

EL SECRETARIO

VÍCTOR GIL VEGA

There is neither ground nor need for any patent system without research and innovation, which we all agree should be developed in the EU mainly in the countries (nearly half of them) where research and innovation are comparatively underdeveloped. Furthermore the development efforts should be addressed to the SME'S that are the driving force of European growth and deserve full help and assistance.

The keystone to research and innovation is to be found in the prior art searches, for which dissemination of the technology contained in patent specifications is essential. Access to this prior art should be as easy as possible.

We are therefore against any new patent system that would undermine its foundations by jeopardizing the dissemination of technology in those countries whose SME'S need help to develop research and innovation. In these countries not any of the EPO official languages is spoken and most SME have not any or insufficient knowledge of them. Therefore it is essential that the technology described in the European Patents is available in their own language with translations provided by the patent owners and not by those who need them to know the limits of the monopolized technology; this would be unfair and would mean tremendous waste of work and money since often the same text would be translated many times.

The present Patent System based on the Munich EPC provides high quality patents and legally binding complete translations in the designated countries, thus fully meeting the aforementioned needs.

However many interested parties consider that the system should provide the possibility to obtain a unitary title covering the designated EU countries, as well as a jurisdiction system providing uniform interpretation.

These aims could be met using the already existing structures,

- a) by converting into a unitary title called Community Patent the bundle of national patents of the designated EU countries resulting from the procedure before the EPO and b) by extending to patent cases the jurisdiction system already established for Community Trade Marks and Designs, perhaps establishing in the ECJ a chamber specialized on Patents.

EL SECRETARIO
VÍCTOR GIL VEGA

┌
- 2 -

We therefore support FICPI'S proposal. All FICPI Spanish members are also members of the Association I represent.

└
Regarding harmonization, our opinion is that substantive patent law is already harmonized and differences in procedural matters cannot give rise to barriers to free movement or distortion of competition.