

Standing Committee on

Standards and Patents

2016



Date: 23rd August 2016

REPORT Standing Committee on Standards and Patents

Chair: Gertjan KUIPERS
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

During the reporting period, the Committee had a physical meeting at the AIPPI ExCo in Rio de Janeiro, and one meeting per teleconference.

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

N/A.

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

N/A.

d) any studies or analyses undertaken or position papers prepared by your Standing Committee, with a brief summary of the outcome(s)

The Committee has resumed its work on "Prior art documentation in Standard Development Organisations (SDOs) and access for Patent and Trademark Offices (PTOs) to such documents" (Workplan Item #7). Documentation available in Standard Development Organisations can have some relevance during the granting process, as patents containing subject matter already put forward in an SDO may not meet the requirements of patentability. However, PTOs can only avoid granting patents that are not meeting these requirements for patentability if their examiners have access to the earliest publicly available drafts and working documents for a standard under development. Cooperation between SDOs and PTOs with a view of supplying corresponding documents from SDOs to PTOs can therefore be helpful in support of the PTO's striving to improve the quality of issued patents. In order to examine and analyze this topic, the Committee has sent out a questionnaire to the national groups of AIPPI, selected PTOs and a number of SDOs. The Committee received twenty-nine responses, which will be used to prepare a position paper on behalf of AIPPI.

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

The Committee was responsible for the debate on Standards and Patents at the AIPPI Rio congress. Speakers included André Fontes of the Brazilian Federal Court, Peter Meier-Beck of the German Federal Supreme Court, James Robart of the US District Court for the district of Washington, Latonia Gordon of Microsoft, Monica Barone of Qualcomm and Monica Magnusson of Ericsson. Michael Fröhlich was chairing the debate and Gertjan Kuipers gave a summary at the end of it.

f) any other relevant activities

The Committee will continue to work on (Workplan Item #3). Since last year's Annual Report, courts in various jurisdictions have provided further guidance on how to determine fair reasonable and non-discriminatory (FRAND) terms and conditions either for specific patents-in-suit or an entire portfolio of patents. In the FRAND determination context, courts have also ruled on the admissibility of so called "portfolio splitting", which refers to assignment of only parts of a portfolio of standard essential patents.

The Committee will continue to work on the Use of ADR Mechanisms in the context of FRAND-Related disputes (Workplan Item #8) and will explore a liaison and possible cooperation with the Standing Committee on ADR (Q225).

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

As per previous years (see Annual Reports of 2011, 2012, 2013; 2014 and 2015; all available on AIPPI's website), the Committee has identified a number of important developments relevant to the Committee's work.

Court cases

Europe

1. *Oberlandesgericht Düsseldorf (Düsseldorf court of appeal), Judgement of 13 January 2016 (docket number I-15 U 65/15 and I-15 U 66/15), Sisvel v. Haier*

The Landgericht Düsseldorf (Düsseldorf district court) had granted an injunction for patent infringement in a case where first the plaintiff and then the defendant had made license offers. The district court had left it open whether the plaintiff's license offer was, in fact, FRAND. Instead, the district court had looked at the defendant's offer and had found that this offer did not meet the FRAND requirement and, therefore, the defendant did not raise a valid antitrust defence.

The Oberlandesgericht Düsseldorf (Düsseldorf court of appeal) held that this finding was wrong. The court of appeal found that, in *Huawei vs. ZTE*, the ECJ defined a process with specific steps which the plaintiff (patent holder) and the defendant (implementer) must follow. Inter alia, once the implementer has expressed its willingness to take a license that is FRAND, the SEP holder must make a specific written offer for a FRAND license specifying at least the royalty and the way in which it is to be calculated. Then, if the implementer rejects the patent holder's offer, it must make a specific written counter offer that is FRAND. The court of appeal held that *Huawei vs. ZTE* is to be understood such that it determines a specific sequence of the steps required for the patent holder and for the implementer. No action is required unless the preceding step is met. That is, the implementer must satisfy its requirements only if the patent holder has first met its own respective burden. Therefore no injunction can issue if the patent holder fails to make a FRAND license offer after the implementer has expressed its willingness to take a license. As a result, the court of appeal found that the Landgericht (district court) was wrong when it left open whether the patent holder's offer was FRAND.

