

January 2, 2006

Mr. Francis Gurry
Deputy Director General
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20, Switzerland

RE: Search Strategy Recordation and Reporting of Statistical Information

Dear Francis:

I am writing to express the support of the American Intellectual Property Law Association (AIPLA) for mandatory universal recordation and publication of search strategies in the international application file by International Search Authorities. In addition, I wish to congratulate the World Intellectual Property Organization (WIPO) for its continuing efforts to provide valuable statistical information about operations under the Patent Cooperation Treaty (PCT) to international applicants, and to express the support of AIPLA for the expansion of these efforts to include publication of specific statistics regarding compliance by Authorities with various timeliness requirements under the PCT

AIPLA is a national bar association whose nearly 17,000 members are primarily lawyers in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

Offices serving applicants under both the Patent Cooperation Treaty (PCT) and national or regional patent systems face immense workload pressures, as both the number and complexity of patent applications continue to increase. Workload problems are exacerbated by the duplication of work that occurs when an international application enters the national or regional phase. This is caused, in part, by the duplication of search activity that takes place when the national or regional Office is different from the Office that conducted the international search. Frequently, applications are separately searched multiple times, first by the International Search Authority (ISA), then by a succession of regional and national offices. This is terribly inefficient, and a waste of valuable intellectual resources.

This past June the USPTO promulgated a change to its Manual for Patent Examining Procedure (MPEP 719.05) that requires US examiners to record their search strategies in a

detailed, consistent format. This format is available for public viewing on the USPTO Public PAIR system. If the PCT Examination Guidelines adopted a similar search recordation requirement for ISAs, applicants, the public, and national and regional examiners would benefit. Recordation of the search strategies by ISAs would encourage further exploitation of the resulting searches, potentially resulting in time and cost savings and enhanced search, and ultimately, patent quality. It would also give the search examiners in various Offices experience with one another's work, paving the way for the possibility of the ultimate search exploitation – reliance on and the extension of full faith and credit to the work product of qualified Offices. However, simple recordation and sharing is a necessary first step – a step that is easy to accomplish and valuable in its own right.

We understand that the International Bureau has been instrumental in efforts among the International Authorities to encourage such search recordation and exploitation. We applaud these efforts and urge that you continue them.

WIPO also publishes a wealth of statistical information concerning various aspects of PCT operations. This material, extracted from in-house data and collected from national and regional patent offices, is made readily available on the PCT web site. Publication of such statistics increases the transparency of PCT operations and is an accommodation to PCT users.

In addition to currently published statistics, WIPO also collects and maintains information concerning the timeliness of performance of PCT Authorities but does not publish these statistics. PCT users would benefit from access to such performance data. It would indicate trends among Offices that would be useful in establishing filing and prosecution strategies. It would also enable users to interact with their national offices to encourage reducing delays, where they are found to exist. Accordingly, AIPLA believes that WIPO could provide a very beneficial service for users by publishing such performance data. Information concerning timeliness of search reports, international preliminary examinations reports, and international preliminary reports on patentability, organized by international patent classification codes, both prospectively and for the years 2000-2005, inclusive, would be most useful.

Please let us know if AIPLA can assist you in any manner in furthering these initiatives.

Sincerely,



Michael K. Kirk
Executive Director
AIPLA