



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee, Cape Town, South Africa, 13 and 18 April 2015

“Urgent need for legislation for Supplementary Protection Certificates (SPCs) for Unitary Patents (UP-SPCs)”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Cape Town, South Africa, 13 and 18 April 2015, passed the following Resolution:

Noting that the Agreement on a Unified Patent Court (“UPC-Agreement”) applies to European Patents (“EPs”) and European patents with unitary effect (“Unitary Patents” (“UPs”)) and supplementary protection certificates (“SPCs”) “issued for a product protected by a patent” (Art. 3 (a) and (b) UPC-Agreement);

Further noting that the current definition of SPCs in the UPC-Agreement only refers to the SPCs granted for “EPs” under Regulation (EC) No 469/2009 or under Regulation (EC) No 1610/96 (Art. 2 (h) UPC-Agreement) and that these Regulations do not refer to UPs;

Further noting that currently no legislation exists that regulates the grant or effect of an SPC for a UP;

Observing that there is a need to establish legislation for an UP-SPC with a “unitary effect in the participating Member States”¹ and that such legislation must exist at the point in time when the UPC/UP system comes into effect, because patent proprietors have to know at the time of grant of the patent whether grant of a UP-SPC is possible or not²;

Urges the responsible authorities to take urgent steps to introduce appropriate legislation for UP-SPCs with a unitary effect in the participating Member States.

¹ According to the EU Regulation defining the UP (No 1257/2012 of 17 December 2012)

² Because the request for unitary effect of the patent has to be filed within one month after grant of the patent (Art. 9 (g) Regulation (EU) No 1257/2012)