12/18/2012 Events

On 11 December, the European Union industry ministers agreed to create a unitary European patent. For this project, which is supposed to boost the competitiveness of European enterprises, especially SMEs, talks were carried on for over thirty years. In this context, the European Patent Office (EPO) welcomed the achievement of the European Parliament in Strasbourg, hailing it as "historic".

"The European Union is to be congratulated on this decision, which clears the way for the completion of the European patent system with a unitary patent and a Unified Patent Court, which we have been waiting for in Europe for 40 years", said EPO President Benoit Battistelli. After many years of negotiations, on Tuesday, 11 December 2012, the European Parliament has voted the new legislation. Thus, EU inventors will soon be able to get a unitary patent at last, which will cut the cost of an EU patent by up to 80%, the patent regime being especially adapted to the needs of small and medium companies.

"Intellectual property must not stop at borders. The path towards the introduction of the EU patent was long and troubled, but ultimately it has been worth the effort", said Bernhard Rapkay, who led on the regulation setting up a unitary patent protection system. European Deputy, Legal Affairs Committee Chair Klaus-Heiner Lehne, who led on the international agreement setting up a unified patent court, said: "With the new rules a lot of obstacles for SMEs will be overcome".

Currently, a patent must be obtained and then validated for each of the 27 EU Member States. This has an impact on the cost burden of European patents, which are eighteen times more expensive than in the USA, and in China the cost of a patent is only 600 euro, recalled the European Commissioner for Internal Market, Michel Barnier. Thanks to the unitary patent, administrative simplifications to be made will help to reduce costs of the EU inventors for filing a single patent application during the transition period to 6,500 euros, the cost will be reduced below 5,000 euros after the transition period, assured the European Commissioner Michel Barnier. An EU patent may cost just €4,725, compared to an average of €36,000 needed today, says the European Commission.

Since Spain and Italy have refused to participate in negotiations, in protest of the fact that patents are only translated into the three working languages of the Union: German, English and French, European patent is currently the subject of an enhanced cooperation only between 25 of the 27 EU countries. Since the two nominated countries have filed appeals before the court, to answer to any concerns and to satisfy Spain and Italy, EU Cyprus Presidency suggested in November this year that patent applications be filed in any European language and then be translated into one of the three working languages. Once registered, patents will be translated into the 23 languages of the EU.

According to the European Commission, the **International Agreement creating a unified patent court will enter into force** on 1 January 2014 or after thirteen contracting states ratify it, provided that UK, France and Germany are among them. The other two acts - legislation on the unitary patent protection system and the International Agreement establishing the Unified Patent Court [1]- would apply from 1 January 2014, or from the date when the International Agreement enters into force. So, the first unitary European patent application could be filed in 2014.

To file a new application for unitary patent, any inventor will be able to apply to the European Patent Office (EPO, a non-EU body) for an EU unitary patent valid in all 25 EU member states taking part. Patents will be made available in English, French and German. Applications will have to be made in English, German or French. If made in another language, they will have to be accompanied by a translation into one of these three languages.

For more details:
http://www.epo.org/law-practice/unitary/unitary-patent.html [2]
http://ec.europa.eu/internal_market/indprop/docs/patent/com2011-215-final_ro.pdf [3]
http://www.epo.org/law-practice/unitary/patent-court.html [1].

http://www.europarl.europa.eu/news/ro [4]

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