

Standing Committee on

Patents

2016



Date: 15th August 2016

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, but please include at least:

- a) meetings of the Standing Committee during the reporting period

The Committee met at the 2015 Rio Congress on October 12, 2015. During that meeting, Koen Bijvank raised the issue of conflicting applications and the issues associated with this topic including priority issues, the transfer of priority rights, and self-collision. The group discussed the different standards worldwide (e.g., the availability of previously filed, unpublished applications in Europe only for novelty and in the U.S. for novelty and inventive step/obviousness). The Group also discussed the issue that occurs with PCT applications based on U.S. provisional applications where the assignment of the application occurs after the PCT application is filed. The Group discussed efforts in getting this issue considered in the 2016 Milan Congress or at least in the 2017 Sydney Congress. The Committee also discussed the recent discussions of the IP5 offices related to instituting a global dossier for sharing prior art documents between patent offices. The Committee discussed the benefits provided by the global dossier and potential issues that may occur with some offices.

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

Alain Gallochat attended the 23rd SCP session in Geneva from November 30 to December 4, 2015 and provided his report to the Bureau on December 12, 2015. The SCP session addressed several topics including

- *Exceptions and limitations to patent rights;*
- *Quality of patents, including opposition systems;*
- *Patents and health;*
- *Confidentiality of communications between clients and their advisors; and*
- *Transfer of technology.*

Alain Gallochat also noted that it appeared that developing countries and less developed countries are increasingly opposed to any harmonization.

Johanna Flythström attended the 24th SCP session in Geneva from June 27 to 30, 2016 and provided her report to the Bureau on July 15, 2016. The SCP session addressed several topics including an international patent system, exceptions and limitations to patent 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.

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

See (b) above

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

At the request of the Bureau, the Committee prepared a draft position paper that was provided to the IP5 addressing proposals for harmonization in the areas of unity of invention, the citation of prior art, and the use of certain terms to refer to the written description of the invention in a patent application. The position paper was submitted by the Bureau during the IP5's public consultation period on September 15, 2015.

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

The Reporter General's Team (RGT) asked the Committee to address the issue of publication of patent applications at the 2016 Milan Congress. The Committee prepared a questionnaire that was submitted to the national groups on July 6, 2016 with a request that national groups respond by August 3, 2016. The Committee named a subcommittee chaired by Tim Iserief and Andrew Meunier that is currently reviewing the national reports and preparing a draft summary report. The summary report will form the basis for the preparation of a draft resolution to be voted on during the 2016 Milan Congress.

- f) any other relevant activities
-

None

- 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

See the developments in Section 1.

- 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
-

On behalf of the Committee, Koen Bijvank proposed possible workshops or working questions at the 2017 Sydney Congress related to (1) conflicting applications including the issues of self-collision and

the grounds under which conflicting applications should be examined (e.g., with respect to novelty), and (2) priority in patent law including the issues of the requirements for assignment of priority rights and partial priority.

- b) any other recommendation(s) 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 2014 Helsinki Congress and the 2015 Rio Congress.

- 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

The Committee has scheduled a meeting from 9.30-12.00 on Sunday, September 18 at the 2016 Milan Congress to discuss the above-listed issues.

Names and Functions of Committee Members

Chair	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
	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	Mexico	
Yali SHAO	China	
Christopher STOTHERS	United Kingdom	
David TADGELL	Australia	
João L. VIANNA	Brazil	
Jonas WESTERBERG	Sweden	
Neriman Dilek YILDIRIM	Turkey	