A after several hours of debate yesterday, the Study Committee Meetings reached initial resolutions on four pressing IP topics: 1) plausibility, 2) artificial intelligence (AI) and copyrights, 3) consumer surveys, and 4) damages.

Questions asked during the sessions provided ample room for discussion and led to some surprising, and expected, resolutions from the international teams.

"We know the world is changing very much," she said. "We are discussing AI, stem cells, and many unthinkable things [that] the fathers of AIPPI never could have dreamed of."

She explained how resolutions from study questions will be given to lawmakers and authorities around the world to better inform them about IP rights.

"IP rights are essential for the development of the economy. IP rights are not only a tool for IP owners, but also for small and medium-sized companies."

The other keynote speaker was former UK IP minister Jo Johnson, who has held the position not once, but twice.

"Given the considerable turbulence in politics and the challenging times the UK is facing, I’m confident that the UK will remain one of the best places for IP," said Mr. Johnson, the brother of UK prime minister Boris Johnson.

He went on to say that for the UK’s pharma, technology, creative and financial sectors in particular, IP is pivotal.

Mr. Johnson made reference to Abraham Lincoln, who praised the UK as a pioneering country for IP. In Lincoln’s words, the patent system “added the fuel of interest to the fire of genius.”

Mr. Johnson added that the UK market maintains a high respect for IP without allowing IP to stifle enterprise. He praised the highly respected courts and professionals that contribute to the predictability and credibility that make the UK a place for innovation.

The study session on IP damages for non-sale acts addressed the issue of ‘franking’. An IP version of double jeopardy, franking means there should be no further liability for infringement once damages have been awarded for a product. The study committee decided no policy on franking should be made in order to allow products already subject to damages to circulate freely without further liability for infringement.

A resolution from the study session on plausibility reached agreement that already-existing original art that would otherwise be copyrighted. At this stage a human being can select the best ‘art’ from the AI for copyright protection, or allow the machine to assume responsibility for artistic taste by selecting the best works itself.

After much exchange the study group concluded that art created by AI using non-human data should not be eligible for copyright protection. They likewise decided that, regardless of whether a human being selects the final product, any works created purely by AI cannot be copyrighted.

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President: giving all nations a voice

Renata Righetti wants all national groups, even those in smaller and underdeveloped IP systems, to communicate and speak up for IP, as she tells Max Worsters

A t last year’s AIPPI Congress in Cancun, Mexico – and just hours before she became president of the association – Renata Righetti made it her mission to improve communication among the many national AIPPI groups.

She told Congress News that there had been a perception of a lack of communication and that she was keen to implement a better understanding among the different groups, the Bureau and the members at large, in order to be able to achieve AIPPI’s goals.

Does Ms. Righetti feel AIPPI is progressing one year on?

“We are working on it,” she says. “Our work is not completed yet as there are a lot of things still to finish and develop but every small step helps.”

She notes that some groups have been able to move forward with better activities and communication.

Jurisdictional inconsistencies

With around 70 national groups – varying in size from three to more than 700 members – keeping everyone in contact with each other is always going to be a tricky task.

Ms. Righetti says there are “huge differences” among the various groups’ activities. Some groups, for example Japan, she notes, arrange monthly seminars, while the French and other European groups are also very active.

AIPPI collaboration on TRIPS case law enters pilot phase

The WTO Secretariat and AIPPI have further advanced their collaboration on the TRIPS Case Law Digest. This collaboration collects national case law that applies, relies upon, or otherwise refers to provisions of the TRIPS Agreement as agreed to in principle at the 2018 Cancun Congress. It will now enter a pilot phase with the Standing Committee on TRIPS, chaired by Catherine Mateu, before becoming fully operational next year. At Saturday’s meeting of the Standing Committee, Antony Taubman, director, and Wolf Meier-Ewert, counselor, of the WTO Secretariat’s IP Division, discussed details of the online case law collection interface and coordinated next steps. Hosted by the WTO Secretariat’s IP Division, the TRIPS Case Law Digest will be a publicly-available resource and is planned as a collaborative project, developed through sustained relationships with contributing IP institutions, both academic and professional, around the world.

“Other groups are sometimes not as active and we want to help them become more so,” she says. However, this is not always due to lack of communication, she adds.

Africa has relatively few national groups, she says. “We have groups in South Africa and Nigeria as well as Egypt. I think in the countries where there is still a need for more development or where the understanding of IP is not so developed is where we need to improve.”

She adds: “It was the same case in parts of Asia until a few years ago. Previously it used to be only the foreign brands who wanted to protect their rights – we want to move away from that and help nations’ approach to IP become more global.”

She notes that there is still space for more development. “India is growing, as is China. Other Asian countries are starting to develop too; Myanmar has just introduced a new IP law [earlier this year], and there is also space to grow in some parts of South America.”

