

## Board Resolution 02/2017

### Hague Convention on the Recognition and Enforcement of Foreign Judgments

FEMIFI is the umbrella organization of the professional organizations of patent attorneys and patent agents in European industry. FEMIFI has the objective to represent as many European professionals and agents active in industry as possible. The purpose of the Federation is the study, development and protection of the professional interests of intellectual property agents in industry with due consideration of the interests of the users of the IP systems in industry.

In the third meeting of the Special Commission on the Recognition and enforcement of Foreign Judgments, an EU Delegation proposed to include intellectual property rights into the scope of the proposed Hague Convention on the Recognition and Enforcement of Foreign Judgments.<sup>1</sup>

The following sets out FEMIFI's position about this proposal and is based on FEMIFI's concerns about legal certainty and predictability of court proceedings in the field of intellectual property and in particular of patent law.

FEMIFI believes that all intellectual property rights should be completely excluded from the scope of the Hague Convention. We think that an inclusion would only result in greater uncertainty, unwanted forum shopping and increased litigation. These are all aspects that are not wanted neither by IP rights holders nor by parties against whom IP rights are potentially enforced. The main reason for this is that injunctions would not be enforceable internationally anyway and according to the CJEU invalidity decisions of IP rights are a matter exclusively for the courts of the state that granted or registered the IP right. Thus, the inclusion of IP rights in the Hague Convention is bound to create increased litigation and uncertainty over whether international enforcement is possible.

This is particularly true for patent rights. Therefore as a minimum patents should be excluded from the Convention.

Finally, FEMIFI supports the Policy Paper PP 9/17 on this matter that was published by the UK IP Federation on October 23, 2017.<sup>2</sup>

30.11.17/BW

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<sup>1</sup> <https://assets.hcch.net/docs/a8e770fc-30b8-4df1-9a79-5e44249d8d70.pdf>

<sup>2</sup> [https://www.ipfederation.com/policy\\_papers.php](https://www.ipfederation.com/policy_papers.php)