

PATENT LITIGATION INSURANCE

A study for the European Commission on the feasibility of possible
insurance schemes against patent litigation risks

APPENDICES TO THE

FINAL REPORT

June 2006

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APPENDIX 1

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: France

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually					27 579	21 468	27 069	36 959	46 793	45 809
EPs in force each year										252 289
Main litigations started at first instance annually										50
Main litigations fought through to judgment at first instance annually										25
Interlocutory injunction proceedings started annually										5
Interlocutory injunction proceedings fought through to decision annually										1
First instance main litigations settled before judgment annually										50%
Interlocutory injunction proceedings settled before decision annually										4
Appeals from first instance judgments initiated annually										20
Appeals from interlocutory injunction proceedings initiated annually										0
Appeals from first instance main litigation settled before judgment annually										15
Appeals from interlocutory injunction proceedings settled before judgment annually										0
Appeals from main litigations fought through to judgement annually										5
Appeals from interlocutory injunction proceedings obtaining judgment annually										0
Higher appeals annually										5

Steady for 10 years

Country: France

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing		Steady in real terms for 10 years						Plaintiff Defendant	8 000 0	
To each party of whole of main litigation at first instance to judgment									70 000	
To plaintiff of interlocutory injunction proceedings to judgment			Will be deducted from main costs							50 000
To defendant of interlocutory injunction proceedings to judgment									50 000	
To each party of settlement of main litigation before judgment			Will be deducted from main costs						Plaintiff Defendant	78 000 70 000
To each party of settlement of interlocutory injunction proceedings before decision									8 000	
To each party of appeal up to main hearing										
To each party of whole of appeal to judgment									55 000	
To each party of settlement of appeal before judgment									8 000	
To each party of subsequent appeal									35 000	
AND...										
Instance of settlement with agreed damages									70%	
Instance of award of damages by court										
Average damages agreed in cases other than pan European or global settlements		Only slight increase							50 000	
Average damages awarded by court other than pan European or global cases		Only slight increase							75 000	
Average cost awarded by court to winning party		Gradually rising							10 000	
Average cost of assessment of infringement of one patent									10 000	
Average cost of assessment of validity of one patent									10 000	

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Germany

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually							20 911	32 687	43 053	59 713
EPs in force each year							252 814	261 171	277 848	307 488
Main litigations started at first instance annually	250								Infringement Nullity	500 500
Main litigations fought through to judgment at first instance annually	200								Infringement Nullity	400 400
Interlocutory injunction proceedings started annually	25									50
Interlocutory injunction proceedings fought through to decision annually	25									50
First instance main litigations settled before judgment annually	100								Infringement Nullity	200 200
Interlocutory injunction proceedings settled before decision annually	12									25
Appeals from first instance judgments initiated annually	170								Infringement Nullity	350 250
Appeals from interlocutory injunction proceedings initiated annually	12									25
Appeals from first instance main litigation settled before judgment annually	115								Infringement Nullity	230 150
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually	65								Infringement Nullity	130 80
Appeals from interlocutory injunction proceedings obtaining judgment annually	12									25
Higher appeals annually	5									10

Doubled in 10 years

Country: Germany

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing								Infringement	75 000
								Nullity	75 000
To each party of whole of main litigation at first instance to judgment								Infringement	150 000
								Nullity	150 000
To plaintiff of interlocutory injunction proceedings to judgment									150 000
To defendant of interlocutory injunction proceedings to judgment									150 000
To each party of settlement of main litigation before judgment								Infringement	100 000
								Nullity	100 000
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing									
To each party of whole of appeal to judgment								Infringement	200 000
								Nullity	200 000
To each party of settlement of appeal before judgment								Infringement	100 000
								Nullity	100 000
To each party of subsequent appeal									100 000
AND...									
Instance of settlement with agreed damages									70%
Instance of award of damages by court									
Average damages agreed in cases other than pan European or global settlements									50 000
Average damages awarded by court other than pan European or global cases									250 000
Average cost awarded by court to winning party									100 000
Average cost of assessment of infringement of one patent									10 000
Average cost of assessment of validity of one patent									10 000

Steady in real terms for 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: UK

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually								30 000	30 000	30 000
EPs in force each year								231 100	242 000	257 600
Main litigations started at first instance annually	Steady for 10 years (currently includes County Courts)									120
Main litigations fought through to judgment at first instance annually										20
Interlocutory injunction proceedings started annually										1
Interlocutory injunction proceedings fought through to decision annually										1
First instance main litigations settled before judgment annually										75
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										3
Appeals from interlocutory injunction proceedings initiated annually										0
Appeals from first instance main litigation settled before judgment annually										2
Appeals from interlocutory injunction proceedings settled before judgment annually										0
Appeals from main litigations fought through to judgement annually										1
Appeals from interlocutory injunction proceedings obtaining judgment annually										0
Higher appeals annually										0

Country: UK

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing								Plaintiff	500 000
								Defendant	350 000
To each party of whole of main litigation at first instance to judgment								Plaintiff	650 000
								Defendant	450 000
To plaintiff of interlocutory injunction proceedings to judgment									75 000
To defendant of interlocutory injunction proceedings to judgment									75 000
To each party of settlement of main litigation before judgment									400 000
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing									150 000
To each party of whole of appeal to judgment									225 000
To each party of settlement of appeal before judgment									150 000
To each party of subsequent appeal									300 000
AND...									
Instance of settlement with agreed damages									30
Instance of award of damages by court									
Average damages agreed in cases other than pan European or global settlements									100 000
Average damages awarded by court other than pan European or global cases									3 000 000
Average cost awarded by court to winning party									300 000
Average cost of assessment of infringement of one patent									10 000
Average cost of assessment of validity of one patent									10 000

Steady in real terms for 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Italy

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually						17 965	16 247	25 346	32 876	30 576
EPs in force each year										
Main litigations started at first instance annually		Figures steady for 10 years								
Main litigations fought through to judgment at first instance annually										
Interlocutory injunction proceedings started annually										
Interlocutory injunction proceedings fought through to decision annually										
First instance main litigations settled before judgment annually										
Interlocutory injunction proceedings settled before decision annually										
Appeals from first instance judgments initiated annually										
Appeals from interlocutory injunction proceedings initiated annually										
Appeals from first instance main litigation settled before judgment annually										
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										
Appeals from interlocutory injunction proceedings obtaining judgment annually										
Higher appeals annually										

Country: Italy

AVERAGE COST ...		
To each party of main litigation at first instance up to main hearing		12 000
To each party of whole of main litigation at first instance to judgment		70 000
To plaintiff of interlocutory injunction proceedings to judgment		
To defendant of interlocutory injunction proceedings to judgment		
To each party of settlement of main litigation before judgment		30 000
To each party of settlement of interlocutory injunction proceedings before decision		
To each party of appeal up to main hearing		70 000
To each party of whole of appeal to judgment		
To each party of settlement of appeal before judgment		
To each party of subsequent appeal		
AND...		
Instance of settlement with agreed damages		
Instance of award of damages by court		
Average damages agreed in cases other than pan European or global settlements		50 000
Average damages awarded by court other than pan European or global cases		
Average cost awarded by court to winning party		15 000
Average cost of assessment of infringement of one patent		10 000
Average cost of assessment of validity of one patent		10 000

Figures steady for 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Netherlands

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually				13 740	12 960	9 820	12 000	15 080	17 880	16 799
EPs in force each year				109 532	108 640	108 235	110 751	113 563	113 514	121 333
Main litigations started at first instance annually					30	32	35	40	45	50
Main litigations fought through to judgment at first instance annually					22	24	28	32	36	40
Interlocutory injunction proceedings started annually					18	20	22	24	27	30
Interlocutory injunction proceedings fought through to decision annually					18	20	22	24	27	30
First instance main litigations settled before judgment annually										0
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually					17	18	19	20	22	25
Appeals from interlocutory injunction proceedings initiated annually							12	13	14	15
Appeals from first instance main litigation settled before judgment annually										
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										12
Appeals from interlocutory injunction proceedings obtaining judgment annually							12	13	14	15
Higher appeals annually										2

Country: Netherlands

AVERAGE COST ...		
To each party of main litigation at first instance up to main hearing		50 000
To each party of whole of main litigation at first instance to judgment		50 000
To plaintiff of interlocutory injunction proceedings to judgment		100 000
To defendant of interlocutory injunction proceedings to judgment		70 000
To each party of settlement of main litigation before judgment		50 000
To each party of settlement of interlocutory injunction proceedings before decision	Steady over 10 years in real terms	
To each party of appeal up to main hearing		
To each party of whole of appeal to judgment		85 000
To each party of settlement of appeal before judgment		
To each party of subsequent appeal		45 000
AND...		
Instance of settlement with agreed damages		1
Instance of award of damages by court		0
Average damages agreed in cases other than pan European or global settlements		100 000
Average damages awarded by court other than pan European or global cases		0
Average cost awarded by court to winning party	1 500	
Average cost of assessment of infringement of one patent	5 000	
Average cost of assessment of validity of one patent	6 000	

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Spain

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually	14 048	13 634	14 124	14 441	13 813	11 126	10 272	17 543	21 395	19 903
EPs in force each year						8 285	29 173	86 648	80 713	97 146
Main litigations started at first instance annually										50
Main litigations fought through to judgment at first instance annually										35
Interlocutory injunction proceedings started annually										
Interlocutory injunction proceedings fought through to decision annually										
First instance main litigations settled before judgment annually										25%
Interlocutory injunction proceedings settled before decision annually										
Appeals from first instance judgments initiated annually										80%
Appeals from interlocutory injunction proceedings initiated annually										
Appeals from first instance main litigation settled before judgment annually										30%
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										70%
Appeals from interlocutory injunction proceedings obtaining judgment annually										
Higher appeals annually										0

Slow increase over 10 years

Country: Spain

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing										24 000
To each party of whole of main litigation at first instance to judgment										40 000
To plaintiff of interlocutory injunction proceedings to judgment										
To defendant of interlocutory injunction proceedings to judgment										
To each party of settlement of main litigation before judgment										24 000
To each party of settlement of interlocutory injunction proceedings before decision										
To each party of appeal up to main hearing										8 000
To each party of whole of appeal to judgment										26 000
To each party of settlement of appeal before judgment										8 000
To each party of subsequent appeal										0
AND...										
Instance of settlement with agreed damages										30%
Instance of award of damages by court										Rare
Average damages agreed in cases other than pan European or global settlements										50 000
Average damages awarded by court other than pan European or global cases										Bond only
Average cost awarded by court to winning party										50% of costs
Average cost of assessment of infringement of one patent										6 000
Average cost of assessment of validity of one patent										6 000

Steady over in real terms over 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Belgium

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually				11 965	11 417	8 556	10 958	14 671	19 266	19 157
EPs in force each year				78 279	78 579	76 802	77 299	78 761	82 212	84 626
Main litigations started at first instance annually	15	16	17	19	21	23	25	27	29	30
Main litigations fought through to judgment at first instance annually	4	4	5	5	6	6	7	7	8	8
Interlocutory injunction proceedings started annually	7	7	8	9	10	11	13	14	15	15
Interlocutory injunction proceedings fought through to decision annually	7	7	8	9	10	11	12	14	15	15
First instance main litigations settled before judgment annually	6	7	7	8	8	9	10	11	12	12
Interlocutory injunction proceedings settled before decision annually										
Appeals from first instance judgments initiated annually										7
Appeals from interlocutory injunction proceedings initiated annually										10
Appeals from first instance main litigation settled before judgment annually										
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										2
Appeals from interlocutory injunction proceedings obtaining judgment annually										5
Higher appeals annually										0

Country: Belgium

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing									25 000
To each party of whole of main litigation at first instance to judgment									50 000
To plaintiff of interlocutory injunction proceedings to judgment									17 000
To defendant of interlocutory injunction proceedings to judgment									40 000
To each party of settlement of main litigation before judgment									40 000
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing									
To each party of whole of appeal to judgment									25 000
To each party of settlement of appeal before judgment									8 000
To each party of subsequent appeal									
AND...									
Instance of settlement with agreed damages									6 000
Instance of award of damages by court									
Average damages agreed in cases other than pan European or global settlements									10 000 very rare
Average damages awarded by court other than pan European or global cases									1 000
Average cost awarded by court to winning party									300
Average cost of assessment of infringement of one patent									4 000
Average cost of assessment of validity of one patent									4 000

Steady in real terms over 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Austria

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually									26 647	28 223
EPs in force each year		61 783	64 663	64 380	66 070	67 222	69 401	73 401	79 304	83 036
Main litigations started at first instance annually		Steady for 10 years							Infringement Nullity	10 10
Main litigations fought through to judgment at first instance annually									Infringement Nullity	2 1
Interlocutory injunction proceedings started annually										10
Interlocutory injunction proceedings fought through to decision annually										10
First instance main litigations settled before judgment annually									Infringement Nullity	2 1
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										2
Appeals from interlocutory injunction proceedings initiated annually										All
Appeals from first instance main litigation settled before judgment annually										0
Appeals from interlocutory injunction proceedings settled before judgment annually										0
Appeals from main litigations fought through to judgement annually										2
Appeals from interlocutory injunction proceedings obtaining judgment annually										0
Higher appeals annually										2

Country: Austria

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing									Infringement	12 000
									Nullity	4 000
To each party of whole of main litigation at first instance to judgment									Infringement	11 000
									Nullity	11 000
To plaintiff of interlocutory injunction proceedings to judgment										13 000
To defendant of interlocutory injunction proceedings to judgment										0
To each party of settlement of main litigation before judgment										0
To each party of settlement of interlocutory injunction proceedings before decision										0
To each party of appeal up to main hearing										0
To each party of whole of appeal to judgment									Infringement	6 000
									Nullity	4 000
To each party of settlement of appeal before judgment										
To each party of subsequent appeal										2 000
AND...										
Instance of settlement with agreed damages										Rare
Instance of award of damages by court										Very rare
Average damages agreed in cases other than pan European or global settlements										30 000
Average damages awarded by court other than pan European or global cases										Very rare 90 000
Average cost awarded by court to winning party										100%
Average cost of assessment of infringement of one patent										2 000
Average cost of assessment of validity of one patent										2 000

Steady over 10 years in real terms

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Sweden

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually					9 650	8 455	6 798	12 077	13 225	12 307
EPs in force each year		77 893	78 488	78 725	78 247	76 759	79 223	81 140	81 981	82 125
Main litigations started at first instance annually				13	4	10	20	33	26	15
Main litigations fought through to judgment at first instance annually		Increasing slowly								10
Interlocutory injunction proceedings started annually										5
Interlocutory injunction proceedings fought through to decision annually										5
First instance main litigations settled before judgment annually										3
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										10
Appeals from interlocutory injunction proceedings initiated annually										5
Appeals from first instance main litigation settled before judgment annually										3
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										7
Appeals from interlocutory injunction proceedings obtaining judgment annually										5
Higher appeals annually										

