



FÉDÉRATION INTERNATIONALE DES CONSEILS  
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF  
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION  
VON PATENTANWÄLTEN

## Resolution of the Executive Committee, Sorrento, Italy, 29 September – 02 October 2013

### “Privilege of Representatives in the Proceedings before the Unified Patent Court (UPC)”

**FICPI**, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held Sorrento, Italy, 29 September to 02 October 2013, passed the following Resolution:

**Noting** that Art. 48 (1) and (2) of the “Agreement on a Unified Patent Court” of 19 February 2013 (“UPC-Agreement”) stipulates that parties shall be represented either by lawyers authorised to practise before a court of a Contracting Member State or by European Patent Attorneys who have appropriate qualifications,

**Further Noting** that Art. 48 (5) of the UPC-Agreement stipulates that representatives of the parties shall enjoy the rights and immunities necessary for the independent exercise of their duties,

**Observing** that the current draft for the Rules of Procedure foresees a different attorney-client privilege for lawyers on the one side (rule 287.1) and for patent attorneys on the other side (rule 287.2) and on the other hand foresees a common litigation privilege for both types of representatives (rule 289),

**Emphasising** that attorney-client privilege is essential for all representatives in anticipation of litigation, in particular in investigating for and evaluating for, preparing and conducting proceedings before the UPC,

**Urges** the responsible bodies, especially the Preparatory Committee, to also ensure in the Rules of Procedure that both for proceedings before the UPC, and for the necessary investigations, evaluations and preparations thereof, the same privileges should apply for all representatives according to Art. 48 (1) and (2), regardless of whether they are lawyers or patent attorneys.