



Resolution of the Executive Committee, Toronto, Canada, 3-5 & 8 June 2018

“PCT National Phase Requirements”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Toronto, Canada from 3 to 5 and 8 June 2018, passed the following Resolution:

Noting that Articles 22(1) and 39(1)(a) of the Patent Cooperation Treaty (PCT) set out minimum requirements for national phase entry, namely the transmittal not later than at the expiration of 30 months from the priority date of (i) the international application (if not already transmitted under Article 20), (ii) a translation thereof (as prescribed), and (iii) the national fee (if any) to each designated or elected Office respectively;

Further noting that Articles 22(3) and 39(1)(b) PCT allow any national law the flexibility to fix time limits for satisfying the requirements of Article 22(1) or Article 39(1)(a) which expire later than the 30 months provided for in Article 22(1) or Article 39(1)(a) respectively;

Observing that applicants face a considerable financial burden when entering national or regional phases in a plurality of designated and elected Offices before expiry of the time limits in those Offices, with the additional obligation of providing a plurality of prescribed translations, and the burden of satisfying various additional national or regional requirements at the time of national or regional phase entry; and

Acknowledging that some national laws already include measures to reduce the burden on applicants when entering the national and regional phases, such as providing a 31 month national phase entry period, extensions of time for submitting prescribed translations, the opportunity for applicants to reduce claim numbers to reduce the national fee, and extended periods for submitting various supporting documents, such as authorization of agent or power of attorney forms, inventor declarations, assignments, and entitlement statements;

Urges the relevant Authorities:

- i) to make use of the flexibility provided by Articles 22(3) and 39(1)(b) PCT to implement measures to provide applicants with extensions of time beyond the national or regional phase entry period for submitting prescribed translations;
- ii) to provide the applicants an opportunity to amend the claims upon or after national or regional phase entry, including the ability to reduce the number of claims for reducing fees; and
- iii) to provide applicants with extended periods for submitting various supporting documents, such as authorization of agent or power of attorney forms, inventor declarations, assignments, and entitlement statements after national or regional phase entry.

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