



Resolution of the Executive Committee, Copenhagen, Denmark 7-12 September 1997

“European Community Directive to Harmonize National Laws on Utility Model Protection”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee and World Congress held in Copenhagen, Denmark, 7-12 September 1997, passed the following Resolution:

Having taken note that utility model systems already exist in many countries of the world;

Having taken note of the likely content of the forthcoming Draft Directive that would introduce a harmonised form of utility model protection in the European Union (EU) countries; and

Welcoming the prospect that the forthcoming Draft Directive will provide only for minimum rights of utility model protection and thus permit the Member States to grant additional rights to applicants; however

Considering that such a Draft Directive will not include certain provisions which are of particular importance for individual applicants, university researchers, and small and medium sized enterprises (SME's), more so than for certain other applicants seeking IP protection;

And taking into account that legal systems should develop towards establishing a novelty grace period rather than in the opposite direction, so that an inventor would not deny himself the possibility of IP protection by his own prior publication;

Urges the European Legislative Bodies to include in the forthcoming Directive on utility model protection in Europe:

- a mandatory novelty grace period of 12 months preceding the filing or priority date of the utility model application;
- the availability of utility model protection for inventions in all fields of technology;
- a right of the applicant to create a utility model application by branching-off from an international, regional or national patent application before the end of a given term after the disposal of the patent application or after the end of any post-grant opposition proceedings; and
- a right of the applicant to obtain national utility model protection in any EU member state by designation of that member state in a PCT application.