



AIPPI

e-News

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International Association for the Protection of Intellectual Property

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AIPPI Bureau

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President's latest report:

This inaugural edition of our e-News is the result of hard work by many people who deserve our thanks.

We have made and are making a wealth of changes to the association based upon inputs from our members, our advisory committees and the Bureau. The guiding principle is to listen to our membership to learn what we must become in this 21st century, while retaining the best of what we have been in the 19th and 20th centuries.

This first edition of our e-News opens a new era for AIPPI. The communication that will be facilitated efficiently, broadly and frequently with our entire membership internationally will open doors previously closed by the cost and labour intensive nature of printed publications physically mailed to members. This is representative of the innovations we are making. The planning of the Boston Congress also represents the same spirit of innovation with more substantive sessions than ever and other changes that will please.

Welcome to a new era for AIPPI.
(Report by Ron Myrick, President of AIPPI)

Website Development

As you will have appreciated from the "look and feel" of this first edition of the AIPPI e-News, more changes are afoot within the organisation of our Association.
(Report by Michael Brunner, Secretary General of AIPPI)

AIPPI Committees

Working Questions:

This year's Working Questions follow the tradition of AIPPI of addressing hot topics concerning intellectual property and at the same time covering a variety of intellectual property rights. The programme for the 2008 Congress includes two questions focusing on a specific IP right (a patent question and a trademark question), and two broader topics which cover all IP rights, including copyrights. The Resolutions to be adopted in Boston will be the result of a reasonable consensus among the NRGs, but shall at the same time give clear guidance for further harmonisation and express views and show perspectives into the future development of IPR systems.

- **Q202** — The impact of public health issues on exclusive patent rights
- **Q203** — Damages for infringement, counterfeiting and piracy of trademarks
- **Q204** — Liability for contributory infringement of IPRs

- [Q205](#) — Exhaustion of IPRs in cases of recycling or repair of goods

See latest reports from:

- [The Editorial Advisory Committee \(Q197\)](#)

The Editorial Advisory Committee (EAC) has been closely involved in the conceptualisation and shaping of the e-News. Two comprehensive reports were submitted in April and September 2007 (available on the AIPPI website). The e-News is seen as a vibrant communication instrument for the AIPPI to enable the Bureau to provide information to members, and to enable members to interact with the Bureau and other members. The e-News also provides members with a medium for the publication of articles, reports, news items and other contributions.

The EAC will remain closely involved in future with the e-News. Members are invited to submit their contributions for publication (see [the Editorial Policy Guidelines](#)), and also to submit comments and suggestions on how the e-News could be improved and made more dynamic. The first edition of e-News has arrived!

(Report by Esmé du Plessis, Chair of Q197)

- [The Statutes Committee \(Q200\)](#)

The Q200 Bureau Advisory Committee (BAC) on Statutes and Regulations has completed its review of the comments received from members, on its Report submitted to the Executive Committee in Singapore, and published on the AIPPI website. The Bureau has now approved the Committee's report on several new topics that include: the voting procedures at various administrative and scientific events; ways to ensure more active participation by National and Regional Groups; definition and categories of members with possibly different fees; permitting members and other Forum participants as observers at Executive Committee meetings and a review of the statutory provisions relating to the Programme and Nominating Committees. These reports will be published shortly.

The Bureau will proceed with two votes-by-correspondence: one to obtain approval from the ExCo to proceed with a second vote to a Resolution for the General Assembly from the ExCo on amendments to the Statutes relating to the changes proposed in Singapore. The other recommendations will be put forward for discussion and vote in Boston.

(Report by Robert Mitchell, Chair of Q200 and Ron Myrick, President of AIPPI)

- [The Membership Advisory Committee \(Q201\)](#)

As reported in the last AIPPI Newsletter, the Bureau has decided to create a new Membership Committee to deal with issues concerning members. This Committee is Q201. AIPPI Membership is very particular because, except for independent members, all members are members of AIPPI and at the same time members of their corresponding National or Regional Group. This is one of the main reasons why AIPPI is not just another international IP association, but an international association which groups together national/regional associations all over the world.

(Report by Luis-Alfonso Durán, Chair of Q201)

Forthcoming Events

AIPPI:

[Finnish Symposium, 20-22 April 2008, Helsinki](#)

Dear AIPPI member

We would like to draw your attention to this forthcoming Symposium to be held by the Finnish National Group of AIPPI. The Finnish Symposium, taking place in Helsinki from 20 to 22 April 2008, will have as main theme the life cycle of an invention. For more information please refer to our [programme](#).

The Finnish Group looks forward to welcoming you in Helsinki.

