



**A I P P I**

**ASSOCIATION INTERNATIONALE  
POUR LA PROTECTION DE LA PROPRIETE INTELLECTUELLE**

**INTERNATIONAL ASSOCIATION  
FOR THE PROTECTION OF INTELLECTUAL PROPERTY**

**INTERNATIONALE VEREINIGUNG  
FÜR DEN SCHUTZ DES GEISTIGEN EIGENTUMS**

# **Congress**

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# **Report**

## **Special Committee Q178**

**Scope of Patent Protection**  
**Extension de la protection des brevets**  
**Umfang des Patentschutzes**



## **Report Q178**

### **Scope of Patent Protection**

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The project of Q178 started in early 2003. At that time, the Bureau decided to investigate the situation regarding the development of new technologies and the scope of patent protection on a broader level. Along with the increased demand for patent protection more and more critical voices were raised by certain interest groups who advocated limitations on and exceptions from patent protection. In particular, the fields of biotechnology and computer software and the evolving legal framework for these areas had triggered discussions.

The purpose of Q178 was to look at these issues from different angles. It was therefore decided to have a parallel investigation which would on the one hand follow the traditional way of sending a Questionnaire to the National and Regional Groups of AIPPI. On the other hand, a similar Questionnaire would be sent to various addressees outside the Association, such as industry, governmental and non-governmental organizations and academic bodies. Whereas the National and Regional Groups had the opportunity to express their views on the topic from a more general standpoint, the other addressees could specifically state their position based on their own background.

The turnout of the Questionnaire was quite satisfying. 25 Group Reports were submitted to the Reporter General. Of the addressees outside the Association about 10% responded with substantive Reports. Summaries of the results of both Questionnaires can be found on the AIPPI Website. From these Summary reports it becomes evident that the scope of patent protection is generally considered as sufficient provided that the new legal instruments become effective without unnecessary limitations. Examples can be found in the context of the EU Biotech Directive and the EU Draft Regulation for Software Patents. Where there is nevertheless a deficit, negative consequences are described mainly in the field of R&D and in a loss of competitiveness for those countries which lack patent protection to some extent.

On various occasions the answers have expressed that - for participants with different backgrounds - a fair balance between the interest of the public and the interest of the patent owner/applicant is inevitable. One statement summarizes this in the sense that the scope of patent protection has to correspond to the contribution the invention makes to the prior art. The discussion has also shown that future efforts need to focus on further harmonization of the various national laws in order to ensure that existing discrepancies between the various systems can be overcome. This is of particular importance in the context of the current SPLT discussions at WIPO.

Both Summary Reports made from the Group Reports and from the answers from outside the Association lead to the conclusion that there is no need for immediate action. Further points of discussion can be taken care of in other Special Committees, namely Q170, Q132 and Q114. The Reporter General therefore proposes to the Bureau to keep the Special Committee Q178 in the present form and to await future developments in the realm of this Committee so that further actions can be taken if necessary.

It should, however, be emphasized that the way Q178 has approached its topic has proven to be effective and also to contribute to the visibility of AIPPI as it was one of the purposes of this Committee. Without neglecting or even substituting the core contribution of the National and the Regional Groups, similar working methods may also be considered for other future activities of AIPPI where the respective subject allows it.