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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE PATENT LAW TREATY

Geneva, May 11 to June 2, 2000

AGREED STATEMENT BY THE DIPLOMATIC CONFERENCE CONCERNING RULES 12(5)(vi) AND 13(3)(vii)

Proposal by the Delegation of Australia

Article 11 (Relief in Respect of Time Limits) and Article 12 (Re-instatement of Rights After a Finding of Due Care or Unintentionally by the Office) are intended to provide conditional relief where an applicant or owner is unable to meet a time limit set by the Office or where there has been a failure to comply with a time limit despite all due care or unintended delay. These provisions ensure that the rights of an applicant or owner are not jeopardized by delays and lapses in procedure that are unavoidable in the real world. Rules 12(5)(vi) and 13(3)(vii) however provide exceptions for actions relating to *inter partes* proceedings. This is necessary because Articles 11 and 12 do not provide adequately for the intervening rights of third parties. Nevertheless, many countries do provide for extensions of time and continued processing in these circumstances.

Australia considers that it is highly desirable that, where national law provides for *inter partes* proceedings, remedies analogous to Articles 11 and 12 should be provided to ensure that the rights of either party are not lost.

Consequently this Delegation proposes the following statement for the Diplomatic Conference:

> "When adopting Rules 12(5)(vi) and 13(3)(vii) the Diplomatic Conference understood that, while it was appropriate to exclude actions in relation to *inter partes*

proceedings form the relief provided by Articles 11 and 12, it was desirable that the applicable law of Contracting Parties provide similar relief in those circumstances which takes into account the competing interests of third parties."

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