2. *Landgericht Düsseldorf (Düsseldorf district court), Judgements of 19 January 2016 (docket number 4b O 120/14, 4b O 122/14 and 4b O 123/14), Unwired Planet v. Samsung*

In proceedings at the Landgericht Düsseldorf (Düsseldorf district court), the plaintiff, a non-practising entity, asserted standard essential patents that it had acquired from another party. The defendant took the position that the assignment of the patents was null and void under Art 101 or 102 TFEU. The defendant argued that the assignment split up the larger portfolio of the original owner into smaller groups of patents thus forcing the defendant to conclude a plurality of license agreements. In the defendant's view, this was aiming at increasing the overall price for licensing the original portfolio and resulted in excessive pricing.

The district court did not follow the defendant's arguments. The district court held that the assignment was not invalid under Art 101 or 102 TFEU. The district court did not see a basis for finding that the object of the assignment was establishing excessive pricing. The district court found that it is a legitimate option for an SEP holder to split up a portfolio and license the parts separately. In this context, the patent holder is also not bound by the licensing practice of the former patent holder prior to the assignment. It is merely relevant if the overall royalty rate is fair and reasonable.

3. *Oberlandesgericht Düsseldorf (Düsseldorf appeal court), Decision of 9 May 2016 (docket number I-15 U 36/16) and Landgericht Düsseldorf (Düsseldorf district court), Judgement of 31 March 2016 (docket number 4a O 73/14), SLC v. Vodafone*

The Landgericht Düsseldorf (Düsseldorf district court) and the Oberlandesgericht Düsseldorf (Düsseldorf court of appeal) had to deal with a so-called transitional case, i.e. a case that had been filed prior to the ECJ's Huawei vs. ZTE decision. The plaintiff had not provided a detailed notice of the patent and the way it was infringed before bringing the action for injunctive relief. The courts had to decide whether in such a scenario an injunction can nevertheless be granted.

The Düsseldorf appeal court held that even if the plaintiff / patent holder has not notified the alleged infringer before filing the complaint, there is not always an abuse of a market dominant position, and the plaintiff may still be granted injunctive relief. The appeal court noted that it is a fundamental principle of the German procedural laws that the fact set at the time of the oral proceedings is relevant for the findings in the decision. The court further argued that, even if impairment for the market has been created by filing suit without first notifying the alleged infringer, acts or events after the filing of the lawsuit can do away with this impairment. In the court's view there is no basis anymore for dismissing an injunction request once the plaintiff has provided detailed notice of infringement in the course of the proceedings and the defendant has no longer fulfilled its requirements under Huawei vs. ZTE.

In an obiter dictum, the Düsseldorf appeal court stated that the same principles can apply in favour of the defendant. In the court's view, if the defendant is first unwilling to take a license, but then changes its attitude and makes a FRAND license offer in the later stage of the proceedings then this should be regarded a valid antitrust defence as long as the new facts in connection with the offer is admissible under the rules of the German litigation procedure.

4. *Oberlandesgericht Karlsruhe (Karlsruhe appeal court), Judgement of 31 May 2016 (case 6 U 55/16), Pioneer vs. Acer*

In a case where the Landgericht Mannheim (Mannheim district court) had granted an injunction for patent infringement, the Oberlandesgericht Karlsruhe (Karlsruhe court of appeal) arrived at two findings regarding questions of law:

1. The district court had taken the position that the infringement court does not need to make a full-fledged assessment as to whether the license offer of the patent holder is FRAND. The district court had regarded it sufficient to provide summary judgement if it is evident that the offer is not FRAND. The Karlsruhe appeal court found that this is not in line with the ECJ judgement Huawei vs. ZTE. The appeal court stated that the ECJ made it very clear that the offer of the patent holder needs to be FRAND. Therefore, a court needs to fully (and not just by summary judgement) assess whether the terms are FRAND.

2. The case was a so-called transitional case, i.e. a case that had been filed prior to the ECJ's Huawei vs. ZTE decision. The plaintiff had not provided a detailed notice of the patent and the way it was infringed before bringing the action for injunctive relief. The Karlsruhe appeal court held that in such transitional cases where complaint was filed prior to the ECJ's judgment in Huawei v. ZTE, the antitrust defence cannot be successfully raised even if the plaintiff / patent holder has not notified the alleged infringer before filing the complaint. The appeal court took the view that it is sufficient in these transitional cases if the plaintiff notifies the defendant in the complaint brief. The appeal court argued that the requirements for a valid antitrust defence need to be fulfilled by the defendant at the time of the oral hearing at the end of German litigation proceedings, and that they are not fulfilled if there is a proper notification in the complaint letter and the defendant does not react to that in good faith. The Karlsruhe further argued that the Huawei vs. ZTE decision does not deal with this scenario of an unwilling licensee in the later stage of the proceedings.