Country: Sweden

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing									70 000
To each party of whole of main litigation at first instance to judgment									110 000
To plaintiff of interlocutory injunction proceedings to judgment									10 000
To defendant of interlocutory injunction proceedings to judgment									10 000
To each party of settlement of main litigation before judgment									70 000
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing									25 000
To each party of whole of appeal to judgment									65 000
To each party of settlement of appeal before judgment									50 000
To each party of subsequent appeal									
AND...									
Instance of settlement with agreed damages									15%
Instance of award of damages by court									20 000 (very rare)
Average damages agreed in cases other than pan European or global settlements									100 000
Average damages awarded by court other than pan European or global cases									
Average cost awarded by court to winning party									100%
Average cost of assessment of infringement of one patent									15 000
Average cost of assessment of validity of one patent									15 000

10% real increase in 10 years

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Denmark

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually				2,852	6,444	5,738	4,159	6,820	8,113	7,418
EPs in force each year								42,033	44,113	45,067
Main litigations started at first instance annually	4	4	4	4	4	5	6	7	8	8
Main litigations fought through to judgment at first instance annually								1	1	1
Interlocutory injunction proceedings started annually					10	11	12	13	14	15
Interlocutory injunction proceedings fought through to decision annually					10	11	12	13	14	15
First instance main litigations settled before judgment annually										0
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										0
Appeals from interlocutory injunction proceedings initiated annually						3	4	5	6	7
Appeals from first instance main litigation settled before judgment annually										0
Appeals from interlocutory injunction proceedings settled before judgment annually								2	3	4
Appeals from main litigations fought through to judgement annually										0
Appeals from interlocutory injunction proceedings obtaining judgment annually								2	2	3
Higher appeals annually										

Country: Denmark

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To each party of whole of main litigation at first instance to judgment	60,000	60,000	60,000	60,000	60,000	70,000	80,000	90,000	80,000	80,000
To plaintiff of interlocutory injunction proceedings to judgment	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To defendant of interlocutory injunction proceedings to judgment	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To each party of settlement of main litigation before judgment	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To each party of settlement of interlocutory injunction proceedings before decision										0
To each party of appeal up to main hearing	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To each party of whole of appeal to judgment	150,000	150,000	150,000	150,000	150,000	160,000	170,000	200,000	230,000	230,000
To each party of settlement of appeal before judgment	100,000	100,000	100,000	100,000	100,000	110,000	120,000	135,000	150,000	150,000
To each party of subsequent appeal										
AND...										
Instance of settlement with agreed damages										0
Instance of award of damages by court										0
Average damages agreed in cases other than pan European or global settlements										0
Average damages awarded by court other than pan European or global cases										0
Average cost awarded by court to winning party	Steady in real terms									130,000
Average cost of assessment of infringement of one patent										25,000
Average cost of assessment of validity of one patent										25,000

NATIONAL STATISTICS NATIONAL PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Finland

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Grants annually -- National patents	2 347	2 302	2 294	2 069	1 786	1 939	2 047	2 056	2 402	2 075
Validations annually – European patents			6	130	710	1 405	1 833	4 259	6 266	4 759
EPs in force each year								7 808	13 362	17 825
National patents in force each year	19 202	19 529	19 878	20 274	19 500	19 377	19 043	19 110	18 601	18 234
Main litigations started at first instance annually	Steady over 10 years National Patent figures									10
Main litigations fought through to judgment at first instance annually										4
Interlocutory injunction proceedings started annually										10
Interlocutory injunction proceedings fought through to decision annually										10
First instance main litigations settled before judgment annually										6
Interlocutory injunction proceedings settled before decision annually										
Appeals from first instance judgments initiated annually										4
Appeals from interlocutory injunction proceedings initiated annually										10
Appeals from first instance main litigation settled before judgment annually										0
Appeals from interlocutory injunction proceedings settled before judgment annually										
Appeals from main litigations fought through to judgement annually										4
Appeals from interlocutory injunction proceedings obtaining judgment annually										10
Higher appeals annually										0

Country: Finland

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing									Infringement Nullity	65 000 65 000
To each party of whole of main litigation at first instance to judgment									Infringement Nullity	87 000 87 000
To plaintiff of interlocutory injunction proceedings to judgment										60 000
To defendant of interlocutory injunction proceedings to judgment										
To each party of settlement of main litigation before judgment									Infringement Nullity	65 000 65 000
To each party of settlement of interlocutory injunction proceedings before decision										
To each party of appeal up to main hearing										20 000
To each party of whole of appeal to judgment									Infringement Nullity	30 000 30 000
To each party of settlement of appeal before judgment									Infringement Nullity	20 000 20 000
To each party of subsequent appeal										
AND...										
Instance of settlement with agreed damages										Very rare
Instance of award of damages by court										Full costs
Average damages agreed in cases other than pan European or global settlements										25 000
Average damages awarded by court other than pan European or global cases										
Average cost awarded by court to winning party										36 000
Average cost of assessment of infringement of one patent										5 000
Average cost of assessment of validity of one patent										5 000

Small steady increase over 10 years in real terms

NATIONAL STATISTICS EUROPEAN PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Greece

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Validations annually			3 635	3 107	3 414	2 914	2 655	4 760	5 356	4 602
EPs in force each year			25 370	28 413	31 741	34 580	37 214	24 172	26 775	27 963
Main litigations started at first instance annually										20
Main litigations fought through to judgment at first instance annually										18
Interlocutory injunction proceedings started annually										20
Interlocutory injunction proceedings fought through to decision annually										20
First instance main litigations settled before judgment annually										0
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										3
Appeals from interlocutory injunction proceedings initiated annually										3
Appeals from first instance main litigation settled before judgment annually										0
Appeals from interlocutory injunction proceedings settled before judgment annually										0
Appeals from main litigations fought through to judgement annually										3
Appeals from interlocutory injunction proceedings obtaining judgment annually										3
Higher appeals annually										0

Steady 10 years

Country: Greece

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing	Steady over 10 years in real terms					Incl. interlocutory costs		10 000	
To each party of whole of main litigation at first instance to judgment						Incl. interlocutory costs		20 000	
To plaintiff of interlocutory injunction proceedings to judgment	Steady over 10 years in real terms								
To defendant of interlocutory injunction proceedings to judgment									
To each party of settlement of main litigation before judgment									
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing	Steady over 10 years in real terms								
To each party of whole of appeal to judgment						Incl. interlocutory costs		10 000	
To each party of settlement of appeal before judgment	Steady over 10 years in real terms								
To each party of subsequent appeal									
AND...									
Instance of settlement with agreed damages								Very few	
Instance of award of damages by court								Very few	
Average damages agreed in cases other than pan European or global settlements								20 000	
Average damages awarded by court other than pan European or global cases								20 000	
Average cost awarded by court to winning party			1 000						
Average cost of assessment of infringement of one patent			5 000						
Average cost of assessment of validity of one patent			500						

NATIONAL STATISTICS NATIONAL PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Poland

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Grants annually -- National patents							2 745	2 108	2 200	2 470
Validations annually – European patents	Commenced March 2005 (100 validated)									
EPs in force each year	100 in 2005									
National patents in force each year									12 451	
Main litigations started at first instance annually	All national patent figures				Infringement nullity	10	11	12	14	15
Main litigations fought through to judgment at first instance annually					Infringement nullity	6	7	8	9	10
Interlocutory injunction proceedings started annually										15
Interlocutory injunction proceedings fought through to decision annually										10
First instance main litigations settled before judgment annually										0
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually					Infringement nullity	5	6	7	8	9
Appeals from interlocutory injunction proceedings initiated annually										
Appeals from first instance main litigation settled before judgment annually						0				
Appeals from interlocutory injunction proceedings settled before judgment annually						0				
Appeals from main litigations fought through to judgement annually		5	6	7	8	9				
Appeals from interlocutory injunction proceedings obtaining judgment annually						10				
Higher appeals annually										

Country: Poland

AVERAGE COST ...										
To each party of main litigation at first instance up to main hearing									Infringement nullity	15 000 3 000
To each party of whole of main litigation at first instance to judgment									Infringement nullity	20 000 8 000
To plaintiff of interlocutory injunction proceedings to judgment										
To defendant of interlocutory injunction proceedings to judgment										
To each party of settlement of main litigation before judgment									Infringement nullity	15 000 3 000
To each party of settlement of interlocutory injunction proceedings before decision										
To each party of appeal up to main hearing										5 000
To each party of whole of appeal to judgment										5 000
To each party of settlement of appeal before judgment										
To each party of subsequent appeal										
AND...										
Instance of settlement with agreed damages										0
Instance of award of damages by court										0
Average damages agreed in cases other than pan European or global settlements										
Average damages awarded by court other than pan European or global cases										
Average cost awarded by court to winning party										200
Average cost of assessment of infringement of one patent										5 000
Average cost of assessment of validity of one patent										5 000

Steady in real terms over 10 years

NATIONAL STATISTICS NATIONAL PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Czech Republic

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
AVERAGE NUMBER OF...										
Grants annually -- National patents	1 299	1 290	1 447	1 451	1 482	1 611	1 719	1 805	1 802	1 514
Validations annually – European patents						(2005: 452)				
EPs in force each year						(2005: 557)				
National patents in force each year										9807
Main litigations started at first instance annually										8
Main litigations fought through to judgment at first instance annually										1
Interlocutory injunction proceedings started annually										8
Interlocutory injunction proceedings fought through to decision annually										1
First instance main litigations settled before judgment annually										7
Interlocutory injunction proceedings settled before decision annually										0
Appeals from first instance judgments initiated annually										1
Appeals from interlocutory injunction proceedings initiated annually										0
Appeals from first instance main litigation settled before judgment annually										0
Appeals from interlocutory injunction proceedings settled before judgment annually										0
Appeals from main litigations fought through to judgement annually										1
Appeals from interlocutory injunction proceedings obtaining judgment annually										
Higher appeals annually										0

Figures steady

Country: Czech Republic

AVERAGE COST ...									
To each party of main litigation at first instance up to main hearing								Infringement nullity	11 000 11 000
To each party of whole of main litigation at first instance to judgment								Infringement nullity	6 500 6 500
To plaintiff of interlocutory injunction proceedings to judgment									
To defendant of interlocutory injunction proceedings to judgment									
To each party of settlement of main litigation before judgment								Infringement nullity	4 000 4 000
To each party of settlement of interlocutory injunction proceedings before decision									
To each party of appeal up to main hearing									
To each party of whole of appeal to judgment									4 000
To each party of settlement of appeal before judgment									
To each party of subsequent appeal									4 500
AND...									
Instance of settlement with agreed damages									0
Instance of award of damages by court									0
Average damages agreed in cases other than pan European or global settlements									
Average damages awarded by court other than pan European or global cases									
Average cost awarded by court to winning party									1 000
Average cost of assessment of infringement of one patent									5 000
Average cost of assessment of validity of one patent									5 000

Steady in real terms over 10 years

NATIONAL STATISTICS NATIONAL PATENTS AGREED IN DISCUSSIONS WITH PRACTITIONERS

Country: Hungary

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004							
AVERAGE NUMBER OF...																	
Grants annually -- National patents				1 371	1 995	1 627	1 306	1 555	1 379	977							
Validations annually – European patents																	
EPs in force each year																	
National patents in force each year				11 013	11 418	11 084	10 927	10 784	10 385	9 513							
Main litigations started at first instance annually	Steady								Infringement nullity	7 7							
Main litigations fought through to judgment at first instance annually									Infringement nullity	3 3							
Interlocutory injunction proceedings started annually										7							
Interlocutory injunction proceedings fought through to decision annually										3							
First instance main litigations settled before judgment annually										4							
Interlocutory injunction proceedings settled before decision annually										4							
Appeals from first instance judgments initiated annually									Infringement nullity	3 3							
Appeals from interlocutory injunction proceedings initiated annually										3							
Appeals from first instance main litigation settled before judgment annually										0							
Appeals from interlocutory injunction proceedings settled before judgment annually										0							
Appeals from main litigations fought through to judgement annually									Infringement nullity	3 3							
Appeals from interlocutory injunction proceedings obtaining judgment annually										3							
Higher appeals annually																	

Country: Hungary

AVERAGE COST ...			
To each party of main litigation at first instance up to main hearing		Infringement	2 000
		nullity	1 000
To each party of whole of main litigation at first instance to judgment		Infringement	5 000
		nullity	2 000
To plaintiff of interlocutory injunction proceedings to judgment			500
To defendant of interlocutory injunction proceedings to judgment			500
To each party of settlement of main litigation before judgment			1 000
To each party of settlement of interlocutory injunction proceedings before decision			
To each party of appeal up to main hearing			
To each party of whole of appeal to judgment			750
To each party of settlement of appeal before judgment			
To each party of subsequent appeal			0
AND...			
Instance of settlement with agreed damages			0
Instance of award of damages by court			0
Average damages agreed in cases other than pan European or global settlements			0
Average damages awarded by court other than pan European or global cases			0
Average cost awarded by court to winning party			
Average cost of assessment of infringement of one patent			200
Average cost of assessment of validity of one patent			100

Steady over 10 years in real terms

**APPENDIX 2 - NATIONAL
STATISTICS FOR
EUROPEAN PATENTS
PROVIDED TO INSURERS**

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Sweden	14. Average Damages agreed in Settlements										100,000
Sweden	15. Average cost of assessing Infringement and Validity of a Patent										30,000
Sweden	16. Costs awarded by Court										100%

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NATIONAL STATISTICS FOR EUROPEAN PATENTS PROVIDED TO INSURERS
Jurisdiction: Denmark

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Denmark	1. Year									
Denmark	2. No. of European Patents Validated									
Denmark	3. No. of European Patents in Force									
Denmark	4. No. of Patent Actions commenced (including Preliminary Injunctions)									
Denmark	5. No. of Actions which reach First Instance Judgment									
Denmark	6. No. of Appeals Filed									
Denmark	7. No. of Appeals which reach Judgment									
Denmark	8. No. of Higher Appeals which reach Judgment									
Denmark	9. No. of Cases Settled with Agreed Damages									
Denmark	10. No. of Actions with substantial Damages ordered									
Denmark	11. Average Total Litigation Cost to each side at First Instance of:									
Denmark	(a) Settlement before Main Court Hearings									
Denmark	(b) Litigation ending with First Instance Judgment									
Denmark	12. Average Total Cost to each side at Appeal Stages of:									
Denmark	(a) Settlement during First Appeal proceedings									
Denmark	(b) First Appeal Proceedings including Judgment									

Denmark	(c) Further Appeals including Judgments	0	0	0	0	0	0	0	0	0	0
Denmark	13. Average Damages awarded by Court	0	0	0	0	0	0	0	0	0	0
Denmark	14. Average Damages agreed in Settlements	0	0	0	0	0	0	0	0	0	0
Denmark	15. Average cost of assessing Infringement and Validity of a Patent										50,000
Denmark	16. Costs awarded by Court										130,000

