

FICPI/AIPLA Colloquium "A Comprehensive Approach to Patent Quality"  
Amsterdam, June 8-9, 2007

Session 2 "Examination problems encountered by applicants"

Speakers : D. Huntington, D. Alge, S. Helfgott, K. Kamigugi, J. Doll, M. Michaus, F. Triana

HUNTINGTON	<p>Can we take seats, please? We've now moved to a session on the examination problems encountered by applicants so we've had our discussions from the patent office and now we're going to hear from the other side. And then after we have those three speakers, we will stop, we'll have some discussion, then we'll continue with the next panel, which is what is a quality prosecution. Our first speaker on this next panel is Daniel Alge, who is the Chair of FICPI's CET Group 4, which is European patent matters and is a EPO user. So Daniel?</p>
ALGE	<p>Yeah, thank you very much, Danny.</p> <p>Ladies and gentleman, before I start with my complaints about the European Patent Office, let me first express that usually I think that the EPO does a great job on almost all the cases. Normally, we don't have problems except the technical problems contained in our applications, but I'm going to address the issues that do occur and which need to be solved and which I think are solvable in principle, the most important things and most important matters I see as user are timeliness, quality of search and examination, the flexibility of users, and the quality of decision practice. First to the aspect of timeliness: if you look at the mean granting period for European patents, it shows that there is an improvement in most recent years, but it still takes almost four years until a European patent is granted and there are even more lengthy opposition and appeal proceedings, even in cases where there are national infringement proceedings pending. Whereas there is a good instrument for accelerating examination available at the European Patent Office to accelerate (the PACE proceedings), there is no such practically useable instrument for opposition and appeal proceedings. It's only theoretically possible but in practice, it just doesn't work. In recent years we saw also a shift of responsibility for timeliness.</p> <p>I'll give you one example: The amount of time that you have for responding to a Communication according to Rule 51(4), which is the communication where the European Patent Office accepts the patentability of the application in principle has been significantly reduced in the recent years, so applicants have less time for deciding about their validation strategy in Europe, which is very cost intensive, i.e. very costly step. Whereas on the other side it often takes years or at least a lengthy period until this Communication under Rule 51(4) is issued after the response to the office action or the entry into regional phase, so the application is in principle acceptable, but the European Patent Office does not react.</p> <p>One other aspect with respect to timeliness is that there are still too many A2 documents – that means applications which are published without the search report. The search report is one of the most important things that an applicant wants to receive from the European Patent Office and it should be there timely -- it should be there at a time when there is still the possibility to take the application back, if the search report has documents in it which prevent the patentability or something like that. This should be workable by the European Patent Office. We have about 4,000 examiners, about 46 applications per examiner per year. If you regard that this is mostly a double thing -- PCT and Europe PCT -- it's about 25 applications for an examiner to be searched per year. This should be possible within a suitable time period.</p> <p>Second point is the quality of search and examination. The European Patent Office has been very renowned for its searches in the 80s and 90s. Due to the heavy workload it had to engage a lot of new examiners. These have been inexperienced in the beginning; it's now getting better, of course. That's a natural process but there is one additional matter which really adds to this problem, if the Extended European Search Report is made up by inexperienced examiners. In these cases, especially in the international phase, the written opinion, because you don't have any reflection on arguments, even in response to such a first office</p>

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ALGE	<p>action is often kept unreflected. Also the examiner's reflection on arguments then presented by an applicant are often poor and this is the case, especially in the international phase and I will come to that later because that's an important point where improvement is necessary. There's also often a formalistic approach in the examination. I can quote as an example the Rule 29(2). Often, examiners tend to not examine applications correctly just because of the formal argument that there are two independent claims of the same category. Another point is that there is often a very early threat of oral proceedings before the Examining Division, even after for example the second office action. This is now currently usual; it hasn't been as usual in the past.