

Managing Intellectual Property

The Global IP Resource

ARE IP ASSOCIATIONS FAILING US?

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There are too many of them, but too few that can represent the industry globally. Simon Crompton argues that IP associations need to become larger and more professional



There are a lot of IP associations around the world: at least four that purport to be global, six or more regional bodies, and scores of national ones. They represent a variety of constituencies, among lawyers, attorneys and IP owners, and various types of IP right. Yet there are big holes, too. There is no global body lobbying for patent rights, or copyright, and both are badly needed.

Some of the associations, such as INTA, are expanding rapidly across the industry and the world. In the coming years this could exacerbate the overlap between bodies that already exist in some regions – particularly Europe – and make some associations less relevant. Soul-searching reports, such as

that recently commissioned by AIPPI, could lead to aggressive reform and further attempts at expansion. The recently announced merger of AIPPI-US with AIPLA, and the latter's global outreach, demonstrate similar ambition.

At the same time, the role of an association and its meetings is being shaped by technology. "The needs of members are changing fundamentally," says Jim Malackowski, president of LESI. "Social media has reduced the need for networking. The internet has made access to information easier. To survive as an industry association in the future everyone will have to deliver something different."

So how many IP associations do we want, and what do we want them to do?

A public flogging

In September this year, Robin Rolfe Resources (RRR) delivered its report on the AIPPI Strategy Objectives Project. The aim of the Project was to assess AIPPI's purposes and activities, with particular attention on member satisfaction and increasing membership. It wasn't a crisis report – AIPPI's finances and membership are stable – but it wasn't far off. The AIPPI project team wanted suggestions for fundamental reform.

They got what they asked for. The plain-spoken report recommended shaking up the management, reducing the role of national and regional groups, making the Congress an annual event rather than biannual and hiring more permanent staff. It said 115-year-old AIPPI had "stalled" in its mission and quoted a survey respondent who called the organisation "too old, too white, too male, too patent".

Most fundamental, however, was the recommendation that AIPPI should become a lobbying organisation. Its resolutions, painstakingly put together at every Congress, were not enough. To be relevant, it had to do more to try and make those positions on IP issues a reality. "AIPPI's leadership will be measured by its ability to be influential – to make a difference and have an impact," said RRR.

This will not be easy. Many will see it as "unnecessary or too aggressive", as the report says. But the AIPPI Bureau, to its credit, decided to make the report public and have an open debate about its future. "It's exciting," says incoming AIPPI president John Bochnovic. "It reflects a real appetite for change and gives us a platform to make big decisions."

At the AIPPI Congress in Seoul, the report was discussed by the Bureau and the Council of Presidents and Rolfe made a presentation to the ExCo, which includes representatives from all national and regional groups. Despite the critical language being flashed up in foot-high letters in the presentation slides, it was warmly received, with the UK and Denmark in particular urging the Bureau to implement what they could as soon as possible.

INTA is the future

INTA made many of these changes years ago. Following its switch from an American organisation (USTA) to an international one in 1993, and led by Robin Rolfe herself as executive director, it expanded its membership, took on more full-time staff and made the annual meeting into an event that even patent people go to – just because it is such a hub for the industry.

It created a new model for international IP organisations, with a big staff and centralised control (unlike the other global groups INTA is one organisation, not an association of national or regional

groups). It has even switched from having an executive director to a CEO.

INTA now has 63 staff, where AIPPI has six. It writes numerous amicus briefs, and recently launched its Unreal social media programme, which aims to educate young people about counterfeit goods. "The Unreal campaign was not launched in order to ensure that INTA remains relevant, but if that is a knock-on effect of our work then great," says INTA executive director Alan Drewsen. "We see this educational work as a fundamental part of what we do, just like the advocacy work in the US and overseas."

INTA has expanded its events overseas. The 2014 annual meeting will be held in Hong Kong – the first time it has ever been in Asia – and there is an increasing number of events in Europe. In September there was a new Design Protection Conference, in Copenhagen, and Istanbul will host the Advanced Anticounterfeiting Strategies conference in December.

An international association should be international. In a few short years INTA has become the leading global voice on trade marks, with offices in China and Brussels and a representative in India. When coordination is needed on issues that affect every brand owner around the world – such as Google's AdWords programme – then INTA can be very useful.

"This is a role that AIPPI could perform for advocacy on patent issues," says Tove Graulund, one of the authors of the RRR report. "A strong voice here is badly needed – on the unitary patent, for instance, it became obvious very quickly that there was no body that could represent the industry as a whole."