5. *Paris Court of First Instance, Judgement of 20 October 2015, Vringo v. ZTE, no. 13/06691*

In this case, Vringo had acquired 500+ patents and patents application from Nokia. Vringo asserted two of these patents which it deemed to be essential, respectively, (i) for the Digital cellular telecommunications system (Phase 2+), UMTS, and Radio Link Protocol (RLP) for circuit switched bearer and teleservices standards; and (ii) for the UMTS standard alone against ZTE Corporation and its French subsidiary, which allegedly incorporated the patented technology in its products. Vringo also sought an injunction against the ZTE companies against the import, storage or sale of the network infrastructure equipment allegedly reproducing the two patents.

ZTE made several arguments:

- It contested the validity and essential character of the asserted standard essential patents;
- It argued that Nokia had undertaken through a contractual provision to grant a FRAND license to any person wishing to implement the relevant standards and that Vringo was bound by such undertaking;
- It requested that an expert be appointed to determine the FRAND rate owed for the licenses to be paid only if these patents were deemed to be valid and infringed;
- It argued that Vringo had committed an abuse of dominant position by (i) breaching the obligations undertaken within the framework of ETSI to grant a license under FRAND terms, (ii) practicing tied selling, and (iii) proceeding to privateering.

The decision in this case was given by the Paris *Tribunal de Grande Instance* on 30 October 2015. However, because the hearing of the oral arguments was held before the Court of Justice of the European Union gave its decision in *Huawei*, the case was not relied on by the parties either in their submissions or their pleadings.

The Paris court of first instance found that the first patent was invalid in that the problem it sought to resolve was, in fact, non-existent. It held that Vringo had failed to prove the essential character of the second patent, since the specifications of the patent were not implemented by the UMTS norm. Consequently, the court did not examine or discuss the merits of ZTE's defences, and did not have an opportunity to address whether Vringo's injunction request might have characterised an abuse of dominant position.

6. *Paris Court of First Instance, Judgement of 29 January 2016, Ericsson v. TCT, no. 12/14922*

In this case, Ericsson is asserting three patents that it deems essential for the 3G UMTS standard against TCT Mobile Limited and its French subsidiary, for marketing mobile phones suitable and intended for use on the 3G network. The dispute is global, and proceedings are ongoing in the United States and in the United Kingdom. In France, there are two parallel proceedings, which respectively relate to the main claims (on patent infringement) and to the counterclaims (on unfair competition and disparagement).

As part of the ongoing US proceedings, the parties have agreed that the US District Court for the Central District of California will determine (among other issues) the conditions for a global patent license in order to bring the proceedings engaged in various jurisdictions to an end. On 10 July 2015, the US District Court therefore ordered the parties to request a stay of ongoing proceedings for all claims related to the

relevant patents.

Both parties requested such stay of proceedings to the French court on 24 July 2015, and their requests were granted in two Orders of the pre-trial judge dated 29 January 2016, for each set of proceedings (regarding both the main claims and the counterclaim). A decision on the merits will therefore be given only after the US District Court gives its decisions in the two cases *TCL v. ERICSSON*, No. 8:14-cv-341 (C.D. Cal.) and *ERICSSON v. TCL*, Case No. 2:15-cv-02370 (C.D. Cal.).

7. Various cases in the United Kingdom in the dispute between Unwired Planet v. Samsung et al.

The past year has seen relatively few developments in the UK in relation to Q222. However, the significant dispute of Unwired Planet v Huawei and others rolls on. A number of technical trials have already taken place, with at least two of Unwired Planet's European (UK) patents being found valid and necessarily infringed by implementations of LTE. Currently, the relief trial is set for Autumn 2016, so if the dispute continues, there may be some clarification on FRAND determination issues in the UK in early 2017.

Notably, in a procedural judgement of 27 May 2016 on the matter of "portfolio splitting" within the FRAND context (Case No: A3/2015/2646), the Court of Appeals held it arguable that the assignment of part of Ericsson's portfolio of standard essential patents to Unwired Planet fell short of a full assignment of the non-discrimination aspects of Ericsson's FRAND obligation in breach of Article 101 TFEU. Lord Justice Kitchin noted that judge in first instance "fell into error that this aspect of Samsung's first defence was unarguable", further stating that "this is (...) an area of law which is development and in my judgement Samsung has a realistic prospect of persuading a judge at a full trial that in the circumstances of this case Article 101 TFEU required the effective transfer to UP of Ericsson's FRAND obligation so that UP could not obtain more favourable terms from its licensees than Ericsson could itself have obtained."

