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WIPO Whistleblowers Describe Technology Transfers

Former officials at the World Intellectual Property Organization (WIPO) got their day in court Feb. 24, or at least Congress, to air their complaints against Director-General Francis Gurry. In what one observer called political theater, members of three House Foreign Affairs Committee subcommittees were regaled with stories of illegal technology transfers to North Korea and Iran, secret meetings with Beijing and Moscow and retaliation against whistleblowers.

Of most concern, but not fully resolved, was whether the transfer of high-end computer equipment to Pyongyang, which Gurry authorized, violated United Nations (UN) sanctions or U.S. export control laws.

The equipment, including a HP server, a printer worth \$14,000, a 24-terabyte disk array and a SonicWall firewall, was “transferred ostensibly in order to support the North Korean patent office in its efforts to modernize its technology,” former WIPO Deputy Director James Pooley explained at the hearing. When asked if this equipment could be bought legally in the U.S. or on Amazon, Pooley responded, “Yes, I suppose it could have been purchased in the U.S., but you can’t buy it to send to North Korea. If you did, you’d go to prison for a long time.”

In 2012, the UN Sanctions Committee found that the technical assistance to North Korea and Iran did not violate UN resolutions. UN lawyers “determined that when you parse the Security Council sanctions very carefully, the kind of equipment here was not radiation hardened or otherwise of the sort that would necessarily apply. There are lawyers who might disagree, but that was the finding,” Pooley said.

U.S. Triumphant in Solar Panel Dispute with India

A World Trade Organization (WTO) dispute-settlement panel found in favor of the U.S. in a years-long dispute with India over the origin of solar cells and modules used in India’s

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GARLIC: CIT Judge Leo Gordon denied motion Feb. 11 for preliminary injunction from garlic importer to block Customs from requiring single transaction bonds (STBs) for imports because of insufficiency of continuous bond and potentially large duties that might be due. In addition, he chastised attorneys for plaintiff, International Premier Trading. “The court must add an additional consideration in the balancing of the equities. In this action the court has perceived a lack of candor on the part of counsel for Plaintiff,” Gordon wrote (slip op. 16-13). “Despite representing the other plaintiffs in recent bond enhancement litigation...,counsel for Plaintiff in two conference calls and one hearing before the court maintained what the court believed was a feigned ignorance about the underlying facts behind Customs’ decision to require the additional bonding for entries of garlic from the PRC,” he stated. Plaintiff’s attorney was Robert T. Hume, Hume & Associates, of El Prado, New Mexico.

BYRD AMENDMENT: In unusual three-judge review, CIT rejected Feb. 10 another constitutional challenge to Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). Judges denied claims by Barden Corporation that it was denied due process protection because it didn’t get share of Byrd payments under foreign acquisition provision in law. “The court determines that the acquisition provision of the CDSOA is supported by a rational basis and therefore satisfies the equal protection guarantee of the Constitution. The court determines that Barden lacks standing to challenge the CDSOA on due process retroactivity grounds and also lacks standing to assert claims relating to FYs 2010 and 2011,” wrote CIT Judge Leo Gordon for himself, Chief Judge Timothy C. Stanceu and Senior Judge Gregory W. Carman (slip op. 16-12).

PERU: USTR Feb. 26 requested first verification under U.S.-Peru Trade Promotion Agreement (PTPA) that January 2015 timber shipment from Peru to U.S. complied with Peruvian forestry laws. Request based on “public reports that recent shipments by Oroza may contain timber products illegally harvested in Peru,” USTR wrote. House Ways and Means Ranking Member Sander Levin (D-Mich.) called action “welcome step,” but noted “much further work urgently needs to be done to ensure that Peru meets its obligations under its existing trade agreement.” Sen. Ron Wyden (D-Ore.), who asked for action, said in statement he was “pleased that the United States is for the first time using these tools to stop trade in stolen timber from Peru.”

JAPAN: Asian Export Control Seminar in Tokyo Feb. 23-25 assumed “heightened sense of urgency” given North Korea’s recent nuclear and rocket tests, according to Jason Prince, partner at Holland and Hart, who attended conference. In opening remarks, Japan’s State Minister of Economy, Trade and Industry Junji Suzuki pointed to tests as “examples of why Asian and other countries must redouble their collective efforts to ensure defense technology and hardware does not fall into the hands of North Korea’s military,” Prince wrote in email to WTTL.

EX-IM BANK: Ex-Im Bank Director of Global Business Development for Africa Rick Anguioni traveled to Angola Feb. 18 for meetings with government and banking officials in that country. U.S. and Angola signed memorandum of understanding in 2014. Since then, bank has helped Angola purchase Boeing aircraft and two U.S.-origin firetrucks.