

The London Agreement

Addressing the language problem in granted European Patents

Until the European Patent Convention came into force in 1978, anyone wishing to obtain patent protection in a number of European countries had to file a separate application in each country with a translation of the specification into the language of that country. Applications then had to be prosecuted to grant separately at each national patent office, each of which had its own provisions regarding searches and examination.

The European patent system has provided a much simpler and more economical way of obtaining patent protection which now extends throughout most of Europe. A bundle of national patents can be obtained by filing a single application, in English, French or German as the applicant chooses, and prosecuting it to grant in the chosen language. Only when the patent has been accepted for grant do translations become necessary, the European Patent Office requiring the filing of translations of the claims into the other two official languages of the Convention.

The cost of European patent applications has however, until now, been greatly increased by the need, following the grant of the patent, to file at the national patent office of each country in which protection is required a translation of the whole specification into the language of that country. Some countries increase the costs still further by charging very substantial printing fees for publishing the translation.

With a view to reducing the cost of European patents by reducing translation requirements, a number of countries party to the European Patent Convention concluded the London Agreement which, if implemented, would greatly reduce the requirement for translations and thus greatly reduce the cost of a European patent.

Under **Article 1** of the Agreement, those countries whose national **language is one of the three official languages of the European Patent Convention** (English, French and German) agreed to dispense with translation requirements altogether. Thus, a European patent granted in French or German would come into force in the United Kingdom without the need to file a translation at the UK Patent Office. The specification published by the European Patent Office would however still include, as now, translations of the claims into French and English.

Countries whose official **national language is other than English, French or German**, would designate one of these languages, and would not require a translation to be filed if a patent were granted in the designated language. These countries could still require the filing of a translation of the claims of the patent into their national language, since the requirement for translations has always been based on the principle that a citizen of any country should not be prevented from using an invention in his own country by a patent granted to someone else in a language which he could not understand.

Article 2 of the London Agreement provides that, **in the event of litigation** relating to a patent, the **patent proprietor must provide a full translation into the relevant national language** to the alleged infringer and to the competent court.

Before it can come into force, the London Agreement must be ratified by eight countries, including France, Germany and the United Kingdom, these being the three countries in which the largest numbers of European patents are validated.

By July 2006, the Parliaments of ten states, Denmark, Germany, Iceland, Latvia, Monaco, Slovenia, Switzerland, the Netherlands, Sweden and the United Kingdom, had approved the Agreement, and seven states had deposited their instruments of ratification or accession.

The Agreement cannot however come into force until it is ratified by France, and it is still not clear whether and when France will ratify. Objections based on the French constitution have been resolved, but opposition from various vested interests remain.

The Dutch Patent Office meanwhile has put forward a proposal to allow Dutch national patent applications to be filed, and patents granted, in English, without the need for any translation. Since the Dutch Patent Office now registers national patents without substantive examination, this would provide a very simple and relatively cheap way for an English speaking applicant to obtain a Dutch patent. As yet, this remains a proposal and the relevant legislation has not yet been enacted.

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