



EXCO/AR10/RES/Pre-Grant Publication

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:

Having considered the limited exemption in the United States of America (USA) from pre-grant publication at 18 months from the filing date or first priority date;

Reiterating its position in favour of a harmonized world-wide 12-month novelty grace period before the priority date of a patent application, whereby a disclosure of an invention derived directly or indirectly from the inventor during that period shall not be considered as included in the state of the art, as expressed in FICPI Resolution EXCO/AU08/RES/2, which was passed by the FICPI Executive Committee in Sydney, Australia in April, 2008;

Recognizing that one of the concerns expressed by users of the limited exemption is that examination and grant currently often do not occur until a considerable period of time after publication would have occurred;

Reiterating its position in favour of the introduction of a "first-inventor-to-file" system in the USA as part of efforts at international harmonization of substantive patent laws, as expressed in FICPI Resolution EXCO/KR05/RES/3, which was passed by the FICPI Executive Committee in Seoul, Korea in May, 2005;

Urges the USA to remove the limited exemption on pre-grant publication and publish all applications for patent in the USA no later than 18 months from the filing date or first priority date, and to establish a system of expedited examination and grant to address the concerns of those currently using the limited exemption; and further

Urges that discussion on harmonization between the USA and the other Group B+ countries proceed on the issues of the harmonized world-wide 12-month novelty grace period and the introduction of a "first-inventor-to-file" system in the USA, without regard to whether the USA removes the limited exemption from pre-grant publication.