</p> <p>Then one issue which I want to address just to throw it to you is the quality of online filing. The online filing system currently used at the European Patent Office is in principle a good working system but the only drawback that you have is that as a representative or as an applicant, you have no immediate control possible as to what has been filed to the European Patent Office. You can't look into the file at the Office immediately after you filed the application. This creates uncertainty, however, the representative or the applicant carries the full responsibility that the documents that he has sent are in the same shape and in the same form arrived at the EPO. I think this has recently been managed by the US-PTO immediately leading to a very successful acceptance of this system and leads to a high rate of electronic filing of applications. I think if this is done also at the EPO, it will also be a huge success in Europe. Then another point of issue is that there's a difference in practice in the European Patent Office in different fields and also in different Examining or Opposition Divisions, which regard for example to inventive step, to the assessment of enablement, assessment of all the formal issues and the real problem is that there is also a difference in practice and decision practice of the appeal boards and this creates uncertainty, especially to these three issues. What we also saw is that the flexibility for users has gone down in the recent past. Currently, it's the practice that you have only one prolongation of term for responding to an office action; this was not the case before. The flexibility for users has gone down significantly and most disappointingly in the PCT international share. This is mostly ignored by the European Patent Office. That's in strong contrast to the good practice that we had in the 90s. Whereas many users don't care about the international phase, I personally have many users which are obliged to have a good quality of international preliminary examination; they get the money, they get investors, they attract investors also based on a positive International Preliminary Examination Report. But what we see now is that the extended. Written Opinion of the International Search is just copied and pasted into this report, which is very disappointing. You pay your money, you have an argument, and you don't see any reaction, even if you demand it, you don't have any further office action. That's disappointing and leads to a negative development for many of my clients who did not get the opportunity to raise investors' money.</p> <p>And one point which is also of concern is the change or the appointment of date for oral proceedings but I won't go into detail here.</p> <p>How can bad quality of decision practice impact on the practice of the representative? Article 123(2) practice is a problem at the European Patent Office. There is a rigid practice applied throughout the board of appeals, the so-called "directly and unambiguously" test so that you need in practice a literal wording for making your claim amendments. That's the reason or that's one of the reasons why the filed patent applications get more voluminous. We have to have a basis for any type of amendments that might come in the future, which we cannot foresee at the application date. So I wouldn't see that as a bad quality to</p>
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ALGE	<p>file more voluminous applications. I think that's a reaction to the decision practice and it shows a good quality of the work done by the applicant and representative in reaction to this bad decision practice. And the problem is that the practice of the appeal board differs, so it depends on which appeal board to which you finally get, whether your amendments are allowed or not. So there's a difference between the rigid practice, a very rigid practice and —as I want to call it – a “mega-rigid” practice, which is sometimes quite absurd, even to a European user. This has also effect on the claiming of priority, especially in a field like this technology where you always make developments.</p> <p>If you have slight changes from the priority document to the PCT application, you lose your priority right and all your publications in between become full prior art. So the recommendation is of course not to publish but usually these clients are university-related or biotech start up which have to publish, so there's a real need for a grace period instead of the priority year for those clients.</p> <p>The problem also is that the appeal board decisions do not have a direct impact on national courts, not even the decisions of the Enlarged Board of Appeal. While most of the European courts try to follow the decisions of the EPO and accept them, there are some countries where this is not done. So patents are validly patentable according to EPO practice, but are invalidated by national peculiarities. This creates legal uncertainty for the system as a whole and that's mainly because the European Patent Office and the appeal boards are not part of the European jurisdiction. These are some thoughts of the users; these are immediate practical problems which I don't really know whether they have to be addressed under quality, but it's problems that have to be solved, as for every invention. Thank you.</p>
HUNTINGTON	<p>The next speaker is Sam Helfgott who's the Chair of the Patent Division of ABA, the Intellectual Property Law Division, so Sam?</p>
HELFGOTT	<p>Since this is the complaint section, I'll follow Daniel's lead and first point out that the U.S. Patent Office basically does a good job, at least they're trying with the impact of the increased load and the increased complexity. Having said that, now we can go into the program. I've tried to organize it in sections; this input is both from my own staff and from input from other ABA members.</p> <p>The U.S. Patent Office, like the other patent offices, is faced with a huge growing number and to their credit, they already have 5,000 examiners and they are adding at least 1200 examiners per year. That is to their credit. The problem, however, results in a lot of inexperienced examiners. There's a changeover about 20 percent increase each year. That is coupled with two other matters: One is U.S. rules keep changing. I've been in practice for -- I hate to say how many years but over the last few years the number of rule changes has been so dramatic it's difficult to keep up with them. That is further coupled by the fact that the examiners that are hired, while technically competent, do not have enough practical experience in the work field. As a result of all of this, we find that the first office actions that we receive, although voluminous in size thanks to word processors and technology that permits a large number of pages to be generated, but there are inaccuracies in the law and in technology and poor quality results. As a result there is a large number of inexperienced examiners. This is coupled by the fact that these younger examiners don't feel adequately trained, adequately competent, not given enough independence, and we find that they are almost messengers. Whenever you speak to them on the phone they say let me ask my supervisor; I'll call you back tomorrow. It becomes nothing more than a messenger service between you and the supervisor and unfortunately the supervisors are few and far between and you can't really get to them without</p>

