PATENT HARMONISATION: OBJECTIVES AND PRINCIPLES PAPER

Note by the Chair of the Group B+ Sub-Group on Patent Harmonisation

1. This note sets out the output to date of the sub-group and seeks views from interested parties on the issues on which the sub-group are working.

The desirability of simplifying the international patent system

- 2. The goal of harmonising or aligning the patent laws and systems of different countries is important. Increasingly businesses are operating internationally. Emerging economies are becoming more important. There are significant costs and risks to innovation and growth associated with a fragmented international framework.
- 3. This is why many Governments and Patent Offices have continued to invest time and effort in looking to create a simpler global patents system. So too have industry associations. In September 2014 the Group B+, an informal group which consists of more than 40 Patent Offices or Government Departments with responsibility for IP, agreed to set up a sub-group to make progress on this issue. The sub-group consists of representatives from the European Patent Office, Canada, Denmark, Germany, Hungary, Japan, Korea, Spain and the United States.

Work of the sub-group

- 4. The sub-group met in Washington in November 2014 and again in London in April 2015. It agreed to seek to define some key principles which it believed should guide the approach to a number of issues where national legislation diverges.
- 5. This note accompanies a document outlining the objectives and principles agreed in April/May 2015 by the sub-group, together with accompanying commentary.
- 6. This document represents the collective view of the sub-group on the issues of non-prejudicial disclosures / grace period, publication of applications, conflicting applications, prior user rights and prior art.
- 7. The document clearly sets out where there is consensus within the sub-group, where members of the sub-group currently hold differing views, and what further work has been agreed to help resolve outstanding issues.
- 8. Whilst much work remains to be done before agreement could be reached, I believe that the work of the sub-group has already added considerable value: consensus has been reached on a number of issues where this was previously unclear. And even where there is no consensus, it has been possible to identify possible ways forward, or understand better the objectives the parties involved are trying to achieve. To build on this, further work has been agreed in a number of areas. I am grateful to members of the sub-group for the constructive way they have engaged with the process.

Issues for comment

- 9. The sub-group remains committed to operating as transparently as possible, ensuring that all stakeholders have an opportunity to provide input into the development of any final proposals. Members of Group B+ and other interested parties are therefore invited to comment on the document, with input particularly welcomed with regard to the following questions.
 - Where consensus has been reached within the sub-group, are there any further considerations which need to be taken into account when developing proposals?
 - Where members of the sub-group currently hold differing views, how should competing considerations be balanced, and what new approaches might reconcile these differences?
 - When developing proposals, how important is it that the various aspects under consideration are progressed together, and which aspects, if any, can be progressed separately?
 - How should these and other discussions, for instance amongst industry stakeholders, move forward, so that areas of consensus can be formally agreed and implemented?
- 10. Comments are invited by email to the Group B+ Secretariat (<u>saito-kenji2@jpo.go.jp</u>) by **24 July 2015**.
- 11. Following this input, a report drawing on all the work done to date will be submitted to the plenary meeting of Group B+ in Geneva in early October, which will agree next steps.

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