Other patent issues, such as compulsory licences, could do with a global IP or patent association to help get across the position of patent owners. IP issues are only going to become more international, something most obviously seen in copyright at the moment.

But the ambition of associations such as INTA also risks overlap with existing IP bodies. In Europe, for instance, the trade mark industry is already well represented by MARQUES, ECTA and a host of national groups. The INTA events, while well-executed, are entering an already crowded conference scene. Even private groups such as Premier Cercle are expanding their events, with separate IP summits this year in Brussels and Alicante for the first time.

When it comes to lobbying, is there any advantage in having one more voice telling the European Commission the same thing? Drewsen denies any overlap, saying INTA works well alongside MARQUES, ECTA, AIM and Business Europe. "We also work closely with the China and Shanghai trade mark associations. We don't see ourselves in competition with them at all," he says.

Perhaps the presence of international associations in such developed regions would be best limited to support work, such as providing information that gives an international perspective to lobbying points. The need of a strong, global body is more keenly felt in China, the rest of Asia and perhaps even Africa.

"I've been to the INTA events in Europe and they're great. But with a couple of hundred people there you have to ask, what's the need? We have enough events in Europe," says one European patent attorney. "If you want to make a difference, go to Africa or Latin America. Make a noise there and



Alan Drewsen, INTA

support intellectual property where nobody else is."

Associations merge

The other option is to merge with a regional association. AIPLA's decision to become the official US group of AIPPI, confirmed at the AIPLA Annual Meeting, has the potential to fill one of the biggest gaps in AIPPI's international coverage and move it a big step closer to becoming the global voice for the patent industry.

The partnership could be complicated, however. AIPPI-US has just 276 members – a tiny proportion of its 9000 members worldwide. Those members will automatically join AIPLA, but AIPLA members will have to voluntarily join AIPPI-US. So, unless a large number of AIPLA members feel that the association is not representing them internationally, and they want to broaden their horizons by joining AIPPI, the impact on AIPPI membership may not be that high.



*Q Todd Dickinson,
AIPLA*

It may be even more unlikely given that AIPLA has recently begun working more closely with other national associations around the world, with a Global IP Network Summit this year in Seoul at the same time as the AIPPI Congress. If AIPLA is the designated US group for AIPPI, should it not be working with other local AIPPI groups around the world? Although there is precedent here – both GRUR in Germany and ABPI in Brazil act as AIPPI national groups – some confusion seems possible.

AIPLA executive director Q Todd Dickinson doesn't think so: "Our new AIPPI-US Division should also become known in its separate role as the US chapter of AIPPI, so I don't honestly think there will be any confusion. The Global IP Network Summit, meanwhile, is an organisation of national patent practitioner organisations, distinct from AIPPI, with a very different structure and mission."

We still need national associations

No matter how successful AIPPI, INTA and others are at becoming truly international associations, national groups such as AIPLA and GRUR will remain crucial. Lobbying is still mostly a national or, in Europe most obviously, a regional affair. This is one reason LESI has never engaged in much lobbying activity.

"We've always left the lobbying side largely to LES national groups," says Jim Malackowski. "Partly this was a desire to give those groups their own voice, and leave them to have conflicting positions if needs be, but it was also because that was most effective. Are we happy with how it is being done? Not necessarily, there is room for improvement with most national bodies. But it's not something we want to get involved with."

"National groups are very important," says Tove Graulund. "Even though the AIPPI report recommends greater centralisation, they remain crucial to attaining the global objectives."

"For instance on advocacy, in my experience the optimal situation would be strong international organisations pushing an issue with international



Jim Malackowski

bodies like WIPO, backed up by active local associations influencing their governments – on the same issue – either as part of international groups or not," continues Graulund.

Of course, overlap at a national/regional level is inevitable as well. In the UK there is CIPA and ITMA, the IP Federation and IPLA, plus European bodies such as EPI and EPLAW, MARQUES, AIM, ECTA and PTMG, quite apart from national groups of AIPPI and others. CIPA and ITMA in particular have faced calls to merge, and their regulatory roles have already been brought together into one body, IPReg.

It's all about the annual meeting

One regional association that has proved an immense success is APAA in the Asia-Pacific region. Open only to individuals or groups practising IP in Asia, it now has 2315 members and a very popular General Assembly every three years. It does little education work and no advocacy. It is, essentially, all about networking.

Annual meetings have been the bedrock of international IP associations for a long time. John Bochnovic, incoming president of AIPPI, admits he joined the association in 1983 based on his first Congress, in Paris. "I think it might have given me a slightly distorted view of what meetings were like," he says.

