



A SUSTAINABLE PATENT SYSTEM

Trilateral User Day (The Hague, 13 November
2008)

BUSINESSEUROPE perspective

Initial + name



THE PROBLEMS

- THE NUMBER OF UNEXAMINED PATENT APPLICATIONS IS INCREASING IN MOST OFFICES
 - ✓ PROTECTION FOR USEFUL INVENTIONS IS DELAYED (DENIED?)
 - ✓ PROLONGED LEGAL UNCERTAINTY IS BAD FOR BUSINESS
- THE NEED TO RESORB THE BACKLOGS MAY LEAD TO LOWER QUALITY OF SEARCH AND EXAMINATION
 - ✓ ANOTHER, MORE INSIDIOUS, FORM OF LEGAL UNCERTAINTY
 - ✓ SENDING THE WRONG MESSAGE TO APPLICANTS



THE WAY FORWARD

- ENHANCE COOPERATION BETWEEN PATENT OFFICES TO AVOID UNNECESSARY DUPLICATION OF WORK
 - ✓ THE 10 PROJECTS CONSIDERED BY IP5 SHOULD PAVE THE WAY FOR AN ENHANCED AND SUCCESSFUL COOPERATION
- MAKE FULL USE OF THE PCT FRAMEWORK AS IT CONTAINS THE BASIC INGREDIENTS FOR THE PURPOSE
 - ✓ LOOK ALSO FOR POSSIBLE IMPROVEMENTS TO PCT TAKING INTO ACCOUNT E.G. THE CONCLUSIONS DRAWN FROM PPH PROJECTS
- ENCOURAGE APPLICANTS TO IMPROVE THEIR INTERACTIONS WITH THE OFFICES



MAIN STEPS OF AN IMPROVED GLOBAL PROCESS

1. THE APPLICANT PRESENTS THE APPLICATION IN A WAY THAT ALLOWS MEANINGFUL SEARCHING
 - ✓ IT IS THE APPLICANT'S DUTY TO TELL THE EXAMINER WHAT IS THE INVENTION HE BELIEVES HE HAS MADE AND FOR WHICH HE WANTS A PATENT TO BE GRANTED
 - ✓ A DOCUMENT WHICH LEAVES TO THE EXAMINER THE TASK TO FIND OUT WHICH ASPECTS OF IT COULD CONSTITUTE AN INVENTION IS NOT A PROPER PATENT APPLICATION
 - ✓ THIS COULD LEAD TO EFFICIENCY GAINS IN THE SEARCH PHASE



MAIN STEPS OF AN IMPROVED GLOBAL PROCESS

2. THE OFFICE OF FIRST FILING (OR THE ISA) PRODUCES A HIGH-QUALITY SEARCH REPORT AND PRELIMINARY OPINION IN A TIMELY MANNER
 - ✓ QUALITY LEVEL SHOULD BE THE SAME FOR WORK UNDER PCT AS FOR WORK ON NATIONAL APPLICATIONS
 - ✓ TIMELINESS IS ESSENTIAL TO GIVE APPLICANTS ENOUGH TIME TO PUT THE APPLICATION IN PROPER SHAPE FOR THE NEXT STEPS



MAIN STEPS OF AN IMPROVED GLOBAL PROCESS

3. THE APPLICANT, IF HE DECIDES TO CONTINUE WITH THE APPLICATION, AMENDS AS APPROPRIATE THE APPLICATION BEFORE THE OFFICES OF SECOND FILING (incl. THE IPEA, DESIGNATED OFFICES, ETC.) START WORKING ON IT
 - ✓ THIS FILTERING EFFECT CAN BE EXPECTED TO
 - REDUCE TO SOME EXTENT THE NUMBER OF APPLICATIONS REACHING OSFs
 - ALLOW OSFs TO FOCUS ON A MORE LIMITED SET OF ISSUES





THANK YOU!

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