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NATIONAL STATISTICS FOR EUROPEAN PATENTS PROVIDED TO INSURERS

Jurisdiction: Finland

Finland	1. Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
Finland	2. No. of Patents Validated	National EP	2,347	2,302	2,294 6	2,064 130	1,786 710	1,939 1,405	2,047 1,833	2,056 4,259	2,402 6,266	2,075 5,759
Finland	3. No. of Patents in Force	EP	19,202	19,529	19,878	20,274	19,500	19,377	19,043	1,960	18,601	18,239
Finland		National										
Finland	4. No. of Patent Actions commenced (including Preliminary Injunctions)	10	Steady figures									10
Finland	5. No. of Actions which reach First Instance Judgment	10										10
Finland	6. No. of Appeals Filed	10										10
Finland	7. No. of Appeals which reach Judgment	10										10
Finland	8. No. of Higher Appeals which reach Judgment	0										0
Finland	9. No. of Cases Settled with Agreed Damages											1
Finland	10. No. of Actions with substantial Damages ordered											1
Finland	11. Average Total Litigation Cost to each side at First Instance of:											
Finland	(a) Settlement before Main Court Hearings		No significant changes in real terms							Infringement	125,000	
Finland										Validity	65,000	
Finland	(b) Litigation ending with First Instance Judgment		No significant changes in real terms							Infringement	147,000	
Finland										Validity	87,000	
Finland	12. Average Total Cost to each side at Appeal Stages of:											
Finland	(a) Settlement during First Appeal Proceedings		No significant changes in real terms							Infringement	20,000	
Finland											Validity	20,000
Finland	(b) First Appeal Proceedings including Judgment		No significant changes in real terms							Infringement	30,000	
Finland											Validity	30,000

Greece	14. Average Damages agreed in Settlements										20,000
Greece	15. Average cost of assessing Infringement and Validity of a Patent										10,000
Greece	16. Costs awarded by Court										1,000

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NATIONAL STATISTICS FOR EUROPEAN PATENTS PROVIDED TO INSURERS

Jurisdiction: Poland

		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Poland	1. Year										
Poland	2. No. of National Patents Granted							2,745	2,108	2,200	2,470
Poland	3. No. of National Patents in Force									12,457	
Poland	4. No. of Patent Actions commenced (including Preliminary Injunctions)				Infringement		10	11	12	14	15
Poland					Validity		10	11	12	14	15
Poland	5. No. of Actions which reach First Instance Judgment				Infringement		6	7	8	9	10
Poland					Validity		6	7	8	9	10
Poland	6. No. of Appeals Filed				Infringement		5	6	7	8	9
Poland					Validity		5	6	7	8	9
Poland	7. No. of Appeals which reach Judgment										
Poland	8. No. of Higher Appeals which reach Judgment						0	0	0	0	0
Poland	9. No. of Cases Settled with Agreed Damages				Infringement		5	6	7	8	9
Poland					Validity		5	6	7	9	9
Poland	10. No. of Actions with substantial Damages ordered						0	0	0	0	0
Poland	11. Average Total Litigation Cost to each side at First Instance of:										
Poland	(a) Settlement before Main Court Hearings				No real term changes over 10 years				Infringement		15,000
Poland									Validity		3,000
Poland	(b) Litigation ending with First Instance Judgment				No real term changes over 10 years				Infringement		20,000
Poland									Validity		8,000
Poland	12. Average Total Cost to each side at Appeal Stages of:										
Poland	(a) Settlement during First Appeal Proceedings				No real term changes over 10 years				Infringement		5,000
Poland									Validity		5,000
Poland	(b) First Appeal Proceedings including Judgment				No real term changes over 10 years				Infringement		5,000
Poland									Validity		5,000

Poland	(c) Further Appeals including Judgments										0
Poland	13. Average Damages awarded by Court		No real term changes over 10 years								0
Poland	14. Average Damages agreed in Settlements										0
Poland	15. Average cost of assessing Infringement and Validity of a Patent		No real term changes over 10 years								10,000
Poland	16. Costs awarded by Court										200

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NATIONAL STATISTICS FOR EUROPEAN PATENTS PROVIDED TO INSURERS
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Jurisdiction: Czech Republic

	1. Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004						
Czech	2. No. of National Patents Granted	1,299	1,290	1,447	1,451	1,482	1,611	1,719	1,805	1,802	1,514						
Czech	3. No. of National Patents in Force										9,807						
Czech	4. No. of Patent Actions commenced (including Preliminary Injunctions)	7	Slow increase						Infringement		8						
Czech		7							Nullity		8						
Czech	5. No. of Actions which reach First Instance Judgment	1							Infringement		1						
Czech		1							Nullity		1						
Czech	6. No. of Appeals Filed	1							Infringement		1						
Czech		1							Nullity		1						
Czech	7. No. of Appeals which reach Judgment	1	Infringement		1												
Czech		1	Nullity		1												
Czech	8. No. of Higher Appeals which reach Judgment	0									0						
Czech	9. No. of Cases Settled with Agreed Damages	0									0						
Czech	10. No. of Actions with substantial Damages ordered	0									0						
Czech	11. Average Total Litigation Cost to each side at First Instance of:																
Czech	(a) Settlement before Main Court Hearings		No increase in real terms over 10 years						Infringement		11,000						
Czech									Nullity		11,000						
Czech	(b) Litigation ending with First Instance Judgment								Infringement		13,500						
Czech									Nullity		13,500						
Czech	12. Average Total Cost to each side at Appeal Stages of:																
Czech	(a) Settlement during First Appeal Proceedings																
Czech	(b) First Appeal Proceedings including Judgment		No increase in real terms over 10 years						Infringement		4,000						
Czech									Nullity		4,000						

APPENDIX 3 -

SUMMARY SHOWING COSTS OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

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APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Consolidated statistics

	<i>Patents in force</i>	<i>Total average cost pa</i>	<i>Cost per patent in force</i>	<i>Total damages</i>	<i>Damages per patent in force</i>	<i>Cost (incl. damages) per patent in force</i>
Austria	83636	€ 284,000	€ 3.40	€ 30,000	€ 0.36	€ 3.75
Belgium	84621	€1,675,000	€ 19.79			€ 19.79
Czech Republic	9807	€189,000	€ 19.27			€ 19.27
Denmark	45067	€ 4,370,000	€ 96.97			€ 96.97
Finland	36064	€ 2,940,000	€ 81.52	€ 62,000	€ 1.72	€ 83.24
France	252798	€ 2,520,000	€ 9.97	€ 1,660,000	€ 6.57	€ 16.53
Germany	307488	€ 224,500,000	€ 730.11	€ 3,500,000	€ 11.38	€ 741.49
Greece	27963	€ 190,000	€ 6.79	€ 40,000	€ 1.43	€ 8.23
Hungary	9513	€ 60,750	€ 6.39			€ 6.39
Netherlands	121337	€ 7,815,000	€ 64.41	€ 100,000	€ 0.82	€ 65.23
Poland	12457	€ 460,000	€ 36.93	n.a.		€ 36.93
Spain	97146	€ 2,360,000	€ 24.29	€ 650,000	€ 6.69	€ 30.98
Sweden	82125	€ 2,080,000	€ 25.33	€ 102,000	€ 1.24	€ 26.57
UK	257600	€ 56,950,000	€ 221.08	€ 4,860,000	€ 18.87	€ 239.95
TOTAL	1427622	€ 306,393,750	€ 214.62	€ 11,004,000	€ 7.71	€ 222.33

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Austria						
	<i>Number</i>	<i>Av. cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Av. Damages</i>	<i>Total damages</i>
Patents in force	83636					
Settled before Main Court Hearings	9	€ 13,500	€ 121,500			
First Instance Litigation	11	€ 13,500	€ 148,500			
Settlement during First Appeal Proceedings	0					
First Appeal Proceedings including Judgement	2	€ 5,000	€ 10,000			
Higher Appeals	2	€ 2,000	€ 4,000			
Total costs of actions			€ 284,000			
Costs of actions per patent in force			€ 3.40			
Agreed damages				1	€ 30,000	€ 30,000
Substantial damages and costs awarded						€ -
Total damages/cost						€ 30,000
Damages/costs per patent in force						€ 0.36

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Belgium						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	84621					
Settled before Main Court Hearings	15	€ 25,000	€ 375,000			
First Instance Litigation	15	€ 75,000	€ 1,125,000			
Settlement during First Appeal Proceedings	3	n.a.	n.a.			
First Appeal Proceedings including Judgement	7	€ 25,000	€ 175,000			
Higher Appeals	0					
Total costs of actions			€ 1,675,000			
Costs of actions per patent in force			€19.79			
Agreed damages						€ -
Substantial damages and costs awarded						€ -
Total damages/cost						€ -
Damages/costs per patent in force						€ -

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Czech Republic			
	<i>Number</i>	<i>Average Cost to each side</i>	<i>Total costs</i>
Patents in force	9807		
Settled before Main Court Hearings	14	€ 11,000	€ 154,000
First Instance Litigation	2	€ 13,500	€ 27,000
Settlement during First Appeal Proceedings	0		
First Appeal Proceedings including Judgement	2	€ 4,000	€ 8,000
Higher Appeals	0		
Total costs of actions			€ 189,000
Costs of actions per patent in force			€19.27

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Denmark			
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>
Patents in force	45067		
Settled before Main Court Hearings	0		
First Instance Litigation	15	€ 230,000	€ 3,450,000
Settlement during First Appeal Proceedings	3	€ 150,000	
First Appeal Proceedings including Judgement	4	€ 230,000	€ 920,000
Higher Appeals	0	€ 2,000	€ -
Total costs of actions			€ 4,370,000
Costs of actions per patent in force			€96.97

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Finland						
	Number	Average Cost to each side	Total costs	Cases with damages	Average Damages	Total damages
Patents in force	36064					
Settled before Main Court Hearings	0	€ 95,000	€ -			
First Instance Litigation	20	€ 117,000	€ 2,340,000			
Settlement during First Appeal Proceedings	0					
First Appeal Proceedings including Judgement	20	€ 30,000	€ 600,000			
Higher Appeals	0					
Total costs of actions			€ 2,940,000			
Costs of actions per patent in force			€81.52			
Agreed damages				1	€ 26,000	€ 26,000
Substantial damages and costs awarded				1	€ 36,000	€ 36,000
Total damages/cost						€ 62,000
Damages/costs per patent in force						€1.72

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

France						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	252798					
Settled before Main Court Hearings	25	€ 4,000	€ 100,000			
First Instance Litigation	25	€ 74,000	€ 1,850,000			
Settlement during First Appeal Proceedings	15	€ 8,000	€ 120,000			
First Appeal Proceedings including Judgement	5	€ 55,000	€ 275,000			
Higher Appeals	5	€ 35,000	€ 175,000			
Total costs of actions			€ 2,520,000			
Costs of actions per patent in force			€ 9.97			
Agreed damages				30	€ 50,000	€ 1,500,000
Substantial damages and costs awarded				1	€ 160,000	€ 160,000
Total damages/cost						€ 1,660,000
Damages/costs per patent in force						€ 6.57

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Germany						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	307488					
Settled before Main Court Hearings	200	€ 82,500	€ 16,500,000			
First Instance Litigation	800	€ 157,500	€ 126,000,000			
Settlement during First Appeal Proceedings	390	€ 100,000	€ 39,000,000			
First Appeal Proceedings including Judgement	210	€ 200,000	€ 42,000,000			
Higher Appeals	10	€ 100,000	€ 1,000,000			
Total costs of actions			€ 224,500,000			
Costs of actions per patent in force			€730.11			
Agreed damages				70	€ 50,000	€ 3,500,000
Substantial damages and costs awarded				0		
Total damages/cost						€ 3,500,000
Damages/costs per patent in force						€11.38

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Greece						
	Number	Average cost to each side	Total costs	Cases with damages	Average Damages	Total damages
Patents in force	27963					
Settled before Main Court Hearings	2	€ 5,000	€ 10,000			
First Instance Litigation	18	€ 10,000	€ 180,000			
Settlement during First Appeal Proceedings	0					
First Appeal Proceedings including Judgement	3	n.a.	n.a.			
Higher Appeals	0					
Total costs of actions			€ 190,000			
Costs of actions per patent in force			€6.79			
Agreed damages				1	€ 20,000	€ 20,000
Substantial damages and costs awarded				1	€ 20,000	€ 20,000
Total damages/cost						€ 40,000
Damages/costs per patent in force						€1.43

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Hungary			
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>
Patents in force	9513		
Settled before Main Court Hearings	9	€ 2,000	€ 18,000
First Instance Litigation	9	€ 4,000	€ 36,000
Settlement during First Appeal Proceedings	0		
First Appeal Proceedings including Judgement	9	€ 750	€ 6,750
Higher Appeals	0		
Total costs of actions			€ 60,750
Costs of actions per patent in force			€6.39

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Netherlands						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	121337					
Settled before Main Court Hearings	10	€ 80,000	€ 800,000			
First Instance Litigation	40	€ 120,000	€ 4,800,000			
Settlement during First Appeal Proceedings	10	€ 85,000	€ 850,000			
First Appeal Proceedings including Judgement	15	€ 85,000	€ 1,275,000			
Higher Appeals	2	€ 45,000	€ 90,000			
Total costs of actions			€ 7,815,000			
Costs of actions per patent in force			€64.41			
Agreed damages				1	€ 100,000	€ 100,000
Substantial damages and costs awarded						€ -
Total damages/cost						€ 100,000
Damages/costs per patent in force						€0.82

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Poland						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	12457					
Settled before Main Court Hearings	10	€ 9,000	€ 90,000			
First Instance Litigation	20	€ 14,000	€ 280,000			
Settlement during First Appeal Proceedings	18	€ 5,000	€ 90,000			
First Appeal Proceedings including Judgement	0					
Higher Appeals	0					
Total costs of actions			€ 460,000			
Costs of actions per patent in force			€36.93			
Agreed damages				18	n.a.	n.a.
Substantial damages and costs awarded				0		
Total damages/cost						
Damages/costs per patent in force						

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Spain						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	97146					
Settled before Main Court Hearings	15	€ 24,000	€ 360,000			
First Instance Litigation	35	€ 40,000	€ 1,400,000			
Settlement during First Appeal Proceedings	10	€ 8,000	€ 80,000			
First Appeal Proceedings including Judgement	20	€ 26,000	€ 520,000			
Higher Appeals	0		€ -			
Total costs of actions			€ 2,360,000			
Costs of actions per patent in force			€ 24.29			
Agreed damages				13	€ 50,000	€ 650,000
Substantial damages and costs awarded				1	n.a.	n.a.
Total damages/cost						€ 650,000
Damages/costs per patent in force						€ 6.69

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

Sweden						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	82125					
Settled before Main Court Hearings	5	€ 70,000	€ 350,000			
First Instance Litigation	10	€ 120,000	€ 1,200,000			
Settlement during First Appeal Proceedings	3	€ 25,000	€ 75,000			
First Appeal Proceedings including Judgement	7	€ 65,000	€ 455,000			
Higher Appeals	0					
Total costs of actions			€ 2,080,000			
Costs of actions per patent in force			€25.33			
Agreed damages				1	€ 100,000	€ 100,000
Substantial damages and costs awarded				1	€ 2,000	€ 2,000
Total damages/cost						€ 102,000
Damages/costs per patent in force						€1.24

