

# WIPO



SCP/6/7

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## STANDING COMMITTEE ON THE LAW OF PATENTS

Sixth Session  
Geneva, November 5 to 9, 2001

AMENDMENT OF THE DRAFT AGENDA (SCP/6/1)

*Proposal by the Delegation of the United States of America*

### PROPOSAL

The United States of America proposes that the draft agenda for the upcoming sixth session of the Standing Committee on the Law of Patents be amended to accommodate discussion of the need for immediate and longer-term worldwide relief for those patent applicants and patentees affected by the terrorist attacks in the United States of America, as well as other “*force majeure*”-type circumstances. We propose that this issue be discussed after current item (5) on the draft agenda.

### BACKGROUND

The terrorist attacks in the United States of America have brought into focus the need for immediate and longer-term relief for patent applicants and patentees adversely affected by circumstances beyond their control. As a result of the terrorist attacks, some United States of America patent applicants may be faced with the potentially serious problem of not having been able to timely file patent applications in foreign countries. By the same token, some foreign patent applicants may be faced with the problem of not having been able to timely file patent applications in the United States of America. Both Paris Convention and Patent Cooperation Treaty filings may have been affected. Issues concerning pending applications, the loss of and necessary reconstruction of application and patent files, missed deadlines, both statutory and otherwise, etc., have also arisen.

The situation is especially dire for some attorneys/applicants in New York City. Some do not have access to their offices and were/are unable to make timely filings in foreign countries based upon previously filed (about a year ago) United States of America patent applications. In at least one instance, a firm located in the World Trade Center lost everything and is faced with the task of completely reconstructing its practice.

Contacts with patent offices elsewhere have resulted in indications that offices throughout the world are not providing relief in a consistent manner. Some countries/offices have indicated a willingness to grant relief, with the proviso that attorneys/applicants provide a certain level of specificity in requests for relief. Others have indicated that they will not grant extensions for Paris Convention priority filings. As an example of similar relief granted in the recent past, it is our understanding that "grace periods" were provided for Convention filings from Japan in the aftermath of the Kobe earthquake.

While the Patent Law Treaty 2000 addresses many of these issues and would provide relief for affected applicants and patentees, it has not yet entered into force. As a result, the United States of America would like the SCP to address:

- the relief that may be currently available to applicants and patentees throughout the world;
- the status, among the members of the SCP, of implementation, ratification and/or accession to the PLT 2000;
- the prospects for accelerating implementation/ratification/accession to the PLT 2000; and
- the possible need for relief that may go beyond that provided by the PLT 2000.

This issue could be explored after current item (5) on the draft agenda and before the discussion of future work.

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