

Standing Committee on

**Information Technology and Internet**

2016



Date: 3rd August 2016

## REPORT Standing Committee on

### Information Technology and Internet

Chair: Peter FINNIE

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, but please include at least:

a) meetings of the Standing Committee during the reporting period

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The Standing Committee met at AIPPI World Congress in Rio de Janeiro in 2015 and agreed to a programme of works for the coming 12 months. We have subsequently held two telephone conference calls to discuss committee matters with members dialling in from around the World. One of our key objectives was to complete our updated paper (see below). We also successfully lobbied for a panel session on computer implemented inventions at AIPPI World Congress in Milan in 2016, and for a working question on the same subject at AIPPI World Congress in Sydney in 2017.

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

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None reported.

c) any contribution by your Standing Committee to any external consultations

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None reported.

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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We completed a major update of our paper on the protection of computer implemented inventions (CII), which was published in AIPPI e-newsletter No.47:

<http://aippi.org/wp-content/uploads/2016/06/AIPPI-paper-2016-06-28.pdf>

We drafted a paper on a comparison of the patent eligibility and findings on validity of Apple's 'slide-to-unlock' user interface patents in Europe, North America and elsewhere.

e) involvement of your Standing Committee in any other activities of AIPPI, eg Panel Sessions, contribution to Study Guidelines, etc

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Committee members are closely involved in a session on the patentability of computer implemented inventions scheduled for AIPPI World Congress in Milan:

**"Panel Session VI - High Technology - Computer implemented technologies: patentable?"  
Monday, September 19, 2016 from 11.00 to 12.30**

The patentability of computer implemented technologies has been under the spotlight since Alice Corp v CLS Bank began its journey to the US Supreme Court. In 2014, the US Supreme Court decided that the patent claims in issue were invalid as being directed to an unpatentable 'abstract idea'.

This decision has had a significant effect on patent issuance in the United States for computer implemented technologies. Some commentators have suggested that with the courts and the USPTO are unsure how to interpret or apply the decision with any consistency. Others have speculated that the approach is similar to that which has been practised by the EPO for many years.

At the very least, there is significant uncertainty among IP practitioners worldwide as to where the boundaries lie in many jurisdictions concerning what is patentable in the field of computer implemented technologies. Even in jurisdictions traditionally regarded as more liberal, there seems to be a trend towards curtailing the scope of patentability in this area.

This panel session will compare the current state of the law in key jurisdictions, including in the US and Europe, and elsewhere where there have been recent decisions. In line with AIPPI's ongoing goals, the session will also examine whether there is scope for clarification of practices and harmonization, as well as providing practical recommendations for overcoming subject matter rejections during prosecution."

- f) any other relevant activities

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*not responded*

- 2) Key issues/developments relevant to the Terms of Reference of your Standing Committee during the reporting period

Please include a short summary of 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

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The evolving practice before the USPTO and US Courts post-*Alice* continues to vex attorneys and clients with an interest in the protection of computer implemented inventions, where there is still considerable uncertainty. The Standing Committee believes this area of law is extremely important and merits close attention.

The existing AIPPI Resolution in the field covered by this Standing Committee is out of date and needs to be reconsidered. There is an opportunity to do this as the Patentability of computer implemented inventions is the subject of the Patent working question at AIPPI World Congress in Sydney in 2017.

- 3) Any recommendation 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. In each case, please explain why such involvement/action is recommended, by whom it should be undertaken and any relevant time frames. For example, please include:

- a) any recommendation for involvement/action in relation to any upcoming or foreshadowed case law, legislative or regulatory developments, or policy initiatives
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See above re. working question for AIPPI World Congress in Sydney in 2017.

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- b) any other recommendation(s) for AIPPI involvement/action
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None.

- 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

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We shall be preparing for the Patents working question for AIPPI World Congress in Sydney in 2017, which concerns the patentability of computer implemented inventions (CII). We shall continue to monitor legal developments around the World in this area and report with short articles via the AIPPI e-newsletter.

AIPPI

## Names and Functions of Committee Members

Chair	Peter FINNIE	United Kingdom
Co Chair(s)	Alfred A. MACCHIONE	Canada
Secretary	Thomas KRETSCHMER	Switzerland
Members	Richard BEEM	United States
	Fernando BOUSSO	Brazil
	Richard BROWN	Australia
	Alberto CONTINI	Italy
	Korcan DERICIOGLU	Turkey
	Stephan FREISCHEM	Germany
	Jorge GOMEZ ROBLES	Mexico
	Martin HEMMER	Netherlands
	Masahito IMAI	Japan
	JoAnna LUNA	United States
	Marco MACCALLI	Italy
	Roy MELZER	Israel
	Jonathan MOSS	United Kingdom
	Hwan Sung PARK	Republic of Korea
Nandu TALWALKAR	United States	
Alan C. Elias THOMAZ	Brazil	
Lili WU	China	