(Johanna Harsu, Secretary of AIPPI Finland)

[WIPO-AIPPI Conference on Client Privilege in IP Professional Advice, 22-23 May 2008, Geneva](#)

National Groups

Preparations for the WIPO/AIPPI Conference on client IP adviser privilege to be held in Geneva on 22 and 23 May 2008, are proceeding rapidly. A fuller update can be accessed [here](#).
(Report by Michael Dowling, Chair of Q199)

41st AIPPI World Congress, 6-11 September 2008, Boston

Plans are set and registration is now open for AIPPI's 41st World Intellectual Property Congress in Boston from Sunday, 7 September 2008 through Thursday, 11 September 2008. The invitation and Preliminary Programme has been mailed out to all AIPPI members, and also available on the Congress web site at www.aippi.net

(Report by Phil Swain, Chair of the Boston Organising Committee)

Other Organisations:

INTA's 130th Annual Meeting, 17-21 May 2008, Berlin

The International Trademark Association's (INTA) Annual Meeting is the one must-attend event in the intellectual property industry, and the 2008 meeting in Berlin is set to be the best yet. There will be five days of networking, educational and professional development opportunities, as well as committee meetings and exhibits. The three days of educational programmes include valuable skill-building workshops, industry breakouts, a plethora of educational sessions focused on international topics as well as table topics during breakfast and lunch. Also available during the meeting is an exhibition hall with more than 80 exhibitors featuring new products and cutting-edge demonstrations. The schedule is packed with networking opportunities, making the INTA Annual Meeting the only place where you can network with 8000 of your colleagues and keep up-to-date on everything that is going on in the industry.

(Text copied from INTA's [website](#))

For further information on IP Meetings please refer to the [AIPPI Master Calendar of IP Events](#).

Indian National Group Seminar, 9-10 February 2008, New Delhi

Over two hundred people drawn from nine countries gathered over an Indian winter's weekend in downtown New Delhi for a seminar hosted by AIPPI India dealing with IP issues of interest in the South Asian region. In a way, this seminar was a first rehearsal for the Executive Committee Meeting that will be held in India in the city of Hyderabad in 2011.

(Report by Robert Miller, Assistant Secretary General of AIPPI)

ACPI International Seminar on IP, 10 April 2008, Bogotá

ACPI, the Colombian Group of AIPPI, led by Juan Carlos Cuesta, hosted a Seminar on IP in Bogotá last week.

(Report by Guillermo Carey, Assistant Secretary General of AIPPI)

AIPPI President visits South Africa

A historic event for IP practitioners in South Africa occurred early in 2008 when Ron Myrick, the International President of AIPPI, visited the South African Group. He and Council members of the South African Group had a meeting with Government officials responsible for IP to discuss important issues, including the recent steps by the South African government to protect Traditional Knowledge as a species of IP, and the possibility of a regional IP conference. Ron Myrick also addressed a joint meeting of the South African Group and the SA Institute of Intellectual Property Law, a professional body for IP practitioners established in South Africa in 1953, to identify and explore areas for possible future collaboration, including the proposed regional conference.

(Report by Llewellyn Parker and Esmé du Plessis, President and Vice President of AIPPI South Africa)

Italy — The Objective Technical Opinion PTO

Italian patents and utility models are granted without any substantial examination; this circumstance affects, at some extent, the strength of Italian IP titles and makes the courts reluctant to enforce IP exclusive rights without assessing, beforehand, their validity.

(Report by Gualtiero Dragotti, Milan, Italy)

GOs & NGOs

A few weeks after the writing of the above article a press release was issued by the German Company Occlutech GmbH stating, incorrectly, that AIPPI had approved its IP position in a lawsuit pending in Italy on the basis of an opinion of experts selected in Italy by the Italian Group of AIPPI.

As is clear from the article above, the responsibility for any opinion issued by the expert nominated according to the Rules of the Italian PTO procedure lies with the expert only and not with AIPPI.

AIPPI has contacted Occlutech GmbH and asked them to publish a clarifying statement. Occlutech have indicated that they will be doing so.

Meeting between AIPPI and the European Patent Office

On Tuesday, February 19, 2008, a meeting took place in Munich, at the headquarters of the European Patent Office, between senior members of the governing body of the EPO and the representatives of AIPPI.
(Report by Dariusz Szleper, Deputy Reporter General of AIPPI)

AIPPI-ASIFI-IPO Seminar on IP in the Americas, 6-8 April 2008, Mexico City

The Seminar on Intellectual Property in the Americas: Free Trade Agreements, Current Issues and Future of IP, took place on April 6-8, 2008 in Mexico City. Over 400 attendees from most parts of the world attended to a magnificent event and venue.
(Report by Guillermo Carey, Assistant Secretary General of AIPPI)

New legislation

Vietnam — Updates on IP Protection

Unlike the previous regulations, now no copy of the signed Power of Attorney is required at filing under new intellectual property ("IP") regulations in Vietnam, provided the originally signed document shall be submitted to the National Office of Intellectual Property of Vietnam ("NOIP") within one month from the date of the NOIP's request. With regard to the PCT national phase applications, the time limit for entry of PCT applications into Vietnam remains the same as provided in the previous regulations, i.e., 31 months from the earliest priority date. However, a grace period of six months for late entry is now available subject to a late entry fee. These developments in Vietnam's IP legislation, inter alia, shall be addressed by Mr. Pham Nghiem Xuan Bac and Ms. Nguyen Nguyet Dzung, Vision & Associates, Hanoi, Vietnam.
(Report by Pham Nghiem Xuan Bac and Nguyen Nguyet Dzung, Hanoi, Vietnam)

