



International Chamber of Commerce

The world business organization

Department of Policy and Business Practices

WIPO/AIPPI CONFERENCE ON CLIENT PRIVILEGE IN INTELLECTUAL PROPERTY ADVICE – Geneva 22-23 May 2008

Summary of ICC proposal for a Treaty (to be followed by a formal ICC position paper)

(i) *A WIPO Treaty should require each State to specify categories of adviser whose clients benefit from privilege before the State's Courts, intellectual property offices, tribunals, and investigators. These should be all such local general lawyers and local specialist IP advisers as the State considers to be adequately regulated, plus (in the case of EPC members) locally-resident EPAs (both private practice and in-house).*

(ii) *Within each State, the following communications from or to the specified categories of adviser should be privileged (together with documents, material, and information preparatory to or otherwise related to such communications):*

'Communications as to any matter relating to any invention, design, technical information, trade secret, trade mark, geographical indication, domain name, literary or artistic work, performance, software, plant variety, database, or semiconductor topography, or relating to passing off or unfair competition.'

(iii) *Each State's Courts, intellectual property offices, tribunals, and investigators should respect the privilege of communications as defined in (ii) (plus preparatory/related documents, material, and information) from or to advisers specified under (i) by other States (both private practice and in-house), and in any case from or to EPAs resident in EPC States (both private practice and in-house).*

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