

BUSINESSEUROPE



THE PATENT SYSTEM OF THE FUTURE:

Views of European Industry

**Trilateral Users Conference
(Washington, 8 November 2007)**

THE NEED FOR CONVERGENCE

- In a global world, widely different patent systems are a hindrance to world trade development.
- Users welcome the work of the Trilateral Offices towards convergence of practices and requirements.
- Users also welcome the work in other fora on further convergence of substantial aspects of patent systems
- WIPO/Group B+ : the present political issues have led to a standstill → a clear way forward needs to be defined;



TRILATERAL USERS GROUP'S PROPOSALS

- Industry set up a group to mirror Trilateral Offices and come up with a series of simple proposals on harmonisation that would provide benefits to both the Offices and users;
- First meeting in Nice in 2003;
- Regular meetings since then and meetings with Trilateral Offices since November 2005;



TRILATERAL USERS GROUP'S PROPOSALS

- Two main work streams:
- One Global Patent Application: submission to Trilateral Offices in November 2006, potential savings of \$300m;
- One Search: at an advanced stage, search carried at during convention year at one Office used by other Trilateral Offices – not yet submitted to Trilateral Offices;



ONE APPLICATION

One Global Patent Application:

- Working Group set up between Offices and Users held meeting in Japan at end of February 2007;
- Further meeting of the WG held on 6 November 2007;
- Many of Users' proposals taken on board, e.g. in relation to prior art citations and legends;
- Proposed tagging beneficial to Offices;
- Still some outstanding issues, e.g. conforming specifications to cite prior art and to conform with the granted claims;



THE POSITION OF EUROPE

- The European patent system provides a strong basis for discussions on convergence
 - Common system for more than 30 countries;
 - Largely satisfactory for users and society;
 - Consistent with PCT;
- There is, however, room for improvements
 - improvements that are related to convergence issues;
 - improvements that are independent of convergence;



IMPROVEMENTS UNRELATED TO CONVERGENCE

1. Europe needs to streamline its patent grant process with a view to:

- Focusing on quality: granting valid patents with proper scope;
- Improving efficiency of opposition/appeal process;
- Limiting the cost of patenting;

→ cost control at the EPO through refocusing its resources on core task of granting European patents

→ reduction of translation costs through the London Agreement; imminent entry into force in Europe with French ratification;



IMPROVEMENTS UNRELATED TO CONVERGENCE

2. Europe needs to create a common court system for litigating European patents;
 - present fragmented litigation venues is harmful to Europe's competitiveness;
 - a common court system as contemplated by the draft European patent Litigation Agreement (EPLA) – however this is getting diluted by recent political initiatives;



IMPROVEMENTS UNRELATED TO CONVERGENCE

3. The creation of a European patent for the whole of the European Community (“Community Patent”) is a worthy objective, provided that:
 - it is cost effective from a user viewpoint: procedural costs but also translation costs and renewal fees;
 - it is truly one single legal instrument for the EU;
 - litigation is handled generally as defined in EPLA;

