

Industrial Property Rights in the Internal Market

European Parliament, Strasbourg, 16-17 Oct. 2008

The Community Patent

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Content

- ➔ • The « European » Patent
- Insight from the London Agreement
- The community patent

The « European » patent

- After grant, patents are enforced at the country level, within the EU
- Generates uncertainty, complexity, and high costs
 - Member states have the power to unvalidate
 - Member states have the power to validate
 - Heterogeneous interpretation of law
- A barrier for close ‘internationalization’?
- especially for SMEs?
- Budget?

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Validation fee + renewal fee (years 4 to 6) in 2003

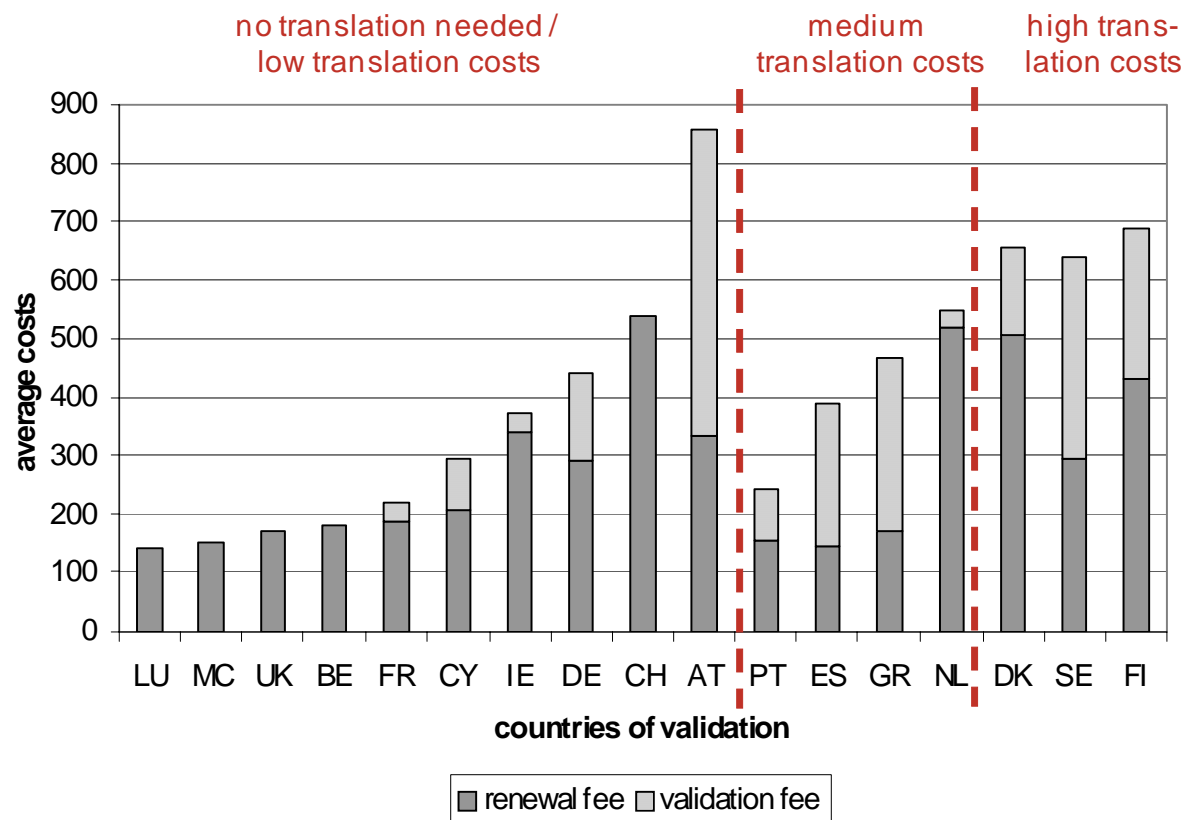
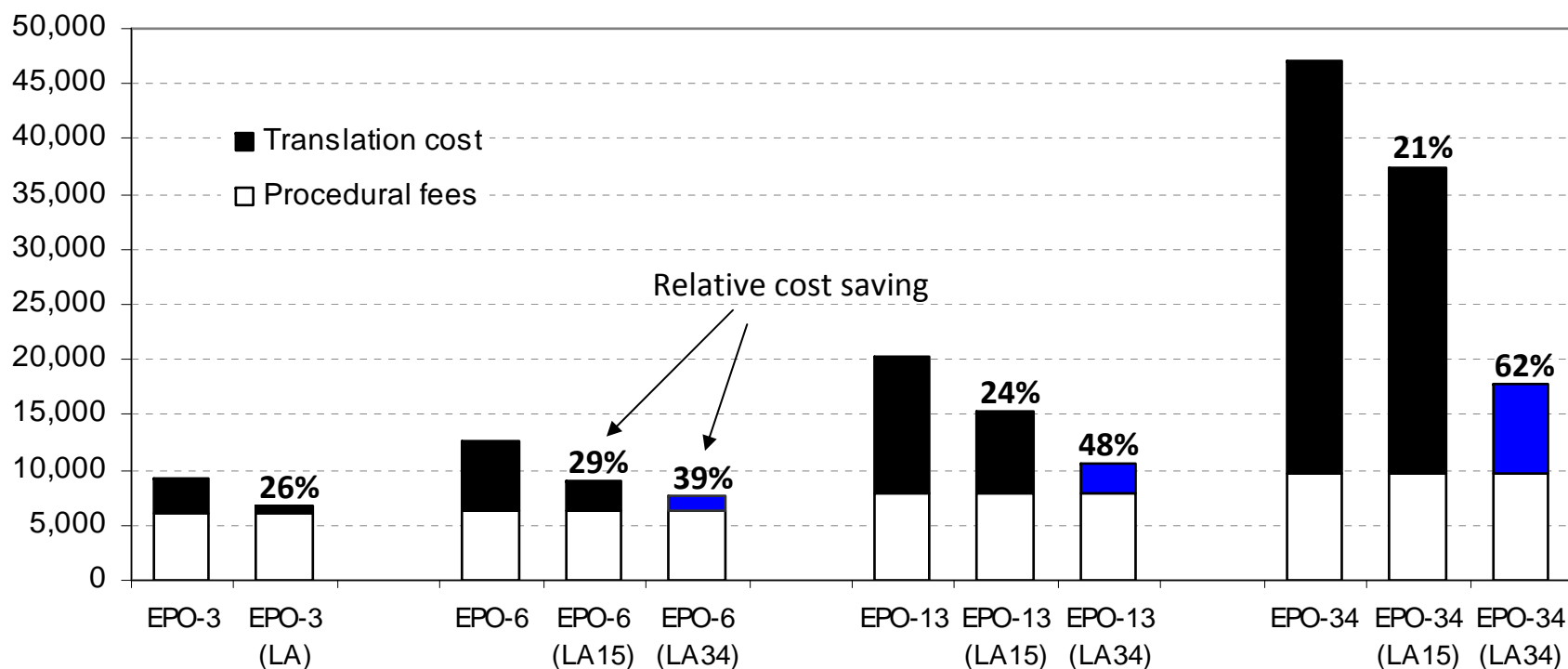


