Proposal for an Intellectual Property Guide in the Tempus IP Med Project

The proposal is that the IP guide envisioned in the project be implemented as a Wiki, which allows the partners to draw on invited persons within their network to further contribute and to maintain a dynamically updated. The Wiki will be moderated by the Maastricht partners, and manage the appropriateness of the entries, with quality control being a joint element of the group Wiki review process and the moderator.

The primary content of the international, multilateral, regional, and bilateral elements of the Wiki will largely come from Maastricht and its partners.

I. Structure and Content of the Wiki

The Wiki will be organized by country, encompassing every country in the region. Importantly, the aim of the guide will be to identify and elaborate differences between the subject countries which will form the basis for debates and discussions about the merits of harmonization versus differentiation.

Under each country there will be a set of subject areas with sub-heading addressing key sources. The aim will be to provide links and also to provide a rolling dynamic set of annotations to legislation, policy, and cases.

Under the leading cases, there will be a short summary of the case, its ruling and its reasoning.

Country name
   a. International
          a. Multilateral treaty title
                 i. Date signed, date ratified

      ii. Role in negotiations, both prior and subsequent – membership in negotiating groups and group positions

      iii. Any reports or details on compliance

   b. Regional or bilateral treaty title

      i. With whom, Date signed, date ratified

      ii. Commitments in addition to international treaty obligations

         1. Substantive

         2. Enforcement

b. National

   a. Copyright

      i. National legislation

         1. With annotations

         2. Specific areas

            a. Exceptions and limitations

            b. Digital issues

               i. Definitions of communication to the public

               ii. Distribution rights

               iii. Treatment of downloading and uploading

      ii. Leading National Treatise

      iii. Leading cases (especially on the topics below)

         1. Originality

         2. Work-for-hire

         3. Fair use/exceptions and limitations

   b. Designs

      i. National legislation

         1. With annotations

         2. Specific areas

      ii. Leading National Treatise

      iii. Leading cases (especially on the topics below)

         1. Functionality limits

         2. Spares and repairs

   c. Patents

      i. National legislation

         1. With annotations

         2. Specific areas

            a. Exclusions from patentability

      ii. Leading National Treatise

iii. Leading cases (especially on the topics below)
1. Subject Matter
   a. Computer programs and business methods
   b. Genes, plants and animals
   c. Diagnostic and therapeutic methods
2. Equivalents/scope of protection

d. Utility Models/petty Patents
   i. National legislation
      1. With annotations
      2. Specific areas
   ii. Leading National Treatise
   iii. Leading cases (especially on the topics below)
      1. Border between patents and utility models

e. Trademarks
   i. National legislation
      1. With annotations
      2. Specific areas
   ii. Leading National Treatise
   iii. Leading cases (especially on the topics below)
      1. Non-traditional Subject matter
      2. Generalization
      3. Grounds for refusal - Technical and shape limits
      4. Famous marks – protection beyond confusion to damage to reputation, distinctiveness, taking unfair advantage.

f. Geographical Indications
   i. National legislation
      1. With annotations
      2. Specific areas
         a. Type of protection – sui generis, certification mark?
   ii. Leading National Treatise
   iii. Leading cases (especially on the topics below)
      1. Prior use

g. Trade Secrets
   i. National legislation
      1. With annotations
      2. Specific areas

    ii. Leading National Treatise

    iii. Leading cases (especially on the topics below)

h. Unfair competition
    i. National legislation
        1. With annotations
        2. Specific areas
    ii. Leading National Treatise
    iii. Leading cases (especially on the topics below)
        1. Scope of protection – below confusion? Above imitation?

i. Databases
    i. National legislation
        1. With annotations
        2. Specific areas
    ii. Leading National Treatise
    iii. Leading cases (especially on the topics below)