AIPPI influence

AIPPI is one of the world’s oldest organisations dedicated to the protection and improvement of IP. It was set up in 1897, nearly 15 years after the signature of the Paris Convention for the Protection of Industrial Property in 1883. Ms. Righetti has been an AIPPI member since the 1990s, including serving as an assistant secretory general, president of the Italian national group, and as vice president of the association. Much has changed in her time with AIPPI, as Ms. Righetti noted last year: “Once upon a time, AIPPI was almost the only IP association to be heard and listened to.”

However, today it is one of several such organisations around the world. These include INTA, which regularly attracts 10,000 or more delegates to its annual meetings, in contrast to AIPPI’s typical attendance of around 2,000. Other IP organisations like AIPLA, in the US, and Marques in Europe, are well known among IP professionals and host regular events.

Despite the increased competition, Ms. Righetti is not worried, as she said at the time of her appointment last year: “A lot of associations were born, or became larger. So it is much more difficult nowadays to be influential than in the past. But one thing I wish to underline is that AIPPI is really different from all the other associations. This is something I am very proud of.”

Expanding on this, Ms. Righetti says she believes the association has a strong influence – though she stresses that it is “not a lobbying organisation.”

“We have a history of making influential decisions and resolutions. We can’t impose policy or implore lawmakers to adopt our resolutions, but we are very influential and want to keep it that way – AIPPI was created more than 100 years ago and still we are heard and listened to today.”

She adds that its resolutions – adopted at the Congress – are often cited and occasionally mentioned by lawmakers and governments.

“It does also depend on the national group,” she notes. “In some countries AIPPI resolutions are more important than others. They carry less weight in countries that are not as developed, but in more established jurisdictions AIPPI members are sometimes called upon to give suggestions to lawmakers.”

This year AIPPI signed an agreement with WIPO for the first time, with a memorandum of understanding being agreed on May 1 under which the two committed to cooperate more closely with each other.

“We want to be in contact with each other and exchange ideas. We have always done that to an extent but I think it was taken for granted previously, whereas now it is officially recognised. We always keep in contact with all the national IP offices and report all our resolutions to them.”

Ms. Righetti adds that AIPPI tries to communicate with other IP associations as much as possible.

“We try to stay in contact with them,” she says, though she notes that they have different opinions. “We are trying to develop IP because we believe it’s a powerful tool to develop economies and contribute to wider developments and not just to support big corporations.”

Changing the structure

One of the things the association has changed is focussing on its structure.

In August last year, Dr Arno Hold was hired as executive director. Hold took the reins just weeks before last year’s Congress and Ms. Righetti says his influence is being felt.

“We felt we needed someone with the expertise to make us a stronger structure with more expertise and competencies,” she says, before concluding: “Previously we have not really had a business model as such, so having somebody come in with a managerial way of taking care of issues is helpful.”

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At the third annual Young AIPPI Forum yesterday morning, Doron Davidson-Vidavski, a facilitator and trainer with a background in law and acting, engaged an audience of IP lawyers aged 36 and under on how best to build a personal brand in their role.

As Jeff Bezos, CEO of Amazon, famously said: “Your brand is what other people say about you when you’re not in the room.”

Communicating with assertiveness and confidence, establishing relationships and building trust are things every lawyer should keep in mind in building their personal brand. “Law firms all tend to say that they care about their clients and understand their needs,” said Mr. Davidson-Vidavski. “The thing that makes the difference for the firm is the lawyer.”

Focusing on what is said and how it is said is key when communicating. The top three tips to keep in mind are to maintain eye contact, have an open posture and pay attention to the tone of voice. A lack of eye contact can give the impression that you do not care about what the other person has to say. Without an open posture, one may come off as nervous or tense. It’s also important to pay attention to someone’s level of energy and try to adjust your tone to match the other person’s.

A lack of confidence is a common limiting belief that Mr. Davidson-Vidavski comes across and is one that he has struggled with. He stressed the importance of being aware of our own limiting beliefs to overcome them. “We all have presumptions about how other people think of ourselves,” said Mr. Davidson-Vidavski. “But the more we focus on these limiting beliefs, the more we give them space to exist, and that’s a killer of confidence.”

The first step to stopping limiting beliefs is to identify the belief itself. Then, recall when and where the belief occurred. Next, challenge its accuracy because it may well be something that is only imagined and far from the truth. Finally, form a realistic counter-part belief and push yourself to move towards it.

Shifting to establishing relationships and building trust, Mr. Davidson-Vidavski pointed out that lawyers tend to have certain mindsets which can sometimes make them less people-focused. These include the tendency to assess risk and think of the negative first, wanting to tell rather than listen, focusing on the details, and wanting everything done quickly.

