**“IP Question of the Day”**

**Question:** What factors need to be considered in the creation and management of global patent portfolios?

**Answer:** Find out today at Panel Session 7: Managing global patent portfolios.

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**In conversation with… Gauthier Obrecht**

The **In-house Committee** is a little different to other AIPPI Committees – can you tell us a little bit about it and why this is?

Yes, we are a so-called Bureau Advisory Committee. We report directly to the Bureau and make recommendations on how to make AIPPI more attractive and relevant to in-house members.

**Do the Committee members have a special profile?**

We are all in-house counsels, everyone works in the industry as a patent / trade mark / copyright practitioner or as an in-house lawyer. Currently, in-house counsels make up less than 10% of the AIPPI membership. In fact, we are the customers of the other AIPPI members!

We are closer to the end users of the IP system than private practitioners. As industry employees, our employers use IP as part of their business. They are the Applicants, Assignees and Owners of IP rights or they navigate the IP system to manufacture and sell non-infringing products and services.

**Can you explain why in-house events (like the AIPPI Café 14 on Tuesday, October 19) are for in-house delegates only?**

It’s probably the best way that we can freely share ideas with our peers. It is one of the few chances we have to all get together. COVID has of course changed the way we communicate. In-person, it was very important that we could make the most of the opportunity. We can exchange on best practices, on the strategies we use in our companies, and on issues related to mandating private practitioners to work on our behalf without worrying about providers using these insights into our day-to-day life to try to sell us their services or to report to our competitors.

**What kind of topics did the committee work on in the past year?**

What we try to bring to the table is the in-house perspective, particularly what is currently of importance for the industry. We are more interested in the practical use of IP than more academic questions.

We want to know how a decision or harmonization can affect our daily work. The in-house counsels expect that AIPPI can add something of value on this issue.

Of course, we have prepared for the panel sessions such as **Panel Session 7: Managing global patent portfolios** on October 19. Another topic that we are close to is Trade Secrets. We have members who are also members of the **AIPPI Trade Secrets Committee**. Trade Secrets quite obviously is a topic of great importance to the industry.

I personally am also on the **AIPPI Membership Committee**. There I can give insights from industry and let AIPPI know how the association can be attractive to in-house counsels. This involvement in other committees is a good thing that all sides can benefit from I believe.

**Where can someone go to find out more information about the In-house Committee?**

The committee members are listed on the [AIPPI website](http://www.aippi.org). If someone wants to contact us, we would be happy to answer their question.

**Interview conducted by Diarmuid De Faoite, AIPPI Communications Manager.**

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Answer: Find out today at Panel Session 7: Managing global patent portfolios.
Can you briefly explain why this Study Question is of interest to the IP community?

This study question is about the Use of Prior Art in Assessing Industrial Designs. Industrial Designs have become increasingly important as an economic driver for many commercial products. Good industrial designs sell products as witnessed by the success of Swedish, Italian, French designers to name only a few and not to mention Apple’s success with the design of its products.

Notwithstanding the economic importance of designs, this form of intellectual property remains one of the least harmonized of all types of intellectual property. Is the criteria to get a design, novelty or originality or both? Is individual character or non-obviousness necessary and what does that mean? Should designs and any prior art be judged by the world at large or a select group of knowledgeable designers in a particular sector? Can prior art designs be combined when evaluating new designs for non-obviousness or individual character?

What kind of unexpected discoveries did you make over the year working on this?

Well, I already knew that there was a lot of variation in the law of Industrial Designs all over the world. However, so far, I think we have had more agreement than I expected, but we have not had the final vote yet! So, stay tuned.

What can people expect at your Study Question’s plenary session on Tuesday, October 19?

We have formed a preliminary consensus on a number of the questions I referred to previously, but there are still many voices to be heard which might prevent a consensus. We can expect a continued lively debate.

Is there any one person or group you would like to acknowledge for their support?

In any Study Question, there is always one person who has the burden of keeping track of the amendments and that is the Secretary. He or she has the hard job, not the chairman. For this question that person is Klaudia Blach-Morysińska from Poland. She has to keep track of all amendments and proposals, and it is not even her native language. Also, of course, the Assistant Reporter Generals, Guillaume Henry and Linda Lecomte have been very supportive as has the rest of the team, Margaret Polson and Maria Romoleroux.

Would you recommend getting involved so deeply in a Study Question?

Yes, of course. The Study Questions are the heart and soul of AIPPI and are what make this association different from all the other IP organizations. It is a great way to discuss policy and see the issues in other countries.

Interview conducted by Diarmuid De Faoite, AIPPI Communications Manager.
Panel Session 5

Multi-jurisdictional inventorship

Tuesday, October 19, 12:00 PM-1:00 PM (CEST)

This Panel Session will address the subject of inventorship of inventions where the inventors are the subject of different jurisdictions. Inventors of an invention may reside in different countries, have different citizenship, or have employment contracts under different national laws. Today, this is a common occurrence, already because many companies have geographically distributed research groups and engage in cross-border research projects (e.g. with other companies or universities).

Multi-jurisdictional inventorship represents a range of fundamental issues such as inventorship determination, ownership of the invention, filing requirements and remuneration of inventors.

