

Dear Mrs. Chairman, Ladies and Gentlemen

Thank you very much for the possibility to present the opinion of the Fraunhofer-Gesellschaft on the future patent policy in Europe.

I am head of the Department "**Patents and Licensing**" of Fraunhofer. Fraunhofer is one of the largest Institutions for applied research in Europe. Fraunhofer maintains over **80 research units**. A staff of some 13.000 - predominantly qualified scientists and engineers - work with an **annual research budget** of around 1.2 billion Euros. Our researchers create **two inventions every day** and we file about **500 priority patent applications per year**, among them, about **250** with the **European Patent Office**.

The topic of this section is the Community Patent. In my opinion, Dr. **Steiling**, gave an **excellent description** of the problems of the **Community Patent**. I want to **underline each of his words**, but I do **not** want to repeat them. Instead, I would like to summarize, what the Fraunhofer-Gesellschaft expects from a future European Patent system in 6 points:

1. Having technological innovations in mind, we need protection for **all** technical inventions, regardless of the technical field. This holds for traditional fields of technology such as **production** or **materials**, as well as for new fields like **biotechnology** or **computer implemented inventions**. The discussion about excluding certain technical fields from patentability should not be opened. How can one explain to researchers from an **Institute for Algorithms and Scientific Computing**, or an **Institute for Experimental Software** that the results of their work can no longer be patented in future?
2. The patent system has to **focus on protection of technical inventions**. Other **public policy interests** such as ethics, environment, healthcare and access to information must **not be discussed within** the patent system, but have to be regulated by special law. This special law has to be regarded by the

patent system.

3. We need patents granted within a **reasonable timeline**, with high and consistent **quality** in all countries. Therefore we need a uniform and comprehensive **search** for the state of the art and a **high level, uniform examination procedure**. To my opinion, this only can be guaranteed, when the examination is done within **one central organization**.
4. The **costs** of patents must be **economically priced**. That means the price must not be burdened with **unnecessary expenditures**. The **language of science** is English; English becomes the **business language** mor and more. Why do we need translations of patents for all countries? The languages of the European Patent Convention, or better, English should become the language of the future Patent System.
5. Patents must provide **legal certainty**. For the definition of the scope of a patent, the language of the examination proceedings should be applicable. Different legally binding versions in different countries are not acceptable.
6. The **enforcement** of patents has to be **uniform and efficient**. It should take into account already existing experience.

The common political approach of 2003 on the Community Patent is not on the way to meet these points within a reasonable timeframe. But when we look around, we see a patent system, which already fulfils a number of the mentioned conditions, namely the **European Patent Convention**. Therefore it is not necessary to **re-invent** the basics of a patent system.

Some steps have to be taken. Due to the translation requirement, the **European Patent** is still too expensive. And due to the character as **a bundle of patents, revocation** proceedings and **infringement** must be handled by the national laws. This makes the system **non-uniform** and **expensive**. But when we take

into account the **London Protocol** and the **European Patent Litigation Agreement**, which both will be subject in a later section, we see steps into the right direction: The ratification of the **London Protocol** would dramatically **reduce the costs** of the European Patent and the ratification of the **European Patent Litigation Agreement** would lead to an **efficient enforcement** system based on **already existing**, well proved, structures.

Let me sum up:

To get an **improved European Patent as soon as possible**, we should move forward in ratifying the mentioned agreements. In parallel one should find a way how to combine these elements with a Community Patent to come to a solution, where Europe, one day, has **one patent**, using **one language** and **one effective** enforcement and litigation system.

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Dr. Helmut Schubert

Fraunhofer-Gesellschaft

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