“To establish good relationships, we have to shift from a lawyer to a people mindset,” said Mr. Davidson-Vidavski. This means instead of thinking of the worst in everything, one should uncover opportunities by being open to learning, asking open-ended questions and demonstrating that you are making time for someone. Rather than always wanting to be interesting and talking too much, show people who you are talking to that you are interested in them. Above all, a can-do attitude is of utmost importance. “Saying no all the time can create the impression that you’re non-collaborative,” said Mr. Davidson-Vidavski. Another word to keep to a minimum is ‘but’, especially when lawyers need to give feedback to more junior staff. “A message will land more willingly with the person when it’s portrayed in a positive way,” Mr. Davidson-Vidavski concluded.
Highlights from the Executive Committee’s first meeting

Renate Righetti, president of AIPPI, opened yesterday’s Executive Committee meeting by paying tribute to Andrzej Ponikiewski, member of honour of the Polish group, and George Przynak, member of honour of the Canadian group, who both sadly passed away in the past year.

The Nominating Committee then oversaw the elections of new members to the Bureau and the various Statutory Committees. The new Bureau Committee will consist of secretary general Marek Lazewski, based in Poland, first deputy secretary general Annie Tooi, from Hong Kong, and second deputy secretary general, Nazli Korkut, located in Turkey. Isabelle Chabot, based in Canada, will be the assistant to the secretariat.

The elections were followed by a number of updates from various committees. Joshua Goldberg, from the Communications Committee, kicked off with an update on the need for AIPPI to increase communication both internally and externally. With LinkedIn being an important social media platform, a protocol for LinkedIn pages for various AIPPI standing committees has been established and will be shared with the various Standing Committees. Posting on LinkedIn must remain exclusively professional and in line with AIPPI’s views and positions.

To address the communication needs of the Bureau, a full-time communications employee will be hired to monitor social media accounts and solicit contributions from the worldwide membership. The employee will also be tasked with working with the Communications Committee to create a quarterly journal, to be published electronically by the Bureau. The aim of the journal is to provide discussion on highly relevant for this group. Steven Goldberg, from the Programme Committee, highlighted the progress that AIPPI has been making in ensuring diversity in all forms when selecting speakers. The committee is made up of members from 12 countries, including academics, in-house and private practice lawyers.

Sture Rygaard, from the Trade Secrets Committee, highlighted the work that has been made in the past year. This includes the collection of views from the EU member states, except Cyprus, on the implementation of the EU Trade Secrets Directive. The committee also looked at cross-border issues that members are encountering, including the different definitions of ‘trade secret’ in different countries and whether the courts will take jurisdiction of trade secrets.

Finally, executive director Dr. Arno Höld gave an update on the work that has been done over the last year. “I’ve talked to many people and sought feedback. Talking to a lot of lawyers has meant getting a lot of opinions,” said Mr. Höld. “Although we had a rough start to 2018, we came back strongly with the Cancun Congress and now with lots of confidence for London.”

To improve the organisational structure of the General Secretariat, an organisational chart with clear responsibilities and job descriptions has been created. There has also been a shift at the General Secretariat from employing part-time students to full-time professional staff. Other priorities will include a more user-friendly website, replacement of IT hardware and relaunching AIPPI’s online library to ease searches. More on the 2020 Strategic Plan will be discussed during the Executive Committee’s second meeting.

Current secretary general Olga Sirakova reported that although the increase in membership fees was expected to have an impact on membership, so far it hasn’t. The total number of members stands at 8,783, compared to 8,769 in 2018. Discounted membership of the EU Trade Secrets Directive. The committee has been shared with the various Standing Committees. Posting on LinkedIn must remain exclusively professional and in line with AIPPI’s views and positions.

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The different faces of an AIPPI Congress

Calum Smyth, chair of the Congress’s UK coordination committee, tells Patrick Wingrove about the planning process for this year’s conference and what registrants can look forward to.

“A n AIPPI Congress is a big deal,” says Calum Smyth, who chaired the UK’s co-ordination committee for this year’s Congress and who has been at the coal face of pulling various aspects of it together.

The global head of IP at Barclays in London and a member of the organisation’s UK Group says he is under no illusion how important the Congress is. “At no other time do the top-practising professionals from around the world, in all aspects of IP, congregate in one place to discuss, learn, educate and collaborate on topics that affect or are affected by IP,” he says. “In a world where economies are now reliant on creativity and innovation, the need for this engagement on an international level has never been greater.”

“Not only is there a packed educational agenda, with panel and luncheon sessions, but the Congress will spend much of its time in plenary sessions, presiding over one of the central pillars of AIPPI’s mandate - the global harmonisation of laws,” he says.

He adds that Sara Ashby, incoming UK president, has worked on a number of issues that have been dealt with at the plenary sessions and chaired last year’s working committee for the study question relating to designs. Ashby has said that a key part of the national group’s work during the year relates to responding to questions on a particular legal topic, and those responses are then debated at the Congress in order to draft and agree on a resolution that reflects the combined view of the entire organisation.

