



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee Cannes, France, 25 to 29 September 2022

“Scope of Antibody Claims”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee at the World Congress held in Cannes, France, 25 to 29 September 2022, passed the following resolution:

NOTING that antibodies are large, complex proteins with intricate three-dimensional structures,

UNDERSTANDING that the quality of interactions of antibodies and their corresponding antigens is dependent on many factors that may be affected by modifications at certain regions in the amino acid sequence of the antibody, but that minor sequence modifications would not normally be expected completely to negate a specific technical effect arising from such an interaction,

BELIEVING that to promote the development of new and useful antibodies it is important for innovators to obtain patent protection that is commensurate in scope with the disclosure of the patent application, including such minor modifications,

NOTING that recent jurisprudence in some jurisdictions is resulting in the grant of antibody claims of very limited scope, often limited to the exact sequence or sequences disclosed in the application, and usually for reasons of lack of support or enabling disclosure without due regard to the knowledge of one of ordinary skill in the art,

FIRMLY BELIEVING that antibodies can be defined appropriately to afford an adequate level of protection by structural limitations at a certain level of generality which cover minor sequence modifications and functional limitations to the attainment of a specific technical



effect, supported where necessary by the disclosure in the specification of suitable tests for the technical effect,

URGES Patent Offices and courts:

- (i) not to develop or apply unduly restrictive practices to the assessment of the patentability of antibody claims, and
- (ii) to take due account of the knowledge of the person of ordinary skill in the art and any test disclosed in the specification for the attainment of a specific technical effect when considering the patentability of claims to antibodies that are framed to cover minor sequence modifications.