



PUBLIC INTEREST
INTELLECTUAL PROPERTY
ADVISORS



The PIIPA Quarterly

Public Interest Intellectual Property Advisors

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FAIR ACCESS: JUST RESULTS

Mission

PIIPA is an international non-profit organization that makes intellectual property (IP) counsel available, without cost, to organizations serving the public interest in developing countries.

This includes support to projects targeting the promotion of health, agriculture, science, culture, biodiversity, environmental protection and poverty alleviation in developing countries. PIIPA has the following main activities:

1. Leveraging a worldwide network of IP professional volunteers (the IP Corps);
2. Operating a clearing-house where organizations can seek IP-related advice and representation from the IP Corps as a public service (pro bono) for qualifying projects; and
3. Pooling together information resources and fomenting discussions relating to intellectual property rights and development concerns.

With international partners and local affiliates in different world regions, PIIPA aims to deliver its services in a manner relevant to developing country needs, local context and culture. PIIPA resources can be scaled up or down to meet particular requirements in a developing country at a given time. Its services are extended not only to organizations but also to local communities, small businesses and individuals with projects which meet well-defined criteria relating to public interest and financial necessity.

Welcome 2007

The past year was a significant and eventful one for PIIPA. In February 2006, we launched our world-wide survey of intellectual property-related needs in developing countries, with the support of the U.K. Department for International Development (DFID). In April, we held our first symposium in Washington D.C., bringing together stakeholders in both developed and developing countries to discuss substantive needs for pro bono IP assistance in areas of particular interest to developing countries. Themes addressed include such areas as 'public interest' dimensions in legislative reforms, technology transfer in the health and agricultural sectors, and the protection of new and traditional cultural expressions in developing countries.

With renewed support from the Rockefeller Foundation, PIIPA's IP Corps has been able to extend its contribution of voluntary, practical assistance in response to more than 100 requests serving the public interest in developing countries. This includes assistance in intellectual property-related matters ranging broadly from IP acquisition and management, for example in public-private health research initiatives, through to legislative review and challenge of intellectual property rights where appropriate in the public interest.

All this would not have been possible without the strong participation from stakeholders in developing countries,

support from donors and partner organizations, and the dedicated expertise of our IP Corps. The latter network includes academics from world-leading institutions, policy-makers, legal practitioners, applied scientists, technology transfer experts and specialists from other intellectual property-related sectors in both developed and developing countries. A valuation of the donated expertise (based on the professional rates reported by the experts) indicates that in-kind services of over US\$ 1 million in value have been donated by our IP Corps so far to PIIPA-supported projects.

In 2007, PIIPA will continue our endeavor to strengthen our global network through building strong partnerships and involving our volunteers as regional 'nodes'. We will also strive to maintain consistent high quality in the pro bono assistance rendered by our IP Corps, while ensuring the relevance of the assistance to the local context in developing countries. This issue of the newsletter provides updates on these various initiatives and sheds light on new efforts to gauge the local impact of PIIPA-supported projects.

I wish to take the opportunity meanwhile to welcome Dr. Graham Dutfield, a leading authority and prolific writer on intellectual property and development issues, amidst our International Advisory Committee.

Steven C. Price
CEO/President
PIIPA

PIIPA Pro Bono Services

Depending on national laws and international conventions, the IP Corps can provide qualifying assistance seekers with advice and representation for matters including the following:

- Patent application, licensing, challenge and invalidation
- Search and analysis of patent portfolios to determine freedom to operate
- Trademark registration, licensing, challenge and invalidation
- Certification mark registration, licensing, challenge and invalidation
- Copyright counseling, licensing and litigation
- Trade secret protection, counseling and litigation

- Protection of geographical indications under national and international regimes
- Analysis of provisions and flexibilities for developing countries within the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Assistance to developing country governments and public interest NGOs in analyzing and negotiating intellectual property-related provisions in multilateral instruments and Free Trade Agreements
- Analysis of the overlap between the protection of traditional knowledge and intellectual property rights

- Negotiation of access and benefit-sharing agreements in relation to genetic resources and associated traditional knowledge
- Negotiation of agreements facilitating access to medicines
- Drafting or review of legislation involving IP protection, e.g. in relation to genetic resources, traditional knowledge, and access to medicines
- Dispute resolution on matters involving intellectual property rights and indigenous rights
- Resolution of other national, international and multinational disputes involving IP.

