

March 29, 2011

Mr. Claus Matthes, Director
PCT Business Development Division
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20, Switzerland

**RE: Comments on Development of a PCT Third Party Observation System
WIPO Circular C. PCT 1288**

Dear Mr. Matthes:

These comments are submitted on behalf of the American Intellectual Property Law Association (“AIPLA”) to the World Intellectual Property Organization concerning the development of a PCT Third Party Observation System.

AIPLA is a national bar association whose approximately 16,000 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 trademark, copyright, patent, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

AIPLA is generally very supportive of the efforts of WIPO to establish a PCT Third Party Observation System. We believe that third party observation will improve the functioning and effectiveness of the PCT system and help ensure that national patent offices issue quality patents in a timely fashion. AIPLA is further of the opinion that the main features of the PCT Third Party Observation System as described in WIPO Circular C. PCT 1288 are, for the most part, well thought out and well constructed to advance the objectives of third party observation.

Nevertheless, we would like to offer the following brief comments with respect to the proposed PCT Third Party Observation System:

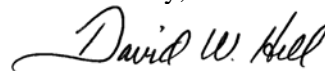
1. While C. PCT 1288 describes in commendable detail the means by which third parties may access the web-based observation system to upload observations, there is less detail on how those observations will be presented on Patentscope®. It would therefore be helpful if WIPO would provide additional information on the manner in which the contents of observations and possible responses will be displayed when Authorities, patent offices, and the general public access them.

The inclusion of model screen shots and specification of user interface functionality would be most helpful in this regard. It would also be helpful if WIPO would provide additional information on the procedures that the International Bureau will put in place to ensure that any responses to observations submitted through the PCT Service Center or by mail will be made publicly available on Patentscope® in a timely manner.

2. According to C. PCT 1288, third parties may submit observations until the expiration of 28 months from the priority date. AIPLA is of the opinion that 28 months is too long a time period and allocates too much of the possible 30 months for the submission of observations, and that a period up to the expiration of 26 months (at most) would be more appropriate. Applicants need an adequate amount of time to review observations, determine whether they wish to file responses, and take strategic decisions on the basis of the observations filed. In light of the 30-month deadline for entering into national phase, a deadline of 28 months does not provide sufficient time and would have the consequence of putting applicants in unnecessary jeopardy.
3. AIPLA notes that the third party observation prototype will be available in English only. AIPLA is somewhat concerned that non-English-language speakers will be dissuaded from participating in the early stages of the system, with the potential consequence that applications filed in English may be disproportionately singled out as the subject of third party observations. Similarly, AIPLA would wish to seek reassurance that when the system is expanded to all ten PCT publication languages, machine translation will be available for all observations and responses filed, as well as for all submitted prior art and non-patent literature citations.

AIPLA appreciates the opportunity to provide these comments and thanks you in advance for your consideration of our views.

Sincerely,



David W. Hill
AIPLA President