



Europäisches
Patentamt

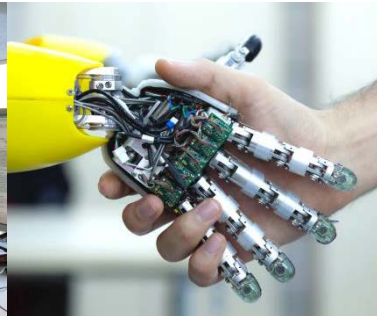
European
Patent Office

Office européen
des brevets

IP5 PHEP: Unity of invention

IP5 ICG 1 February, 2018

JPO, Tokyo



Procedural patent harmonisation – IP5 PHEP

- **Unity of invention:** EPO/SIPO
 - determination and application of unity of invention criteria
- **Citation of prior art:** KIPO/USPTO
 - prior art disclosure requirements
- **Written description and sufficiency of disclosure:** JPO
 - issues re enablement, sufficiency of disclosure, written description and claims

<http://www.fiveipoffices.org/activities/harmonisation.html>

- Unity of invention (EPO/SIPO)

- alignment of practices re **international applications**
 - including applications entering regional/national phase to the extent constraints permit
- consolidation of data of IP5 report ✓
- case studies – 3 cycles
 - mechanics ✓
 - electricity ✓
 - chemistry ✓
- analysis of practices against the background of Ch. 10 ISPE

– Unity of invention (EPO/SIPO)

➤ Intermediate **review**

- certain practice elements already **aligned**;
- recognised differences in substantive patent laws may lead to different outcomes, i.e. in Chemistry, but Offices agree that **reasoning is the same**
- good level of alignment in substantive analysis in **Mechanics** and **Electricity**
 - Mechanics: 39 questions, 92% alignment
 - Electricity: 60 questions, 73% alignment
- less alignment in substantive analysis in **Chemistry**
 - 21 questions, 48% alignment
- **divergences** in all surveys
 - differences as to when additional fees would be requested
 - some offices rather not raising an objection if they consider no additional search effort is required

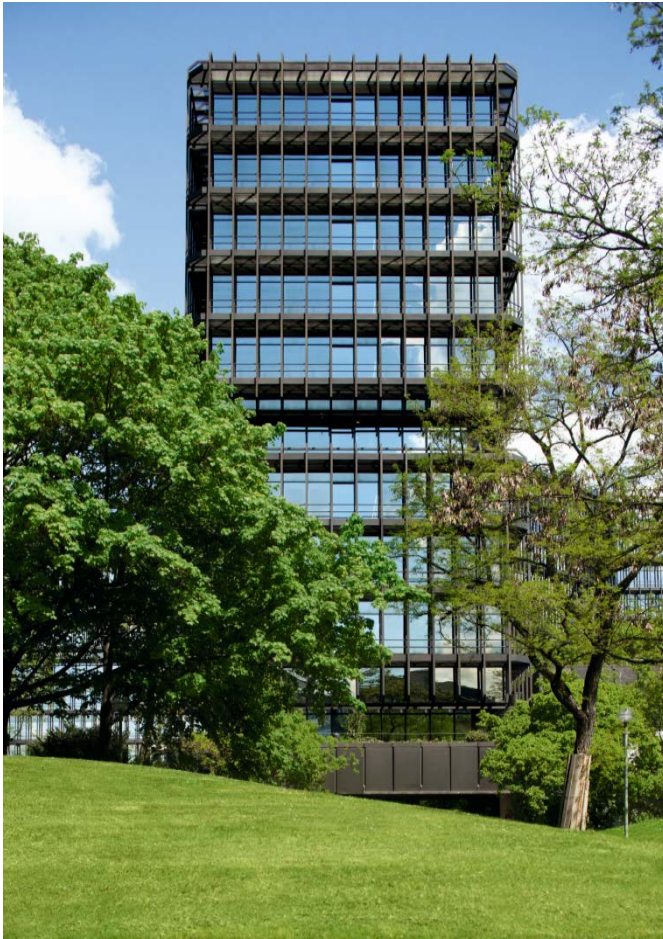
- Unity of invention (EPO/SIPO)

➤ Current status

➤ Explore how to best utilise study outcomes

- consider improvements in non-unity reasoning
- formulate a complete non-unity example including a reasoning
- reach a common way of raising non-unity objections, currently not available in the ISPE
- enhance consistency and transparency

 On track to complete work at IP5 level by **end 2018**



Thank you for your attention!