WWW.PIIPA.ORG

Gauging Output and Local Impact

PIIPA is taking steps to ensure the professionalism and relevance of services provided by our IP Corps in responding to developing country needs. To begin with, projects are systematically reviewed and continual feedback is gathered from assistance seekers on both the quality and output of services provided by the IP Corps. Lessons from the project reviews are channeled towards PIIPA's organizational development.

PIIPA is also working closely with its assistance seekers to gauge the local impact in developing countries of the projects receiving pro bono IP assistance. Experiences from a pilot phase involving 12 projects thus far will be used to develop an evaluation framework for PIIPA-supported projects.

Insights from the pilot impact assessments are already enriching PIIPA's knowledge base. These experiences will not only be shared between PIIPA-supported projects, but also with partner organizations and interested members of the public. Lessons from the impact assessments will furthermore help PIIPA to refine its 'public interest' criteria for supporting future projects. Two cases taken from the pilot studies are mentioned here.

Open Source Data Tools for Public Health

Members of PIIPA's IP Corps are providing IP assistance to a project which addresses the lack of usable public health information in developing countries. Designed by the Datadyne Group, a U.S. based consultancy, the 'EpiSurveyor' project creates inexpensive, open-source tools for data collection, analysis, and utilization. According to Dr. Joel Selanikio, the project's director at Datadyne, the IP assistance rendered by PIIPA has been "essential in elaborating an open-source license which would otherwise have incurred substantial financial burdens" on the not-for-profit project.

Currently implemented under the auspices of the World Health Organization (WHO) and the US Centers for Disease Control and Prevention (CDC), the project targets the entire population of sub-Saharan Africa – approximately 600 million people, of whom about 25 million are HIV-infected and in need of consistent and reliable healthcare. Datadyne has considered numerous indicators in evaluating the local impacts of the project. After the first year of operations it will be able to measure changes in a number of variables including 'clinical drug stockouts' (when the clinic runs out of drugs), forecast accuracy, and the speed of response to outbreaks.

International Alpaca Association (IAA) Opposes U.S. Certification Mark Registration

The IAA is a private-sector non-profit association based in Peru. It represents individual breeders and companies processing or commercializing fiber from alpacas, llamas, other South American camelidae and their hybrids.

PIIPA's IP Corps members are assisting the IAA in legal actions to oppose an application by a U.S. farm to register "Alpacamark" as a certification mark in the U.S.. According to Ms. Claudia Fernandini, representing the IAA in Peru, the association has been using such a mark for the alpaca fiber industry for many years, even though it is not registered as a certification mark in the U.S.. She noted that a successful registration of the certification mark by the U.S. farm in question could prevent the IAA from using its own 'Alpacamark' in the U.S.. Consequent problems in exporting to the U.S. will impact the entire alpaca industry in Peru, whose exports generate income for some of the poorest communities in isolated areas of the Andes.

The legal argument made on behalf of the IAA by PIIPA's IP Corps members in the U.S. is that "Alpacamark" is generic or descriptive, and that no one entity should have exclusive rights to the mark for certifying alpaca goods. Rather, the mark should be in the public domain for use by anyone to certify alpaca goods where legitimate. The IAA stated in its impact assessment that it would not have been possible for them as a non-profit organization to oppose the registration in the U.S. without the pro bono assistance provided by PIIPA. In the long term, successful opposition will help promote socially responsible business dealings with developing countries.

Building Partnerships

PIIPA provides on-going support to several partner organizations whose international work involves management of intellectual property rights in the public interest. For example, members of PIIPA's IP Corps are actively supporting projects of the Public Intellectual Property Resource for Agriculture (PIPRA), the African Agricultural Technology Foundation (AATF), the Centre for the Management of Intellectual Property in Health Research and Development (MIHR), and Light Years IP.

PIIPA has recently been approached to locate pro bono expertise for a patent landscape analysis in HIV/AIDS vaccine technologies for a joint-project of PIPRA and MIHR, with the collaboration of researchers at the International AIDS Vaccine Initiative (IAVI).

PIIPA was also approached by the Rockefeller Foundation in May 2006 to provide advice on intellectual property rights and policy in the areas of plant molecular biology and plant breeding to HarvestPlus, a 'global challenge program' of the Consultative Group on International Agricultural Research (CGIAR). Launched in 2003, the program is managed by two of the 16 Future Harvest Centers supported by CGIAR: Centro Internacional de Agricultura Tropical/International Center for Tropical Agriculture (CIAT) and International Food Policy Research Institute (IFPRI).