APPENDIX 3: COST OF LITIGATION PER PATENT IN FORCE IN 2004 BY COUNTRY

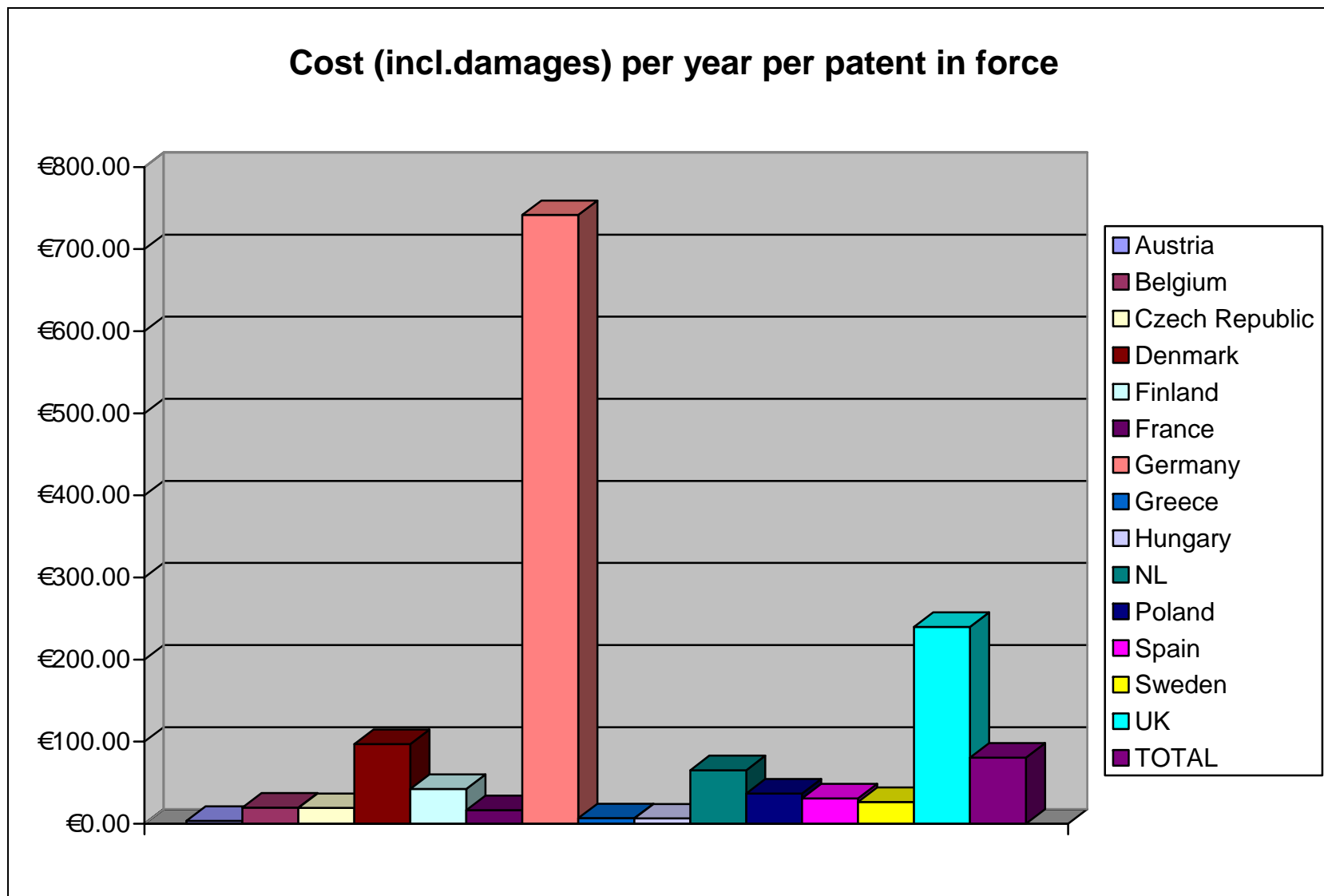
United Kingdom						
	<i>Number</i>	<i>Average cost to each side</i>	<i>Total costs</i>	<i>Cases with damages</i>	<i>Average Damages</i>	<i>Total damages</i>
Patents in force	257600					
Settled before Main Court Hearings	100	€ 450,000	€ 45,000,000			
First Instance Litigation	20	€ 575,000	€ 11,500,000			
Settlement during First Appeal Proceedings	2	€ 225,000	€ 450,000			
First Appeal Proceedings including Judgement	1	€ 430	€ 430			
Higher Appeals	0	€ 300,000	€ -			
Total costs of actions			€ 56,950,430			
Costs of actions per patent in force			€ 221.08			
Agreed damages				30	€ 150,000	€ 4,500,000
Substantial damages and costs awarded				1	€ 360,000	€ 360,000
Total damages/cost						€ 4,860,000
Damages/costs per patent in force						€ 18.87

APPENDIX 4

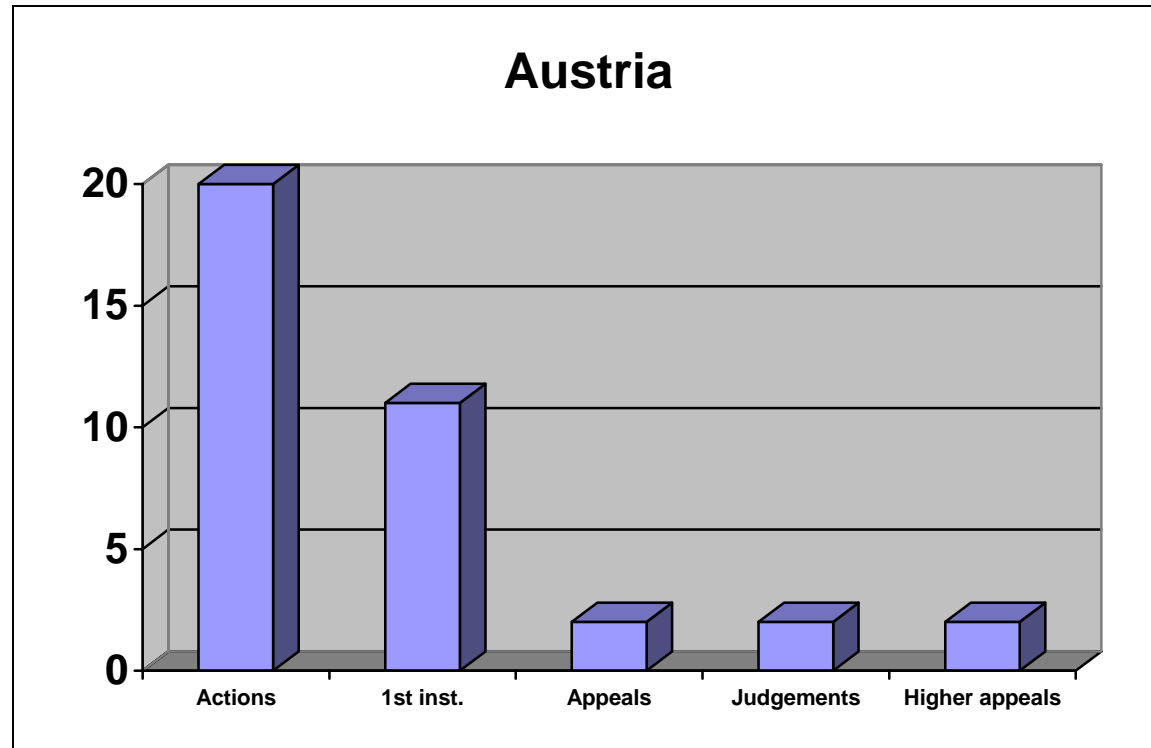
GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE

	Page
Consolidated, all countries	61
Austria	62
Belgium	63
Czech Republic	64
Denmark	65
Finland	66
France	67
Germany	68
Greece	69
Hungary	70
Netherlands	71
Poland	72
Spain	73
Sweden	74
UK	75

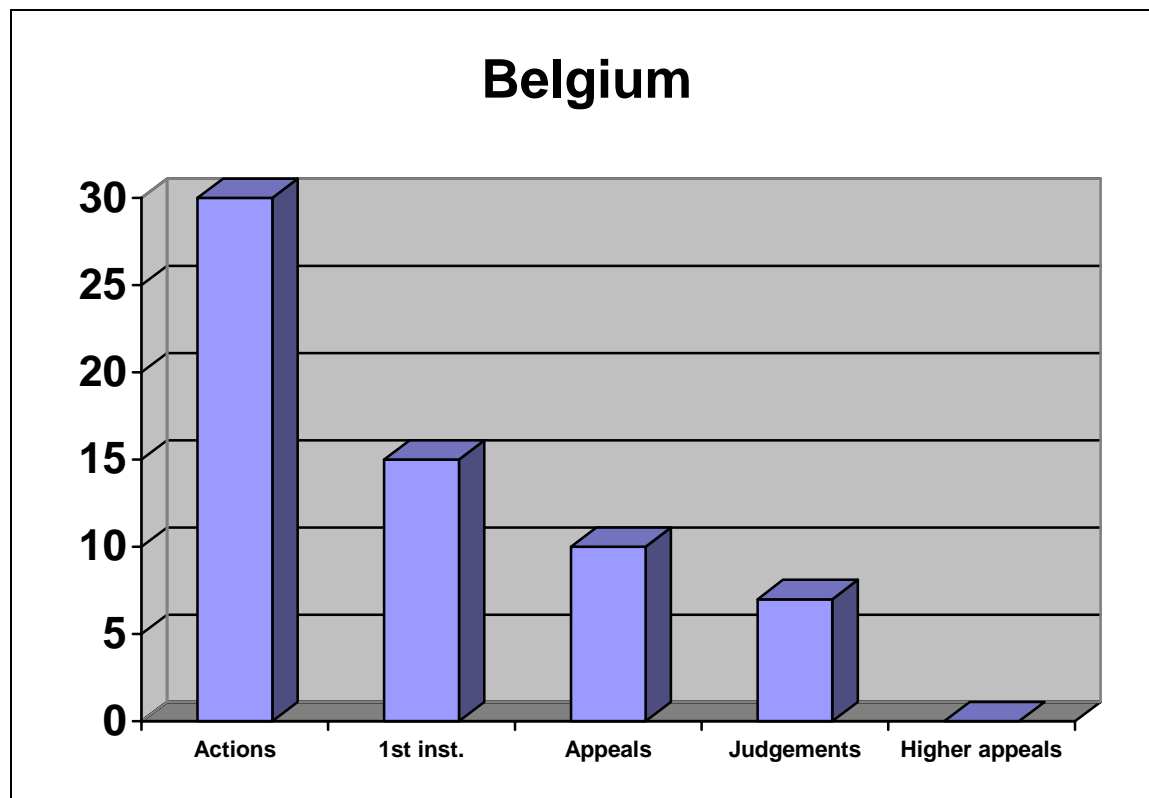
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



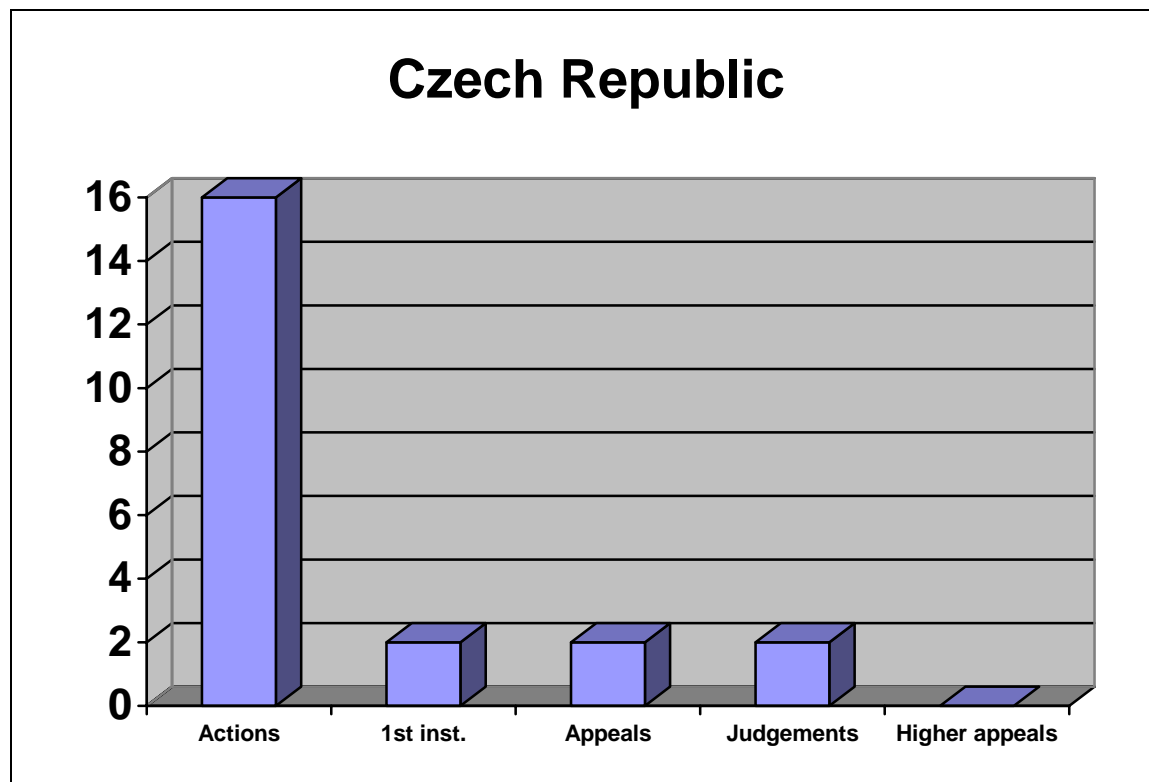
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



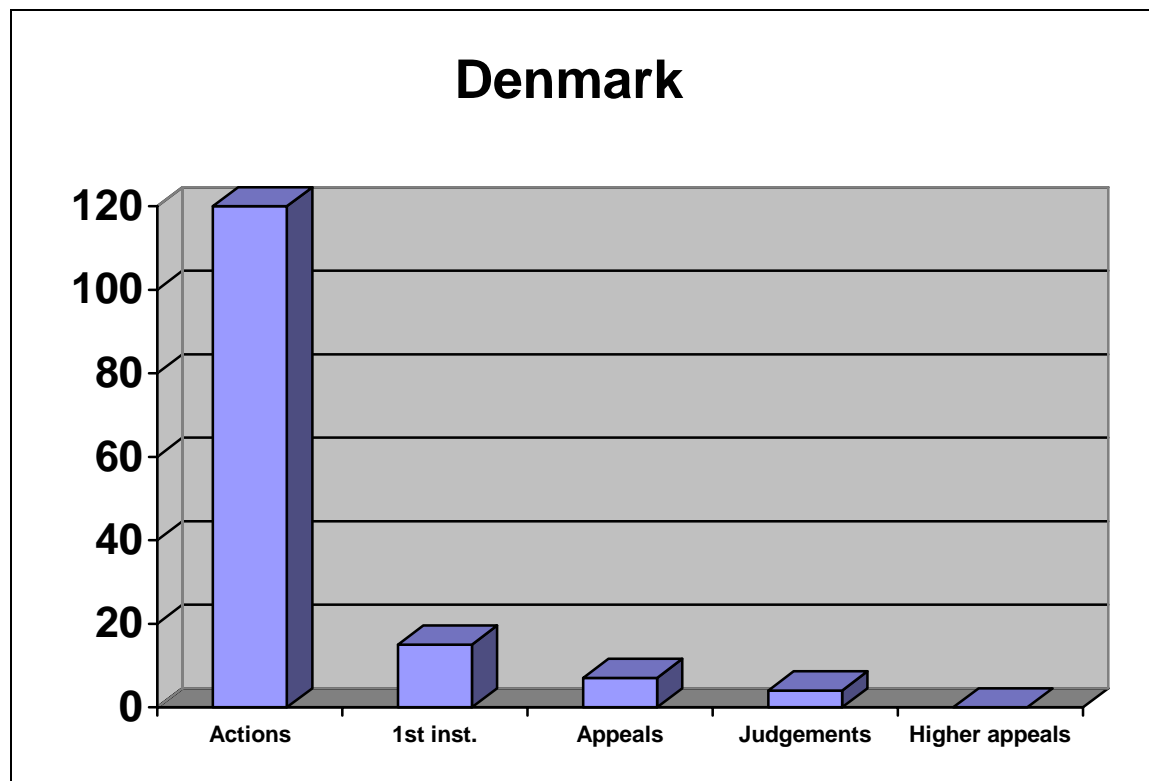
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



