

# Common Consultation Document

## Re: User proposals for substantive patent law harmonisation Industry Trilateral / FICPI / AIPPI 2022

### QUESTIONNAIRE

#### PART I – Identification of the respondent

Name and surname: Gabor, Faludi, Dr....

Email address: gabor.faludi@szecskay.com...

Phone number (optional): 003614723000...

Are you replying as:

- the representative of an entity filing patent applications either at the EPO or with your national office? If so please go to PART II.
- a representative or member of a user or stakeholder association? If so please indicate which association: Magyar Iparjogvédelmi és Szerzői Jogi Egyesület, \_Hungarian Association for Industrial Property and Copyright and go to PART III.

*All information identifying the respondent will be kept confidential. The results of the questionnaire will be anonymous, and no comment received within the framework of this questionnaire will be attributed.*

#### PART II – Information about the respondent

##### 1. Please indicate your status/affiliation:

- Corporation
- University/research institution
- SME\*
- Individual inventor
- Patent attorney/firm
- Lawyer/firm
- Other – please specify: \_\_\_\_\_

\* As per the EU definition: having up to 249 employees and an annual turnover not exceeding €50 million or a balance sheet total not exceeding €43 million.

**2. What is your primary area of technology or industry?**

- Mechanics
- Electrical/electronics
- Telecommunications
- Computers
- Chemistry
- Biotechnology
- Pharmaceuticals
- Other – please specify: \_\_\_\_\_

**3. Please indicate the EPC contracting state in which you have your residence or principal place of business:**

\_\_\_\_\_

**4. A. Please indicate how many patent applications (national, European or PCT) you have/your employer has filed in the last five years.**

- None
- 5 or less
- More than 5 but less than 49
- More than 50

**B. How many of those were PCT or European patent applications?**

- None
- 5 or less
- More than 5 but less than 49
- More than 50

## PART III – Survey

*Prior to responding to the survey, please read carefully at least the introduction to this document and the table containing the summaries of the harmonisation proposals of the Industry Trilateral, FICPI and AIPPI. Please consult the Annexes containing the full proposals if you would like additional information to understand the issues.*

### 1. In your view, how important is international substantive patent law harmonisation for users of the European patent system?

- Not important, as I am against harmonisation
- Not important
- Slightly important
- Neutral
- Important
- Very important
- Do not know / do not wish to answer

### 2. In principle, are you in favour of a grace period? *[More than one box may be checked]*

- Yes, regardless of its definition
- Yes, but only if it is defined as a “safety-net” grace period\*
- Yes, but only if the grace period is itself internationally harmonised
- No, regardless of its definition
- Do not know / do not wish to answer

*\*A “safety-net” grace period can be generally defined as a grace period which provides measures balancing the advantages of the grace period for applicants with protections for third parties, such as a statement and/or prior user rights, so as to provide disincentives to the use of the grace period, thus discouraging a strategic use of the grace period and enhancing legal certainty.*

Please explain the reasons for your answer.

The harmonisation of the grace period is vital to avoid detrimental consequences of the lack and /or different terms of the grace period. Prior user rights shall be observed based upon any act made available to the public by means of a written communication or oral description, by use, or in any other way before the filing date.

**3. Please rate each of the three packages from 1-6, as defined below :**

- 1. Would support as a way forward
- 2. Rather positive opinion
- 3. Neutral
- 4. Rather negative opinion
- 5. Unacceptable
- 6. Do not know / do not wish to answer

	IT3 Elements Paper	FICPI Proposal	AIPPI Resolutions
Rating	3...	2 ...	...1

**4. If you have answered “4. Rather negative opinion” or “5. Unacceptable” for any of the packages, please indicate below the main reason(s) for this rating for each of the packages.**

- 1. IT3 Elements Paper

- 2. FICPI Proposal

### 3. AIPPI Resolutions

### 5. Please indicate which package you would prefer to see form the basis for future work on substantive patent law harmonisation:

- IT3 Elements Paper
- FICPI Proposal of 2018
- AIPPI Resolutions

### 6. Please identify the main reason(s) for your preference under question 5.

This is the most balanced package that is also simple, and avoids the exaggerated casuistic approach, does not put administrative burden to the applicant and the offices while ensures the legal interests of third parties, the public and of the inventor (applicant).

### 7. Please rate on a scale from 1 to 6 the norms relating to the grace period as proposed in the three packages considered:

1. Would support as a way forward
2. Rather positive opinion
3. Neutral
4. Rather negative opinion
5. Unacceptable
6. Do not know/do not wish to answer

Issue	IT3 Elements Paper	FICPI Proposal	AIPPI Resolutions
Grace period	3...	2...	1...

**8. Please rate on a scale from 1 to 6 the norms relating to conflicting applications as proposed in the three packages considered:**

1. Would support as a way forward
2. Rather positive opinion
3. Neutral
4. Rather negative opinion
5. Unacceptable
6. Do not know/do not wish to answer

Issue	IT3 Elements Paper	FICPI Proposal	AIPPI Resolutions
Conflicting applications	3...	1...	1...

**9. Please rate on a scale from 1 to 6 the norms relating to prior user rights as proposed in the three packages considered:**

1. Would support as a way forward
2. Rather positive opinion
3. Neutral
4. Rather negative opinion
5. Unacceptable
6. Do not know/do not wish to answer

Issue	IT3 Elements Paper	FICPI Proposal	AIPPI Resolutions
Prior user rights	3...	2...	1...

**10. Do you have any comments with regard to the proposals which you would like to share? [Include possibility to upload a document]**

The voluntary statement under the FICPI proposal can be considered, since it may help the collection of evidence regarding the disclosure before the filing date. However the mandatory statement and a complicated procedure “built up” around the disclosure and third party rights should be avoided. If prior user right may rely upon the early disclosure it offers a sufficient incentive for the applicant to move and file the patent application as soon as possible.

**End of Questionnaire**