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BusinessEurope Comments on EPO Strategic Plan (2019-2023)

BUSINESSEUROPE is the leading advocate for growth and competitiveness at European level, standing up for companies across the continent and actively campaigning on the issues that most influence their performance. We speak for all-sized enterprises in 35 European countries whose national business federations are our direct members.

BUSINESSEUROPE has taken notice of the comprehensive consultation and evaluation process that the EPO is engaged in to build up a multiannual Strategic Plan (2019-2023).

A well-functioning patent law system is of paramount importance for our membership. The protection of intellectual property (IP) is key for innovation, growth, competitiveness and job creation in Europe. European innovation is vital to ensure that the EU can maintain its global leading role in developing sustainable solutions to cope with mutual challenges prompted e.g. by consumer safety, climate change, lack of clean water, a growing aging population and health issues. BUSINESSEUROPE fully supports the promotion of innovation and progress through, amongst others, means of an efficient patent system and strong and enforceable IP rights.

BUSINESSEUROPE is therefore happy to contribute - with its comments below - to this debate that will have an impact on the patent law system over the coming years. BUSINESSEUROPE appreciates the very close cooperation with the EPO and trusts that this synergy will continue in the future.

General comments on the EPO Strategic Plan (2019-2023)

BUSINESSEUROPE takes positive note of the proposals already made in the letter of Mr Campinos, the EPO President, dated 21 December 2018 and supports the areas identified where more progress could be achieved and agrees on the challenges that could be foreseen in the future. Against this backdrop, BUSINESSEUROPE would like to put forward the following comments and suggestions.

a. On the EPO procedures

BUSINESSEUROPE expects that the EPO procedures ensure the appropriate balance between high-quality decisions, timeless and efficient use of the resources of the EPO, and the applicants' needs. It is fundamental for European businesses to have flexible, but robust processes to ensure that valuable inventions, where often considerable investments have been made, can be protected. In this regard, our members would welcome initiatives aimed at introducing procedural options that could increase flexibility in the grant proceedings and reducing the pendency of a European patent application. Furthermore, BUSINESSEUROPE would like to stress the importance of the protection of the right to be heard in the proceedings before the EPO and before the Boards of Appeal.



b. Synergy between the EPO and users

BUSINESSEUROPE members fully support the establishment of stronger synergies between IP offices and users to make the patent system even more efficient and help address the lack of awareness and understanding of the importance and relevance of patent protection, especially for Small and Medium-Sized Enterprises (SMEs).

The continuous involvement of users (including both businesses and other players such as patent professionals in private practice) in regulatory and practice-setting processes of the EPO is also key. Decision-making bodies within the EPO need to obtain broad user input to fully understand the likely consequences of any envisaged changes in the European Patent system. It is worth noting that the business category includes both applicants and third parties, thus businesses are particularly well placed to bring input reflecting a proper balance of interests between applicants/patentees and third parties.

BUSINESSEUROPE is satisfied with the overall cooperation approach developed in the patent law framework, as already put in place in the context of previous consultations. It is equally important that the Strategic Plan (2019-2023) formally recognises the driving force of user-involvement in the success of the network-approach. This process should be continued and used whenever key questions come up in the future.

c. Cooperation on the global scene

Cooperation also needs to go global. BUSINESSEUROPE considers the current patent cooperation framework between the five IP offices of Japan, Korea, Europe, China and U.S. as the way forward. Its focus on common projects aiming at the harmonisation of patent procedures should continue to deliver tangible results that benefit European businesses. Thus, BUSINESSEUROPE fully supports the EPO's engagement in the harmonisation projects at IP5 level in view of further developing tools that may increase efficiency and reduce costs for users. This should be considered a priority in the new Strategic Plan and we are willing to work together with the EPO and our industry counterparts to achieve concrete results in the future. Visibility of the benefits brought via the IP5 cooperation should also be strengthened.

Overall, the promotion of the European Patent System on a world-wide basis is very much in our interest since BUSINESSEUROPE considers the European Patent System as one of the best and most efficient in the world, i.e. "*the reference system*" for prosecution and granting of patents. Consequently, our members support any activities in this context. In addition, association agreements with countries from other parts of the world are very useful to further achieve this goal.

BUSINESSEUROPE is strongly engaged with its US and Japanese counterparts to work on the substantive patent law harmonisation project, of which the EPO is also part. The EPO is already playing a leading role in this world-wide process and should continue to do so to allow concrete results to be achieved in the near future.

d. Interoperability of tools

BUSINESSEUROPE supports the EPO's efforts to improve the interoperability of tools provided by different IP national offices as this would allow to improve efficiency, reduce costs and increase access to the patent system. For instance, it would be desirable that



any document available on the EPO platforms, such as *espacenet*, would either be OCR'ed or a service to OCR them on demand, to increase their usefulness.

e. New challenges posed by the Fourth Industrial Revolution

BUSINESSEUROPE would like the EPO to continue and strengthen its efforts to promote a discussion on the effects of new technologies, such as artificial intelligence, the interplay with standard-setting organisations, the use of algorithms or 3-D printing.

f. Unitary Patent

BUSINESSEUROPE expects that the EPO would be ready to implement and support the Unitary Patent system as soon as it would come into force.