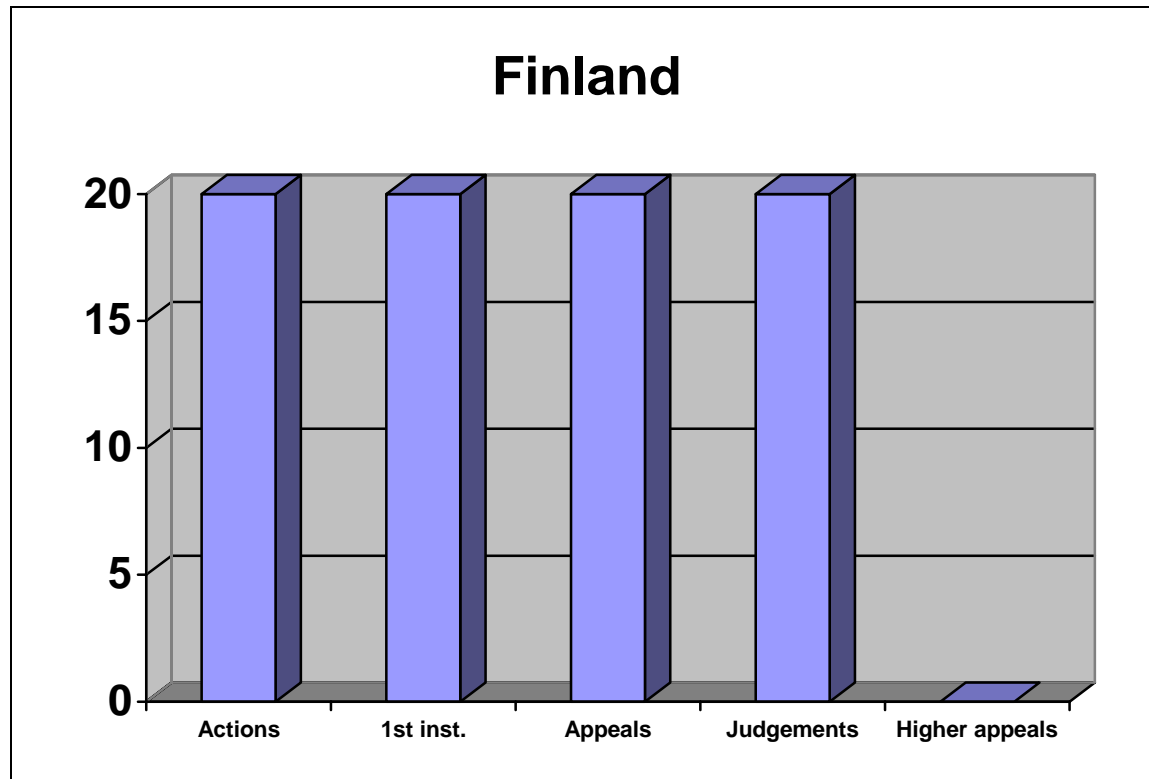
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



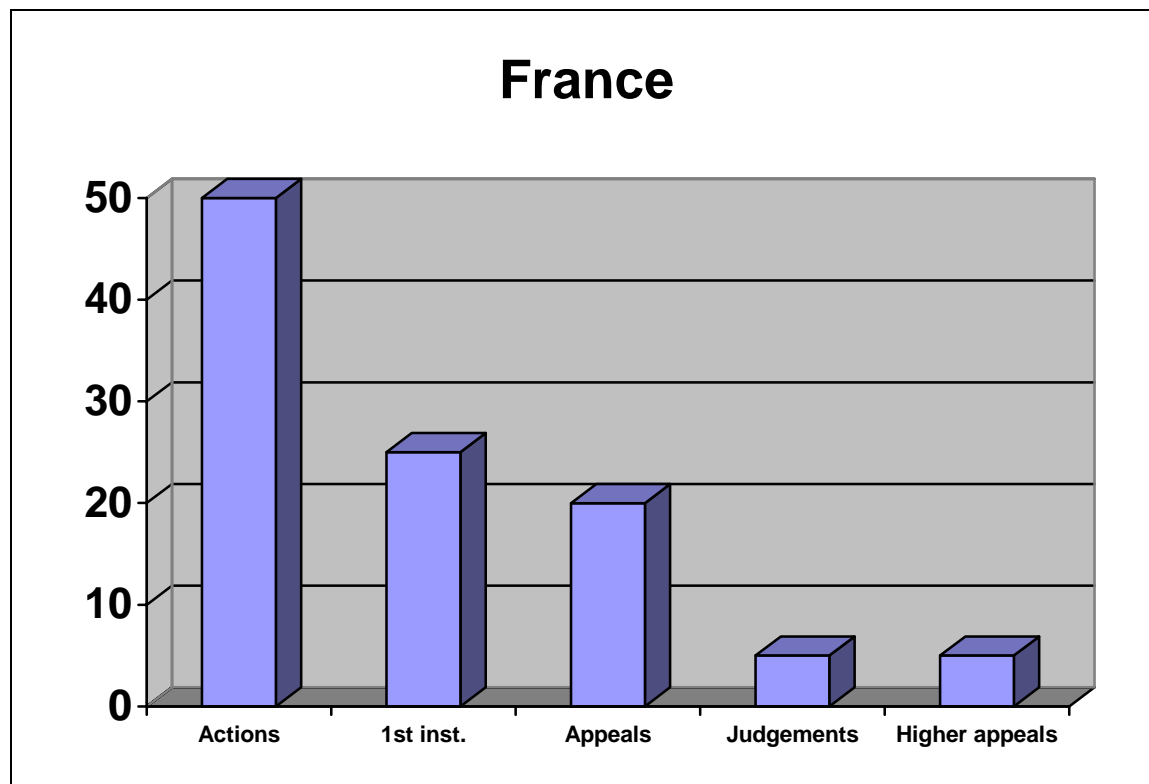
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



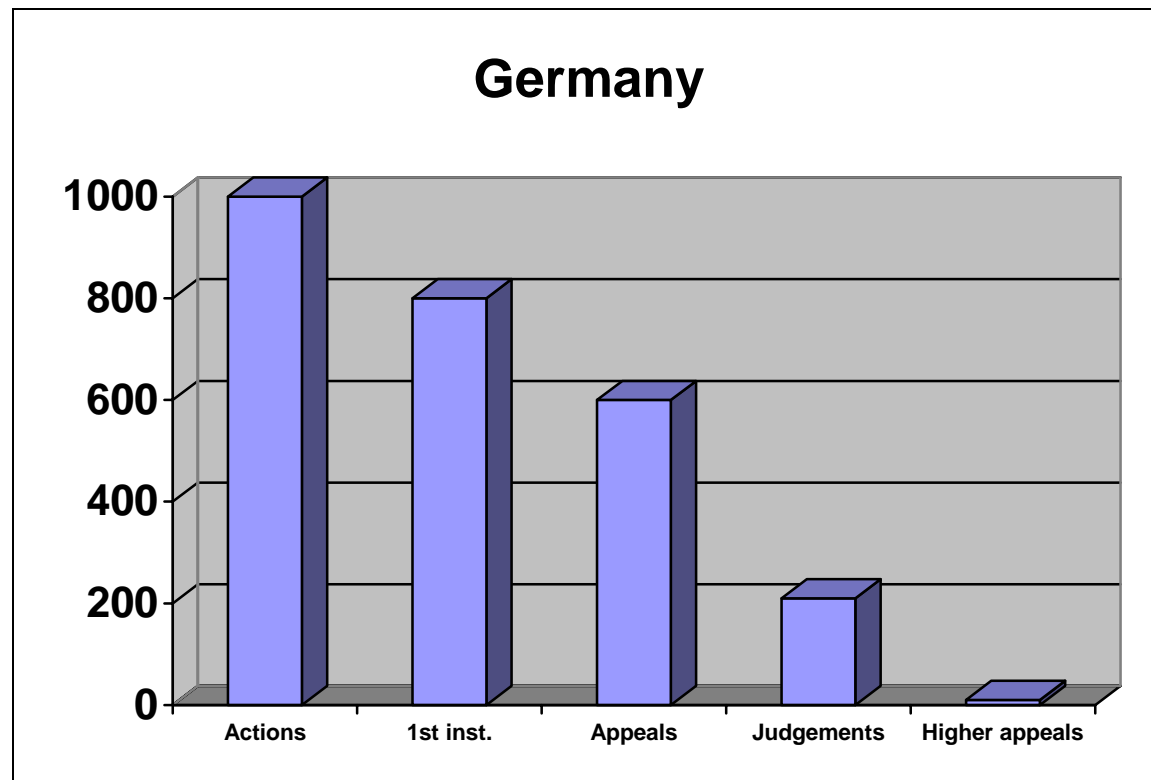
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



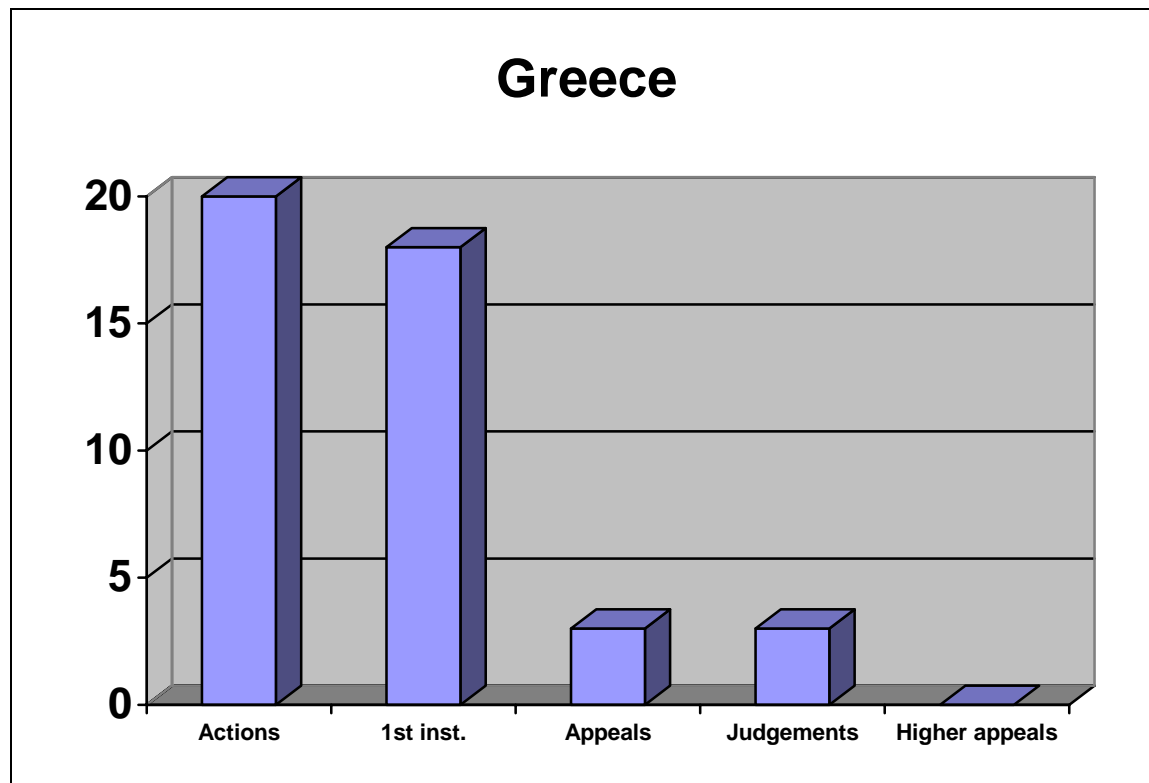
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



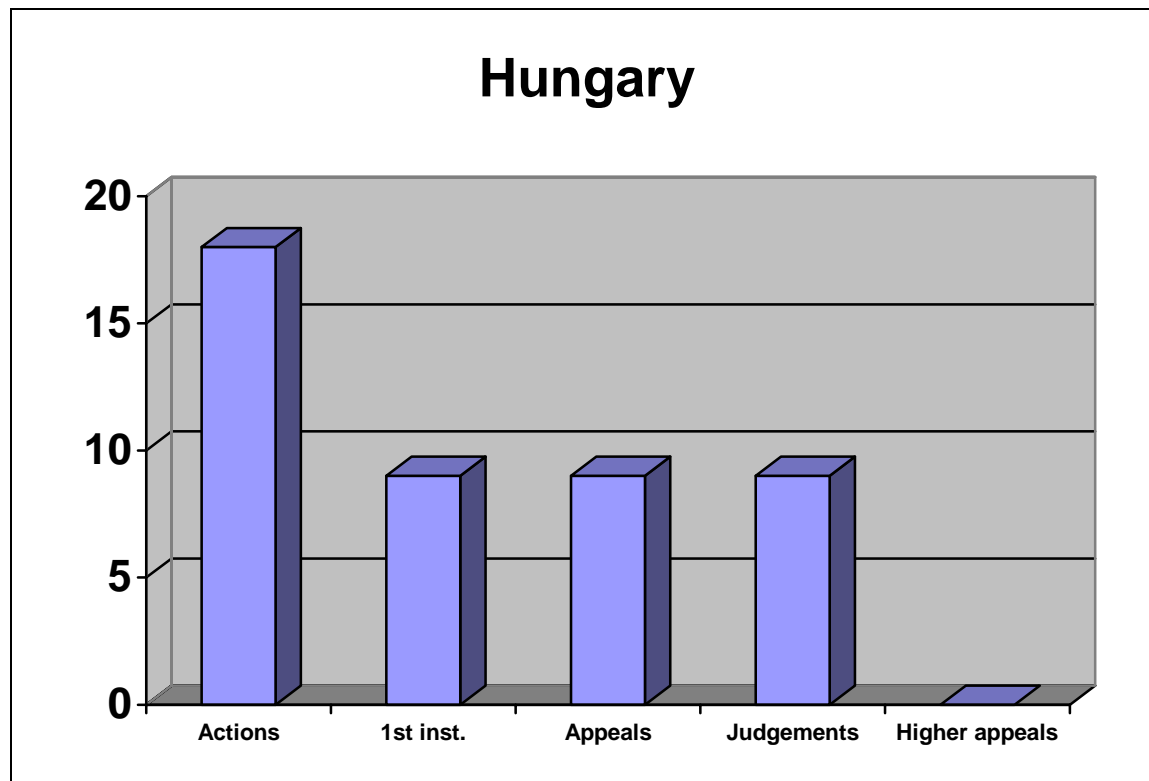
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



