



Standing Committee on **Patents**

2017



Date: 12th October 2017

REPORT Standing Committee on

Patents

Chair: Koen M.L. BIJVANK
Responsible Reporter: John Osha

- 1) Report on the activities of your Standing Committee during the reporting period

Please provide a general overview of the activities of your Standing Committee over the last 12 months, including at least:

- a) Internal meetings of the Standing Committee during the reporting period (whether by telephone, video conference or in person);

The Committee met at the 2016 Milan Congress on 18 September 2016. During that meeting, Koen Bijvank mentioned the past work done by the Committee with regard to WIPO and Group B+ countries. Koen Bijvank mentioned the Committee's upcoming involvement in providing comments in response to WIPO's request related to "Exceptions and Limitations to Patent Rights" and "Confidentiality of Communications between Clients and their Patent Advisors." The Committee also discussed possible future topics for panel sessions and/or study questions for future congresses including provisional rights, inventive step (e.g., the skilled person, combination inventions, and common knowledge), sufficiency of disclosure (e.g., support for claim breadth, the effects of written description, the effect on the inventive step analysis, and the effect on interim relief while an application is pending), and conflicting applications (e.g., the effect on sufficiency and invention step analyses and the effect on interim relief).

The Committee has scheduled a meeting from 7.30-8.30 on Sunday, 15 October at the 2017 Sydney Congress.

- b) any external representation on behalf of AIPPI by any member of your Standing Committee;

Alain Gallochat attended the 25th SCP session in Geneva from 12 to 15 December 2016 and provided his report to the Bureau on 29 December 2016. The SCP session addressed several topics including

- exceptions and limitations to patents rights;
- quality of patents, including opposition systems;
- patents and health;
- confidentiality of communications between clients and their patent advisors;
- transfer of technology, and
- the proposed revision of the WIPO Model Law for Developing Countries on Inventions of 1979.

Alain Gallochat attended the 26th SCP session in Geneva from 3 to 6 July 2017 and provided his report to the Bureau on 24 July 2017. The SCP session addressed the same topics as the 25th SCP session with the additional topic of exceptions and limitations to patent rights.

Johanna Flythström will represent AIPPI at the B+ Group countries meeting in Geneva on 3 October 2017.

- c) any contribution by your Standing Committee to any external consultations; and
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At the request of the Bureau, the Committee worked with the Standing Committee on Development and Intellectual Property to provide comments to the WIPO Standing Committee on Patents concerning Inquiry on Practical Examples of Exceptions and Limitations on Patent Rights in relation to Development Issues. The Bureau submitted the comments on 26 September 2016 for discussion at the 25th SCP session.

The Bureau asked the Committee to provide comments on the non-software topics related to the proposed changes of the Chinese Patent Office (SIPO) to its examination guidelines. In particular, the Committee was asked to address proposals to loosen the requirements for amendment of claims during an invalidity proceeding and to increase the file documents available to the public. The Committee provided comments to the Bureau for submittal by the 27 November 2016 deadline.

In April 2017, Koen Bijvank provided input to an amicus brief to the Enlarged Board of Appeal concerning G1/16 on the allowability of disclaimers.

Committee members Koen Bijvank, Fraser Rowand, Marc Richards and Nobutaka Yokota prepared a position paper related to sufficiency of disclosure that was submitted in late June 2017.

- d) any studies or analyses undertaken or position papers prepared by your Standing Committee, with a brief summary of the outcome(s).
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The Committee addressed the issue of publication of patent applications at the 2016 Milan Congress. John Osha and Committee members moderated the plenary session at the 2016 Milan Congress. The national groups voted on and approved a resolution related to the publication of patent applications at the 2016 Milan Congress.

On 2 December 2016, the Committee submitted two proposals for study questions for the 2017 Sydney Congress Panel Sessions and the 2018 Cancun Congress Study Questions (2018) related to sufficiency of disclosure and conflicting applications.

