

DEV Feed Back to the EU-Initiative: Intellectual property action plan 12/08/2020
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ABOUT DEV Deutscher Erfinderverband e.V.

The DEV, the German Inventors' Association, supports and represents start-ups and young inventors by providing contacts and networking with experienced inventors and successful SMEs.

Our young members have the following problems with the current IP system and also with the partial Community patent, which is still in the ratification phase:

Start-ups and their innovators are usually young and relatively penniless. There is not tax-advantage in most EU countries compared to other countries.

ISSUES

Ad A.

1st block

The current EU IP rules are inefficient. The DEV agrees that the European Patent System is far too complicated. In the view of our inventors it is contrary to Articles 106(1) and 101 to 109 TFEU as it gives different protection for the same invention in the member states. Currently, patent protection is granted to those who can afford to use extensive formalities and the diverging jurisprudence in their favor and does not reward inventive performance per se.

- Our fellow inventors and SMEs in the USA, China or India (to name just a few) enjoy extensive fee reductions in official fees and investors in these inventions and start-ups also receive high tax reductions for their risk capital.
- An affordable European Utility Model is strongly recommended to enable rapid protection of inventions.
- Geographical Indications (GI) protection is still too cumbersome and for non-agricultural products sui generis currently unavailable.
- In addition, it is necessary to adjust the IP framework so that the digital and green economy can fully benefit from innovation.
- A unified European Author's Rights Law, Inventors Law and Copyright protection system is urgently needed.

We believe that the current EP-Patent protection system, if it is refocused on the basic idea of rewarding inventions, can overcome some problems. Some important adjustments - especially with regard to AI protection - seem necessary in order not to prevent future inventions by false protection and even to block them completely.

2nd block 1st part

Many SMEs and research centers can hardly afford the current EU IP System. We would like to stress that most SMEs are quite familiar with IP protection. But they cannot afford to use the costly European Patent System with over boarding annuities and are forced to leave their inventions unprotected or protect them only with national rights.

2nd block 2nd part

The current EU IP system is unsuitable for AI. Since AI as such is difficult for being protected by patents (e.g. mathematical methods), utility models are inaccessible, and Copyright or Author's Rights are completely unsuitable to protect computer-implemented inventions. EU inventors of AI are completely hindered by the current EU IP system. While the US allows such patents leading to prospering firms founded on protected computer-implemented inventions.

3rd block

The current IP protection system is far too slow. The current system of intellectual property protection is far too slow and, unfortunately, there is neither a uniform system of provisional applications in Europe

4th and 5th Block

EU standards for secure marking are needed. The main problem is an easy recognition of fakes and the secure marking of original goods. The present system is rather unequipped for testing of modern secure marks (e.g. DNA markings or holograms). Therefore, it is considered being important that the EU sets standards for (affordable) secure marking and equips customs with such techniques to apply them.

Regulations should be much shorter. EU rules are written in a sophisticated and lengthy style, and an endless flood of norms and rules hinders and stifles any progress resulting in an excessive bureaucracy.

Much faster to the Appeal and Revision Instances. Cases of diverging jurisdiction should be referred to the Appeal instances (e.g. Enlarged Board of Appeal or EUGH) much faster to obtain legal certainty as to what can be protected.