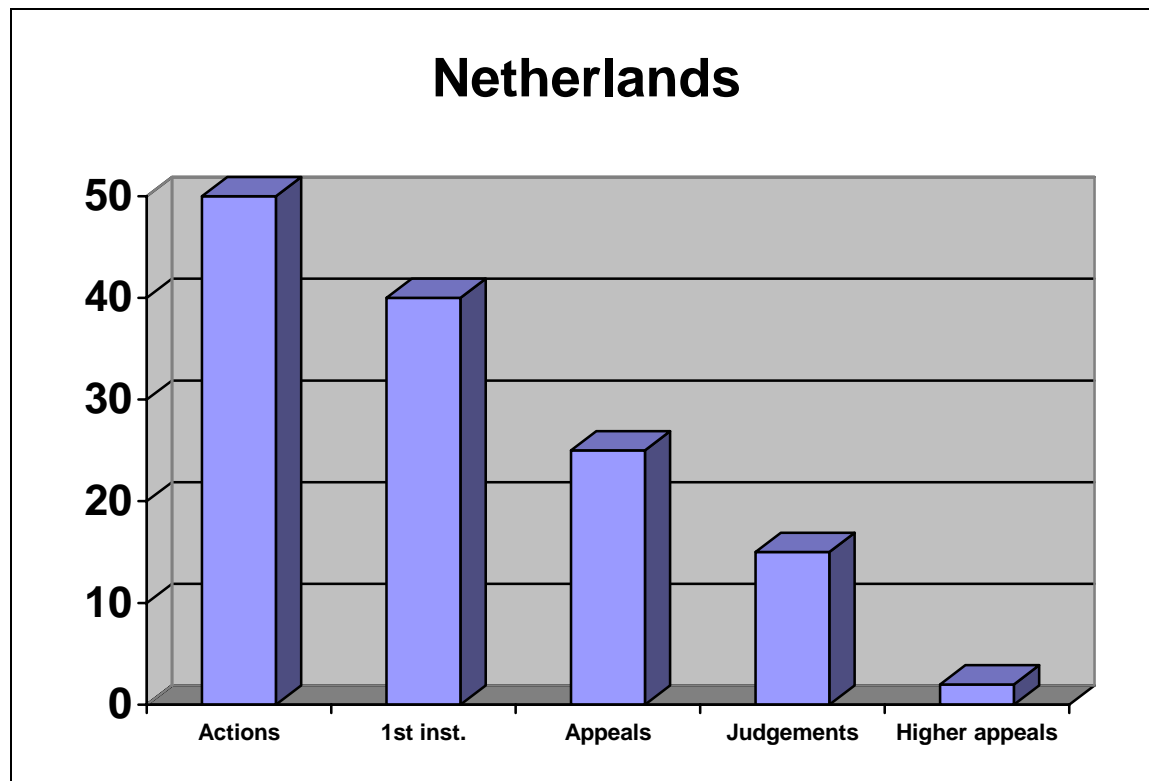
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



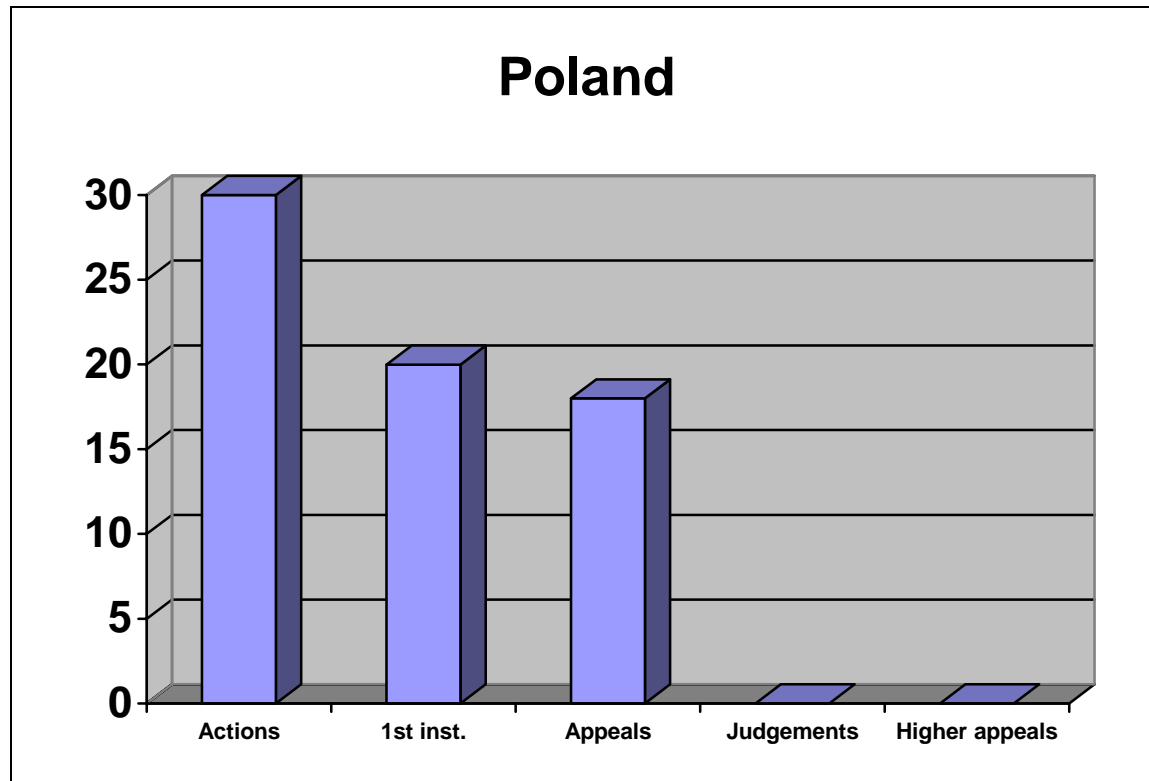
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



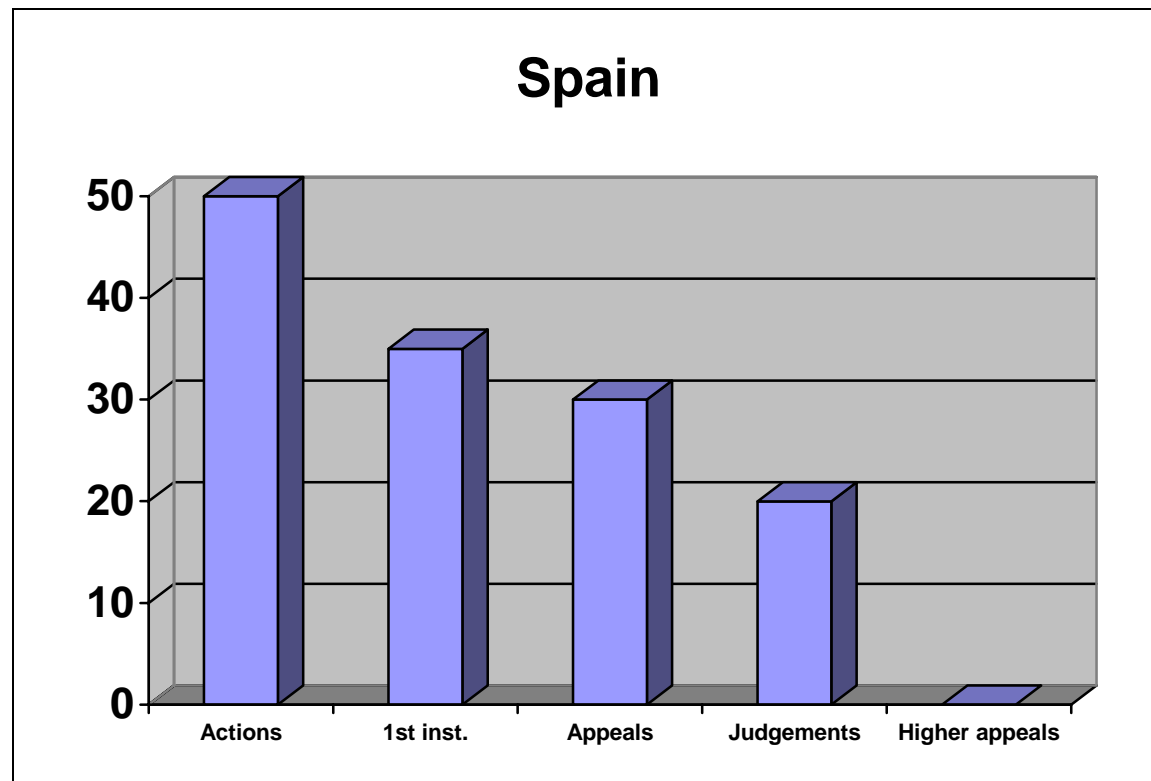
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



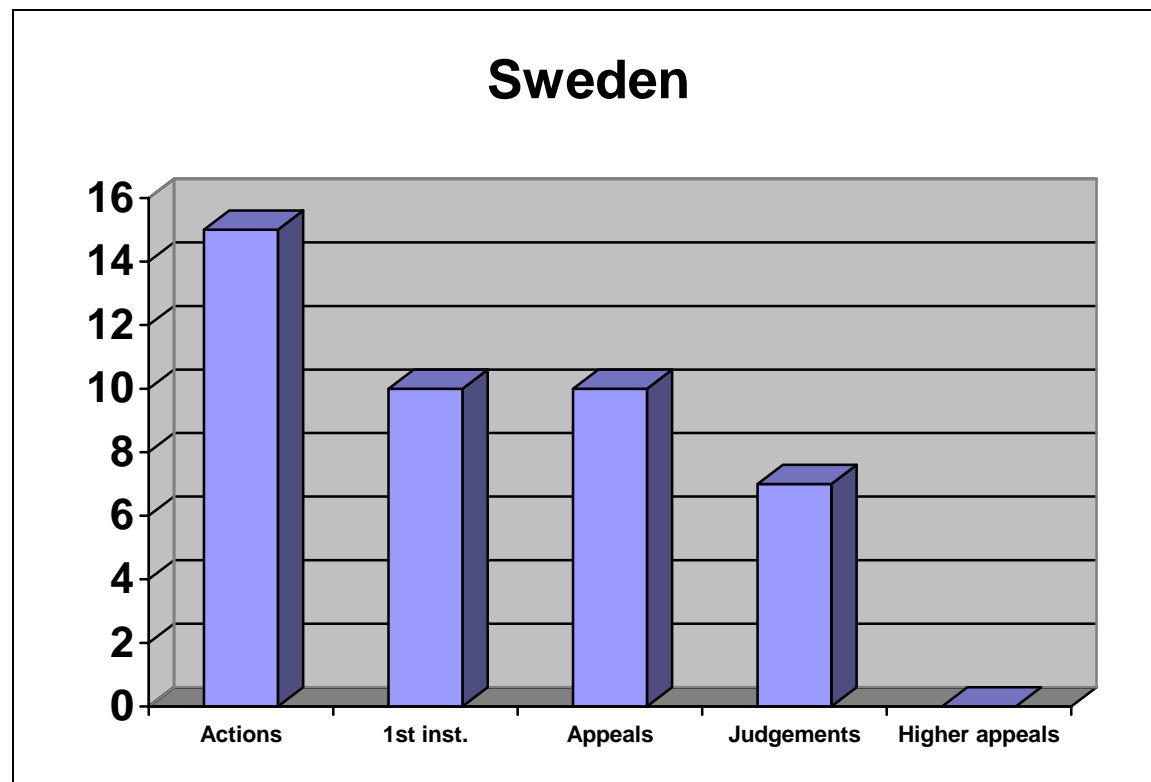
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



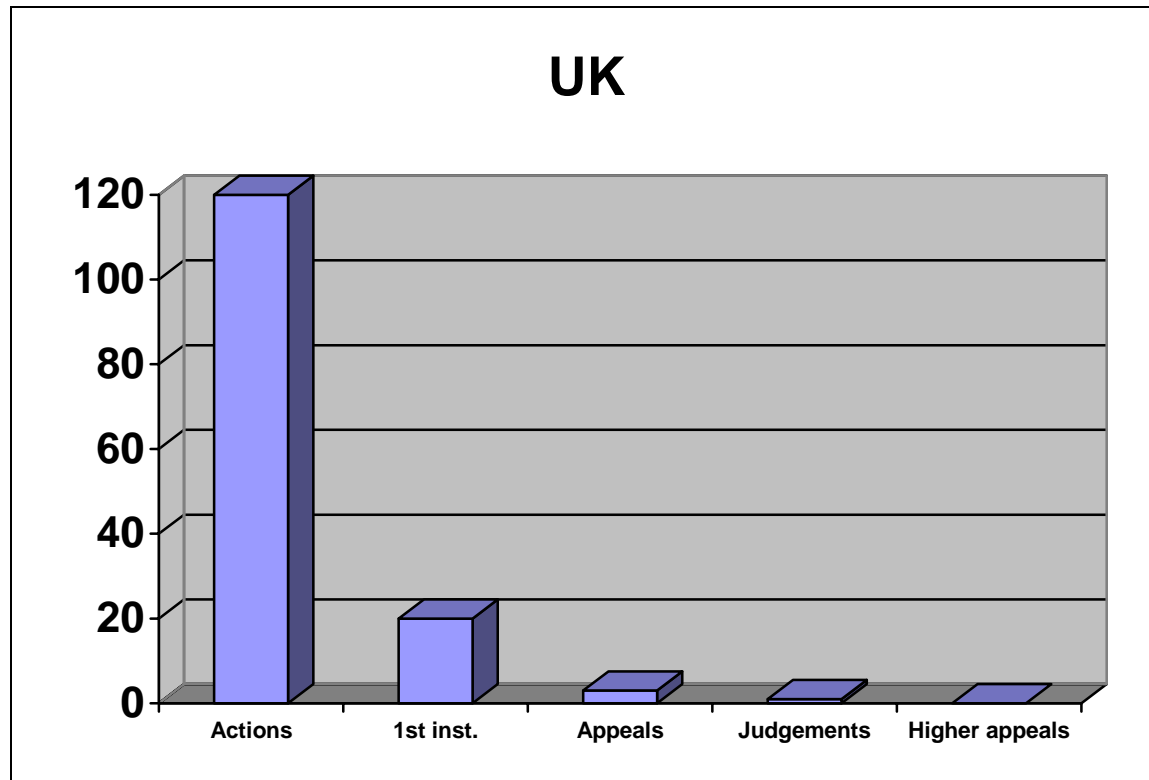
APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



APPENDIX 4: GRAPHICS OF COSTS (INCLUDING TO DAMAGES) PER YEAR PER PATENT IN FORCE



APPENDIX 5

THE INSURANCE QUESTIONNAIRE

Background Note to questionnaire to insurance experts and brokers on a possible compulsory scheme of patent litigation insurance

In completing this questionnaire, please assume that there is a compulsory scheme for all new European Patents from a certain date. Each is to be insured before validation in the national Patent Offices. There will be a separate insurance policy for each member state in which the patentee is validating his patent. (Thus a patentee who chooses to validate in five member states will have five insurance contracts, though possibly all issued under one cover by one insurer or broker in the patentee's member state.) There will be no risk assessment of the European Patent until a claim arises, though insurers will have the right to make enquiries if they wish. Litigation, mediation or arbitration as appropriate will be supported if the claimant is assessed by experts to have a 51% or greater chance of success.