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HELFGOTT	<p>adequate advance notice and many times they don't even show up at an interview -- they're too busy. Supervisors do not provide adequate control or review in the detail of all of the office actions so the large turnover, and the large increase is great but has its detrimental effect in that it has reduced the quality of the examination.</p> <p>Second problem, there is a continued pressure on the applicants -- "just give me narrow claims and you'll get your patent." We get telephone calls by examiners frequently who say "I looked over the application; if you put in this claim limitation I'll allow it". "Did you do a search?" "No, I don't have that much time but put in the limitation and we'll allow it." Constant pressure to just give narrow claims and let's move things along. When a supervisor has looked over a case and if he says well, I don't think that's patentable, you're finished. The younger examiner, no matter what limitations you put in, will never go over his superior and say they've convinced me otherwise. You're stuck with the limitations; you're stuck with narrow claims. Although U.S. fortunately, in theory, allows business method patents and software, not per se but software patents, when you call examiners to try and discuss it, the first response is I want you to know that 95 percent of the cases we don't allow. Now, what is your argument? There is a pressure on the examiners to be very restrictive, overly so, in this area. In biotech and pharmaceutical areas they also read things extremely narrowly forcing you to put in unnecessary limitations from your description into the claims.</p> <p>A third area that we'd like to focus on, I know the U.S. PTO continuously points the finger at practitioners to say we are dragging out the prosecution and very frequently I don't deny that we do but there is the other side.</p> <p>The examiners also frequently prolong unnecessarily the prosecution. The US, for whatever reason, refuses to adhere to the Unity of Invention standard and sticks to our restriction practice and examiners love that. They carve up your application into 12, 14 different inventions and don't bother fighting it -- it's useless; it's a waste of time and money. The answer he will say is well, just file another application -- what's wrong with that? They encourage the filing of more applications. We get a tremendous number of 112 indefinite rejections and when we complain they say file an RCE. After a final, even if it's a minor technical revision, the examiner will say new issue -- file an RCE. The examiners' make use of the RCE to prolong examination; whether they get extra credits for it, or for whatever reason, they misuse the RCE practice just even as much as applicants do.</p> <p>Another area of concern is the 101 utility requirement -- what is a statutory invention of the United States? This is an ongoing problem. I know within ABA we have a task force trying to put together a white paper on trying to define 101 usefulness. But the examiners likewise have difficulty and we are finding that more and more of the office actions include a 101 rejection, not only on business methods and software; we're finding it in biotech, and we're finding it in communications area. It's an almost universal rejection -- lack of utility, failure to comply with our statutory requirements of 101.</p> <p>The Patent Office has given interim guidelines on what should not be a 101 rejection, but we don't really have a positive definition that we can rely on as to what is a statutory invention and there is an increased number of rejections that we continuously get, and we believe wrongfully so, under 35 USC 101.</p> <p>Other general examination problems that we face: One is of course the language problem. U.S. Patent Office has been forced to hire many examiners, many of whom lack proficiency in the English language. Having an oral interview, especially on the telephone, with many U.S. examiners is a challenging task. Trying to get their name right is the first problem and it goes downhill from there.</p>
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HELFGOTT	<p>That is something that does need improvement, especially if we're trying to expedite examination and trying to move along through a lot of telephone interviews. In the business method areas, there it's a challenge; it's a challenge both to patent attorneys but also to the Patent Office. One is to provide adequate prior art, and this is an ongoing effort. Private industry is working together with the U.S. Patent Office to try and provide for them a better amount of prior art, but we do have to build up the prior art area in financial services, in tax, in insurance schemes. And also in the competency -- while most of us have gone to school for electrical or chemical engineering, some of the new inventions in the United States on business method patents deal with tax schemes, insurance programs, investment schemes, financial institutions. These are challenging and you have to have examiners that are competent in that field to understand these complex inventions and to be able to judge them.