“AIPPI’s resolutions can be very influential. For example, Brazil’s IP office recently gave a presentation citing the Designs Resolution from last year as the basis for their new law on designs,” she says.

Mr. Smyth adds that outside of the plenary sessions, AIPPI’s programme provides a rapid response to new legislation, case law and other technological developments that...
affect IP, and it is a good idea for delegates to attend. The annual Congress is thus organised by themes that help pull together issues, such as those discussed during the plenary sessions.

Panel sessions are moderated and populated by industry experts, says Mr. Smyth, and attendees stand to learn a lot from each of them.

“One of the benefits of a large conference attendance is that it can address a huge variety of topics so there is something for every IP professional to sink his or her intellectual teeth into,” he says.

This year we have a broad spectrum of subjects, from AI and architecture to finance and the fashion industry. There are also opportunities to get deep into legal detail, and consider issues such as plausibility and trademark survey evidence.

“But because of the nature of AIPPI’s work, it is able to attract some of the most experienced professionals in almost every domain relevant to IP, and as a result the sessions tend to offer both high quality content, and relevance,” he adds.

**Putting the conference together**

In terms of organising the conference and getting it ready for more than 2,000 attendees, Mr. Smyth says one of his biggest challenges was finding the right venues for both the conference’s working sessions and the more cultural aspects.

Mr. Smyth and the rest of the Congress coordination committee played a vital part in the organisation by scoping out locations, entertainment, catering and considering other logistical aspects; an exercise that finally landed on the major venues of the QEII Centre and Central Hall Westminster, Alexandra Palace and the V&A.

“London also has a rich IP story to tell, with museums, art and entertainment forming a critical part of its cultural fabric, surrounded by a dynamic and vibrant population.

“But in an established centre like London, places that can house 2,000 to 3,000 people for the conferences and social events are limited and those that do exist tend to get booked years in advance.”

Mr. Smyth and his team worked closely with AIPPI International based in Switzerland, who are ultimately responsible for the Congress’s overall success.

“We were lucky to have such a productive partnership with the team based in Switzerland – who were able to do much of the heavy lifting, from ticketing and marketing to most of the administration and detailed logistical planning.”

Mr. Smyth adds that both he and the UK Group are proud to host the 2019 Congress and are very excited to share their home with the larger AIPPI family: “Hopefully delegates can take advantage of an excellent programme, world class venues and a truly international atmosphere and return home with some great memories from a busy, engaging and productive event.”
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>09:00 – 10:30</td>
<td>Plenary Session for proposed Resolution (A): Standing Committee on Multilateral agreement on Client Attorney Privilege</td>
<td>Whittle/Fleming</td>
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<td>09:00 – 10:30</td>
<td>Pharma Session 1: Wait! Pay for delay</td>
<td>St James</td>
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<td>09:00 – 10:30</td>
<td>Panel Session I: The art of IP – museums &amp; architecture</td>
<td>Westminster</td>
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<td>Coffee break</td>
<td>Exhibition Area</td>
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<td>11:00 – 12:30</td>
<td>Pharma Session 2: Patent Linkage: an international perspective</td>
<td>St James</td>
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<td>11:00 – 12:30</td>
<td>Panel Session II: In-house perspectives on IP enforcement</td>
<td>Westminster</td>
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<td>12:30 – 14:00</td>
<td>Lunch 1: An update from USPTO Director Andrei Iancu</td>
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<td>12:30 – 14:00</td>
<td>Networking Lunch</td>
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<td>14:00 – 17:30</td>
<td>Plenary Session for proposed Resolution (1): Study Question on Copyright</td>
<td>Whittle/Fleming</td>
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<td>14:00 – 15:30</td>
<td>Pharma Session 3: Hot and hostile: recent developments in SPCs and patent term extensions</td>
<td>St James</td>
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<td>14:00 – 15:30</td>
<td>Panel Session III: Describe your best defense: trade mark infringement or not?</td>
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<td>14:00 – 16:00</td>
<td>Secretaries &amp; Treasurers meeting</td>
<td>Abbey</td>
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<td>Coffee break</td>
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<td>16:00 – 17:30</td>
<td>Pharma Session 4: Antibodies and epitope/competitive claims</td>
<td>St James</td>
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<td>16:00 – 17:30</td>
<td>Panel Session IV: Protecting trade secrets in the EU – new and improved?</td>
<td>Westminster</td>
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<td>16:30 – 17:30</td>
<td>Independent Members Meeting</td>
<td>Gielgud</td>
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<td>18:30 – 19:30</td>
<td>Women in AIPPI</td>
<td>Fashion - Victoria &amp; Albert Hall Museum</td>
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