While there will be no risk assessment of the patent, there will be assessment of the patentee relating to the size of company, industry sector, technology etc. The premium you are concerned with is an average premium for a typical European Patentee. The policy (Option 2 as chosen by the European Commission) excludes damages, but covers legal expenses for pursuit (enforcement), and defence against claims in respect of actual or alleged infringement of a third party covered by the insured patent.

Multinationals with regular annual litigation budgets will be excluded: insurers regard them as uninsurable, and they do not require insurance. Insurers will no doubt continue to give bespoke insurance for particular risks, following a full risk assessment of the patent(s).

The exclusions will reduce the number of European Patents in the scheme and thus the premium income. The number of patents held by multinationals is not known but for the purpose of this study, we are assuming either 30% or 50% or 70% of European Patents are excluded.

No distinction is being made between types of European Patent because, with the exception of pharmaceuticals which are largely excluded by the exclusion of multinationals, patent law experts in each member state have concluded that there is no useful distinction between other technologies from a cost point of view. Expensive cases in information technology and telecoms would be excluded as part of multinationals. Defendants against multinationals are usually normally part of a global litigation and therefore some of their costs and all of their damages are wrapped up in a global settlement not attributable to any particular member states.

Damages are excluded from the favoured option (No. 2) because of their uncertainty. They are included in some other options. However it will be seen from the tables of patent experts' statistics that they are surprisingly rare and not very high.

In this questionnaire, assume that the premium can be set at a level which will give an average profitability (except for possible early year loading) – not high or low - after all claims and expenses. Claims generally arise from year three on, and are negligible before that.

Towards the end of the questionnaire, in question 12, you are asked for your best estimate as to the likely range of annual premium, in Euros, for standard cover on an average patent, for Germany or another Member state. Germany is suggested as the largest Member State, with most patents, and most patent actions. This is a crucial question, so please answer it – even if it is only a guess, your expertise has great value. If the questionnaire does not allow sufficient space, please feel free to add further comments at the end.

Questionnaire to insurance experts and brokers on a possible compulsory scheme of patent litigation insurance

1. Given the country statistics provided by the patent experts in respect of costs and damages (though damages are not included in this option), what cover would you recommend for each country? Please fill in the 'standard' cover first and then assess what might be 'low' and 'high' respectively.

Member State Patent € '000s	Low cover €'000	Standard cover €'000s	High cover
Austria			
Belgium			
Czech Republic			
Denmark			
Finland			
France			
Germany		100	250 500
Greece			
Hungary			
Italy			
Poland			
Spain			
Sweden			
The Netherlands			
United Kingdom			

2. Similarly, please propose 'standard', 'low' and 'high' levels of excess to be paid by the insured.

Member State in which action brought		Standard excess €'000s	High excess € '000s, e.g. Telecom, Med. Devices
Austria		2,500	+ 50% on standard
Belgium		10,000	+ 50% on standard
Czech Republic		500	+ 50% on standard
Denmark		10,000	+ 50% on standard
Finland		10,000	+ 50% on standard
France		10,000	+ 50% on standard
Germany		10,000	+ 50% on standard
Greece		2,500	+ 50% on standard
Hungary		500	+ 50% on standard
Italy		?	+ 50% on standard
Poland		2,500	+ 50% on standard
Spain		2,500	+ 50% on standard
Sweden		10,000	+ 50% on standard
The Netherlands		10,000	+ 50% on standard
United Kingdom		10,000	+ 50% on standard

NB: 10% Coinsurance on all enforcement actions (in addition to excesses shown)

3. Assume a United Kingdom standard cover premium is '100 units', given the country statistics provided by the patent experts in respect of claims and costs, and the standard cover defined in the previous questions, what would be your best guess at a sensible premium ratio for the following countries for standard, low and high limits? (you can say, "I would not be surprised if it were..." E.g. France 75 would mean that the France premium would be 75% of that for UK). Fill in as much as you can.

Member State patent	Premium ratio for Low cover	Premium ratio for Standard cover	Premium ratio for High cover
Austria	10	+ 30% of 'Low'	+ 75% of 'Low'
Belgium	20	+ 30% of 'Low'	+ 75% of 'Low'
Czech Republic	10	+ 30% of 'Low'	+ 75% of 'Low'
Denmark	75	+ 30% of 'Low'	+ 75% of 'Low'
Finland	50	+ 30% of 'Low'	+ 75% of 'Low'
France	40	+ 30% of 'Low'	+ 75% of 'Low'
Germany	200	+ 30% of 'Low'	+ 75% of 'Low'
Greece	10	+ 30% of 'Low'	+ 75% of 'Low'
Hungary	10	+ 30% of 'Low'	+ 75% of 'Low'
Italy	?	+ 30% of 'Low'	+ 75% of 'Low'
Poland	10	+ 30% of 'Low'	+ 75% of 'Low'
Spain	20	+ 30% of 'Low'	+ 75% of 'Low'
Sweden	50	+ 30% of 'Low'	+ 75% of 'Low'
The Netherlands	50	+ 30% of 'Low'	+ 75% of 'Low'
United Kingdom	100	+ 30% of 'Low'	+ 75% of 'Low'

NB: Based on integrity of frequency (Row 4 of Table)

4. If we take the average of thousands of patents, of the total claims (100%) arising in their lives (covered by a succession of annual policies) one possibility is that they arise in the following pattern during years one to ten and after. Do you agree, from any experience of patents or legal expenses litigation, that this is reasonable? Alternatively please suggest one or two more likely patterns, A or B in the boxes provided. We assume here that a claim made on a particular year's policy is paid in that year, though in reality it may be paid one or two years later. Please comment on this assumption if you wish in box 4a.

Age of Patent in years	1 st year	2 nd year	3	4	5	6	7	8	9	10th & after	
Claims% of total	0	0	15%	20%	20%	20%	10%	7%	5%	3%	100%
A											
B											

5. Please comment on the likely average tail for an annual policy on which there is a claim: will most claims be paid within 1, 2, 3 years, or more? Will this vary by member state? Perhaps legal expenses provide an example.

6. Claims and policy Administration may be outsourced or carried within the underwriting concern. In your view, what proportion of premium income might be taken by claims and policy administration?	Minimum;	maximum;	most likely (eg 50%) 15%
7. What would you expect broker costs, included in the administration costs, to be as a proportion of premium income	Minimum;	maximum;	most likely 5%
8. It is expected that central underwriting costs (apart from claims) would not be high. From your experience, what proportion of premium might these costs be?	Minimum;	maximum;	most likely 12.5%
9. Assuming an <u>average</u> profitability, within what range would you expect the combined ratio to fall?	Minimum;	maximum; 100%	most likely 90%
10. Obviously the investment return on the cash inflow (premiums less administrative costs) would be an important factor. What would you expect an average percentage investment return to be, pre-tax, per annum?	Minimum;	maximum;	most likely 3%
11. It has been suggested that set up costs would not be high and might be included in the admin costs for the first years. Do you agree, if not please suggest what setup costs (in year 0) might be as % of year One premium	Minimum;	maximum;	most likely 20%
12. What is your best guess as to the annual premium, in Euros, for standard cover, for an average European patent in Germany or another Member state (state which)? This is a crucial question. We can then develop figures for other member states, and complete the feasibility study. (Based on Option 2) Which member state? United Kingdom	Minimum; €400	maximum; €1,000	most likely €600

NB: Re 10. No underwriting decisions are allowed to be made allowing for any impact of investment income.

13. In this final question you are asked to use your judgment to compare the ‘most likely’ standard premium we have just been considering, with that for other options selected by the European Commission. The standard premium we have so far considered, for what is Option 2, is taken as 100 for Germany or another country (please state which, if not Germany). .
For which country are you answering? United Kingdom

	Cover against damages awarded if alleged infringement proven?	Excess as Defendant?	Maximum likely premium	Minimum likely premium	Most likely premium
Option 1	YES, within overall cover	Yes	150	130	140
Option 2	No cover	Yes	**indicates ‘already answered earlier’	**	100
Option 3	YES, within overall cover	very small	200	150	175
Option 4	No cover	very small	165	85	125
In the ‘A’ options below, the only change assumed is that the premium does not vary with risk assessment of the patentee, only with the country concerned					
Option 1 A	YES, within overall cover	Yes			
Option 2 A	No cover	Yes	No	Difference	
Option 3A	YES, within overall cover	very small			
Option 4A	No cover	very small			
In the ‘B’ options below, it is assumed that a Community Patent – which does not yet exist, and unlike a European Patent covers all Member States with a single validation and single insurance policy - has come into operation. Assume that the single court would have the same cost as litigation in Germany. Assume also 100 litigations a year and that there are 100,000 community patents in force at any one time. As in the main option, the premium may vary with the risk assessment of the patentee, but here an average is being considered. You are asked to guess/estimate the premium relative to the ‘most likely’ for a European Patent in Germany, taken as 100					
Option 1 B	YES, within overall cover	Yes	220	180	200
Option 2 B	No cover	Yes	130	77	100
Option 3B	YES, within overall cover	very small	250	200	230
Option 4B	No cover	very small	150	150	120

APPENDIX 6**THE BUSINESS SPREADSHEET**

Note: the spreadsheets are provided separately

6.1.1 This feasibility study business model is designed to enable the user to explore the sensitivity to changes in assumptions concerning, for example, premiums, interest rates, the claims pattern, the impact of reinsurance, tax, etc

6.1.2 The basis of the model is the spreadsheet entitled 'General calculation'. From this further spreadsheets deal with cash flow, profit and loss, and eventually a balance sheet. Key aspects of the spreadsheet are described below.

6.2 The General calculation

6.2.1 seven D. shows the number of new patents each year

6.2.2 Row 7, F-O shows the decline in renewals year by year.

6.2.3 Rows 8 to 17 show the precise numbers of patents renewed each year from their start year. For the sake of the model it is assumed that no patents are renewed after year nine. This is in order to demonstrate a steady state, though in fact with figures were examined up to years 16.

6.2.4 Row 21 excludes a proportion of patents on the grounds that they are exempted.

6.2.5 Thus in row 22 of the net market size for premium income is derived.

6.2.6 Row 24 Shows the average premium in Euros

6.2.7 Row 25 calculates from this the premium income in millions of euros

6.2.8 row 26 deducts a percentage for reinsurance, taken as 15% in the model

6.2.9 Rows 29 to 33 deal with administrative costs for policy and claims handling and broker fees, Administration and management costs, and development costs.

6.2.10 Rows 37 to 46 show in detail the income arising each year from patents started in years one, two three, etc up to year 10

6.2.11 Rows 49 to 58 lays out a pattern of percentage claims for each year of a patent's life. There were only the most general figures to back this up, for example that claims on ordinary patents do not normally arise before year three, as explained in the text.

6.2.12 In row 60 a major assumption is made about the totality of claims paid as a proportion of premium over the whole of a patents' life. It is of course possible to go into this in considerable detail using the statistics in other appendices.

6.2.13 Rows 62 to 71 derives the 'actual' claims made in millions of euros in each year for patents starting in each of the 10 years considered.. The model therefore gives considerable flexibility.

6.2.14 Rows 72 to 74 show the total claims paid in each calendar year unless the assumed repayment from reinsurance giving net claims paid in year

6.2.15 As the total claims and administration are known, this divided by the premiums in the year give the combined ratio, and the technical cash inflow and outflow before investment and interest

6.2.16 other assumptions are noted in rows 88 to 100. For the sake of this model it is assumed that share capital of €2 million is provided in year Zero, and that most of this sum is used in setup costs.

6.2.17 The other spreadsheets showing cash flow, profit and loss account, and balance sheet flow from these basic statistics.

APPENDIX 7

CEA MEETING

APPENDIX 7- CEA MEETING

Extract from Notes of meeting with CEA representatives at DAS, Avenue Lloyd George 6 -- 1000 Brussels on the 23rd September 2005 to discuss the European commission study into the feasibility of patent litigation insurance options

Present were

Gustaaf Daemen, CEO, DAS (daemen@das.be)

Antje Fedderke, GDV Europaburo, Brussels (a.fedderke@gdv.org)

Jean-Louis Marsaud, CEA, Paris

(marsaud@cea.assur.org)

Christopher Jackson, CJA Consultants (c.jackson@btconnect.com)

1. Christopher Jackson described the background to the study including the preceding study and, in brief, the current situation. He indicated a list of questions which he would like to discuss at the meeting.
2. Mr Marsaud referred to the responses to the CEA's earlier consultation of its members, in 2004, and to the limited response to his consultation in July and August. Only Belgium Italy and Germany had responded. The CEA keen to help, but the evidence was of virtually no interest from its members.
3. Mr Daemen said that the key factor underlying the lack of interest was the absence of good statistics. Statistics were key, otherwise the risk was uncertain.
4. Mrs Fedderke spoke of the disadvantages of a compulsory system, the arguments relating to which were summarised in a paper which she tabled. For example, the basic features of the contract were laid down in the compulsion and would prevent insurers from responding fully to their clients needs.
5. Mr Jackson referred to his 'feasibility notes' which had been circulated by e-mail, and in particular to the possibility of a facility or collective insurance. Those present thought this was peculiar to Lloyd's of London and was otherwise forbidden by EU competition law. (Competition law had already impacted on the study, because Mr Frank Cuypers of SwissRe had agreed to play a coordinating role, but was advised against conferring with other companies and was thus advising the study solely on the basis of his own insurance company).
6. The meeting discussed possible ways forward for a compulsory or non-compulsory patent litigation insurance scheme.
7. The key point was that national differences were of great importance. Legal costs were very different country by country, and damages awarded differed substantially. For example it was possible to recover the costs of lawyers, if the case was won, in Germany and the UK it was possible, but not in Belgium. Tax aspects also differed by country, and all insurance premiums were taxed nationally.

8. Certainly at first, any patent litigation insurance scheme would be nationally based. However, as with legal expenses insurance, a German based company could use a single policy to ensure its risks in a number of member states. Thus it would be likely that patent holders would use a policy taken out in their member state of origin to cover their EPO patents in all member states required.

9. The Cumberland table, showing the sort of statistics that could be developed for the last 10 years was circulated, and it was felt by those present that this gave precisely the sort of information that would be required by insurers.

10. Mr Daemen expressed the view with which others concurred that it was not necessary to study all member states because if the big countries proved to be 'no good' then the scheme would not proceed. The essential countries were the big patent users, Germany France and the UK followed by Italy Spain and the Netherlands. Equally it was not necessary to study all types of patent, just the most important sectors.

11. Mr Daemen had heard that few companies used EPO patents which appeared to be in contradiction to the figure of 580,000 EPO patents issued across all member states per annum [note: adjusted to 270,000 EPO].

