

AIPPI-US Division of AIPLA



December 16, 2015

Report from the AIPPI Rio Congress

The AIPPI Rio de Janeiro 2015 Congress ended on Wednesday, October 14, 2015, with the AIPPI Executive Committee session, followed by a specular Closing Dinner at the historic Brazilian Jockey Club.

There were over 1600 attendees from 80 countries in attendance, including over 110 US Group members, plus spouses. Rio itself was simply a fantastic and beautiful venue for the meeting. The congress venue was in the Barra section of the city (where many of the Olympic events will be held next year). And our Brazilian hosts did a good job in making sure the social events, including the cultural evening, the huge Brazil IP firms cocktail party in the Maracana soccer stadium, and the closing dinner, introduced us to other parts of the city.

An important highlight of the Rio Congress was the presence for the first time of AIPPI's new full-time Executive Director, John Bochnovic. John is, of course, the former president of AIPPI (from Ottawa, Canada), and was a partner with the firm Smart & Biggar for many years. He has recently moved to Zurich and is beginning to take over running AIPPI's central office.

Here is a brief summary of the many highlights of the Rio Congress.

1. Council of Presidents Meeting - The AIPPI Council of Presidents met on Saturday, October 10. This body includes the Presidents or acting Presidents of all AIPPI National Groups, as well as members of the Bureau, and Presidents and Members of Honor. Among the items covered at the Council of Presidents meeting was the interest of AIPPI leadership in attracting and involving more corporate attorneys as members of AIPPI, and getting them more involved in the work of AIPPI and attending AIPPI meetings. The Council also honored recently deceased Members of Honor, including Heinz Bardehle of Germany. In addition, the AIPPI Nominating Committee presented its report, including its recommendation that former Chair of this Division, Dave Hill, be nominated for the AIPPI Award of Merit. The Council of Presidents then proceeded to vote to award the Award of Merit to Dave, which was presented to him at the Closing Dinner.

2. Study Committees/Resolutions Meetings: The principal work of AIPPI is the comparative law studies, or Study Questions or Working Questions, that are prepared throughout the year and debated and voted on at the meetings each year. During the Rio Congress, the delegates approved four resolutions, based on Study Questions that the national groups began working on at the beginning of the year.

The topics of the four Study Questions for the Rio Congress were:

- * Q244 (Patent question)-Inventorship of multinational inventions
- * Q245 (Trademark question)-Taking unfair advantage of trademarks: parasitism and free riding
- * Q246 (Copyright question)-Exceptions and limitations to copyright protection for libraries, archives and educational and research institutions
- * Q247 (Miscellaneous question) -Trade secrets: overlap with restraint of trade, aspects of enforcement

The text of four Study Questions and the final resolutions that resulted from the debates at the Congress can be seen at the AIPPI's new website,

here: http://aippi.org/library/?publication_categories%5b%5d=10

During the congress, the resolutions began taking shape through meetings of Working Committees on each resolution, to discuss each of the four Study Question resolution to be discussed during the Congress. Many thanks are due to the leadership of our Study Committees who helped prepare our Division's reports and positions on questions. At this year's Congress, the members who stepped up and took the lead in particular on the Working Committees and during the debate were, for the patent/multinational inventorship question, Bea Koempel-Thomas, Rob Wells, and John Carson; for the trademark/parasitism question, Denis Prahel and Maria Scungio; for the copyright/exceptions for libraries, etc., question, Kevin Tottis; and for the trade secret question, Mark Halligan and Dave Hill.

3. Executive Committee Meetings: The meetings of the "Executive Committee" of AIPPI are actually the meetings of the body that conducts most of formal business of the association, through the official "delegates" of each national group. For this Congress, based on the 570 US national group members, the US group had 13 formal delegates, plus its president, as voting members in the Executive Committee meetings. The Executive Committee meets to approve changes to the administrative structure of the organization, hear various reports on the status of the association from the Reporter General, the Programme Committee, and its financial condition and budget. Our AIPPI-US Division was specifically recognized during the membership committee report as having one of the largest increases in membership of any national group in the past year. The Executive Committee voted to approve various amendments to AIPPI regulations, generally to modernize and simplify AIPPI procedures, in accordance with recommendations that had been made several years ago by consultant Robin Rolfe.