Figure 4: Average costs (validation fees and renewal fees) to be paid to validate a patent in a particular member state of the EPC and to keep it in force for the years 4 to 6 (patents granted in 2003), costs sorted by translation cost groups.

Source: Harhoff, Hoisl, Reichl and van Pottelsberghe (2007)

The impact of London Agreement on the cost of patenting in Europe, May 2008 (*)



EPO-3: DE, FR, UK - with more than 70% of the EP patents validated in 2003;

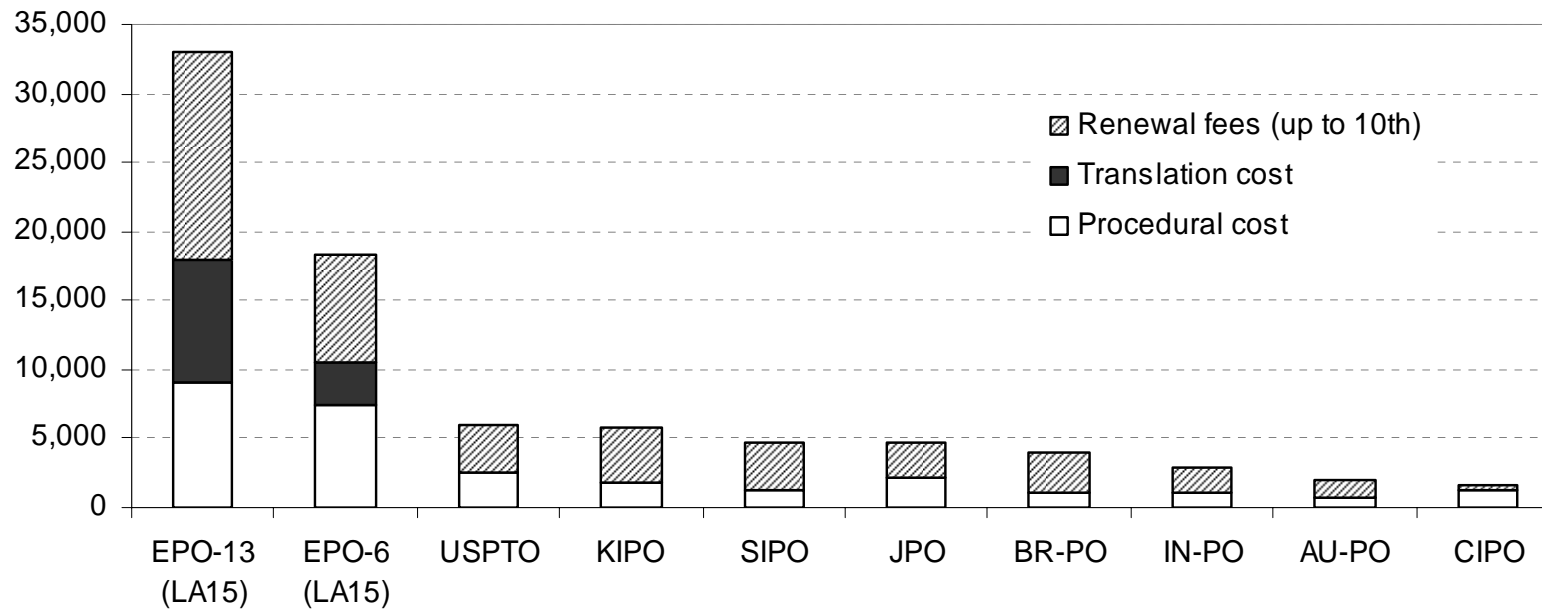
EPO-6: DE, FR, UK, CH, IT, NL - more than 30%;

EPO-13: DE, FR, UK, CH, IT, NL, AT, BE, ES, DK, FI, IE, SE - more than 12%;

EPO-34: all the EPC contracting states as of May 2008;

Source: van Pottelsberghe and Mejer, 2008, forthcoming

Cost structure of direct patent filings and 10 year of maintenance, May 2008 (in US PPP)



Source: van Pottelsberghe and Mejer, 2008, forthcoming

Results of the two 'validation' models

SIZE (pop) of the countries matters (target country *)**

WEALTH (GDP Cap) of countries matters (target country *)**

DISTANCE reduces validation flows

AGE of EPC Membership (higher transfer rate)

FEES and LANGUAGES

renewal fees : negative impact on the validation behaviour.

The high and medium translation costs dummies have a negative impact

Common language: higher probability

Language distance: lower probability

Harhoff, Hoisl, van Pottelsberghe (2008)

Country	Share of patents validated	Actual national patents	Predicted additional national patents (Protocol as of May 1 st , 2008)	Predicted additional national patents (all countries signed)
Austria	0.25	13,307	0	4,258
Belgium❖	0.26	13,840	10,114	10,114
Switzerland❖	0.25	13,307	3,726	3,726
Cyprus	0.03	1,597	0	3,726
Germany❖	0.73	38,857	4,791	4,791
Denmark❖	0.18	9,581	4,791	4,791
Spain	0.38	20,227	0	12,243
Finland	0.06	3,194	0	9,049
France❖	0.61	32,470	10,646	10,646
United Kingdom❖	0.68	36,196	3,194	3,194
Greece	0.15	7,984	0	10,114
Ireland	0.21	11,178	0	2,129
The Netherland❖	0.34	18,098	5,855	5,855
Portugal	0.19	10,114	0	9,581
Sweden❖	0.28	14,904	5,855	5,855
TOTAL		257,628	48,971	100,071
(%)		100%	19.0%	38.8%

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The community patent would induce

- Lower enforcement costs (relative terms)
- More certainty
- Less managerial complexity (one rep./country)
 - Translation costs
 - Validation costs
 - Representative cost
- Easier ‘close’ internationalization for SMEs (not the reverse!!!)
- **An integrated market for technology:**
- **A fair process: larger countries earn more than proportional gains**