Although it remains to be seen whether Samsung's defence will prevail in the end, the approach taken by the Court of Appeals certainly seems to be quite different than the approach on "portfolio splitting" adopted by the Düsseldorf Regional Court in its judgements of 19 January 2016 (see under 2 above).

North-America

1. United States Court of Appeals, Federal Circuit, Judgement of 3 December 2015, CSIRO v. Cisco Systems, Inc. no. 2015-1066

Background

Patent owner Commonwealth Scientific and Industrial Research Organization ("CSIRO") is the principal scientific research organization for the Australian Federal Government. The patent-in-suit (U.S. Patent No. 5,487,069 or "the '069 Patent") addresses multipath problems in a wireless local area network. That technology was incorporated into certain versions of the IEEE 802.11 WiFi standard, including revision "a" adopted in 1999 and revision "g" adopted in 2003. In December 1998, before IEEE adopted revision "a", CSIRO provided the IEEE with a letter of assurance that it would license the specific patent-in-suit on RAND-terms if the patent were essential to the 802.11a standard. IEEE sought additional letters of assurance from CSIRO for later revisions of the standard, but CSIRO declined to provide them.

In 2004, CSIRO approached Cisco about licensing the '069 under CSIRO's Voluntary Licensing Program Rate Card schedule, which offered a "flat-fee royalty, charged per end product unit sold," with the lowest royalty rate range of \$1.40 to \$1.90 per unit. Cisco did not accept that offer, and suggested during negotiations in 2005 a per unit rate of \$0.90.

District Court Litigation

In July 2011, CSIRO sued Cisco for infringing the '069 patent. Both parties stipulated to a trial solely on damages and that Cisco would not challenge the patent's infringement or validity. In February 2014, following the bench trial the district court rejected the damages models proposed by both parties. The court developed its own damages model by starting with what it considered a reasonable range of 0.90 to \$1.90 per unit, and after considering various *Georgia-Pacific* factors, awarded volume-tiered royalties

ranging from \$0.90 to \$1.90 for certain products, and \$0.65 to \$1.38 for certain other products. This led to a total damages amount of \$16,243,067 for past infringement.

Federal Circuit Decision

On appeal to the Federal Circuit, Cisco argued that the district erred by, *inter alia*:

- Not starting with the wireless chip as the royalty base, which was the smallest saleable patent practicing unit; and
- Not adjusting *Georgia-Pacific* factors to account for the patent being essential to a standard.

Smallest Salable Patent-Practicing Unit (SSPPU)

In rejecting Cisco's arguments that the district court erred by not using the SSPPU as the royalty based, the Federal Circuit started with what it deemed the long-standing rule of apportionment when awarding patent infringement damages under 35 U.S.C. § 284, stating:

Under § 284, damages awarded for patent infringement must reflect the value attributable to the infringing features of the product, and no more. This principle—apportionment—is the governing rule where multi-component products are involved. Consequently, to be admissible, all expert damages opinions must separate the value of the allegedly infringing features from the value of all other features.

The Federal Circuit explained further "that the ultimate reasonable royalty award must be based on the incremental value that the patented invention adds to the end product." There may be more than one reliable method to estimate a reasonable royalty, since different cases present different facts, but that whatever methodology is used it must be "sufficiently tied to the facts of the case." Thus:

In practice, abstract recitations of royalty stacking theory, and qualitative testimony that an invention is valuable — without being anchored to a quantitative market valuation — are insufficiently reliable.

More specifically in connection with using the SSPPU as a royalty base the Federal Circuit explained that there are two justifications for it:

First, where small elements of multi-component products are accused of infringement, calculating a royalty on the entire product carries a considerable risk that the patentee will be improperly compensated for non-infringing components of that product. Second is the important evidentiary principle that care must be taken to avoid misleading the jury by placing undue emphasis on the value of the entire product.

But the court found that these justifications did not apply because the district court was not apportioning from a royalty base, but started with real-world negotiations between the parties that "already built in apportionment."

Standardization

The Federal Circuit also soundly rejected as "untenable" Cisco's suggested "rule" that "would require all damages models to begin with the smallest salable patent practicing unit."

The rule Cisco advances—which would require all damages models to begin with the smallest salable patent-practicing unit—is untenable. It conflicts with our prior approvals of a methodology that values the asserted patent based on comparable licenses. Such a model begins with rates from comparable licenses and then accounts for differences in the technologies and economic circumstances of the contracting parties. Where the licenses employed are sufficiently comparable, this method is typically reliable because the parties are constrained by the market's actual valuation of the patent.