4. General Assembly: The "General Assembly" of AIPPI is the entire membership of AIPPI, open to all attendees of the Congress. It meets, usually briefly, to approve amendments to AIPPI statutes, and to hear brief reports on future AIPPI meetings. At Rio, there were various amendments to AIPPI statutes, that were similar to the above-described changes for modernization and simplification, which were approved. In addition, there were very well-received and entertaining presentations made by the Italian Group about the Milan Congress (September 2016) and the Australian Group about the Sydney Congress (October 2017).

5. Panel Sessions (Workshops): There were 12 Panel Sessions (workshops) with speakers, including the following sessions with US speakers or moderators during the Rio Congress:
Pharma Panel Sessions

- * "Don't Miss the (Right) Mark": Dennis Prahel, and Matthew Asbell
- * "Personalized Medicine": Adrian Looney
- * "Technology Transfer, Public v. Private Interests: Manisha Desai
- * "Double Jeopardy: Policy-based Examination of Patent Validity": John Todaro

Panel Sessions

- * "Focus on FRAND": Latonia Gordon, Monica Barone, and US District Court Judge James Robart (W.D. Wash.)
- * "Plant Variety Protection": Jorge-Uwe Szpil
- * "Industrial Designs": Chris Carani
- * "Collective Marks and GIs": Patrick Kole
- * "Bad Faith Registrations": Danny Adweh
- * "Non-traditional Marks": Maria Scungio
- * "Inventor Remuneration": Larry Welch
- * "ISP Liability": Caleb Donaldson
- * "Post-Grant Oppositions": Tammy Terry
- * "Mediation in IP Cases": Tony Piazza

Luncheon speakers

- * Russell Slifer, Deputy Under Secretary of Commerce for IP and Deputy Director of the USPTO
- * Dean Harts, 3M

6. Other Events: There was a Women in AIPPI event, an informal networking event for women IP professionals to get to know each other. There was also a first-time attendees event. And for the second time, there was a separate meeting for corporate/in-house attorneys, reflecting the

associations interest in attracting and addressing the interesting of corporate attorneys, to provide a forum for discussion and exchange of views of common interest, including ways in which AIPPI can address the needs of existing industry members. Most AIPPI Standing Committees also held committee meetings during the Congress.

7. Social and Cultural Activities: The social activities kicked off with what has become a strong tradition for the US Division - an informal get-together for our US delegation on the opening night, before the Opening Ceremony. Great credit is due to our US Division Vice Chair, Peter Schechter, for arranging the meeting place, the Cervejaria Devassa, a brew pub down the street from the congress venue. Most US attendees were able to swing by.

The Opening Ceremony and Welcoming Reception was held at the congress venue itself. The ceremony included Brazilian music and dancing, and the reception featured, for many of us, an introduction to caipirinhas, Brazil's national cocktail (made with cachaça and lime - refreshing, but strong).

For the Cultural Evening, we were bused all the way around the mountains, and across the beautiful city of Rio, to Copacabana Beach, at the Copacabana Palace Hotel. The food, drink and entertainment (more dancing) was great, and never-ending. The Brazilians definitely know how to put on a party. It was like Carnaval!

On Tuesday night, for the first time, instead of numerous receptions sponsored by local firms, there was one, gigantic reception, sponsored by many of the Brazilian IP firms, at one of the world's most famous soccer stadium, the Maracana soccer stadium. It was originally built in 1950 for the World Cup (won by Brazil), and held 199,000 seats, later rebuilt, and also hosted the 2014 World Cup final. For the AIPPI reception, attendees could kick soccer balls on the field, tour the locker rooms, sit in the stands, and buy souvenirs. A lot of fun!