The Reporter General's Team (RGT) asked the Committee to address the issue of inventor remuneration at the 2017 Sydney Congress. The Committee prepared a questionnaire that was submitted to the national groups on 21 July 2017 with a request that national groups respond by 12 September 2017. The Committee is currently reviewing the national reports and preparing a draft summary report of the questionnaire responses. The summary report will form the basis for a summary of principles that will be debated and possibly amended at the 2017 Sydney Congress. After the Congress, this document will be presented to various governmental organizations such as Patent Offices around the world for further input. Based on the combined input, a draft resolution can then be presented at the 2018 Cancun Congress.

- 2) Key issues/developments during the reporting period

Please include any significant case law, legislative or regulatory developments, or policy initiatives, including their relevance and/or any implications for the work of your Standing Committee or for AIPPI more generally.

Please see Section 1) above.

3) Any recommendations for AIPPI involvement/action for the next 12 months

This need not be limited to recommendations for your Standing Committee but can be recommendations for AIPPI more broadly. For example, please include:

In each case, please explain why such involvement/action is recommended, by whom it should be undertaken and any relevant time frames.

- a) any recommendations for involvement/action in relation to any upcoming or foreshadowed case law, legislative or regulatory developments, or policy initiatives;

Possible workshops or working questions at the 2017 Sydney Congress or 2018 Cancun Congress related to (1) sufficiency of disclosure and (2) conflicting applications.

- b) any other recommendations for AIPPI involvement/action;

As noted in last year's report, the Committee would like to achieve a more permanent observer status at the meetings of the Group B+ countries. For example, the Committee would like to increase its involvement in the harmonization issues coming out of the Tegernsee project and perhaps extend the work it did in the recent AIPPI Congresses.

- c) any recommendations for the work programme of your Study Committee.

Possible workshops or working questions at the 2017 Sydney Congress or 2018 Cancun Congress related to (1) sufficiency of disclosure and (2) conflicting applications.

4) Outline of the work programme of your Standing Committee for the next 12 months

Please set out specific activities and priorities having regard to the matters in 1) - 3) above, including any relevant time frames.

Johanna Flythström will represent AIPPI at the B+ Group countries meeting in Geneva on 3 October 2017.

Alain Gallochat is expected to represent AIPPI at the 27th and 28th SCP sessions in December 2017 and Summer 2018.

The Committee will work on and present a draft resolution related to inventor remuneration to be considered at the 2018 Cancun Congress.

The Committee will likely undertake additional work in the next 12 months including possibly additional work at the 2018 Cancun Congress.

Names and Functions of Committee Members

Chair(s)	Koen M.L. BIJVANK	Netherlands
Co Chair(s)	Alain GALLOCHAT	France
Secretary	Andrew T. MEUNIER	United States of America
Members	Sabine AGÉ	France
	Seong Tahk AHN	Republic of Korea
	Martin BENSÁDON	Argentina
	Ted CHWU	Hong Kong
	Maria DEL CARMEN ARANA	Peru
	Jan DOMBROWSKI	Germany
	Johanna FLYTHSTRÖM	Finland
	Takashi FUJITA	Japan
	Enrico GATTI	Italy
	Tim ISERIEF	Netherlands
	Patricia KOCH	Spain
	Karsten KOENIGER	Germany
	Tatjana KUKSHINA	Ukraine
	Lamberto LIUZZO	Italy
	Philip C. MENDES DA COSTA	Canada
	Rowanie A. NAKAN	Philippines
	Rogelio C. NICANDRO	Philippines
	Robert O'CONNELL	United States
	Nevin ÖNER	Turkey
	Gaye RAMAZANOGLU	Turkey
	Beat RAUBER	Switzerland
	Marc RICHARDS	United States
	Fraser ROWAND	Canada
	Sascha SALOMONOWITZ	Austria
	Daniel SANCHEZ Y BEJAR	Mexico
	Myriam SCHNUR	Israel
Yali SHAO	China	
Christopher STOTHERS	United Kingdom	
David TADGELL	Australia	
João L. VIANNA	Brazil	
Jonas WESTERBERG	Sweden	
Neriman Dilek YILDIRIM	Turkey	
Nobutaka YOKOTA	Japan	