

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

TRANTAFYLLOS TAFAS

Plaintiff,

v.

JON W. DUDAS, ET AL.,

Defendants.

Case No. 1:07cv846 (JCC/TRJ)

CONSOLIDATED WITH

SMITHKLINE BEECHAM
CORPORATION, et al.,

Plaintiff,

v.

JON W. DUDAS, ET AL.,

Defendants.

Case No. 1:07cv1008 (JCC/TRJ)

**MOTION OF *AMICUS CURIAE* FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INDUSTRIELLE FOR LEAVE TO FILE A BRIEF IN SUPPORT OF
THE PLAINTIFFS' ANTICIPATED MOTIONS FOR SUMMARY JUDGMENT**

Fédération Internationale Des Conseils En Propriété Industrielle (“FICPI”), by undersigned counsel, moves for leave to file a brief as *amicus curiae* in support of plaintiffs SmithKline Beecham Corporation, SmithKline Beecham PLC, and Glaxo Group Limited’s (collectively referred to as the “GSK Plaintiffs”) and plaintiff Triantafyllos Tafas’ anticipated motions for summary judgment. No oral argument is requested.

The GSK Plaintiffs, by their counsel of record, have consented to the filing of this motion and FICPI's appearance as an *amicus*. The defendants have expressly declined to take a position, but agree that no hearing is necessary to decide this motion. FICPI requests that this motion be granted and its *amicus* brief be due in accordance with the briefing schedule as set by the proceedings in this matter.

I. INTEREST OF THE AMICUS CURIAE

Established in 1906, FICPI is a Switzerland-based international and non-political association of approximately 4,000 intellectual property attorneys from over eighty countries (including the United States). FICPI's members represent individual inventors as well as large, medium and small companies. One of the members' major roles is to advise inventors in intellectual property matters and secure protection for industrial innovation. FICPI supports predictable, balanced global protection of patents, the global harmonization of substantive patent law, and the interests of inventors and the U.S. Patent and Trademark Office ("the PTO") for recognizing a fair scope of patent protection consistent with the claimed invention.

FICPI is one of only two major world organizations that advises the World Intellectual Property Organization ("WIPO"), an intergovernmental organization dedicated to promoting and protecting intellectual property rights worldwide, on all intellectual property matters. In this capacity, FICPI members have attended Diplomatic Conferences concerning international intellectual property treaties and practices. WIPO's 180 member states (including the United States) comprise almost ninety percent of the world's countries. *See About WIPO*, at <http://www.wipo.int/about-wipo/en/>. As one of the sixteen specialized agencies of the United Nations system of organizations, WIPO administers intellectual property matters recognized by the U.N.'s member states and twenty-three international treaties concerning intellectual property.

See id. The United States is a member of the WIPO Standing Committee on the Law of Patents (“SCP”) and is involved with WIPO’s efforts to harmonize substantive patent law worldwide, including pursuant to a Substantive Patent Law Treaty, which currently is in draft form.¹

II. WHY AN AMICUS BRIEF IS DESIRABLE AND WHY THE MATTERS ASSERTED ARE RELEVANT TO THE DISPOSITION OF THE CASE

As FICPI is largely comprised of patent practitioners representing foreign inventors and corporate entities, FICPI is poised to give the court the perspective of the international patent community. Because the instant case may potentially significantly affect the way foreign companies operate vis-à-vis their patent filing strategies, FICPI would like to voice concerns regarding the threat posed by PTO’s Final Rules, published on August 21, 2007, Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims and Examination of claims in Patent Applications, 72 Fed. Reg. 46,716 (Aug. 21, 2007), and, in particular, Rule 1.78 regarding divisional practice. In November 2007, FICPI, assembled at its Executive Committee in Seville, Spain, adopted a Resolution regarding Divisional Patent Applications.² As *amicus curiae*, FICPI’s positions would address the issue of the PTO’s final rules on the divisional applications registration process and their general impact on the United States patent system.

¹ *See* Substantive Patent Law Harmonization, at <http://www.wipo.int/patent/law/en/harmonization.htm>.

² FICPI, EXCO/ES07/RES/003, November 4-7, 2007.

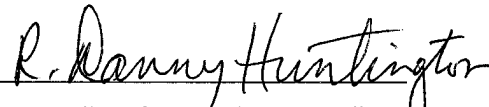
III. CONCLUSION

For the foregoing reasons, this Court should grant this motion for leave to file the attached *amicus curiae* brief.

Dated: December 20, 2007

Respectfully Submitted,

**Fédération Internationale Des Conseils
En Propriété Industrielle**

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December 2007, I caused a copy of the foregoing MOTION OF AMICUS CURIAE FÉDÉRATION INTERNATIONALE DES CONSEILS EN PROPRIÉTÉ INDUSTRIELLE FOR LEAVE TO FILE A BRIEF IN SUPPORT OF THE PLAINTIFFS' ANTICIPATED MOTIONS FOR SUMMARY JUDGMENT to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to the following:

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