



International Chamber of Commerce

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Policy statement

Use of intellectual property registration fees

Commission on Intellectual Property, 12 September 2002

ICC applauds initiatives carried out by national and regional intellectual property offices, as well as by WIPO, to improve and reduce the costs of services provided to users. An effective and accessible intellectual property system requires sufficiently-funded intellectual property offices which can provide good quality, efficient and cost-effective services that have a practical value for the user. The fees charged should correspond to the quality of the service rendered.

In several countries, a substantial portion of the fees collected by the local intellectual property office is diverted or retained by governmental authorities for purposes which have no relation to the operation of the office. This practice, which exists in all regions, raises several concerns:

1. It jeopardizes the operation of the office and the quality of its services, and forces it to work on a reduced budget

The reduction in national offices' resources caused by the diversion of fees does not allow it to invest in maintaining or improving the quality of its services, or to deal with increases in intellectual property registration activity. This is particularly acute with respect to patents, as the recent change in the time limit of Chapter I of the PCT (art. 22.1) from 20 to 30 months is expected to result in an increase in PCT applications entering national phases without a preliminary examination report. It will therefore be necessary to allocate the maximum possible resources to national offices, in order to allow them to face the resulting increase in workload.

2. It undermines all the international efforts currently directed towards reducing the costs of intellectual property protection

Reducing the costs of protecting intellectual property rights is an increasingly important concern for right holders, as the growth of international trade and intellectual property-based industries results in the need for more wide-spread protection. Governments also recognize that cost reduction can help promote more effective and widespread use of the intellectual property system and have recently undertaken initiatives towards this objective. These include harmonizing procedures and substance at both international and regional level, using new information technology, and promoting regional systems and mutual recognition procedures. Diversion of revenues from intellectual property registration does not allow accumulated surpluses to be used to reduce fees for applicants, and may maintain the fees at an artificially high level which does not correspond to the quality of the service provided.

3. The retention or deviation of fees also generates unnecessary costs for applicants, in apparent contradiction with provisions of TRIPS' article 62.4 combined with article 41.2

The latter states that "Procedures concerning the acquisition or maintenance of intellectual property rights ... shall not be unnecessarily ... costly".

ICC would like to propose the following principles:

- Fees charged by intellectual property offices should only be used for purposes relating to the operation of the office or activities sponsored by the office.
- Intellectual property offices should have complete administrative autonomy.
- Fees charged by intellectual property offices should correspond to the quality of the service provided.

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ICC believes that the above principles will assist intellectual property offices in providing cost effective and better quality services for users, thereby contributing to the effective functioning of the intellectual property system.

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