Argentina — New Social Collective Trademark Law

On March 27, 2008 a new Law concerning "Social Collective Trademarks" was published in the Official Gazette.
(Report by Gastón Richelet, AIPPI National Group Reporter, Argentina)

India — The changing face of Intellectual Property

A consensus amongst the IPR experts concluded that Intellectual Property is the key to India's growing knowledge economy. Having grown in leaps and bounds India has come a long way fast evolving reaching new heights and setting new milestones. From striking a balance between IPR protection and public policy to promoting IPR education at school and college level, India has taken cognizance to bring in better enforcement and protection laws. Some of the key developments in the last year include revamping and a face lift that has been given to the administration and infrastructure of the IP offices in India. On the legislative front, the recently notified Customs notification has been a significant measure to curb the menace of piracy and counterfeiting of goods across the Indian borders. The robust judiciary has not been very far behind in contributing towards the magnanimous development of IPR in India. Litigation in trademark, copyright, and patent in India has reached new heights with the Indian Courts adopting international principles and rulings to protect IP rights strictly in order to deter infringers. The progress in the last year has been critical having set new milestones in IPR for times to come.
(Report by Pravin Anand, President of AIPPI India)

Case law

Greece — Famous Trademarks

Famous trademarks in Greece enjoy broad protection, preventing the depreciation of the mark's strong distinctive character and the unjust enrichment of a third party. The protection is offered independently from the existence or not of likelihood of confusion. The test includes: the particularly good position of the goods/services in the marketplace, uniqueness, originality, the positive appreciation by consumers, and recently: the broad advertising, the advertising expenditure and sales in Greece and the recognition of the goods. On the contrary, registration in multiple countries and large sales alone are not sufficient for a mark to be deemed as famous.

(Report by Dimitris Prokopiou and Vali Sakellarides; Athens, Greece)

Articles and notes

India — Adoption of brands

"rewarding ideas; raring steps"™

Consumers believe branded goods and services offer them better value for their money. A powerful brand pushes its proprietor to the backseat. "Invented words" which are adopted as brands, would be inherently distinctive. Such brands would not connote anything other than the goods that are sold under those brands. Unscrupulous traders may defraud consumers by adopting deceptively similar brands. Such practices distort the very function of brands. Well-known marks require more protection as they face rampant misuse. Trademarks Law in India recognises well-known marks. High Courts in India never hesitate to issue injunctions against misuse even to unregistered well-known marks.

(Report by Dr. K.S. Ravichandran; Bangalore, Chennai and Coimbatore, India)

Philippines — Border control enforcement

The use of the border control measures, i.e. Customs Registration, as a mode of enforcement of Intellectual Property Rights, is not a popular tool used by many IP owners. However, the growing number of searches and seizures made by the Philippine Bureau of Customs seem to indicate that this type of enforcement is quite effective, and the handful of IP owners who have tried this type of enforcement tool realize that the pros greatly outweigh the cons. The current customs registration system has been in effect in the Philippines since 2002 on the basis of Customs Administrative Order No. 6-2002. The following article enumerates the items considered as "prohibited importation" under the said Order, and a description of the process and basic work flow being followed by the Philippine Bureau of Customs.

(Report by Bernadette Marie B. Tocjayao and Jennifer D. Fajelagutan; Makati City, Philippines)

Japan/EU — Computer Implemented Inventions under the European Patent Convention and Practice in Japan

Statutory provisions in Europe and Japan limit the patentability of computer implemented inventions. The EPC legal framework is presented and interpreted with reference to the EPO case law, showing that subject matter having technical character is not a priori excluded. The EPO examination scheme for inventions comprising also non technical features is reviewed, remarking that the assessment of patentability is separated from that of inventive step. Japanese patent law introduces a &discriminator& provision, examined before novelty and inventive step on the basis of a synergetic relationship between hardware and software, which excludes patentability of inventions that might hinder industrial development and which constitutes a deterrent against patent trolls.

(Report by Michele Baccelli, European Patent Office and Prof. Mitsuyoshi Hiratsuka; Tokyo, Japan)

France — The Business Chameleon

The AdWords service created by Google, which enables advertisers to appear in the form of short advertisements displaying their website address on the "sponsored links" section of the Google results page when a search is made, generates lots of decisions in France.

This is indeed a major issue for Google, as the major party of its turnover is generated by advertising.

From one decision to the other, the regime of Google's liability as provider of the AdWords service becomes clearer, Google being quite always held liable.

Feedback
Your contribution
please!

More generally, French courts have increased the liability incurred by all technical service providers and not only Google, which now have to carefully choose the services they wish to provide to Internet users and the way they provide such services, in order not to incur the extended liability of content providers.
(Report by Isabelle Leroux and Adeline Golvet, Paris, France)

Any comments you have as members are invited and welcomed. Please let us have your input on this e-News or on anything relating to AIPPI by e-mail to enews@aippi.org

Readers of this e-News are encouraged to provide us with their contributions for our future editions. Articles should comply with our [editorial policy and guidelines](#).

The e-News is a bimonthly electronic publication of AIPPI, International Association for the Protection of Intellectual Property.
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