

European Universities and Patents

- Patents are very important for universities
 - Reconcile innovation with publication
 - Essential instruments of trading in the Knowledge Economy (and Open Innovation)
 - Basis for attracting industry partners and creating new businesses (spin-offs)
- University patents are useful when they exist
 - More than 50% of the nominated patents for the European Inventor of the Year were based on university inventions
- European universities file 5x less patents than US
 - Mindset problem (Humboldt vs state universities)
 - Much less attractive patent system in Europe

US patent advantages for universities

1. Grace period of one year on disclosure by inventors
2. The inventors rights are protected during this period (first to invent concept)
3. Continuation-in-part, allowing to protect improvements on early stage inventions, w/o being opposed prior filings
4. Flexible provisional patent applications
5. *Less expensive, with wide market coverage w/o translations*
6. Reduced filing fees for universities
7. *Easier to enforce*
8. More types of inventions can be patented, such as computer implemented inventions.

Current compromises on Community Patent will not help much

- Do not address many of the above problems
- The expected benefits do not close the gap and will take >10 years to materialize (if ever). (*By that time, we will be showing our pyramids (we call them cathedrals) to Chinese tourists*)
- In the meantime, the 3 systems will co-exist = more costs and more uncertainty

Too little, too late for Europe

Recommendation from universities: Build on the existing EPC system

- Adoption of EPLA
- Adoption of London Protocol
- Reinstating a Grace Period (possible under EPC)
- Consider other measures in favour of public research
- Encourage more member states to progressively abandon their national systems and rely on EP only
- Use the resources of national patent offices made redundant to support innovation in public research
- This approach can be bottom up from member states

The same benefits and more can be achieved by building up on existing EP rather than by adding a new layer with attendant additional costs and delays