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1001 Fannin Street
2300 First City Tower Building
Houston, TX 77002-6760
blafuze@velaw.com

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740 15th Street N.W.
Washington, DC 20005-1009

202-662-1772
gregoryh@staff.abanet.org

AMERICAN BAR ASSOCIATION

**Section of Intellectual
Property Law**

321 N. Clark Street
Chicago, Illinois 60610-4714
(312) 988-5598
FAX: (312) 988-6800
E-mail: iplaw@abanet.org
<http://www.abanet.org/intelprop>

September 27, 2004

Kamil Idris
Director General
WIPO
34, chemin des Colombettes
Geneva SWITZERLAND

Dear Director Idris,

On behalf of the American Bar Association Section of Intellectual Property Law, I wish to address the proposal by the World Intellectual Property Organization (WIPO) in Document PCT/A/33/5, indicating an intention to raise the International Filing Fee of the Patent Cooperation Treaty (PCT) by 12% beginning January 1, 2005. These views have not been submitted to the House of Delegates or Board of Governors of the ABA, and should not be construed as representing policy of the Association.

The Section of Intellectual Property Law, with nearly 20,000 members, is very appreciative of WIPO and its wide range of activities in intellectual property matters. We are especially pleased with the activities of the International Bureau in implementing the PCT. This treaty has proven to be an extremely useful tool in international patent filing activities. Applicants from the United States make up the largest single country group utilizing PCT, representing approximately 36% of originating applications.

Nevertheless, we must indicate our opposition to the current proposal for increasing the International Filing Fee as being untimely, unnecessary, and lacking reasonable justification.

In that regard, the American Bar Association Section of Intellectual Property Law has approved the following resolution:

RESOLVED: Section of Intellectual Property Law opposes in principle any increases in PCT fees not adequately supported by an appropriate and justifying analysis and specifically opposes the proposed readjustment of the International Filing Fee in document PCT/A/33/5 dated August 20, 2004 proposing an increase in the International Filing Fees of 12%.

Mr. Kamil Idris
September 27, 2004
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We specifically note that the International Bureau has indicated PCT filings have increased at a growth rate of approximately 4%. Furthermore, implementation of the electronic filing system within PCT should have resulted in higher efficiencies and a more productive staff. Additionally, with the passage of Article 22 and the readjustment of fees, the end result is that the total dollar amount per PCT application that applicants pay has dramatically increased from previous years.

Most significantly, the WIPO proposal to increase the International Fee does not contain any analysis evidencing a shortfall of PCT income. To justify any proposed increase, a full 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.

Finally, we believe that it would be helpful if the Director General would consult with the Member States to review the actual usage and the funding needs of the PCT, and through such consultations to determine if an increase in the International Filing Fee is appropriate.

Sincerely yours,



William L. LaFuze
Chair

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