



Resolution of the Executive Committee, Hangzhou, China 26-30 March 2017

“Administrative Measures before Patent Offices for Ensuring High Quality Patents”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Hangzhou, China from 26 to 30 March 2017, passed the following Resolution:

Observing that in the examination of patent applications, despite the continuing development of their document databases, Patent Offices do not have the resources to access all relevant disclosures that may have been made available to the public;

Noting that a patent grant procedure should be of reasonable duration and without undue delay;

Further noting that there should be a balance between the interests of an IP right holder and third parties;

Acknowledging that numerous Patent Offices provide cost-effective administrative proceedings allowing a third party to file observations on the patentability of a pending patent application and/or an opposition against a patent application or recently granted patent utilizing the Offices' expertise; and

Urges and encourages Authorities

- i) to provide *inter-partes* opposition proceedings against a patent application or recently granted patent, including at least on the grounds of novelty, inventive step and lack of industrial applicability;
- ii) to provide balanced procedural treatment of the parties in the opposition proceedings;
- iii) to ensure that official fees for such opposition proceedings are kept on a reasonable level and that the parties should usually bear their own costs;
- iv) to ensure that the time for completing such opposition proceedings is sufficient for resolving them with careful consideration of the issues, without an undue delay; and
- v) to ensure that such administrative proceedings should not preclude a subsequent nullity or revocation action between the same parties before a Court or other relevant authority;

Further urges and encourages Authorities

to implement or retain existing pre-grant *ex parte* observation proceedings in addition to such opposition proceedings and to retain existing re-examination proceedings in addition to such opposition proceedings.

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