



September 22, 2004

Dr. Kamil Idris
Director General
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Dear Mr. Director General,

We are writing on behalf of the Industry Trilateral to express our strong opposition to the proposal by the World Intellectual Property Organization (WIPO) to raise the International Filing Fee by 12% beginning January 1, 2005 (document PCT/A/33/5).

The proposal recalls that the PCT fees were modified just last year by the PCT Assembly fixing the new International Filing Fee at 1,400 Swiss francs (replacing the former basic fee and designation fee). The Director General stated his intention to consult with Member States and to review the actual usage of the new PCT arrangement. On the basis of this work, the Director General indicated that he would propose a readjustment of the PCT fees, if necessary, in 2004. While document PCT/A/33/5 states that, at the time of its preparation, information on actual use of the PCT under the new arrangements shows that the International Filing Fee, if not readjusted now, would result in a significant shortfall of the PCT income, no details are proffered in that document.

Without a convincing justification, the Industry Trilateral must oppose the proposal for increasing the International Filing Fee at this time. Specifically, we base our opposition on the following considerations:

1. Last year, when increases were approved, the number of international filings had decreased relative to previous years. The International Bureau (IB) reported that this decrease would result in a reduction of income from PCT fees. Currently, however, we understand that PCT filings have increased to an annual growth rate of approximately 4%.
2. With implementation of the electronic filing system in the PCT operations in the IB, there has been a concomitant increase in electronic filings which should have resulted in higher efficiencies and a more productive staff.

3. The proposal to increase the International Filing Fee does not contain any analysis evidencing a shortfall of PCT income. To justify the proposed increase, an accounting of the costs of the PCT operation, the income realized from PCT fees, and the use to which PCT fee revenue is put should be provided. The proposal lacks any such information.

4. As noted above, the Director General stated his intention to consult with Member States and review the actual usage of the new reformed PCT during this past year. As we understand it, no such consultations have yet taken place. Thus, users are unable to learn from their national and regional offices what the situation actually is regarding PCT fee income and its use.

We are aware that PCT funds are used to subsidize other WIPO programs. Indeed, it is our understanding, based on document WO/PBC/7/2, that PCT is expected to generate 505,719,000 Swiss francs for the 2004 – 2005 biennium, but will only receive 124,603,000 Swiss francs of this total. While we are interested in some of these other activities, we believe this difference exceeds the limit as to how much PCT applicants should reasonably be expected to subsidize the other activities of WIPO.

For all of these reasons, we urge that the proposal to increase the International Filing Fee at the upcoming PCT Assembly Meeting be deferred and not adopted until and unless the International Bureau can justify the proposed increase.

Sincerely,

Philippe de Buck
UNICE Secretary General



J. Jeffrey Hawley
President of IPO



Taisuke Kato
Managing Director of JIPA



Rick Nydegger
President of AIPLA

