



WING TIPS

Significant Cost Savings in IP

The London Agreement

The European Patent Convention (EPC) allows an applicant to file a single patent application in any one of English, French or German for examination by a single patent office (the European Patent Office or EPO). The single application may designate one, several or all of the 32 member states.

An application for a European patent is published in English, French or German 18 months after the filing date, or, if priority has been claimed, the priority date. At this time, the invention to which the application relates is disclosed publicly. This publication is an important source of information for persons wishing to follow developments in a given technical field.

Once a European patent is granted, usually 3 to 4 years after filing, the patent proprietor needs to determine whether protection is required in one, several or all of the 32 member states and "validate" the patent in the required member states accordingly.

Currently in the validation phase, the European patent must be translated into the official languages of the states in which the patent proprietor is seeking protection. This places a heavy financial burden on inventors and companies and is, therefore, a key factor contributing to where the patent is validated. For example, having a European patent fully translated into one other language typically costs approximately €1400. To validate the patent in all member states is, therefore, expensive and, in practice, European patents are, on average, validated in just seven states, requiring translation into five languages at a cost of around €7000. The translation requirement is, therefore, preventing a European patent being truly "European".

In June 1999, France convened an intergovernmental conference of the member states of the European Patent Organization. One of its aims was to reduce the cost of European patents. This conference laid the groundwork for the London Agreement which was concluded in October 2000.

The Parties to the Agreement undertake to waive, entirely or largely, the requirement for translations of European patents to be filed in their national language.

Under Article 1 of the Agreement, any state having English, French or German as an official language agrees to dispense with the translation requirements. However, the claims will always be available in the three EPO languages.

Article 1[2] and [3] of the Agreement concerns states having an official language that is not English, French or German. These states agree to dispense with the translation requirements if the European patent has been granted in the official language of the European Patent Office prescribed by that state. They continue to have the right to require a translation of the claims in one of their official languages.

The Agreement is optional. Only eight states (which must include France, Germany and the United Kingdom) need to ratify or accede to it. This means that the Agreement does not have to be ratified by all member states of the European Patent Organization in order to enter into force. Furthermore, the entering into force of the Agreement does not remove the need for translations in countries which have not ratified. However, as more member states ratify, the lower translation costs will become, enabling patent proprietors to validate their patents in a greater number of states without having to meet almost prohibitive translation costs.

At the time of writing, 9 states (including Germany and the United Kingdom) have ratified the Agreement. Furthermore, our current understanding is that France is making progress with ratification and the expectation is for the changes to become effective in early- or mid- 2008.

The changes will only affect patent applications which are granted after the London Agreement comes into force.

This breakthrough on the language issue will significantly reduce the cost of European patents. This should benefit inventors and companies with a strong patenting track record, primarily European industry, to which more than half of European patents are granted. The money currently spent by inventors and companies on translations could thus be redirected towards R&D. As a result, European industry should become considerably more competitive and increase its innovative capacity.

For more details, see: <http://www.epo.org/patents/law/legislative-initiatives/london-agreement.html>

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