The Federal Circuit did agree with Cisco that the district court erred by not "account[ing] for any extra

value accruing to the '069 patent from the fact that it is essential to the 802.11 standard." Relying on its *Ericsson v. D-Link* decision, the Federal Circuit stated that there are "unique considerations that apply to apportionment in the context of a standard-essential patent," whether or not the standard essential patents were subject to a RAND obligation (as was the case for the CSIRO patent at issue).

[A] reasonable royalty calculation under § 284 attempts to measure the value of the patented invention. This value—the value of the technology—is distinct from any value that artificially accrues to the patent due to the standard's adoption. Without this rule, patentees would receive all of the benefit created by standardization—benefit that would otherwise flow to consumers and businesses practicing the standard.

South-America

1. *Rio de Janeiro State Court (2nd Business Court), Telefonaktiebolaget L.M. Ericsson vs TCT Mobile Telefonos LTDA*

The matter between Telefonaktiebolaget L.M. ERICSSON and TCT Mobile Telefonos Ltda involves a series of Patent Infringement suits before the Rio de Janeiro State Court (#0373121-63.2012.8.19.0001; 0489343.17.2012.8.19.0001; 0197160-40.2014.8.19.0001; 0005896-94.2015.8.19.0001 2nd Business Court) related to some patents have been declared as being essential to ETSI standards and for which a FRAND commitment has been made by ERICSSON.

A preliminary injunction was firstly granted in September 2012 against TCT by the Business Court prohibiting the sale of the alleged infringing products that used the Standard Essential Patents. This preliminary injunction was then suspended by Business Court in October 2012 and in the end of the same month granted again. The preliminary injunction was maintained in 2nd instance by the Court of Justice of Rio de Janeiro State.

Meanwhile, the Brazilian Administrative Council for Economic Defense (CADE) denied an Administrative Appeal (Despacho SG Nº 760/2015, dated 6 July 2015) filed by TCT against the agency's prior decision of dismissal of the Preparatory Proceeding (Nota Técnica nº 11/2015, dated 1 June 2015). TCT alleged in the Preparatory Proceeding, in summary: (i) abusive exercise of industrial property rights; (ii) coercive negotiation, and (iii) sham litigation. In this landmark decision, the CADE agency stated among other grounds that the licensing negotiations lasted for a very long period and are still being held under an arbitration proceeding instituted between the parties and that TCT failed to show that the royalties proposed by Ericsson are abusive and inconsistent with FRAND.

Thereafter, on July 28th, 2015 the parties submitted to the Business Court a joint request for temporary suspension of all pending litigation while a decision in the corresponding cases under the United States jurisdiction are in course. In July, 2016, a 90-day extension of the suspension was granted by the Business Court in the main case.

2. *Rio de Janeiro State Court (5th Business Court), Vringo Infrastructure Inc vs ZTE Corporation*

The matter between Vringo Infrastructure Inc. vs ZTE Corporation and ZTE do Brasil involved a case Patent Infringement suits before the Rio de Janeiro State Court (#0126070-69.2014.8.19.0001, 5th Business Court) related to a Standard Essential Patent for the 3G and 4G Standards.

In April 2014 a preliminary injunction was granted prohibiting the sale by ZTE of the alleged infringing products. The preliminary injunction was maintained by the 2nd instance by the Court of Justice of Rio de Janeiro State. In June 2015, the 5th Business Court rejected a request to request of suspension of the preliminary injunction based on a) deposit of a royalty bond by ZTE; b) abusive enforcement of the patent by VRINGO during the licensing negotiations. In the denial, the Judge expressly affirmed that there were no evidences that VRINGO acted in non-FRAND terms during the negotiations that are being held between the parties. In December 2015, the request of termination due to a confidential out-of-court settlement agreement was approved by the 5th Business Court.

Activities by antitrust enforcement agencies

Korea

The Korea Fair Trade Commission (KFTC), Korea's main anti-trust enforcement agency, maintains the Guideline Regarding the Unfair Exercise of Intellectual Property Rights (the "IPR Guidelines"), which are internal enforcement guidelines to be used as reference only and which cannot be relied as legal authority. With the rising interest in standard essential patents in the recent years around the world, the KFTC revised the IPR Guidelines in 2010, 2014, and 2016.