Due to a lack of harmonization, various jurisdictions may have different or even conflicting laws thereon. AIPPI has previously studied aspects of the subject matter of this panel session, resulting in the 2015 Resolution on “Inventorship of multinational inventions”.

This panel session will focus on strategies for handling diverging national requirements and will explore different management approaches for tackling issues that may come up in this respect, e.g. regarding filing, ownership and remuneration.

Panel Session 6

Guilty or not guilty: platform liability & safe harbours

Tuesday, October 19, 12:00 PM-1:00 PM (CEST)

In many parts of the world, the liability of online service providers for their users’ conduct and content is determined by rules created around the turn of the century, when the internet was just starting to reach mainstream adoption. Safe harbours for access, caching and hosting providers have enabled the modern internet, but they also have their downsides. In recent years, there have been increasing demands for these rules to be updated.

New EU rules create a copyright carve-out from the safe harbour, making “online content-sharing service providers” liable for their users’ infringing uploads unless they can demonstrate “best efforts” to obtain authorization and “prevent availability” of works for which right holders have provided sufficient information. Separately, the US Copyright Office has published a study illustrating the perceived shortcomings of the current copyright safe harbour.

In the EU, US and beyond, copyright-specific projects are being overshadowed by broader and more fundamental proposals to update the liabilities and responsibilities of online platforms. 2021 sees heated debate in the EU on a proposed “Digital Services Act”, and in the US on changes to “Section 230”. Other jurisdictions are also enacting or debating significant updates. It remains to be seen what clarity these can bring to heated issues such as liability, notice and action, filtering and blocking obligations, user rights, and international jurisdiction with respect to cross-border infringers and the platforms they use.

This panel will bring some much-needed structure, facts and rational consideration to the debate.
Panel Session 7

Managing global patent portfolios

Tuesday, October 19, 5:30 PM-6:30 PM (CEST)

This panel session will address creation and management of global patent portfolios for start-ups to big companies from an in-house perspective.

Creation and management of robust global patent portfolios is challenging for all companies. Many factors need to be considered, including: importance of a country for the company’s business due to investors, competitors, manufacturing and distribution; company marketing; hidden risks such as undue exposure; patent vs trade secret protections; useful claiming; return on investment; enforcement interests; increasing fees, and so much more!

Managing global patent portfolios requires an understanding of one’s business, legal issues, and industry trends.

This panel session will discuss current issues, including: how would the patent portfolios support an innovation strategy/sales strategy/M&A strategy/litigation/licensing approach? What factors should be considered when managing a global patent portfolio in view of business needs? How to balance the management of patent portfolios and trade secrets, in view of IP risk management? What are the differences in managing global patent portfolios for start-ups and big companies? How to develop IP management standards to drive improvement in IP protections without breaking the bank?

Panel Session 8

Turning local into international: protection of GIs

Tuesday, October 19, 5:30 PM-6:30 PM (CEST)

This Panel Session will have a twofold mandate. First, in many jurisdictions the common understanding of geographical indications (GIs) or appellations of origin (AOs) is often limited and serves to undermine the benefits and advantages that GIs can provide. This Panel Session will review means of protection available in different jurisdictions and how GIs and AOs are used and promoted in such jurisdictions, and what improvements may be considered.

Second, the panel will look at a number of specific topics that arise with GIs that will be of interest to practitioners in all jurisdictions, including for example:

• how should the term “essentially attributable” in Article 22 of TRIPS be understood in establishing whether a given quality, reputation or other characteristic of the product supports a GI designation?
• what are the limits on activities that can be performed on GI products outside their territory of origin (e.g. further packaging or treatment) and yet permit the manufacturer or seller to maintain the use of the GI designation?
• if a GI product is used as an ingredient, can the GI designation be used on the label or in marketing the final product, and if so under what conditions?

Voices from the Congress

Debbie David attended Panel Session 4: Video gaming: copyright & design issues

Video games and e-sports have fast become household names in the entertainment space. As these virtual worlds flourish, so too is there an explosion of IP and related considerations – from copyright, designs and trademarks, across to broadcasting and streaming rights, and interesting thoughts about what rights players might have with more creative freedom and customizations available within the game. The panelists delved into key issues across Asia, Europe and the USA, and provided great insight into current developments and issues as well as gazing into what the future of video games and e-sports might look like.
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## Tuesday, October 19, 2021

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**Law of Raw Data**

*Edited by Christian Czychowski & Jan Bernd Nordemann*

*Law of Raw Data* gives an overview of the legal situation across major countries and how such data is contractually handled in practice in the respective countries. In recent years, digital technologies have transformed business and society, impacting all sectors of the economy and a wide variety of areas of life. Digitization is leading to rapidly growing volumes of data with great economic potential. Data, in its raw or unstructured form, has become an important and valuable economic asset, and protection of raw data has become a crucial subject for the intellectual property community. As legislators struggle to develop a settled legal regime in this complex area, this invaluable handbook will offer a careful and dedicated analysis of the legal instruments and remedies, both existing and potential, that provide such protection across a wide variety of national legal systems.

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