For the Closing Dinner, our Brazilian hosts brought us to the historic Brazilian Jockey Club, in the center of Rio. They even arranged to have a horse race run for us, with all of the horses given IP-related names (Patents, Trademarks, Copyrights, etc.). Each attendee was allowed to place one "bet" on the race. I think the horse that won was named "Licensing."

The AIPPI Rio 2015 Congress was a very well organized and successful meeting. The AIPPI Brazil Group should be commended and proud of the meeting.

Call for Milan panel session topics, Sydney study question topics

The AIPPI International Bureau is now focusing on topics for both the Panel Sessions for the 2016 Congress in Milan and the Study Questions for the 2017 Congress in Sydney. As many of you know, each member group is encouraged to submit proposed topics for consideration.

Specifically, we have been invited to suggest topics with practical relevance or implications for intellectual property rights; and/or current hot topics or emerging areas of interest in any area of IP law (patents, trademarks, designs, copyright, geographical indications).

Please let me or our AIPPI-US Division Secretary, Josh Goldberg, know if you have any suggestions for topics for either Congress. Please provide a short explanation for each topic - why it is relevant/important, and the issues you think should be explored. While the International Bureau originally announced it was asking for proposal by Monday, December 7, 2015, if you get your suggestions in to us by next **Monday, December 21, 2015** at the latest, we will forward them to the Bureau for consideration.

Formation of Milan Study Committees

By the beginning of the new year 2016, we will begin forming the Study Committees to prepare the US Group reports on the four Milan Study Questions. While we have not yet received the formal questionnaires detailing the precise issues to be addressed for each national group report, these the four topics to be addressed for the Milan Study Questions are listed below. I will be in the process of assembling the Study Committees over the next month. If you are interested in being on one of these Study Committees (and if you are interested in serving as chair or co-chair), please let me know by **December 31**.

Milan Study Question Topics

- Patents: Added matter: the standard for determining adequate support for amendment
- Trademarks: Requirements for protection for industrial designs
- Copyrights: linking and making available on Internet
- General/miscellaneous: Security interests over intellectual property rights

AIPPI International Standing Committee opportunities

In addition to the AIPPI Study Committees on the comparative law issues, and AIPPI Statutory Committees that advise the AIPPI international Bureau, such as the Programme Committee, and the Finance Committee, whose members are elected or appointed by various bodies of AIPPI, AIPPI has over 20 international Standing Committees. These Standing Committees consist of members of AIPPI from different countries around the world that concern various issues of intellectual property law, and are appointed by the AIPPI Reporter General team. The US Group currently has over 45 members already serving on AIPPI Standing Committees.

The AIPPI Reporter General has invited us to nominate additional US members to the various AIPPI International Standing Committees. Membership in the Standing Committees is an excellent way to become involved in the work of AIPPI. A list of the Standing Committees and their descriptions and scope can be found here: <http://aippi.org/committee/?status=Active>

But the membership of the committees is limited. There can ordinarily be only two members from each national group, normally a "senior" member, and a younger, or "junior member," and the Reporter General team will appoint a third member from a national group, if that third member is a corporate/in house attorney.

Listed below are the AIPPI Standing committees with openings currently available or coming available for US attorneys. The US members already on the committees are also listed. Please let me know if you are interested in being nominated, or if you have any suggestions for persons who you think should be nominated, by the end of this month (by December 31).

