

FICPI effort towards patent law harmonization

At the recent executive committee meeting in Toronto, Canada, in connection with the FICPI World Congress, FICPI Approved a position paper on Patent Law Harmonization. The document, FICPI/WP/2018/001 Patent Law Harmonization, is now available at the FICPI website, www.ficpi.org , and also [here](#) .

FICPI has been engaged in patent law harmonization at least since the 1980's when a draft treaty was discussed at WIPO, Geneva. In recent years, FICPI has taken positions on some of the key items, namely concerning a grace period after a patent applicant's pre-filing disclosure, and in respect of prior user rights. Now, after difficulties in the WIPO negotiations, a group of industrialized countries, the so called B+ Group, has continued to discuss patent law harmonization. A special attention was paid to a further item, namely Conflicting Applications, i.e. how to deal with non-published patent applications filed consecutively by the same or different applicants, while avoiding double patenting.

Several user groups have studied these issues, but FICPI is the first international organization to come up with a coherent position. Also, an overall aim has been to present a package solution which

- is relatively simple and easy to understand;
- is based on well-established principles of patent law; and,
- strikes a proper balance between the interests of applicants, third parties and the general public, and also between large companies and small entities, including individual inventors.

The position paper is the result of previous conclusions reached as regards a novelty grace period and prior user rights and has now been supplemented with a solution of conflicting applications corresponding essentially to the whole of contents novelty approach being applied in the European Patent Convention, EPC. A special FICPI working group, with members from all major jurisdictions, has studied this matter for about two years and finalized the coherent paper in April this year. The main contributions to the paper were given by Michael Caine, Australia, Philip Mendes daCosta, Canada, Jérôme Collin, France and Jan Modin, Sweden.