

**FUTURE PATENT POLICY IN EUROPE**  
**Public hearing**  
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**Harmonisation and  
mutual recognition**

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# 1. Premises

## A. Harmonisation

- -a remarkable level of harmonisation reached within the European Patent Organisation;
- -the european approach on SPLT has yet “nuances” which should be eliminated in the shortest time ”(first package);
- -outside the scope of SPLT, there are still differences of approach regarding important topics like:
  - a) -protection of software-related inventions;
  - b) –ethic and moral implications on patentability;
  - c) –level of inventive step in its direct connexion with the so-called “trivial patents”;

## B. Mutual recognition

- - the concept of “mutual recognition” should be approached as having as having the concept of ”utilisation of work”, done by other offices, as an intermediate step;
- - two main and quite distinct approaches for Europe;
  - -a) -mutual recognition(utilisation of work) between trilateral Offices;
  - -b) –mutual recognition(utilisation of work) between EPO and NPO’s;
- -patents granted of harmonised legal bases should be equally enforceable in a unitary manner;
- -important challenges in building up a patent system based on mutual trust in the quality of the intermediate and final product done by “the other one”;
- -similar process with the one previously developed within multinational companies;

## 2. Bases of mutual recognition

- -high level of harmonisation, both within Europe and in the world, throughout a SPLT, which should be closed in a foreseeable future;
- -achieving common “European Quality Standard”-EQS, comprising common european search and examination standards;
- - setting up accordingly, a “European Patent Network”-EPN, as decided recently in the Adm.Council of the European Patent Organisation;
- -”utilisation of work”, considered by that decision as a “pillar” of the european strategy in the field of patents.

### **3. Steps to be made on the way of harmonisation and mutual recognition**

- **-setting up a unitary, balanced and flexible european position for the continuation and concluding the negotiations of the SPLT within WIPO;**
- **-substantive clarification regarding the quality of patents in Europe, including the question of “trivial patents”, by:**
  - **-a harmonised position regarding the patentability of software-related inventions;**
  - **-the harmonisation of the european policy in the field of utility model protection, as a basis to define a “nontrivial level of inventive step” requested by patents**
- **- implementation of the Community patent, as defined in Common position of thenCouncil in 2003;**
- **- implementation of ECLA, seen in its complementarity and its positive aspects to the judiciary sistem of Community patent.**

### **3. Steps to be made on the way of harmonisation and mutual recognition**

- **-successful implementation of the strategic pillar “utilisation of the work”, within the European Patent Network, and based on a European Quality Standard, in the next 1-2 years;**
- **-gradual extension of the concept “utilisation of work” to other geographic areas (trilateral Offices) aiming at a pure “mutual recognition”.**

## 4 Conclusions

- **-harmonisation and mutual recognition→difficult but possible,in a rather “turbulent” context;**
- **-rapid and firm political decisions requested, to make the activity of the legal and technical people more coherent;**
- **-clear vision and strategy in the patent policy in Europe, to manage the actual and the future challenges;**
- **-better coordination between the EU Commision-Internal Market and the European Patent Organisation**
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**Thank you for your attention!**