AIPPI Standing Committees with positions open for US nominations (current US members in parentheses)

- ADR Q225 (Steve Bauer (Co-Chair), Cheryl Agris) (one corporate position available)
- Biotechnology Q114 (Peter Ludwig)
- Commercialisation of IP Q248 (Michael Connor (Chair))
- Client Attorney Privilege Q199 (Jeff Lewis, David Hill) (one corporate position available)
- Designs Q227(Chris Carani, Pina Campagna) (one corporate position available)
- Development and Intellectual Property Q207 (Mike Martinez, Theresa Stadheim) (one corporate position available)
- Enforcement Q224 (Ken Adamo, Kristin Whidby) (one corporate position available)
- Geographical Indications Q220 (Rudolph Hofmann, Patrick Kole)
- IP and Genetic Resources/Traditional Knowledge Q166 (David Moore, DeAnn Smith) (one corporate position available)
- IP and Green Technology Q198 (Cynthia Cannady, Margaret Welsh McInerney) (one corporate position available)
- IT and Internet Q132 (Nandu Talwalkar, JoAnna Luna (Corporate))
- Patents Q228 (Drew Meunier, Marc Richards) (one corporate position available)
- Pharma and Biotechnology Q242 (John Todaro (Chair (Corporate)), Li Feng)
- Piracy and Counterfeiting Q223 (Damian Wasserbauer, Naresh Kilaru) (one corporate position available)
- PCT Q109 (Andrew Simpson, Loren Hulse) (one corporate position available)
- Trademarks - Plain Packaging Q212 (Sheldon Klein, Dennis Prah) (one corporate position available)

- TRIPS Q94 (Kelly Hyndman)

AIPPI International Statutory Committee and nominations

The AIPPI international statutes also provide for six international committees whose members are elected, based on nominations who are presented by a Nominating Committee, and then presented to the Executive Committee of AIPPI at its annual meetings. We have been asked by the AIPPI Secretary General to submit proposals of the United States Group for these committees by next month (January 2016).

Of the six committees, three already have US members who are already members, or who are eligible for re-election (Programme Committee, Larry Welch, Chair; Finance Committee, Dave Hill; and Venue Selection Committee, John Carson).

But three of the committees have US members who have served two full terms, and who are this ineligible for re-election ((Membership Committee, Alan Kasper; Communications Committee, Bob Sacoff; and Nominating Committee, Mark Halligan; their terms will be up after the Milan Congress in September, and we thank them for their service).

Accordingly, if you have any suggestions for US members to nominate for any of the following AIPPI Statutory Committees, or would like to be considered to be nominated yourself, please let me know by **January 15, 2016**:

- Membership Committee
- Communications Committee
- Nominating Committee

AIPPI participation in AIPLA International Practice Committee trips

Our AIPPI-US Division has been working all year to coordinate our activities with the various international practice committees of AIPLA. This year, we participated in the in the AIPLA IP Practice in Japan Committee trip, including meeting with AIPPI-Japan, the AIPLA IP Practice in China Committee trip to Beijing and Guangzhou, including meeting with AIPPI-China, and the AIPLA IP Practice in Europe Committee trip to London, Paris, and Munich, including meeting with AIPPI-UK and AIPPI-France, and the AIPLA IP Practice in Latin America Committee's trip to Brazil in October, immediately prior to the AIPPI congress in Brazil.

In addition, over the past several years, our group has also undertaken at least one trip on our own to meet with AIPPI groups in other countries. This year, our AIPPI-US Division was again invited by the AIPPI Japan and AIPPI Korea groups to meet with them at the end of this year, in the first week of December. Our delegation just returned from that trip, which was led by Sunhee Lee and Uwe Szipl, and was very successful. We hope to have a more complete report about that trip in a future newsletter. If you are interested in becoming involved in any of these international activities, please let me know.

San Francisco 2021 Organizing Committee

During the AIPPI Rio Congress, we had a brief meeting with the AIPPI Secretary General and the AIPPI international secretariat to discuss planning for the San Francisco Congress, including possible dates for the congress.

