

# **GROUP B+ PLENARY MEETING**

**Geneva, 12 July 2023**

## **MEETING STATEMENT**

On Wednesday 12 July 2023, the Group B+ held a two-part in-person plenary meeting. The Director General of the National Institute of Industrial Property (INPI), Mr. Pascal Faure (France), chaired, and the Group B+ Secretariat, the EPO, hosted the meeting.

In the first part of the meeting, the Group B+ delegations met with representatives of user associations of the Industry Trilateral: AIPLA, IPO, BusinessEurope and JIPA, as well as FICPI, AIPPI, the IP Federation and KINPA.

The B+ Core Group gave an update on their work on client-attorney privilege (CAP), and announced that their work would be pursued in 2023-2024. The CH delegation advised that they would be seeking a replacement to lead the Core Group from within the Group. The user associations expressed their deep appreciation and support for the work of the Core Group, which dealt with a matter of great importance for users.

The Industry Trilateral and FICPI presented the outcomes of work on substantive patent law harmonisation (SPLH) carried out in 2022-2023. KINPA, consulted by KIPO earlier this year, presented the outcomes of their internal consultation. AIPPI, FICPI and the IP Federation made statements supporting the SPLH process.

The EPO reported on behalf of the European delegations on the ongoing European alignment process regarding SPLH, designed to allow European delegations to reach common positions on contentious topics regarding the grace period, conflicting applications and prior user rights, insofar as possible, thereby hopefully facilitating future discussions on SPLH. The Chair emphasised the importance of the progress made in Europe on SPLH in the past year, and thanked the European user associations for their efforts in this regard.

The Report of the B+ Working Group on SPLH (WG) entrusted with a comparative analysis of the consultation results in AU, CA, JP and Europe was presented by the Chair of the WG, Mr Julyan Elbro (UK). As requested, the WG identified areas of convergence amongst users across jurisdictions, as well as areas of divergence, and set out options where divergences existed. It was agreed that the WG Report would be published on the Group B+ website, as per the users' request, but with the disclaimer that it reflected the views of the members of the WG only, and those delegations which had not participated in the work should not be assumed to be associated with it.

In the second part of the meeting, the Group B+ delegations discussed future work. Work will proceed on CAP. The Chair of the WG presented the proposed workplan for the coming year, agreed within the WG on SPLH, to further investigate the options on issues where divergences remained, based on existing evidence, as well as hold meetings with users to receive additional input on these options, including with user associations not currently represented in the work being carried out. Despite significant work achieved so far, the WG believed that it did not fully fulfil the tasks it was entrusted with at the last meeting. The Chair concluded that the Group had a mandate from its users to pursue SPLH, and that the WG would continue its work in the coming work cycle.

The CA delegation presented a proposal for further work on Standard Essential Patents (SEPs) within the Group B+, which was well received as it consists in a topic of international interest. However, due to existing ongoing work on SPLH and CAP as well as some pending proposals in Europe, it was decided that the CA delegation would flesh out its proposal with the help of willing delegations and a decision as to whether to create a WG on SEPs would be taken at the Plenary next year.

The Chair announced that the JPO would be taking over the Secretariat of the Group B+ for the upcoming year and thanked the EPO for their work as Secretariat in the past year.