



EXCO/CL06/RES/1

Representation by Intellectual Property Attorneys in Appeals

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee from 4 to 7 December 2006 in Santiago, Chile, passed the following Resolution:

Whereas most national and regional patent organizations provide that a decision taken by their Intellectual Property Offices at an administrative level in matters of patents, trademarks or designs can be appealed if the interested party considers that this decision is not justified,

Emphasizing that many of these organizations further provide that any such appeal can be filed only at a non-administrative level, e.g. with a civil court, meaning that the rules of representation of parties before such court have to be complied with,

Underlining that qualified Intellectual Property Attorneys in these countries are generally not considered as authorized representatives within the meaning of these rules,

Whereas it results therefrom that a new, duly authorized representative, who was not involved at the initial stage of the proceedings, has to be appointed and will have to be trained on the case in order to be able to properly defend the interests of the party,

Considering that this is detrimental to the efficiency and cost-effectiveness of the Intellectual Property system in such countries,

Further considering that any deadline for filing an appeal becomes more difficult to meet when such a representation issue exists,

Urges that any such qualified Intellectual Property Attorney who was entitled to represent a party at a first-instance, administrative level should be allowed a right of representation at the appeal level, whatever the nature of the body handling such appeals is,

Further urges that such right of representation should include at least the right to validly file the appeal, the right to file written arguments and the right to plead the case at hearings.

By "Intellectual Property Attorney" is meant any qualified person practising the profession as advisor in matters relating to protection of industrial property under the national laws and regulations, if any, pertaining to this profession.