We are in the process of forming an Organizing Committee to begin planning that meeting. If you are interested in becoming a part of the Organizing Committee, please let me know. The persons who have agreed to be on that organizing committee so far include:

- Bing Ai (San Diego, CA)
- Daniel Brownstone (San Francisco, CA)
- John Carson (Irvine, CA)

- Georgeann Grunebach (Los Angeles, CA)
- Sharon Israel (Houston, TX)
- Bea Koempel-Thomas (Spokane, WA)
- Eugene Mar (San Francisco, CA)
- Dale Nelson (Burbank, CA)
- John Osha (Houston, TX)
- Marc Richards (Chicago, IL)
- David Ruschke (Santa Rosa, CA)
- Jeremy Taylor (San Francisco, CA)

AIPPI-US Division Corporate Sub-Committee

Because of the growth in our membership among corporate attorneys, and to give corporate attorneys a "home" within the AIPPI-US Division, we have formed an informal (for now) Corporate Sub-Committee. The co-chairs of that Sub-Committee will include Andrea Kamage of Johnson & Johnson and Namoi Voegtli of Vantiv. They will soon be contacting all of the 75+ corporate members to solicit their thoughts and ideas about projects and goals for this new sub-committee.

Summary of other AIPPI U.S. Division activities in 2015

AIPPI Membership Initiative

We are also seeking to increase our membership by working within the AIPLA Global Sector Group, and to integrate all of our activities with the other international committees and international activities of the Global Sector Group. Our theory is that all US members of AIPLA who have any interest in international practice should become members of the AIPPI-US Division - we are trying to promote the slogan "become an international IP lawyer" as part of our "join AIPPI" membership drive.

While perhaps ambitious, our goal was to reach 600 members by the Rio Congress. We came close to that, reaching over 570 members. We still hope to pass 600 members by the end of 2016.

AIPPI Amicus Briefs Committee

Another new AIPPI International Committee is the Amicus Briefs Committee. The US Division representative on that committee is Rich Beem, who is appointed by the AIPPI Bureau. Although amicus curiae participation is a fairly common activity for US bar associations, it is a relatively new activity for international bar groups, and AIPPI, and developing a policy for amicus participation has been a learning experience.

One of the cases that that committee considered participating in this year was the WTO dispute concerning the Australian plain packaging legislation. The AIPPI does have a resolution on this issue, which was passed at the Helsinki Congress in 2013. However, because that proceeding is currently in an initial "first instance" stage (i.e., not an appellate stage), the AIPPI Amicus Briefs Committee eventually recommended not participating as an amicus. Rich Beem was very actively involved in working on this matter.

AIPPI International New Web Site

As some of you may have recently noticed, the AIPPI International website, www.aippi.org, has been revised, modified, and updated following the 2015 Annual Meeting in Rio. The new site is easier to navigate, and contains a lot of valuable information about AIPPI and its activities and publications.

The biggest change to the website, though, is that it is now possible for all AIPPI members to request changes to their membership data directly, without needing to go through their regional group administrator. Any requested changes you make will still need to be approved by an Administrator of the US group, but at least the process will be more streamlined.

The AIPPI International website is separate and distinct from the website for the AIPPI-US group, which can be found at www.aippi-us.org. Please let us know if you have any questions, or if there

is any information you would like us to include on our website.

Conclusion

The AIPPI-US Division could always use your help and active support. Please take advantage of some of the many opportunities to get more involved in the work of our Division. We are looking forward continued growth in our numbers, and further expansion in our activities. Please let me know if you have any ideas or thoughts in this regard.

"AIPPI-US Division - become an international IP lawyer."

With best regards,

Philip C. Swain
Chair, AIPPI-US Division

Upcoming Activities of AIPPI . . .

- [AIPPI Israel - From IP to NP, March 21-22, 2016](#), Tel Aviv, Isreal, see also [AIPLA's IP Practice in Israel Delegation trip information](#).
- AIPPI World Congress, [September 16-20, 2016, Milan, Italy](#)
- See the complete list of upcoming AIPPI programs at the following: <http://aippi.org/events/>

