

Standing Committee on

Client Attorney Privilege

2015



Date: 11th August 2015

REPORT **Standing Committee on**

Client Attorney Privilege

Chair: Steven GARLAND
Responsible Reporter: Sarah Matheson

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

In general, the Committee continues to pursue the goal of a multilateral treaty on the protection against forced disclosure of confidential communications between IP owners and their IP advisors.

It is to be recalled that as a result of the AIPPI/AIPLA/FICPI Colloquium on Privilege held in June of 2013 in Paris, a Joint Proposal was developed for a multilateral agreement on the protection of privileged communications. This Proposal formed the basis for a draft multilateral agreement that was put forward by the Swiss, British, and Swedish delegations of Group B+ and which is currently being considered by that group.

A meeting of the Q199 Committee was held on September 17, 2015 at the Toronto Congress to discuss the status of matters, including the aforementioned Group B+ initiative.

It is of significance to note that AIPPI and FICPI were invited to attend the Group B+ meeting in Geneva on September 23, 2014 and to provide a presentation on the CAP issue and the Group B+ initiative. Steven Garland, Jeff Lewis and Manisha Desai (of Eli Lilly) attended on behalf of AIPPI. The Q199 AIPPI representatives took the opportunity of also meeting separately with various national Group B+ delegations, including the Swiss, Swedish, UK, and Canadian, and also with Marco Aleman, the WIPO Acting Director of the Patent Law division. A separate report was sent to the Bureau in respect of this meeting.

The Group B+ delegates will be further considering this issue at their upcoming meeting in Geneva in October. AIPPI Q199 members have been very active in the 2015 time frame speaking with their national delegates to the Group B+ meeting to continue to encourage those delegates to actively and fully support the Group B+ CAP initiative in advance of the upcoming meeting.

AIPPI was also invited to organize a seminar on CAP at the 21st SCP meeting in Geneva on November 5, 2014. Steven Garland, Pravin Anand, Wouter Pors, Jeff Lewis, and Manisha Desai spoke on behalf of AIPPI. The presentation was followed by an active round of interventions by national and regional

delegations to the SCP. A separate report on the seminar and SCP meeting was previously provided to the Bureau.

The next meeting of the SCP (23rd session) is not yet scheduled but will likely be in November of 2015. Although CAP is on the agenda for the upcoming meeting, it is the information of the Committee that any discussion on CAP will be non-substantive in nature and as such likely does not warrant having someone from AIPPI attend the SCP meeting for the sole purpose of participating in the discussion on CAP.

AIPPI was also invited to participate on a USPTO Roundtable on February 18, 2015 in respect of the CAP issue. Other NGOs invited to attend included AIPLA and ABA. Steven Garland attended on behalf of the AIPPI. A separate report on the Roundtable was provided to the Bureau.

Additionally, Wouter Pors has been participating in discussions on the rules to be adopted in respect of the Unified Patent Court, and in particular on possible provisions that will deal with privilege of communications between IP owners and relevant IP advisors. This work is ongoing.

Finally, a meeting of the Q199 Committee will be held at the 2015 AIPPI Congress in Rio.

- 2) Key issues/developments relevant to the Terms of Reference of the Standing Committee (arising during the reporting period or coming up)
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As noted above, the key development that the Committee has been active on is the Group B+ initiative wherein a draft multilateral agreement is being considered.

- 3) Any recommendation for AIPPI involvement/action (describe what involvement/action is recommended and why, by whom and relevant time frames)
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The CAP issue is still on the agenda for the WIPO SCP meeting in November but at this point no action is required in respect of that meeting. The Committee will continue to monitor the status of this issue at the SCP to determine what if any action may be required for 2016.

In respect of the Group B+ initiative, the Committee is presently awaiting an update on the status of the matter from a member of the Swiss delegation to Group B+. Once that status is confirmed, the Committee will be better positioned to determine what if any action is required in the short term and in respect of 2016.

- 4) Plan for the activities of the Standing Committee for the next reporting period highlighting any priorities
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Please see above.

Names and Functions of Committee Members

Chair	Steven GARLAND	Canada
Co Chair(s)	J. Michael DOWLING	Australia
	Wouter PORS	Netherlands
	James TUMBRIDGE	UK
Secretary	Andri HESS	Switzerland
Members	Ahmed ABOU ALI	Egypt
	Pravin ANAND	India
	Russell BAGNALL	South Africa
	Julie BALLANCE	New Zealand
	Fernando A. BARREDA	Peru
	Jacques BAUVIR	France
	John BOCHNOVIC	Canada
	Ejvind CHRISTIANSEN	Denmark
	Justin CHUMA ANOSIKE	Nigeria
	Pier Luigi DE ANNA	Italy
	Luis DE LARAMENDI	Spain
	M N Aydin DERIS	Turkey
	David GILAT	Israel
	Shalva GRAVAMADZE	Georgia
	Gunnar Örn HARDARSON	Iceland
	Michal HAVLIK	Czech Republic
	David HILL	United States
	Tim JACKSON	New Zealand
	Marius J. JASON	Lithuania
	Morris JOHN	Singapore
	Chew Phye KEAT	Malaysia
	Yawar Irfan KHAN	Pakistan
	Seong-Ki KIN	Republic of Korea
	Olga KOUZNETSOVA	Belarus
	Urmaz KRAULER	Estonia
	Jeffrey LEWIS	United States
	Richard LI YI	China
	Margareta LINDEROTH	Sweden
	Marja-Leena MANSALA	Finland
	Gatis MERZVINSKIS	Latvia
Martin MICHAUS	Mexico	
Maria MILAGROS NEBREDA	Venezuela	
Barreda MOLLER	Peru	
David MUSKER	United Kingdom	

Valentina NESHEVA	Bulgaria
Rogelio NICANDRO	Philippines
Cita Citrawinda NOERHADI	Indonesia
Rula NOSSER	APPIMAF
Yuzuru OKABE	Japan
Shoichi OKUYAMA	Japan
Jorge OTAMENDI	Argentina
Antonina PAKHERENKO-ANDERSON	Ukraine
Helen PAPACONSTANTINOU	Greece
João PEREIRA DA CRUZ	Portugal
Slobodan A. POPOVIC	Serbia
Cristobal PORZIO	Chile
Olga SIRAKOVA	Bulgaria
Shane SMYTH	Ireland
Helmut SONN	Austria
Juan Carlos Suarez SUAREZ	Colombia
Amund Brede SVENDSEN	Norway
Jozsef K. TÁLAS	Hungary
Wojciech TRYBOWSKI	Poland
Chavalit URRASART	Thailand
Raluca VASILESCU	Romania
Detlef VON AHSEN	Germany
Mladen VUKMIR	Croatia
Aleksey V. ZALESOV	Russia
Claudia M. ZERAIK	Brazil