.

**USAID Economic Prosperity Initiative (EPI)
6 Samgebro St.
Tbilisi, Georgia**

Phone: +995 32 43 89 24/25/26

Fax: +995 32 43 89 27