



Standing Committee on
Client Attorney Privilege

2017



Date: 12th October 2017

REPORT Standing Committee on

Client Attorney Privilege

Chair: Steven B. GARLAND
Responsible Reporter: Sarah Matheson

- 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);

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

A meeting of the Q199 Committee was held in September of 2016 at the Milan Congress to discuss the status of matters, including the below mentioned Group B+ initiative. A further meeting will be held at the Sydney Congress.

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

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.

AIPPI, as part of its continuing efforts to support this initiative, was invited to attend the Group B+ meeting in Geneva in October of 2016 at which time Wouter Pors gave a presentation at the meeting on the status of CAP issues on a global basis. AIPPI was also asked to attend the most recent Group B+ meeting on October 3, 2017 where again representatives for AIPPI spoke in support of the Group B+ work on this matter. Group B+ continues to work on the text of the multilateral agreement focussing now on certain definitions of terms. In particular, the Group B+ Core Group has a mandate to:

- a) Work on a definition of "professional advice" and on the extent of flexibility granted to national legislation with the goal of
- b) proposing an amended draft agreement at the next plenary meeting in October 2018.

- c) any contribution by your Standing Committee to any external consultations; and
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In addition to the above Group B+ meetings, Sarah Matheson and Steven Garland also met with Alexander Pfister of the Swiss delegation to Group B+ in Geneva in May of 2017 to discuss the status of the Group B+ CAP initiative and any ongoing assistance that AIPPI can provide to support Group B+'s work. It was clear from the meeting that there was a potential issue in respect of the U.S. delegation and Jeff Lewis and Alan Kasper were very helpful in speaking to the USPTO and clearing up some misunderstandings that had arisen in respect of the USPTO's views on the CAP initiative.

- 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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Please see above in respect of a presentation that was provided by Wouter Pors to the Group B+ at the 2016 meeting.

- 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.

Q199 will continue to provide assistance and support to the Group B+ in respect of the multilateral agreement on CAP. Additionally, Q199 will also continue to lobby at the SCP for a possible global remedy of some kind, though to the extent we achieve any success at this level it will likely be limited to some form of soft law approach.

- 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;
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See above

- b) any other recommendations for AIPPI involvement/action;
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not responded

- c) any recommendations for the work programme of your Study Committee.
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not responded

- 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.

As described above, Q199 will continue its work with Group B+ and also the SCP.

Names and Functions of Committee Members

Chair(s)	Steven B. GARLAND	Canada
Co Chair(s)	Wouter PORS	Netherlands
	Shoichi OKUYAMA	Japan
	James TUMBRIDGE	United Kingdom
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
	Sung Jai CHOI	Republic of Korea
	Ejvind CHRISTIANSEN	Denmark
	Justin CHUMA ANOSIKE	Nigeria
	Cita CITRAWINDA NOERHADI	Indonesia
	Pier Luigi DE ANNA	Italy
	Luis DE LARRAMENDI	Spain
	M N Aydin DERIS	Turkey
	Peter FRANKE	Australia
	David GILAT	Israel
	Shalva GVARAMADZE	Georgia
	Gunnar Örn HARDARSON	Iceland
	Michal HAVLIK	Czech Republic
	David HILL	United States
	Tim JACKSON	New Zealand
	Marius J. JASON	Lithuania
	Morris JOHN	Singapore
	Urmaz KAULER	Estonia
	Chew Phye KEAT	Malaysia
	Yawar Irfan KHAN	Pakistan
	Seong-Ki KIM	Republic of Korea
	Olga KOUZNETSOVA	Belarus
	Dragana LEHOCKI	Serbia
	Jeffrey LEWIS	United States
	Richard LI YI	China
Johanna LILJA	Finland	
Margareta LINDEROTH	Sweden	
Marja-Leena MANSALA	Finland	
Gatis MERZVINSKIS	Latvia	

Martin MICHAUS	Mexico
David MUSKER	United Kingdom
Maria Milagros NEBREDA	Venezuela
Valentina NESHEVA	Bulgaria
Rogelio NICANDRO	Philippines
Rula NOSSEIR	APPI-MAF
Yuzuru OKABE	Japan
Jorge OTAMENDI	Argentina
Antonina PAKHARENKO-ANDERSON	Ukraine
Helen PAPACONSTANTINO	Greece
João PEREIRA DA CRUZ	Portugal
Cristobal PORZIO	Chile
Shane SMYTH	Ireland
Helmut SONN	Austria
Amund Brede SVENDSEN	Norway
Jozsef K. TÁLAS	Hungary
Fernando TRIANA	Colombia
Wojciech TRYBOWSKI	Poland
Chavalit UTTASART	Thailand
Malin VAN ODIIK	Sweden
Raluca VASILESCU	Romania
Detlef VON AHSEN	Germany
Mladen VUKMIR	Croatia
Aleksey V. ZALESOV	Russia
Claudia M. ZERAIK	Brazil