</p> <p>Finally we get to PCT which I'm going to cover in a minute as a separate topic, but before that just one other comment. Remember, users of the patent office are not only the applicants -- I think this was mentioned before. Users are also third parties who have to respond to challenges of patent infringement, who have to respond to charges of being an infringer, who have to investigate for determining if they should invest in a patent and the foundation of that analysis is the patent file. That's the only way we know what goes on, and as a third-party user you look at the file and unfortunately it is tremendously deficient. Frequently you see language in the claims and you say where did that word come from? It was never in the specification; it was never in the prosecution. All of a sudden a word comes into the claim and the examiner allowed it. Especially in court when they have to do a claim interpretation and they rely on the explicit record of the specification and the prosecution history and it's not there. The examiner should force the applicant to say where is that found in the application. We don't find that too often. Frequently we find claims allowed after a telephone interview and we say what happened from here to there? It was unallowable before a telephone interview and then it's allowed. Am I missing something? Frequently we find, again because we have 118 claims -- I think that was the number thrown out -- that the examiners are convinced on claim 1, they will give a limitation on claim 1 and then all of a sudden all the claims are allowed but that limitation hasn't been put in all of the other independent claims. There's inconsistency and we're faced on litigation with all of a sudden, yeah, that was the reason for allowing it but it's not there in all the claims. And the file history needs improvement.</p> <p>And finally we come to a very sensitive area on my part -- namely PCT. I know Mr. Schwartz raised that before; it's going to come up again. PCT should be the solution for the future. I think in the U.S. Patent Office it's part of their problem. PCT has always been looked at in the patent office as a stepchild. I think now it's being further removed -- it's the foster child. U.S. I understand is farming out all their searches for PCT. The U.S. examiners are not doing it themselves. Question -- what happens when it comes back to the U.S.? Will the U.S. examiner accept it as if they did it themselves? What is the quality of these outsourced searches? Is there adequate review of these searches? Historically U.S. has the worst record of searching. These are the statistics from all of the searching authorities -- you can see the percent done within 18 months which is a goal we'd all like to see; U.S. has only 20 percent searches completed in 18 months. After 30 months, which means after you've completed PCT you're supposed to make your decision -- you're in the national phase already. Almost 25 percent of the searchers first come after that in the U.S. We are not getting the benefits of PCT. PCT should be the wave of the future, the way to harmonize a single application; the way to reduce costs, the way to reduce duplicative</p>
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HELFGOTT	prosecutions and I don't think in the U.S. we are getting rightful treatment on PCT applications. Thank you.
HUNTINGTON	Our next speaker is Mr. Kamisugi from JIPA. He's the President of that organization and he's going to speak as a Japanese patent office user.
KAMISUGI	<p>Thank you, Mr. Huntington. I am pleased to be here and honored to present Japanese users comments in this meeting. I am actually the immediate past-president and now a councillor of Japan Intellectual Property Association, shortly JIPA. JIPA is a non-profit, non-governmental organization and we believe the world's largest industry organization for intellectual property, which was established about 70 years ago. We have now more than 1,000 member companies and firms. Our activities are supported by seven policy and strategy project teams and 20 standing committees where over 700 committee members are involved. We have more than 70 training courses, which give IP education and training to employees of JIPA member companies.</p> <p>Now, I would like to talk about our current problem in Japan. This slides shows result of patent infringement lawsuit in 2005 and 2006 at Tokyo District Court where almost all of patent infringement cases are decided as the first instance court. In 2005 Tokyo District Court made the decisions for 39 cases and among them patent validity issues were raised in 23 cases. In these 23 cases, the Court decided in 18 cases that the patents were invalid. The same tendencies show in 2006, in total 30 cases, validity issues were raised in 22 cases and in 18 cases the patent became invalid. There are quite high rates of patent invalidity and almost all reasons are lack of inventive step, obviousness in the United States. Why so high rate? Only poor quality patent went to the court. That may be true because most Japanese companies pay respect to valid patent right. If they do not have enough evidence of invalidity or non-infringement, they would try to settle the dispute by negotiation before the patent owner starts a law suit. Accordingly, only very questionable patents may go to the court. However, such invalidity rate also increasing in invalidation trials at the Japanese Patent Office. In this slide, total cases means the number of invalidation trials requested in that year and the invalid cases are decided also in that year. So therefore those figures do not correspond directly. Some cases requested in 1999 would be decided in 2000 or 2001 but anyway tendency is quite clear. After 2001 the invalidity rates are about 50 percent or more than 50 percent of total requested cases in the JPO. Such uncertainty of patent validity causes a lot of problems for us. For example, for patent owners they have difficulty in enforcing their patents; for others they have difficulty in evaluating patents to make any business decisions such as licensing. For all they have a doubt on credibility of examination result in the JPO. We need stable and good quality of examinations in the patent office. That will establish strong credibility of patent examination and patent validity. By analyzing the court decisions, we have noticed that most of invalidated patents were granted at the JPO during 1995 to 2002.</p> <p>This slide shows the examination result at the JPO from 1993 to 2005. The numbers of the examination requested and the patent application do not directly correspond in each year, so in 1996 more applications were patented than requested. The examination would be requested two or three years before the actual patenting.</p> <p>From this slide, anyway you will notice that during 1995 to about 2002 the patented rates are quite high as compared with the requests of examination. I believe the high patented rates for those years would be one reason of the high invalidity rates in Tokyo District Court in 2005 and 2006. Since 2002 or maybe</p>

