

**FICPI/AIPLA Colloquium on
“THE PATENT OFFICES BACKLOG CRISIS”
17-18 June 2010**

E.7. Harmonization of laws and Practices – the role of the backlog problem as an impetus for Governments and Offices to move toward harmonization of law and practice, including through the SPLT and Group B+ initiatives.

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I see a parallel between harmonization of patent laws and practices and the city of Rome; All roads lead to Rome - and Rome was not build in a day.

As chair of the Group B+ harmonization working group, I see myself as a facilitator for a process. However, the clear focus and aim of this process is off course to achieve concrete results for the benefit of both the industry and the patent offices.

I would like to first give a brief presentation of the status of the harmonization discussion seen from my perspective;

(1) Within WIPO’s Standing Committee on the Law of Patents the soil have not been very fertile for progress on the harmonization agenda during the last years and the harmonization work within this Committee is taking place at a very slow paste.

(2) In relation to Group B+, I feel we have been somewhat close to achieving a result since 2006, but we are not there yet. It is clear to me that all Group B+ members are strongly determined to continue the work and to achieve concrete outcomes. However, seen from my point of view, the time is not yet completely ripe to close the deal. One of the reasons why the time is not yet ripe is for example that we are currently awaiting the outcome of the US Congressional patent reform process. Hopefully we will know within the next months, whether the US congress will pass legislation establishing the equivalent of the first-to-file rule in the US. Once we know the outcome of this effort, we will be in a better position to determine next steps on the harmonization work within group B+.

In regard to the role of the backlog problem as an impetus for moving towards harmonization of patent laws and practices, I definitely view the backlog problem as an incentive for achieving harmonization results and for speeding up the process. In my view, it is clear that if the patent laws and practices are more harmonized, it will be easier for patents offices to re-use each others work and thus to reduce duplication of work.

However, as I mentioned in my opening statement - all roads leads to Rome - and I think we should not forget that harmonization of patent laws and practices will not eliminate the backlog problem entirely in itself. In my opinion, re-use of work among patent offices also requires trust and transparency between patent offices. This is something we can seek to improve already now and several initiatives have already been taken in this regard. I can for example mention subcontracting

of patent searches and examinations between patent offices and the establishment of Patent Prosecution Highways. This is just a few examples of existing initiatives that promote trust and transparency and which have proved that work sharing *is* possible. Another example of an initiative which would promote trust and transparency between patent offices is WIPO's proposal for virtual collaboration between patent offices in regard to patent searches and examinations.

Patent offices generally seek to teach the industry not to re-invent the wheel. I think we patent offices should begin to take our own medicine – meaning that we should cope with the backlog problem through both harmonization of patent laws and practices and through initiatives which promote trust and transparency such as for example the ones I mentioned above. Pursuing all these aspects at the same time will in my opinion be the fastest and most efficient way to “Rome”.