



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee, Rome, Italy, May 1960

“Procedure for granting patents”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Rome, Italy, May 1960, ratified the following Resolution passed at its Rome Congress, from 2 to 7 May 1960:

Considering that the constant increase in the number of patent applications, the gigantic accumulation of technical documents available and the growing complexity of technical questions raised by the examination for prior art of invention is making the task of Patent Offices that carry out such examinations increasingly difficult;

That as a result, the time required for an examination is becoming increasingly protracted, thus retarding the moment when the public is able to know of patents granted in countries where prior examination is practised, while waiting files continue to accumulate;

That this situation, were it to endure, would be liable seriously to disturb the granting of patents and could involve the very protection of inventions;

That it is therefore important immediately to seek the remedy for this situation by lightening the task of Patent Offices;

That the abolition of any examination cannot be reconsidered at a moment when opinion seems to favour an extension of the examination to countries that do not yet practise it;

That the improvement sought for can, therefore, be made only in the methods of such examination;

Considering that the systematic and immediate examination of all patent applications appears to be one of the basic difficulties of the standard system of prior examination and that a considerable improvement could be made in the present situation if patents were granted and published quickly, without prior examination, such examination to be made only in respect of patents still maintained in force by their holders after a probationary period of several years, on expiry of which only those patents of which the technical, economic or commercial interest had been confirmed would still subsist, i.e. number of patents representing only a fraction of the applications made;



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Considering that, should it be to the interest of the patent holder or a third party to be informed more quickly as to the full bearing of a patent, it would be possible to give them the faculty of requesting immediate examination;

That in this way there would be a big saving in the considerable time examiners spend on research in respect of inventions of little interest, while the public, thanks to the rapid granting of patent, would be informed of any possible opposing rights, and the patentees, informed by the experience acquired during this probationary period, would be better able to direct protection towards the essential points of their inventions;

Considering that legal opinion as to the patentability of inventions in the course of patent-granting procedure, which requires examiners to possess legal knowledge acquired only by long experience, entails particularly long, delicate and costly discussions between examiners and applicants in regard to inventions only a certain proportion of which will actually be worked;

That the authority of the decision to grant a patent, following a thorough examination as to patentability, is nevertheless relative and may be subsequently questioned before a higher body;

That the purpose of the examination is essentially informative for applicants and public and it would seem that this purpose could effectively be attained by limiting the examination to revelation of priority and adequate formulation of claims to patent, leaving it to the higher administrative or legal authorities, in the event of dispute with third parties, to decide on the patentability in relation to the criteria of national legislation and jurisprudence, in accordance with a procedure that has been working satisfactorily for a very long time in certain countries;

That this solution would enable the task of Patent Offices to be lightened considerably without any serious inconvenience for inventors or the public;

After discussion of this matter between the representatives of the various countries taking part in the Congress, the Executive Committee passed a resolution:

- 1) That the procedure in respect of patent applications should be rapid and not comprise an immediate examination, the latter being **deferred** for some years and being carried out only on patents still in force at the end of that period of probation, except where an immediate examination is requested by the applicant or a third party;
- 2) That the examination should be solely in respect of the prior art of the invention, legal opinion as to patentability in accordance with national criteria being left to the higher administrative authorities or to the Courts in the event of dispute with third parties.