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KAMISUGI	<p>since 2000, the patent examination became stricter than before so no more high patented rate for recent years. We expect that high invalidity rates in the court will be improved within several years. Why the patented rate was so changed? There are many reasons, for example, the revision of the Examination Guidelines in 2000, change of the JPO policy, influence of the court decisions and so on. But we believe the solution is just one -- that is establishment of good quality Examination Standards, particularly for inventive steps. JIPA has been making effort for that purpose. Relevant committees of JIPA have been exchanging comments and discussing Examination Standards and practice with the JPO at regular basis to establish stable and good quality of Examination Standards. The JPO has been also trying to establish good Examination Standards. In 2006, JPO organized a working group with JIPA members and IP attorneys to study standard for inventive step by analyzing recent JPO -- that PTO in the slide is a mistake, it should be JPO -- JPO Board and court decisions and issued a study report in early 2007 -- early this year. Based on the proposal over the Industry Trilateral Group including JIPA and AIPLA, last November the trilateral Patent Offices agreed to establish a harmonized single application format. The standard format is quite beneficial for both applicants and the patent offices. We greatly appreciate this progress made by Trilateral Patent Offices. We believe that the next step is cooperation and the harmonization of the examination stage in each patent office. For that purpose -- not only the JPO but also trilateral or worldwide patent offices need to establish harmonized and good quality of examination standards, particularly for the inventive step or obviousness, so that they can refer to search and examination results each other for their own examination. JIPA and other IP user organizations will certainly support and cooperate to attain such a goal.</p> <p>Thank you for your attention.</p>
HUNTINGTON	<p>I'm going to open the floor to questions now but I actually would like to have Mr. John Doll perhaps say a few words about the changes in training for U.S. examiners that I think people might be interested in so John, could I ask you to just say a few words about that?</p>
DOLL	<p>Thank you Danny. As was referenced, we're hiring 1200 examiners a year and with that kind of tremendous growth, we have not had the opportunity to do the one-on-one training that we've done years in the past. When I came to the patent office, we had a two- or three-week training period and then you were given to a senior examiner or a supervisory primary examiner to train. With the number of hires that we're hiring recently, we simply do not have enough primary examiners or supervisory primary examiners to do that level of one-on-one training, so we've moved to a college-type course where for eight months we bring the new employees in and we work with them in a classroom-type setting where we teach them the laws, the statutes, the regulations, we work on cases, we work on dummy cases that are mocked up so we know exactly what the result would be. Then we move them into live cases. We're trying to in a classroom environment reproduce that which we had done on a one-on-one basis. So far it's been extremely useful; we have eight classes, several have graduated. Each one of the classes we've evaluated for the effectiveness as to what they've learned, whether or not when they left the academy they had the opportunity to go back to their particular work groups and whether they could pick a case, whether they could search it, whether they could identify the best prior art, and then the objective is for them to write a draft office action in final form so the supervisor or the primary didn't have to spend the amount of time that they normally had to spend with that junior examiner to give a quality office action. Is that what you</p>

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DOLL	were looking for Danny?
HUNTINGTON	It was. Thank you very much.
DOLL	Alright, thank you.
HUNTINGTON	I will now open the floor to questions.
MICHAUS	This is Martin Michaus, President of ASIPI, American Intellectual Property Association. First, I really appreciate the kind invitation from Danny Huntington and Mike Kirk to come here. Now, to to Mr. Helfgott : my concerns were increasing when I hear him listing all the issues that he's facing in the U.S. procedure that he now can expand in the other parts of the regions of the world, mainly Latin American because we have seen the problems but now some of them just relating to Spanish and with similar problems with examiners, the communication with examiners, and the experience with handling PCT and mostly because most of the patents that you file in the U.S., Japan or Europe are applied in our countries, even through the PCT. And I think you should be commended to think about expanding this very good exercise and therapy of other countries because a weak quality of the patent granted in the U.S., Europe, probably Argentina, Chile and Mexico, will be the substantial difference. Then I support that something at this point might be discussed and also in all forms and also taking into account all the specific points. Thank you.
