



QUESTION 46

Rearrangement of the text of the International Convention for the protection of intellectual property

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Q46

IAPIP Resolution

against the bills aiming at abolishing or weakening the industrial property rights

The International Association for the Protection of Industrial Property (IAPIP) which comprises 26 national groups and individual members in 38 other countries, expresses its deep concern about pending or imminent legislative proposals in various countries aimed at abolishing or weakening patents and/or trademarks related to certain fields of creative research and industrial activity.

Therefore, IAPIP supports the Resolution adopted in Stockholm on May 26, 1964, by the Council of the International Chamber of Commerce advocating the patentability of inventions in all industrial fields, which Resolution is worded as follows:

"The grant of patents of invention in any field of industry promotes the creation and the economical production of valuable products, as well as their commercialization, it adds to the ability of the business undertakings to meet the needs in general and enhances the interest they have to do so, and finally it assures to a maximum degree the development of international commerce profitable to the common welfare of any country.

The International Chamber of Commerce has already formulated this point of view in its Statement of November 24, 1961 (Doc. No. 450/210 Rev.).

Two international texts have recently been prepared in the field of patents: The Convention of the Council of Europe on the unification of certain points of patent law and the Draft Convention establishing a European patent.

The ICC believes it is significant that the Convention prepared by the Council of Europe on the unification of certain points of substantive patent law aims at protecting any new invention in any field of industry.

Derogations shall be authorized for a period of transit in order to enable a country to postpone the grant of patents only for food and pharmaceutical products, as distinguished from processes of manufacture of the aforementioned products, as well as for agricultural and horticultural processes.

Similarly, the Draft Convention relating to a European Patent Law defined the patentability in a broad sense by specifying that it shall be applicable to any new invention relating to products or processes in any field, including the plant varieties or animal races and the essentially biological processes for obtaining plants or animals.

Thus, these two important international texts have arrived at the same conclusions in favour of protection by patent in any field. The ICC warmly supports these conclusions bearing in mind that the grant of patents is based on the following ideas:

1. It is an incentive to research work and to inventions;
2. it induces inventors to disclose their inventions rather than to keep them secret and, consequently, to make known in precise terms the most recent techniques for the benefit of any country;
3. it permits to draw a benefit from the investment necessary for developing the inventions until such time as they have become exploitable on a commercial scale;
4. it is an encouragement to capital investment in new products and processes, which might prove unremunerative in the case where others would be interested in the same products or processes.

Moreover, the patents make possible, thanks to licence agreements, the communication of pertinent 'know-how' and technology, owned or developed by the holder of the patent and without which the information disclosed by the patent would in most cases be insufficient in order to be economically useful to the potential user.

The Government of any country may take such steps as the grant of compulsory licences, in order to ensure that the rights attached to the patent are exercised."

For the reasons outlined in the above Resolution IAPIP is, moreover, particularly concerned about legislative proposals under which the essential exclusivity of patents might degenerate into a mere right of compensation which is often inadequate.

Therefore, IAPIP wishes to state its firm conviction that the true public interest, international cooperation and the legitimate rights of inventors are best served by non-discriminating and proper protection of new and useful inventions as well as trademarks in all fields of creative activity.

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