



EXCO/AR10/RES/Deferred Examination

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee meeting held in Buenos Aires, Argentina, from January 10 to 14, 2010, passed the following Resolution:

Noting that in some countries an applicant may defer examination of a patent application, although not usually the official search, for a set period of time by delaying payment of an examination fee;

Observing that a number of patent applications for which examination has been deferred are effectively withdrawn by non-payment of the examination fee within that time period, thus reducing the number of applications to be examined;

Observing that the patenting authorities in some further countries are considering providing for deferred examination as a measure to reduce backlogs of unsearched and unexamined patent applications;

Observing that any reduction in the number of applications to be examined will allow patent examiners to devote more time to searching and thus reduce the search backlogs;

Recognising that deferral of examination generally leads to legal uncertainty, which may be to the disadvantage of third parties; and thus

Opposing the introduction of deferred examination as a backlog-reducing measure;

But also recognising that an early-published search report enables third parties to assess for themselves the likely outcome of eventual examination;

Urges all patenting authorities that provide or intend to provide for deferred examination:

- (i) not to permit deferral of the official search but on the contrary to complete the search and publish the search report as a matter of priority; and
- (ii) to permit third parties to request examination for applications where examination has been deferred.