

# **Substantive Patent Law Harmonization in Group B+**

March 1st, 2018

Meeting of Trilateral Heads of Office with Industry Trilateral

Japan Patent Office

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***Progress of discussion  
in Group B+***

### Objective

- To move forward on substantive patent law harmonization

### Composition

- Chair: Ms. Patricia Kelly, Director General of IP Australia
- Members: IP Offices from industrialized countries, EPO and EU
- Secretariat: Japan (2018)
- B+ Sub-Group: Canada, Denmark, EPO, Germany, Hungary, Japan, South Korea, Spain, UK and USA

### User involvement

- Industry Trilateral (IT3): AIPLA, BUSINESSEUROPE, IPO and JIPA

## The basis for discussion

- Policy and Elements for a Possible Substantive Patent Harmonization Package” (presented by IT3)

## Dedicated discussion on

- The grace period
- Conflicting applications; and
- Prior user rights

## Wide representation

- IT3 + users from Australia, Canada and South Korea (KINPA) etc.
- PPAC (observer)

## IT3 reported progress on

- The definition of prior art
- Conflicting applications

## IT3 meeting schedule

- Early February 2018 (IP5 GDTF/ICG in Japan)
- Late February 2018 (Industry Trilateral in Japan)
- Mid-June (IP5 Heads and Industry in USA)

## Agreed statement (excerpt)

The Group welcomed the decision of the Sub-Group to hold a meeting proposed for April 2018 to review progress. The Sub-Group will continue to engage with the Industry Trilateral over the coming year with the objective of bringing an Industry led patent harmonization package to the 2018 Group B+ Plenary for consideration as a basis for wider user consultation.

## Group B+ / B+ Sub-Group

## Industry Trilateral (IT3)

June 15<sup>th</sup>  
(tentative)

June 13<sup>th</sup>  
*IP5 Heads and Industry meeting*

B+ Sub-Group (in New Orleans)

Early February (in Tokyo)

Late February (in Tokyo)

Mid-June (in New Orleans)

*Who needs to be invited in addition to IT3?*



September

B+ Sub-Group and plenary (in Geneva)

**To present a patent harmonization package**

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***How to make a “sales pitch”  
for our harmonization product to people?***

High-level presentation on the objectives / benefits such as

- Why we need patent harmonization.
- What we can achieve by patent harmonization.



Will help

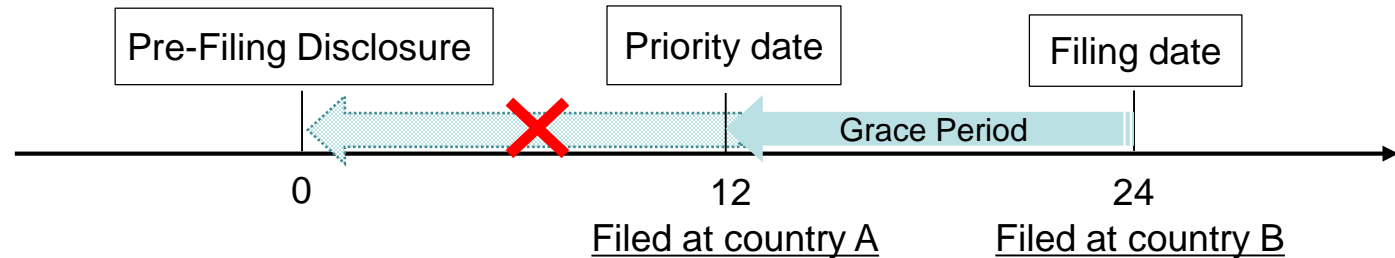
- User associations get approval of their board members
- Patent offices when they submit a bill for relevant law amendment to the Congress