INTA's success has been reflected in, and partly driven by, the growing size of its annual meeting. Over 9,300 people registered for the Washington, DC meeting this year, making it the biggest ever. More significantly, hundreds of people travelled to Washington but never visited the conference hall, merely attending the dozens of law firm-hosted events and meeting contacts or clients. For many companies, it is the one time every year that all their outside counsel are in the same place. Even though INTA does not welcome the non-paying visitors, it does mean that its meeting now has a crucial role in the IP industry entirely separate from its stated aims.



John Bochnovic, AIPPI

Annual meetings everywhere are still doing well. Most associations saw numbers drop during the worst parts of the recent global downturn, but then bounce back. Attendance at the AIPPI Congress dropped by 2% in 2008 but recovered that number in 2010. Some associations may never consider reform until attendance starts to fall, so fundamental are the meetings to their identity.

The AIPPI report, however, recommended several changes to the way its meetings are organised, including the selection of the host city and a shift to a Congress every year, rather than every two years. John Bochnovic says he thinks this could be changed quite easily, with the 2015 ExCo meeting and Forum in Rio de Janeiro being changed to a Congress.

"We recognise there are other issues as well. The Congress has to be in a city that is relatively easy to get to and which is realistic as a business expense. Cancun in 2018, for example, might be difficult to justify," he says.

Julian Crump, secretary general of FICPI, points out that networking is changing as the industry becomes more international: "With more



Tove Graulund, Robin Rolfe Resources

international filing, networking is crucial for firms in smaller countries that rely on inbound work. And then in countries such as the UK, you're looking for reciprocity with other firms. But with the growth of the EPO, reciprocity has died in Europe, so they too are looking further afield."

"It all means that people are looking much more critically at the value of the annual meeting. They want to know how many handshakes you get for your fee," he adds.

The end of membership

Jim Malackowski of LESI believes the problems go deeper than that. He recently bought copies of *The end of membership as we know it*, a 2011 book by Sarah Sladek about the future of associations, and gave a copy to all the other members of LESI management. The book describes how social media removed traditional conferences' monopoly over networking, and how the internet has cut into their educational value.

"The sheer volume of information means that you don't need to go to an annual meeting to hear about the latest developments in case law," he says. "Members now increasingly demand that associations make a broader impact, one consistent with their values."

This "fundamentally changes the cost structure of the association model" believes Malackowski. And that's one reason LESI recently hired its first senior executive director, Chris Katopis. Katopis has headed other associations, practised as a patent attorney and was director of congressional relations for the USPTO.

Changing the cost structure, then, means hiring full-time staff and putting on additional events – ones that aren't necessarily funded by members paying to attend and giving up large portions of their time to organise them.

In January this year LESI put on the first Global Technology Impact Forum, as the chair organisation but with involvement from 25 NGOs including WIPO, the WTO, the ICC, the WHO and others. Deliberately run just before the World Economic Forum in Davos, it will be an annual event trying to coordinate efforts to increase technology transfer. At the same time, LESI also helped organise a fair for sustainable technology, called Invent for Humanity.

"Our members have their own tech transfer and outreach programmes too," says Malackowski. "So by creating these events we are helping tie those together, performing a service and helping to create that tangible impact on their behalf."

Support your association

The RRR report for AIPPI was the trigger for this feature. But speaking to all the international IP associations, it is striking that most have gone through similar analysis. The themes of advocacy, growth, permanent staff and more effective meetings repeat themselves in the conclusions of each one.

But everyone cannot grow. "INTA has become pre-eminent, the go-to place for trade marks. AIPPI used to be so for patents, and could be again," says Julian Crump. He believes that FICPI retains a unique appeal, as the only international association purely representing those in private practice. But the number of lawyers joining INTA, and the erosion of that distinction at the national level, suggests otherwise.

In the not too distant future, IP could have two or three strong international bodies able to take on global issues such as ISPs and copyright infringement, or the transshipment of counterfeit goods. They would provide information and resources to local practitioners lobbying their national governments, and improve global awareness through coordinated public campaigns. Their value will increase exponentially with the speed of technological change, and the rate at which respect for IP declines – as already evident with the debates over ACTA, SOPA and PIPA. Intellectual property is now a global debate, which the industry appears to be losing.

National associations will be crucial in this idealised future. Policy is still overwhelmingly national and it is the local bodies that will be at the coal face of any reforms. But they could learn some lessons from these reports too, and it is unlikely all will survive in the same form.

It is not hard to conclude that there are too many IP associations. The question is, which ones do you think will represent you best over the next 20 years?

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