

Client attorney privilege resolution gets green light



135 Yes
0 No
2 Abstained

A resolution seeking to extend minimum standards on Client Attorney Privilege beyond patents to other forms of IP was approved overwhelmingly during a plenary session yesterday.

Voters approved the resolution by 135 to 0, with 2 abstentions, after making minor amendments to the text.

Andri Hess, chair of the Standing Committee on Client Attorney Privilege (CAP), introduced the topic by explaining that the CAP term is “not entirely clear”. He added that there are different concepts of it in civil law and common law, plus a lack of protection in some jurisdictions.

According to the draft resolution, “it is well accepted that legal advisers can only properly perform their function if their

clients can rely on absolute confidentiality”. It added that CAP is a ground for resisting the disclosure of any communications between a client and their advisers.

The resolution was initially presented by the core group of B+ delegations of Australia, Canada, Japan, Korea, Sweden, Spain, Switzerland and the UK. It was then proposed by the Standing Committee on CAP, with AIPPI supporting the proposal subject to several amendments – which were voted on during the plenary session.

While the initial resolution only specified that CAP should apply to patents, there was some desire for other forms of IP, such as trademarks and designs, to be covered too. After some brief discussion from the floor, voters backed amended wording so

that the resolution specifically mentions utility models as well.

Next came voting on the requirements that IP advisers should meet to qualify for CAP. According to the draft resolution, the requirements should be made available on a public register and should not include any limitations that deny protection because the adviser is not domiciled in, or a national of, that nation. Both elements were approved unanimously, before the entire resolution was passed.

Mr. Hess, who was joined by other members of the Standing Committee on CAP, explained that the B+ delegations that proposed the resolution intend to bring it to the whole of the B+ group in October 2020.

