This is a report to the 59th Council Meeting of the Asian Patent Attorneys Association in respect of the activities of the APAA Designs Committee which met in Makati City, Manila on the 13th November 2011.

The meeting commenced with introductions of the members from each Recognised Group of the Committee. There were 14 of the 16 recognised Groups represented at the meeting.

This year, we were again very fortunate in having representatives of OHIM present for the Designs Committee Meeting, in Christophe Gimenez and Martin Schlotelburg. We were also again joined by special observer David Musker from the United Kingdom who had agreed to report on the design activities of WIPO over the last year.

Christophe Gimenez provided a short presentation on developments at OHIM, their new strategic plans and statistics on filings and registrations at OHIM. These statistics showed continued growth in filings at OHIM after a slight dip in 2009.

The 2011 meeting of the Committee followed the usual format of tabling country reports from each of the Recognised Groups on recent developments in the law and practice in their countries and any Office and/or Court decisions of significance over the last twelve months without reading them, while providing an opportunity for any questions from other members of the Committee before moving onto discussion of the Special Topic.

The Group Reports showed that there had been little legislative activity in the Recognised Group countries over the last 12 months though a number of Court decisions were reported.

The Special Topics for 2011 were as follows:

1. Grace Period for Filing in the Event of Disclosure
2. Deferment of Publication and Secret Design

The delegates of each of the Recognised Groups then moved through the questions put forward as discussion points on each the special topics. This served to highlight both the differences and similarities between the law and practice in each of the countries represented by the Recognised Groups. This prompted detailed discussion amongst the members.

A draft summary of the responses to the Special Topics Questionnaire is attached. The finalized summary will be provided once it has been reviewed by each of the Recognized Groups.

In relation to the topic of a period of grace for prior disclosure by or derived from the applicant, their appeared to a general division between Recognised Groups of those who
followed the old British law which provides a grace period for disclosure at a recognised International Exhibition and those Recognised Groups which had a more general period of grace provision.

There was general agreement amongst the delegates of the Recognised Groups that a generalized period of grace provision was desirable to encourage use of the Designs protection system by designers and small to medium enterprises. There was some discussion among members about the role APAA could play in assisting in the lobbying of various government bodies to move forward with the introduction of a generalised period of grace provision in the Designs Law of the Recognised Group countries.

In respect of the Special Topic directed to Deferment of Publication and Secret Designs very few recognised Groups (Japan, Korea, New Zealand and Taiwan) had any provisions in their Designs Law to enable deferment though most delegates felt it would be desirable to have such a mechanism in their Laws.

Following completion of the discussion of the Special Topic a brief report was provided on the activities of WIPO by David Musker. The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) has continued work in preparing a Draft Industrial Designs Law. Draft Articles and Regulations are available on the WIPO website. EU and UK delegations are pushing to negotiate a treaty on the protection of industrial designs and for a recommendation to the WIPO General Assembly that it move to a diplomatic conference in 2012 or 2013. Funding for these preparations has been successfully opposed by a number of other delegations from developing countries, in particular from South America on the basis that it is premature without further study to proceed to a diplomatic conference. Accordingly, matters are stalled at the moment.

There was a brief consideration of possible topics for discussion at next year’s Committee meeting, however, due to time constraints, it was agreed further consideration would be conducted out of succession with Committee members were asked to forward any suggestions to the Co-Chairpersons.

The Co-chairpersons on behalf of the Committee expressed their thanks to Committee members who were retiring from the Committee at the end of their term and also expressed sympathy to those Recognised Groups who had suffered major natural disasters over the last 12 months, in particular, Japan and, more recently, Thailand.

The meeting concluded with a Group photograph. The Co-Chairpersons would like to express their thanks to Christophe Gimenez and Martin Schlotelburg of OHIM and David Musker for their valuable contributions to our meeting as well as all the Committee members of the recognised groups for their detailed reports and responses to the Special Topics Questionnaire.

Minako Mizuno and Peter Heathcote
Co-Chairpersons
APAA Designs Committee