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The Commissioner of Patents
Canadian Intellectual Property Office
Place du Portage I
50 Victoria Street, Room C-114
Gatineau QC K1A 0C9

Dear Sir/Madam:

Re: CIPO Consultation regarding Group B+ Patent Harmonization

I write to you on behalf of the Board of Directors of AIPPI Canada Inc. We are pleased to find that CIPO, as part of its membership in the B+ sub-group, is soliciting submissions regarding the harmonization of substantive patent law. AIPPI Canada has been heavily involved in harmonization discussions and studies relating to intellectual property law for decades. We hope that some of our work, including recent work directly on point with the questions and objectives put forward by the sub-group, will be of some assistance.

AIPPI

The International Association for the Protection of Intellectual Property (AIPPI) is a non-governmental, non-profit organization, based in Switzerland with over 9000 members representing more than 100 countries. AIPPI Canada Inc. is an independent not-for-profit corporation charged with administering the activities of the Canadian members of AIPPI. Our members include persons in private practice, in-house counsel, academics, and others.

The objective of AIPPI is to improve and promote the protection of intellectual property on both international and national bases. It pursues this objective by working for the development, expansion and improvement of international and regional treaties and agreements and national laws relating to intellectual property. It operates by conducting studies of existing national laws and proposes measures to achieve harmonization of these laws on an international basis.

Annually, the organization undertakes the study of a set of questions relating to a specific aspect of the law in connection with patents, trademarks, designs, or related licensing and litigation. Reports regarding the national laws of individual countries are obtained from the respective national groups and delegates from those countries meet annually to discuss and debate a proposed resolution regarding the topics. Resolutions generally reflect broad consensus across the majority of countries represented at the annual meeting, although not necessarily unanimity.

Relevant Work

To assist CIPO in its development of a domestic position for the sub-group discussions, and to better anticipate areas of potential agreement and disagreement, it may be helpful to review the discussions and resulting outcome of similar debates on similar issues carried out through AIPPI. To this end, we attach the Canadian group reports (if available) prepared and submitted prior to the debates and the resulting AIPPI resolutions on the following topics:

Grace Period for Patents

1. AIPPI resolution Q233 “Grace Period for Patents”, adopted September 10, 2013, Helsinki, Finland
2. Group Report on grace period from the Canadian national group

Prior User Rights

1. AIPPI resolution Q228 “Prior User Rights”, adopted September 17, 2014, Toronto, Canada
2. Group Report on prior user rights from the Canadian national group

Publication of Applications

1. AIPPI resolution Q98 “Early Publication and Provisional Protection of Patent Applications”, October 1990, Barcelona, Spain

Prior Art/Conflicting applications/Double-patenting

1. AIPPI resolution Q126 “Methods and principles of novelty evaluation in patent law”, adopted June, 1995, Montréal, Canada

2. AIPPI resolution Q89C, “Self-Collision”, adopted 1988, Sydney, Australia

The Board of Directors of AIPPI Canada Inc. would welcome the opportunity to provide CIPO with additional information relating to the development of these resolutions.

Yours very truly,



Fraser D. Rowand
Director, AIPPI Canada Inc.

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