2017 - Study Question

Patentability of computer implemented inventions

The patentability of computer implemented inventions (CII) has been hotly debated for many years, with national/regional laws and practices significantly evolving over time. In 2014, in the case of Alice Corp v CLS Bank International, the US Supreme Court issued a keenly awaited judgment, reversing the trend of relative leniency towards the granting of patents for CII in the US. By contrast, European practice has been reasonably clear and consistent since the early 2000s, albeit relatively strict in terms of what can be patented. Practice in countries such as Japan and Australia has traditionally been less strict, although Australia has recently taken a harder line.

This topic is of huge significance to some of the world's largest industries dynamically changing and scattered landscape has created a high degree of confusion and frustration among users of the patent system and practitioners.

Article 27 of TRIPs stipulates that patents shall be available for any inventions, whether products or processes, in all fields of technology. However, differences in laws and practice today make it difficult to develop effective global patenting strategies.

AIPPI has previously taken clear positions as to the patentability of CII in past resolutions, Study Papers and an amicus curiae brief. However, the diverging rules and practices suggest it is time for AIPPI to revisit its position and adopt a resolution which harmonizes the current practices of the major patent offices and courts worldwide.