



EXCO/US02/RES/3

Resolution on Small Entity

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession of more than 70 countries, assembled at its Executive Committee meeting held in Newport Beach, California, in the USA from 10-14 March 2002, passed the following Resolution:

Observing that some countries have introduced (and other states are contemplating), by way of legislation, a regime of reduced fees for defined small entities with respect to the obtention and maintenance of Patents, and the definition of a small entity often includes individuals, universities, and certain SMEs.

Believing that the intended purpose of such regimes is to encourage individuals, universities and certain SMEs, to obtain patent rights, keeping in mind their commercial value.

Observing that, the penalty for paying small entity fees, when the individual, university or SME is no longer a small entity, in at least some countries, has been the irrevocable loss of patent rights.

Resolves :

1. that applicants and patent holders should not suffer the loss of patent rights for paying small entity fees, without the intent to deceive, when no longer falling within the definition of a small entity, as such sanction is disproportionate to such an unintentional defect, and
2. that lesser sanctions such as retrospective payment of the full fees from the date of loss of small entity status, plus a reasonable penalty fee will be sufficient.