

GENEVA 26 SEPTEMBER 2018: AGREED STATEMENT

Members of the B+ Sub-Group met in Geneva on the 26th September to discuss next steps for the work on substantive patent law harmonisation.

The B+ Sub-Group held a joint session with the Industry Trilateral to discuss further work. The basis for the discussions at the meeting was updated exhibits by Industry Trilateral for the topics grace period, conflicting applications, prior user rights, and prior art. These showed that progress had been made, as agreement had been reached on both the definition of prior art and the norms governing conflicting applications (with the exception of the treatment of PCT applications). The B+ Sub-Group welcomed the concerted efforts of the Industry Trilateral to attempt to come to a consensus, and thanked them for all their hard work.

The Industry Trilateral requested further time to update its exhibits and its “Policy and Elements for a Possible Substantive Patent Harmonisations Package” paper to include details on the deliberations to date and the reasons for the various positions reached. The Industry Trilateral will work to produce a further refined version of this paper.

The Industry Trilateral sought feedback from the B+ Sub-Group to aid in their discussions. The B+ Sub-Group agreed to provide feedback in a consolidated document responding to the exhibits presented by the Industry Trilateral by the end of November 2018.

The B+ Sub-Group looks forward to receiving the Industry Trilateral’s updated package, including the “Policy and Elements for a Possible Substantive Patent Harmonisations Package” paper by the end of April, 2019. Upon receipt of the package, the B+ Sub-Group will deliberate on appropriate next steps.

The International Federation of Intellectual Property Attorneys (FICPI) was invited to present their “Position on Patent Law Harmonization (Group B+)” paper recently adopted by its Executive Committee, and shared information on the key features of their position. The delegations found the presentation interesting and appreciated FICPI’s continuous work over many years on these issues. The B+ members discussed, without agreement, the possibility of including FICPI’s findings into its future work; and agreed to invite the Industry Trilateral to respond to the FICPI proposals.

The members of the B+ Sub-Group considered the results of the work done by the working group led by Switzerland in addressing the issue of privilege in communications between intellectual property advisors and their clients. The members of the B+ Sub-Group recognised the work done so far and invited the working group to continue further work on the definition of professional

information and share a presentation on an amended draft agreement in time for a meeting during the 2019 WIPO General Assembly.

The members of the B+ Sub-Group discussed the appointment of a new Group B+ Chair. In the absence of an immediate replacement Chair, Australia will remain as interim Chair until such time as a new Chair may be appointed.