A major goal of the HarvestPlus program is to make biofortified crops available to developing countries. These crops have enhanced ability to store iron and zinc, and can also be enriched with vitamin A and other nutrients. This effort is divided into two phases, each of which focuses on a group of crops of importance to developing countries.

PIIPA is in discussion with other non-profit organizations and initiatives to define common interests and avenues for collaboration in the public interest. Enquiries are welcome and can be directed to Steven Price at scprice@piipa.org

Update on PIIPA Survey

PIIPA mounted a global survey in 2006 to determine the world-wide need for pro bono intellectual property assistance. Funded by the United Kingdom Department for International Development (DFID), the primary purpose of the survey is to ensure that PIIPA services are tailored to actual demand in developing countries, as reflected by needs and trends identified by stakeholders in the countries concerned. The PIIPA survey also presents an important tool for outreach both to organizations potentially requiring PIIPA's services and to IP professionals interested in pro bono work.

Distributed on-line to over 7,000 recipients in organizations around the world dealing with intellectual property and the public interest, the 2006 survey is the first step of an ongoing process to study emerging trends and identify the particular technical needs of organizations requiring pro bono assistance with intellectual property matters. Analysis

of the identified trends will help PIIPA to further target its available resources to meet developing country needs. In addition to the on-line survey, PIIPA representatives in different countries are approaching relevant organizations and local community representatives on their IP-related needs whether in person or by phone.

Data from the 2006 survey is being analyzed using standard statistical techniques, with the results charted according to income level, region, sector (e.g. health, agriculture), field of IP assistance needed (e.g. copyright; geographical designation; traditional knowledge) and the particular matter requiring assistance (e.g. licensing; fair use options; challenging IP rights; drafting legislation). The key survey results will be summarized and shared in a published report in early 2007. PIIPA welcomes contributions towards an academic peer review of the survey results. Please contact Steven Price at scprice@piipa.org

Getting Volunteers Into Core Operations

A major challenge for PIIPA in 2007 is to find creative channels to engage committed volunteers in the global outreach of the organization. Many PIIPA volunteers have expressed interest in becoming more actively involved in the organization's mission beyond their current ad hoc contribution as experts in PIIPA-supported projects.

A PIIPA 'volunteer management' taskforce has been set up to address this cross-cutting area and define a strategy for engagement of volunteers in the functioning and outreach of the organization. This taskforce comprises staff and International Advisory Committee (IAC) members Dr. Jane Aldrich (PIIPA Project Manager), Dr. Ben Prickril and Ms. Tzen Wong (PIIPA Advisor). The taskforce is in the process of defining principles to be applied in managing PIIPA

volunteers; channels to enhance communication with volunteers; issues of volunteer mandate; and steps to graduate committed local representatives in developing countries to regional portfolios.

Responding to a call for interest in September 2006, a number of highly qualified and motivated PIIPA volunteers from different world regions are already providing inputs to the taskforce on their potential roles as local or regional representatives for PIIPA. The taskforce is grateful for these inputs, and looks forward to further collaboration with these professionals. Through active participation of these and other individuals, PIIPA hopes to bring its services even closer to the local context, culture and particular IP-related needs of developing countries.

Volunteers interested in these initiatives, please contact Jane Aldrich at jaldrich@piipa.org.

Events

PIIPA CEO Dr. Steven Price gave a presentation to the Pittsburgh Intellectual Property Law Association on 18 October 2006. There were approximately 50 attendees. The presentation resulted in one tentative new PIIPA project. An expert volunteer was also identified for a Special Interest Group Panel Dr. Price will be chairing at the Association of University Technology Managers on 9 March 2007. This panel will address modalities to increase the pro bono involvement of IP professionals in the U.S. and internationally.

On 30 October to 1 November 2006, Dr. Price attended a presentation in Cali, Colombia, by Ms. Susan Bragdon, a consultant with the Rockefeller Foundation, to the HarvestPlus Advisory Committee and Program Management Team. The presentation explored intellectual property-related provisions for research agreements in the areas of plant molecular biology and plant breeding.

On 3 December 2006, Dr. Price gave a presentation at a session about intellectual property management, organized by IAC member Victoria Henson-Apollonio, as part of the CGIAR Annual General Meeting in Washington DC. PIIPA's founding Chair Michael Gollin and Director Manuel Ruiz also participated.

PIIPA IP Corps members Ms. Claudia Fernandini, from the law firm Clarke, Modet & Co. Perú S.A.C., and Mr. Samuel Adewusi from the African Artists Collaborative, Inc.

