

## Resolution



### Question Q165

#### **Optional Protocol to the EPC with regard to Litigation concerning European Patents and Community Patents**

**Considering** the Resolutions of AIPPI on Q165 in Melbourne and Lucerne

**AIPPI recalls** that a European patent litigation system must satisfy the needs of all users from industry to small enterprises and individual inventors, namely quality, legal certainty and cost efficiency.

**AIPPI is therefore of the opinion** that because of the continuing uncertainties concerning the Community Patent the future work should concentrate on a system which allows for legal harmonization between the national litigation systems and an optional participation in a multinational agreement for the litigation of European patents.

#### **AIPPI therefore adopts the following Resolution:**

- 1) The Contracting States of the EPC are encouraged to aim at a concentration of patent litigation in one or several experienced national courts in each member state or within a group of member states.
- 2) A uniform code of civil procedure and uniform rules of evidence and substantive law should be developed taking into consideration the proposal for a European Patent Litigation Agreement (EPLA) and the recent EU Enforcement Directive with the aim that national patents and European patents will be litigated according to the same rules.
- 3) Patent judges in all countries should be chosen according to their experience and interest in patent litigation. A continuing career specialization should be encouraged.
- 4) The language of the proceedings for national and European cases should be the official language(s) of the seat of the respective national court with an option to agree on any other language if the parties and the court agree. Countries are encouraged to establish within their jurisdiction multilingual chambers or courts where judges understand and possibly speak at least a second language and can hear cases in such language.
- 5) For the establishment of a European litigation system interested Member states of the EPC should agree on the convocation of a Diplomatic Conference for the adoption of an optional litigation agreement (EPLA), which provides for first instance courts in the member countries and the establishment of a central European court of appeal.