



C. PCT 1309

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Madam,
Sir,

For a number of years, unscrupulous entities and individuals in various countries have attempted to mislead users of the World Intellectual Property Organization's (WIPO) services into paying fees which have nothing to do with the processing of their patent applications or trademark registrations, and which have no value above and beyond the services already provided by WIPO or the applicable national or regional office. These entities have in particular targeted international patent applications filed under WIPO's Patent Cooperation Treaty (PCT) and users of WIPO's Madrid System for the International Registration of Trademarks.

These entities have intentionally designed their notices to appear as invoices emanating from an official source. They include publicly available bibliographic data about the international application or registration. In a number of cases, the notices (and associated websites) bear a confusing similarity to WIPO's name and logo.

Since we became aware of these fraudulent schemes, WIPO has been trying to raise awareness among users. We have posted a collection of sample false "invoices" on our website (see http://www.wipo.int/pct/en/warning/pct_warning.htm). In addition, we have frequently published articles in WIPO's monthly *PCT Newsletter*, requesting attorneys and agents to inform their clients that they may receive such misleading notices. We are aware that certain national and regional patent offices are also trying to warn their nationals and residents, and are grateful for their efforts—the cited page contains links to websites of national patent offices of Australia, Switzerland, Germany, France, the United Kingdom and the European Patent Office, all of which have similar warnings. We note also that the website of the Office for Harmonization in the Internal Market (OHIM) addresses this issue (<http://oami.europa.eu/ows/rw/pages/CTM/feesPayment/warning.en.do>).

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However, despite the efforts of WIPO and its partners, the purveyors of these false invitations have proliferated, their methods have become more sophisticated, and they have collected vast amounts of money from unsuspecting inventors and small businesses. As a result, WIPO has become increasingly active; we have reached out to government authorities in countries where these activities persist, and have achieved some success in having legal proceedings initiated against these entities and/or prompting changes in the logo and name used by the entity so as to not so closely resemble those of WIPO.

WIPO has also supported countries where the governments have attempted to take action. For example, the Attorney General of the State of Florida in the United States of America filed a civil lawsuit against Federated Institute for Patent and Trademark Registry (FIPTR) and one individual alleging that the invitations sent to PCT applicants by FIPTR violated the state's Deceptive and Unfair Trade Practices Act. At the request of the Florida Attorney General's Office, WIPO assisted in the preparation of the case and provided expert testimony at the trial, which resulted in a sizeable judgment against the defendants. We hope that other governments will assist us in taking appropriate legal action against those who are engaged in these deceptive business practices.

WIPO requests your assistance in helping raise awareness among users and their representatives in your country. More specifically, we ask that your office consider taking the following actions:

- (1) add one or more links from the national office website to WIPO's website where users can find more information about these fraudulent schemes. As indicated above, a number of offices have already done this, and have created their own warnings: see, for example, the website of IP Australia (http://www.ipaustralia.gov.au/factsheets/unsolicited_ip.shtml);
- (2) engage in an awareness-building campaign within your country aimed at applicants and representatives;
- (3) if such entities are operating in your country, analyze what actions, if any, might be taken against them, and take them. WIPO stands ready to assist you in your efforts.

Furthermore, WIPO would be pleased to receive your suggestions about what additional actions you believe we should consider. Please send your suggestions, and any reports about efforts which your office has already undertaken or is planning to undertake, to Mr. Matthew Bryan, Director of the PCT Legal Division, at pct.legal@wipo.int.

We strongly believe that these practices are a blight on the intellectual property system. While experienced applicants are less likely to be misled, the victims of these fraudulent notices tend to be those who can least afford the financial losses: individuals or small entities who are trying to navigate the intellectual property system in order to seek protection for their inventions and brands. These applicants should be able to presume that WIPO and all of its national and regional intellectual property Office partners will make their best efforts to protect them from such unscrupulous behavior. It is to this end that I request that we enhance our cooperation in this regard.

Yours sincerely,



Francis Gurry
Director General