## 2-2. Starting date of the Grace Period

Where we are

If the Grace Period in a country is counted from the **filing date**,



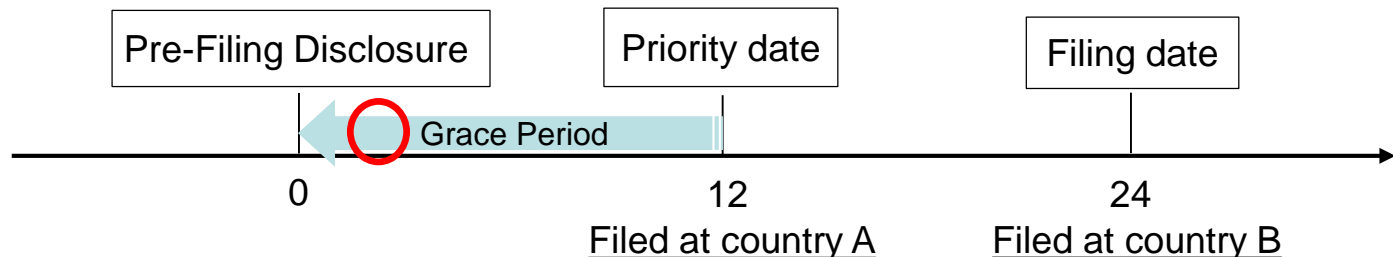
*Pre-filing disclosure destroys the novelty of the application at country B.*

harmonization



What we can do

If the Grace Period in any country is counted from the **effective filing date**,

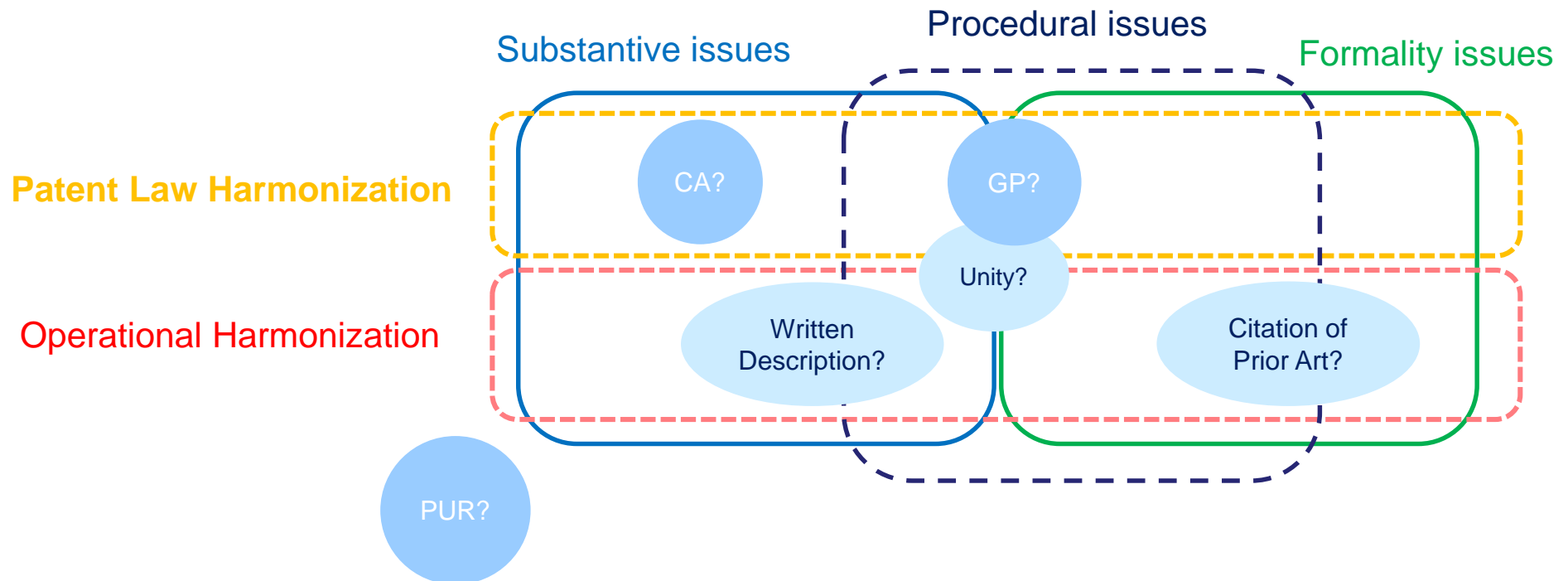


*Pre-filing disclosure does not destroy the novelty of the application at country B.*

*Pre-filing disclosure can be graced not only for domestic but also for global filing.*

## Key questions

- What issues should we focus on in the future?
- What issues would be most beneficial to Industry?



**Thank you.**

