

Public Discussion on the Future Patent Policy in Europe

Industry; SMEs; patent practitioners; academic institutions; public institutions; individuals from Europe attended a public hearing organised by the European Commission's DG Internal Market and Services on 12 July. This public hearing is the second step of the public consultation launched in January 2006 with the aim of collecting stakeholders' views on the patent system in Europe and seeking views on what measures could be taken in the near future to improve this system. Dr. Jochen Pagenberg of Bardehle Pagenberg Dost Altenburg Geissler, Munich represented the IBA Working Group on the Patent System in Europe.

The Community Patent proposal, establishing a unitary system of patent protection for the single market, has formally been on the table of the Council since 2000 but overall agreement is yet to be achieved.

The public consultation involved three major issues: the Community patent; how the current patent system in Europe could be improved; and possible areas for harmonisation.

The Commission presented a document outlining the preliminary findings of the consultation based on replies received until 12 April 2006. The Commission received an impressive number of 2515 replies from e.g. industry; SMEs; patent practitioners; academic institutions; public institutions; individuals. The Commission also presented results of a study on the economic and social value of patents in today's economy. The preliminary findings of the consultation are available at:
http://ec.europa.eu/internal_market/indprop/patent/hearing_en.htm

The preliminary findings indicate that although there is widespread preference for the Community Patent as a way forward, stakeholders do not wish to have one at any price and in particular not on the basis of the key elements of the 2003 Common Political Approach (unsatisfactory language regime and inadequate jurisdictional agreements). What they are looking for is an improvement over the current situation, a truly unitary high quality patent. If this cannot be achieved quickly, then some stakeholders go as far as urging the Commission to withdraw its proposal and concentrate its resources on other issues, while many point to the EPLA as a possible solution to the current shortcomings. Whatever the outcome of efforts on the Community Patent, stakeholders look

favourably at EPLA as lack of uniform litigation for European Patents is the main obstacle to an efficient patent system in Europe.

Click here to access the IBA Working Group on the Patent System in Europe Submission
http://www.ibanet.org/images/downloads/e-news/27_04_patent.htm

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