HUNTINGTON	Jan Modin?
MODIN	I'm Jan Modin representing the Swedish Association of Patent Attorneys. I found among the complaints a common denominator relating actually to PCT process. Danny Huntington mentioned the lack of dialogue at the EPO during the examination procedure even though this is not used as much as it used to; it's very important for certain category of applicants. And in the U.S. we noted the searches are outsourced and probably inadequate to get strong patents. And also in Japan we heard before that the novelty and inventive step issues are not properly dealt with so many patents are invalid in litigation afterwards. Now recently the PCT reform process has been finalized without really solving the problems and desires to coordinate search and examination properly. In fact, the introduction of a written opinion with the search report has compressed the examination period to eight months or less in practice and also the efforts to have more than one search made have also failed, so I would think that most of the user groups would wish another round of PCT reform discussions focusing on coordinating search and examination. I don't know which user categories are happy with the changes now made, so I'd like to hear comments from the panel on this. Thank you.
ALGE	Well, I think especially Chapter 2, or what has been formerly Chapter 2 is now almost ignored, at least from the European Patent Office and while this may be okay for many users for large industry or whatever, that's not the thing that other users, other applicants wish who are heavily relying on early assessment and I think there is no PCT amendment necessary for that, at least what the European Patent Office's practice is; it'd just be a change of practice to the practice as it was before, as it was in the 90s.
HUNTINGTON	Sam?
HELFGOTT	As far as the PCT reform, at least from my perspective, users are very happy with it. They appreciate doing away with the requirements that go into Chapter 2. I think, however, I would agree with John that further exploration is needed in how best to implement PCT in the national patent offices. I don't think that adequate care and concern is being given to the importance of PCT in any of the patent offices. I look upon PCT as perhaps a solution, as I said before; I know the trilateral keep going to efforts to have exchange of search and examination over

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HELFGOTT	the patent prosecution highway. Numerous procedures, all of which are excellent, in trying to make better use of search and examination that's done in the individual patent offices and relied upon in other patent offices, and I keep saying we have that here and now; we have PCT. Why don't we make use and give good faith and credit to the PCT searches? Why don't the patent offices do a better job and focus more on the PCT applications so that other patent offices can rely upon it? I was surprised to hear from Daniel that PCT in Europe is deteriorating to that extent; I'm surprised that I hear that the U.S. Patent Office is farming out what should be the focus of their efforts to improve the search in PCT so other patent offices can make use of it and that would really reduce the backlog if reliance could be made upon that as more people make use of PCT. So I'm happy with PCT reform; I'd like to see a phase whereby patent offices learn to make better use of the PCT and I think that would be a help in reducing a lot of our problems.
HUNTINGTON	Mr. Kamisugi?
KAMISUGI	PCT is I think important but there are so many member countries in the PCT, so based on the current PCT, we need to, just as I said, harmonize kind of practice and requirement, especially in the trilateral patent offices with some other patent offices and that will be more important for us right now. Thank you.
HUNTINGTON	Mr. Triana?
TRIANA	Thank you, Danny. Fernando Triana from Colombia, Vice President of ASIPI. I want to comment on Mr. Kasmisugi's presentation; I cannot agree more with his conclusion and I found very troubling your statistics -- almost 100 percent of the patents in Japan in the past two years have been invalidated on the inventive step basis -- very troubling. And very troubling because a subjective matter and the criteria of the examiner is a big problem in the American jurisdiction as well that have led in the Latin American countries basically to insecure IP rights for the title holders. Ultimately it is destroying the system because it has been opening doors for the enemies of patents all over the emerging markets. So I would like to know if that interesting report you mentioned that was the conclusion of the court decisions and the basis of the seminar given by your organization is translated into English and can be circulated so we can begin working in some type of manner of all standards for examiners at least in our jurisdictions. Thank you.
KAMISUGI	I cannot promise everything here but as I said such high invalidity rates at the Japanese court is kind of a tentative situation, not forever. It will be improved in several years according to my expectation right now. If you need some special data, you can email me but I don't know if I can prepare the English translations of Japanese information.
HUNTINGTON	Well, with that I'm going to cut off the questioning on this so that we can go to our next panel. I know there were some other hands and I'm sure our speakers would be willing to answer questions during one of the breaks or perhaps at lunch.