The prominent provisions of the 2010 revision to the IPR Guidelines look into abuse of standard essential patents, using the illegality standard that includes unfairness; excessive royalties for patents; and patent disclosure obligation and FRAND commitment, as a factor in determining unreasonableness of patentee's exercise of patent rights. According to the KFTC press release, the 2010 revisions would have had expected benefits of providing leverage to small and medium sized enterprises when negotiating with large corporations and multinational enterprises.

The 2010 revision was largely criticized for a number of reasons. First, the 2010 revision's use of subjective standard of unfairness as one of the criteria to determine illegality was viewed as ambiguous standard that created uncertainty in the industry and that ran contrary to the global standard of "anti-competitiveness". Second, the applicable scope of the 2010 revision was viewed as overly broad, as its application was not limited to the market dominant enterprises. Third, the "excessive royalties" provision of the 2010 revision was viewed as subjective and likely to impede the incentive for technological innovation

In reaction to such criticisms, the KFTC revised the IPR Guidelines in 2014 ("2014 revision"). The 2014 revision, (1) removed "unfairness" as one of the criteria for determining illegality; (2) clarified that the application of IPR Guidelines to the unilateral exercise of IPRs is to be limited to market dominant companies; (3) removed the excessive royalties provision for non-standard essential patents; (4) clarified that market dominance is not to be automatically presumed for IPR holders; and (5) stated the procompetitive aspects of exercise of IPR.

Despite the revision in 2014, the KFTC IPR Guidelines were again criticized for retaining the problems of 2010 revision, which prompted the KFTC to revise the IPR Guidelines in 2016 ("2016 revision"). The 2016 revision restated the purpose of IPR Guidelines from the promotion of "fair trade practices" to the promotion of "free and fair competition," The 2016 revision also deleted some provisions not directly relevant to anticompetitive effect (e.g., deletion of provision relating to dispute resolution or arbitration clause) and provided more detailed standard for determining unreasonableness of a patent holder's exercise of patent rights. The 2016 revision revised the definition of standard essential patents to change the treatment of *de facto* standard essential patents as non-standard essential patents rather than standard essential patents.

Despite the revisions in 2014 and 2016, many IP practitioners in Korea believe that the problems have not been solved completely. For example, the provision of "excessive price" still remains in the 2016 revision. Critics of the IPR Guidelines take the view that the anti-trust agencies should not regulate price, as prices should be determined by the operation of the market. Many IP practitioners in Korea also share the view that the KFTC's recent "notching up" of its regulatory efforts could have chilling effect on innovation and that the safeguard against the patent abuses should be sought within the patent law regime first, rather than in the competition law regime.

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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N/A.

b) any other recommendation(s) for AIPPI involvement/action

The Committee recommends that:

- this report be addressed in the ExCo meetings in Milan; and
- the visibility of Annual Reports with substantial content of AIPPI's Standing Committees be further increased in and outside of AIPPI, e.g. through articles in magazines of media partners.

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

Priorities for the next reporting period are:

1. Finalise position paper on SDO/PTO cooperation (Workplan Item #7);
2. Resume work on FRAND (Workplan Item #3) as well as on the use ADR for FRAND-disputes (Workplan Item #8) with a view of establishing a standpoint and producing appropriate deliverables;
3. Monitoring and reporting relevant developments; and
4. Further increasing the Committee's visibility in AIPPI and the national groups, as well as outside of AIPPI.

Names and Functions of Committee Members

Chair	Gertjan KUIPERS	Netherlands
Co Chair(s)	Pauline DEBRÉ	France
Secretary	Calvin PARK	Republic of Korea
Members	Alma Sofia ALVAREZ	Mexico
	Jesus ARRIBAS	Spain
	Monica BARONE	United States
	John BRUNNER	United Kingdom
	Khristine C. DY	Philippines
	Martin FÄHNDRICH	Germany
	Jeffrey GLUCK	United States
	Louis-Pierre GRAVELLE	Canada
	Michaela MAGGI	Italy
	Márcio MERKL	Brazil
	Andrea MITTLER	Italy
	Kiyoko NAKAOKA	Japan
	Paul REESKAMP	Netherlands
	Christopher SCHERER	United States
	Ekrem SOYLU	Turkey
	Hawthorne SUH	Republic of Korea
	Masatusugu SUZUKI	Japan
Peter TRELOAR	Australia	
Stephane TRONCHON	France	
Taliah WALKLETT	United Kingdom	
Claudia WALLMAN	Sweden	
Maohua WANG	China	
Johanna WRIGHT	Sweden	