

6 March 2006

EPO STRATEGY DEBATE

UNICE has been following closely the progress of the strategy debate within the EPO on the future structure of the European patent system, since it was launched in November 2004.

UNICE is the official voice of more than 20 million small, medium and larger companies. UNICE's members are 39 central industrial and employers' federations from 33 countries.

The European economy needs high quality European patents, hence a high quality grant process. The central competence and full responsibility of the EPO in processing and granting European patents is one of the cornerstones of the European patent system and UNICE is of the strong conviction that it should not in any way be jeopardised. For users such a patent system, which centralises and simplifies the processing and granting procedure with one application handled by the EPO, brings important benefits, in terms of ensuring uniform quality and consistency covering all fields of technology reasonably well.

The EPO should remain the central European patent granting authority fully responsible for granting European patents. UNICE is extremely concerned seeing basic principles of the EPC being put into question in the context of the strategy debate. Any proposals that would result in weakening EPO's full control over the various parts of the procedure leading to the grant of a European patent are not acceptable, as they would make the basic principles of assigning sovereign decision-making in this area to the EPO through the European Patent Convention (EPC) void and thereby negatively influence its consistency and value.

Regarding the question of outsourcing, UNICE opposes any solutions where the EPO would be obliged to transfer work to entities, including National Patent Offices (NPOs), over which it would have no control. Any work allocation should respond to the key question of whether it can meet a real need to support the proper functioning of the Office. For this and in light of the Protocol on Centralisation, Art.33 (4) EPC has to be interpreted in a restrictive way such as: "work which constitutes a defining step leading to the final decision of grant cannot be transferred to NPO's". Moreover, in cases where applicants have chosen to file through EPC and therefore to have their application fully processed by the EPO, this choice should be strictly respected.

In addition, UNICE can only support efforts of the EPO to put into place a quality management system, in order to further enhance the quality of European patents delivered.

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