Europäisches Patentamt
European Patent Office
Office européen des brevets

Patent thickets workshop

Initiated by the EPO Economic and Scientific Advisory Board
26 September 2012
Salons Georges, Leuven, Belgium
Programme



Workshop on patent thickets

At its inaugural meeting in January this year, the European Patent Office's Economic and Scientific Advisory Board (ESAB) decided to hold stakeholder workshops on the following three issues:

- the role and structure of fees
- the importance of patent quality
- patent thickets

The first two workshops were held in May, and the third, on the topic of patent thickets, is scheduled for 26 September, in Leuven, Belgium.

The workshop will aim to

- improve stakeholders' understanding of patent thickets
- consider the role of patent thickets in different industries
- produce suggestions for further research
- make recommendations for best practice in dealing with the problems associated with patent thickets

The specific issues to be addressed include:

- the role of standards
- royalty stacking
- compulsory licensing
- patent pools
- other options for dealing with thickets

What are patent thickets?

Patent thickets generally describe a situation in which a proliferation of patents can necessitate the negotiation of multiple licences and can increase transaction costs to a level where they become socially inefficient. The complexities of the patent system could create a situation which encourages the strategic use of patents to the detriment of protecting and distributing knowledge.

As a result, even though individual firms might be interested in patenting for strategic reasons, potential licensees might not be able to raise the necessary collective licensing fees and thus be unable to carry on with research and development in the patented technological field. With patent thickets a company must hack its way through a dense web of overlapping intellectual property rights in order to be able to commercialise a new technology.

The Board has already identified two potential types of patent thicket. In the first, presumably low-quality patents are used to protect inventions which represent only a slight improvement. The second involves situations in which the stacking of royalties, including those for high-quality patents, might hinder both the commercialisation of the technology concerned and follow-up research in the relevant field. The first type of patent thicket can damage the public image of patents, while the second raises additional barriers to market entry. There is also some concern that fragmentation and blocking problems are on the increase.

08.45 **Opening and welcome address**
Nikolaus Thumm, EPO Chief Economist, Secretary-General of the ESAB
Dietmar Harhoff, LMU Munich, ESAB Chairman

09.00 **Plenary 1**
Chair: Ruud Peters, Philips Intellectual Property and Standards

The role of patent thickets in different industries
Stakeholder perspectives

– Academia
Rosemarie Ziedonis, University of Oregon
– Experiences of the courts
Sir Robin Jacob, University College London
– Information and communication technologies
Dirk Weiler, ETSI and Nokia Siemens Networks
– Life sciences
Karine Crepin, sanofi-aventis
– Patent practitioner
Giustino de Sanctis, Sisvel International SA

10.30 Coffee break

11.00 **Group work session 1**

What are the problems? How can patent thickets be described by type, dimension and industry? What is the specific role of standards for the development of patent thickets? Where and under what conditions does royalty stacking occur? Does the dimension of the problem require specific remedies?
Chair of group 1: Mariagrazia Squicciarini, OECD
Chair of group 2: Sir Robin Jacob, University College of London
Chair of group 3: N. Ayşe Odman Boztosun, Akdeniz University
Chair of group 4: Bronwyn Hall, UC Berkeley

12.00 **Plenary 2**
Chair: Dietmar Harhoff, LMU

Presentation and discussion of group work findings

13.00 Lunch break

14.00 **Group work session 2**

What are the possible solutions? Are specific policy interventions required or are market-based tools better suited to address the problem? What is the specific role of patent pools and compulsory licensing?
Group chairs as above

15.00 Coffee break and group photo

15.30 **Plenary 3**
Chair: Geertrui Van Overwalle, KU Leuven

Presentation and discussion of group findings

Recommendations for best practice in dealing with patent thickets. What are the unresolved issues, challenges and areas for further research?

17.00 **Closing remarks**
Dietmar Harhoff, LMU Munich
Nikolaus Thumm, EPO

End of workshop

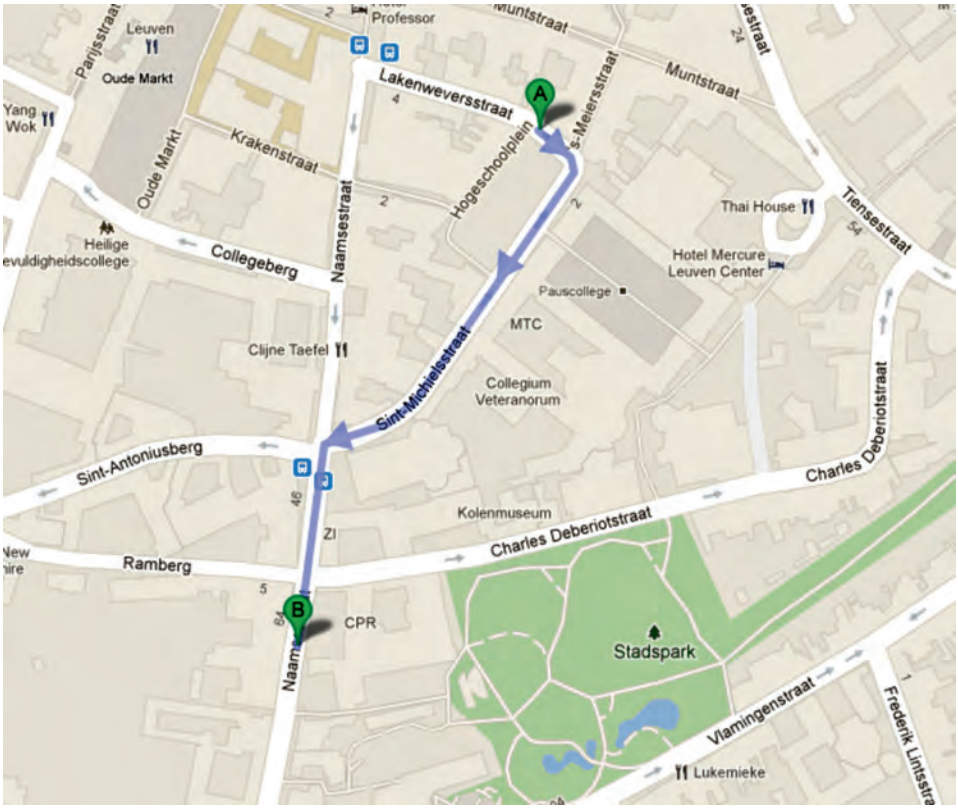
17.15 **ESAB meeting** (ESAB members only)
Next steps

End: 18.15 ➔

20.00 Dinner

Restaurant d'Artagnan
Naamsestraat 72
B - 3000 LEUVEN

See map for directions to Restaurant D'Artagnan
(five minutes' walk from workshop venue).



Venue
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