



**EXCO/DE03/RES/5**

**Community Patent – Representation Before the Patent Courts**

**FICPI**, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession of more than 70 countries, assembled at its World Congress held in Berlin, Germany from June 2 to June 6, 2003, passed the following Resolution:

**Whereas** on August 30, 2002 the Commission issued a working document on Community Patent Jurisdiction - (COM 2002) 480 - in which it states, on page 24 in the Notes on the provisions of Title III of the Statute of the Court of Justice with regard to Art. 19 (3), prescribing the obligatory representation by a lawyer, that a change is necessary for litigation concerning the role of patent attorneys in Community Patent proceedings;

**Whereas** Art. 17 of this part of the working document refers to “technical advisors” and provides such a change in that it allows technical advisors who are professional representatives appearing on the list maintained by the EPO to speak at hearings;

**Whereas** one of the major objectives of reform of the European Patent System is cost reduction;

**Is of the opinion** that the right to be heard is devalued if it does not include the right to file written statements;

**Has further to observe** that in national procedures concerning European or national patents in many Member States and in all *inter partes* proceedings before the European Patent Office users (including large industry and SMEs) are permitted to use the services of patent attorneys who act alone to present their cases;

**Considering that** under a Community Patent System users would be confronted with the increased cost burden of representation by a lawyer compared with existing national systems and the European Patent System without any real justification;

**Considering** that any party should be free to choose whether it wants to be represented by a patent attorney, or a lawyer, or both;

**FICPI urges** therefore all constitutional bodies of the EU to put qualified patent attorneys on an equal footing with lawyers with regard to actions before the Community Patent Court and the European Court of First Instance relating to Community Patents and to provide that Patent Attorneys may represent parties in such proceedings.