(AAC), made presentations on PIIPA projects and other case studies at a conference organized by the International Intellectual Property Institute (IIPI) on 15-17 November in Windhoek, Namibia. The speakers participated on a panel discussing 'Case Studies of Developing Economies Using Trademarks and Geographical Indications'.

At the said panel, Ms. Fernandini discussed steps currently being taken in Peru towards recognizing and protecting a geographical indication on ceramic from the Chulucanas region. She also elaborated on the IAA 'Alpacamark' certification mark case assisted by PIIPA (see p.2 above). Mr. Adewusi presented on PIIPA's collaboration with the AAC, an entity recently set up to provide a range of IP-related services to African inventors and artists in such areas as copyright protection and licensing, the registration of trademarks and geographical indications, as well as the protection of traditional knowledge.

PIIPA IAC members Dr. Roy Widdus and Dr. Ben Prickril attended the WHO Intergovernmental Working Group on Public Health, Innovation and Intellectual Property ("IGWG") meeting held in Geneva on 4-8 Dec 2006. The meeting was set up by the World Health Assembly in May 2006, and resulted in a written global strategy and plan of action (see www.who.int/gb/phi/PDF/phi_igwg1_4-en.pdf) to be used in further discussions of issues surrounding IP and public health. PIIPA has expressed willingness to work with the WHO to help serve the public interest IP needs of

its member states.

PIIPA board member Prof. Charles McManis presented a statement noting the activities of PIIPA at the 10th Session of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on IP, Genetic Resources, Traditional Knowledge and Folklore. Prof. McManis was an observer at the session, held in Geneva between 30 November and 8 December 2006, on behalf of the International Association for the Advancement of Teaching and Research on Intellectual Property (ATRIP).

PIIPA has observer status as an international non-governmental organization at relevant Assemblies of WIPO Member States, Standing Committees and Committees of Experts. At its 10th Session, the Intergovernmental Committee (IGC) on IP, Genetic Resources, Traditional Knowledge and Folklore adopted two lists of core issues upon which future committee discussions would focus. These core issues (posted at www.wipo.int/tk) cover such questions as definitions of traditional knowledge and traditional cultural expressions, the form and scope of protection, and the nature of the beneficiaries. The IGC requested delegates and observers to provide inputs on these core issues. Inputs received by the end of March 2007 will be posted on the WIPO web-site and conveyed to member states by the end of April 2007. PIIPA IP Corps members interested in contributing inputs on the core issues can contact Tzen Wong at tzenwong@piipa.org.

News from the International Advisory Committee (IAC)

The bi-monthly meetings of the IAC held through tele-conference provide a unique forum for IAC members around the world to exchange inputs on specific PIIPA directions as well as on salient public interest topics relating to intellectual property rights. In recent meetings, the IAC discussed such themes as PIIPA's mandate and criteria for supporting projects; indicators for conducting impact evaluations; building partnerships with non-profit organizations; lessons from legislative reforms in developing countries; new PIIPA-supported projects and matters relating to PIIPA funding and outreach.

In the upcoming meetings for the IAC, topics for discussion will include multi-faceted considerations and particular challenges in defining 'public interest' in intellectual property-related work. Suggestions of other pertinent topics for consideration by the IAC could be addressed to Tzen Wong at tzenwong@piipa.org

Graham Dutfield Joins IAC

At the IAC meeting of September 2006, PIIPA welcomed its new distinguished member Graham Dutfield [BA (Hons), MPhil (Cambridge), DPhil (Oxford)]. Dr. Dutfield is Herchel Smith Senior Research Fellow at Queen Mary, University of London. He was formerly Academic Director of the UNCTAD-ICTSD Capacity-building Project on Intellectual Property Rights and Development. His current research interests include history of patent law and the life science industries; biotechnology, genomics and the patent system; plant variety protection; the politics of intellectual property; intellectual property and genetic resources, traditional knowledge and folklore; and intellectual property and development. Dr. Dutfield is the author of many publications including:

Intellectual Property Rights and the Life Science Industries: A Twentieth Century History, Aldershot: Ashgate, 2003

Intellectual Property, Biogenetic Resources and Traditional Knowledge, London: Earthscan, 2004

Protecting Traditional Knowledge: Pathways to the Future, Geneva: International Centre for Trade and Sustainable Development, 2006

Assessing the Development Impacts of Intellectual Property Negotiations, Proposals, Reforms and Agreements: A Concept Note, Geneva: Quaker United Nations Office, 2006

Other publications of Dr. Dutfield can be found on www.ccls.edu/staff/dutfield.html

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