12. The figures suggested in the first study, namely an excess of €5,000, €35,000 for level 1 claims, and €1.5 million for level 2 claims were discussed (see later in these notes, too).

13. Mrs Fedderke raised the issue that some companies held patents which they did not use except to search for infringements by other companies in the hope of getting damages or a settlement. Would patent litigation insurance schemes pay €35,000 for investigation in such cases? This would be considered, but in Mr Jackson's initial view if the patent was the intellectual property of a policyholder in principle they would be covered unless the policy wording was such as to restrict that.

14. If the scheme were compulsory it would be necessary to have a fund for uninsurable risks, by analogy with motor insurance. In addition it will be important to have sufficient providers to make a competitive market.

15. The arguments against compulsion were again discussed. There could not be a direct link between compulsion and the premium level. The motor market was very large with, it was said, 250 million vehicles in the EU. The patent insurance market would be very much smaller. Mrs Fedderke brought out the analogy of insuring a burning house, which she felt was similar to insuring a patent without a risk assessment for level 1 claims. Mr Jackson explained (perhaps inadequately) that initial insurance without risk assessment was essential to the scheme, otherwise initial costs would inevitably be too high leading to the current situation. It was, certainly theoretically, possible to reduce substantially the risks in the level 1 situation. For example the excess could be higher; or there could be a threshold examination by an expert within the amount of the excess before access could be gained to the more detailed examination which amounted to a risk assessment. In addition, the percentage of

coinsurance (i.e. the percentage paid by the policyholder out of the total cost of the level 1 assessment) could be raised. While of course this would render the insurance more attractive to the insurance company it would render it less attractive to the policyholder. The balance would have to be found.

16. Mr Marsaud gave the example of compulsory medical liability insurance in France. In France under a voluntary scheme hospital doctors over the years experienced more claims and higher claims for damages. Insurers thus wanted to increase premiums and doctors said they could not afford this. The government then made medical liability insurance compulsory (presumably without freedom to raise the premiums), and the insurers left the market. The legislation was reversed.

17. That was further discussion of vexatious claims, patents which weren't used except to sue others.

18. Representatives thought that if the premium was not significant or large the market would not be attractive to insurers. All agree that the way forward was through producing the figures in the Cumberland table, though there remained the chicken and egg situation of how to start.

19. The role of brokers in this market would be very important and brokers should be brought in to the discussion. Mr Jackson indicated that brokers were already being consulted, and had been during the last study.

20. The legal background was referred to, for example the legal expenses directive 1987 giving the insured freedom to choose a lawyer. In most countries this freedom was absolute but in the UK it had been interpreted as freedom to choose from a panel. If there was disagreement on the chance of success the law you would decide whether to go ahead. There was also a directive or regulation 1383 of 2003 which referred to IP rights. Mr Jackson explained that Amédée Turner was a Queen's Counsel in intellectual property and would be fully aware of the legal background..

21. There was one area in which a collective approach would be possible, namely that an appropriate grouping of clients could negotiate collectively with one company. A customer collective or group policy could be of assistance; while collective insurance would be illegal.

22. Mr Daemen suggested that for the next phase in a few weeks we should take just the major companies, the major sectors and the major providers. This could be done through his European committee on 19th October or he would be willing to organise a presentation by CJAC, or a workshop, in his offices. Mr Jackson was most grateful for that suggestion which he accepted in principle, while explaining that the absolute deadline for the study when a report had to be made to the European Commission was 20th November .

23. Mr Marsaud also offered his services for a rapid consultation of members towards the end of the study.

24. The possibility of a non compulsory insurance which would be widely used was further discussed. As an alternative to compulsion strong incentives could be used. Incentives could be of two

sorts, positive - such as a significant discount on patent grant costs, or renewal costs- or negative, such as additional costs for renewal in the absence of insurance.

25. Brokers would be important and would typically get a fee of around 20%

26. It was vital in the view of those present that the scope should be limited to Europe with no claims possible in the United States.

27. It was suggested that various amounts for the ceiling for level to claim should be considered for example €0.5 million; €1 million; €1.5 million. (An afterthought -logically we should consider the same for the excess e.g. €3000, €5,000 or €10,000; and for the level 1 amount €15,000 €25,000 €35,000; and indeed for the co- insurance above the excess which for level 1 claims could be 10% ,20%, 30%; or for level 2 claims , 2%; 5%; 10%). There was a careful balance to be found between making the policy attractive to the insurers and making it attractive to the short.

28. Mr Jackson went through the feasibility study model spreadsheet, explaining that with the exception of 580,000 patents per annum all the figures were illustrative only. Mr Daemen offered to help with the spreadsheet which Mr Jackson would review and e-mail to him with certain specific queries.

29. The importance of the combined ratio was discussed. This is universally used in the insurance industry. Mr Jackson got the impression that something in the neighbourhood of 70 to 90% would be welcome. If the combined ratio were much over 90% solvency rules became important. And of course shareholders wanted a good return on capital.

30. Public sector involvement was discussed. It was felt that this could be very important in terms of information provision, and/or for incentives to policyholders, but not for administration which would be integral to insurance companies.

31. While the Cumberland table indicated a 10-year run of figures, 5-year figures would probably be adequate. One had to allow for the fact that the insurance tail from the single year's premium could be very long. In the case of legal expenses this could go as far as 25 years. Mr Jackson discussed the distribution over time of claims arising from one year's premium, but without any conclusion. This would have to await the results of Mr Turner's roundtable discussions in member states.

32. In legal expenses insurance it was usual to have technical reserves at the end of each year which were an allowance for future claims. This device enabled annual accounting to take place. Mr Jackson's spreadsheet however showed to the development of claims over 10 years resulting from each year's policy.

33. It was sort of considered to be of considerable importance to have a strong link to out-of-court settlement. Contracts might contain a clause requiring mediation in order to settle easily and quickly, though the possibility of a full court action should remain for the exceptional cases.

NOTE:

A second meeting was held in Brussels on 3 November 2005, but without significant results as the participants were willing only to speak in their CEA capacity, and not in relation to the insurance questionnaire or spreadsheet, and were equally unwilling to sign the confidentiality agreement. Mr Daemen reported, once more, lack of interest by the members of his committee.

END

APPENDIX 8

**REPORT OF
COMITÉ EUROPÉEN DES ASSURANCES**

COMITÉ EUROPÉEN DES ASSURANCES

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1.1

1.2 PJ 4005 (04/04)

Questionnaire on the patent protection regime

1.2.1 Summary of results

11 countries replied to the questionnaire circulated in March 2004 [doc. PJ 4002 (03/04)]:

Austria

Belgium

Switzerland

Germany

Denmark

Spain

France

Greece

Italy

Netherlands

United Kingdom

I. NATIONAL LAWS

All countries refer to specific texts governing patent protection and indicate the existence of a national patent registration office. Each national body has links with the European patent registration office.

COUNTRY	NATIONAL LAWS
AU	<ul style="list-style-type: none"> ▪ Specific texts: Laws (for example: Law on patents, on the protection of brands and models). ▪ Österreichisches Patentamt (national office). ▪ Public body with links to the European patent registration office
BE	<ul style="list-style-type: none"> ▪ Specific texts: Law of 28 March 1874 on inventions. Royal order of 2 December 1986. ▪ Office for industrial property reporting to the SPF Economie. ▪ Public body with links to the European patent registration office.
1.2.1.1 1.2.1.2 CH	<ul style="list-style-type: none"> ▪ Specific texts: Federal law on patents of 25 June 1954. Order relating to patents of 19 October 1977. Federal law on the status and tasks of the Federal Institute for Intellectual Property of 24 March 1995. ▪ Federal Institute of Intellectual Property (Bern) (www.ige.ch). ▪ Public body with links to the European patent registration office.
DE	<ul style="list-style-type: none"> ▪ Specific texts: Law on patents, costs of patents, decree on registering patents. ▪ Deutsches Patent – und Markenamt (Munich, national office). ▪ Public body with links to the European patent registration office.

COUNTRY	NATIONAL LAWS
DK	<ul style="list-style-type: none"> ▪ Specific texts: The Law on patents contains details as to the written request, the preliminary test, the appeal, new claims, requirements with regard to inventions... ▪ Patent –og Varmaerkestyrelsens organisation (national office, www.dkpto.dk). ▪ Public body supervised by the Economics Ministry with links to the European patent registration office.
1.2.1.3 1.2.1.4 ES	<ul style="list-style-type: none"> ▪ Specific text: Ley de Patentes y Marcas (Law on patents and brands). ▪ Oficina de patentes y marcas (national office). ▪ Public body with links to the European patent registration office.
FR	<ul style="list-style-type: none"> ▪ Specific texts: Laws. ▪ INPI: National Institute for Industrial Protection. ▪ Public body with links to the European patent registration office.

1.2.1.5 GR	<ul style="list-style-type: none"> ▪ Specific texts: Law 1733/1987 (OJ A/171/1987). ▪ Industrial Property Organisation. ▪ Public body supervised by the Development Ministry with links to the European patent registration office.
IT	<ul style="list-style-type: none"> ▪ Specific texts: Royal Decree (29 June 1939). Convention on European patents (1973). European Design Act (2002). ▪ UIBN: Ufficio Italiano Brevetti/Marchi + Società Italiana Brevetti. ▪ Public body (Ufficio) and private bodies (Società) with links to the European patent registration office.
1.2.1.6 NL	<ul style="list-style-type: none"> ▪ Specific text: Rijksoctrooiwet (Patent Act). ▪ Bureau voor de Industriële Eigendom (Bureau for Industrial Ownership). ▪ Public body with links to the European patent registration office.
UK	<ul style="list-style-type: none"> ▪ Specific texts: Patent and Copyright Law. ▪ National patent office. ▪ Public body with links to the European patent registration office.

II. SITUATION OF THE MARKET IN RELATION TO THE LEGISLATION ON PATENT PROTECTION

Austria, Belgium, Spain and Greece say that there is no demand from undertakings for insurance products concerning patent protection.

The other countries indicate a weak demand mainly covering legal expenses insurance.

In France and Denmark, the demand covers also liability.

Italy indicates that demand extends in addition to property insurance which is also the case in France.

Concerning insurance products, only Belgium, Denmark, France, the United Kingdom and Italy mention their existence.

Belgium, Denmark and France indicate that these products are offered by brokers in the framework of LE insurance.

In the United Kingdom and Italy, insurance products are also offered by insurance companies.

The different responses show that the demand from undertakings covers areas other than insurance properly so-called, such as assistance with the patent registration procedures, legal advice and responsibility for court cases resulting from patent law problems.

Finally, all countries indicate that undertakings use specialist legal consultants to resolve problems linked to patent protection.

COUNTRY	SITUATION OF THE MARKET IN RELATION WITH PATENT PROTECTION
AU	<ul style="list-style-type: none"> ▪ No demand for insurance products covering patent protection problems. ▪ No insurance product. ▪ Non-material property insurance is excluded from the general conditions applicable to models (ARB 1994). ▪ Specialised legal consultants.
BE	<ul style="list-style-type: none"> ▪ No demand for insurance products for patent protection. ▪ Products offered by brokers in the framework of LE insurance. ▪ Demand from undertakings: assistance with patent registration procedures and legal advice. ▪ Specialist consultants.
1.2.1.7 1.2.1.8 1.2.1.9 CH	<ul style="list-style-type: none"> ▪ Demand for insurance products strong a few years ago. ▪ Concerned LE. ▪ Today, demand almost non-existent. ▪ No insurance products on the market. ▪ Demand from undertakings: assistance for patent registration procedures, legal advice and responsibility for costs of court cases resulting from patent law problems. ▪ Specialist legal consultants.
1.2.1.10 DE	<ul style="list-style-type: none"> ▪ Demand for insurance products low and relatively recent (last two or three years). ▪ Concerns more precisely LE. ▪ No specific product. ▪ Demand from undertakings: legal advice and assumption of legal costs. ▪ Specialist consultants.
DK	<ul style="list-style-type: none"> ▪ Weak and recent demand for insurance products based on liability and LE. ▪ Insurance products offered by brokers in the framework of LE insurance. ▪ Demand from undertakings: assistance with patent registration procedures and assumption of costs in the event of court cases concerning patent law problems.
1.2.1.11 1.2.1.12 1.2.1.13 ES	<ul style="list-style-type: none"> ▪ No demand for insurance products for problems regarding patents. ▪ No specific product. ▪ Demand from undertakings: assistance with registration procedures and legal advice. ▪ Specialist consultants.
FR	<ul style="list-style-type: none"> ▪ Weak demand for insurance products for patent protection. ▪ Concerns cover for property, liability and LE insurance. ▪ Insurance products offered by brokers in the framework of LE insurance. ▪ Specialist consultants.
1.2.1.14 GR	<ul style="list-style-type: none"> ▪ Non-existent demand for insurance products. ▪ Non-existent insurance products. ▪ Specialist consultants.
IT	<ul style="list-style-type: none"> ▪ Demand for insurance products very weak and recent. ▪ Covers property insurance and LE. ▪ Insurance products offered by insurance companies. ▪ Demand from undertakings: assistance with registration procedures and assumption of legal costs. ▪ Specialist consultants.

1.2.1.15	NL	<ul style="list-style-type: none"> ▪ Weak demand for insurance products. ▪ Covers essentially LE insurance. ▪ No specific insurance product. ▪ Demand from undertakings: assumption of legal costs.
	UK	<ul style="list-style-type: none"> ▪ Weak demand for insurance products covering LE. ▪ Insurance products offered by insurance companies and brokers. ▪ Demand from undertakings: assistance with registration procedures, advisory activity and assumption of legal costs. ▪ Specialist legal consultants.

III. POTENTIAL DEVELOPMENT OF THE MARKET

Only the United Kingdom thinks that the development of products linked to patent protection will be an interesting market for LE insurance.

The main reasons put forward by the other countries are generally the difficulties in assessing the risk, specific knowledge required in this area, the costs of claims and the risk of systematic legal proceedings.

Spain, Greece, Italy and The Netherlands also speak of a lack of demand.

Switzerland says that the de facto monopoly of lawyers specialising in the patent field is also an obstacle.

Denmark indicates that if the question of LE insurance was to be raised, we should also raise the existence of liability or business interruption insurance, including cover for development costs, future benefits, etc.

Austria says that the development of these products must be linked to the establishment of tax incentives.

France states furthermore that attempts to market products in LE were made ten years ago. But they were not successful. LE insurers consider that the defence costs which they could offer in their cover would be largely inadequate compared with the real cost of certain cases.

Only the United Kingdom thinks that the development of products in patent protection should be linked to the implementation of a compulsory insurance system.

Austria and Spain feel that the development of these products should be linked to tax incentives.

Finally, Austria, Germany, the United Kingdom, Greece, Italy and The Netherlands think that patent protection must be limited to the European Union.

Only Spain thinks that this protection should be extended beyond the European Union.

COUNTRY	POTENTIAL DEVELOPMENT OF THE MARKET
AU	<ul style="list-style-type: none"> ▪ Development of products linked to patent protection would not be an interesting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialised area requiring very specific knowledge, risk of major claims costs, risk of systematic legal proceedings. ▪ Development of products must be linked to tax incentives. ▪ Protection limited to the European Union
BE	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance ▪ Reasons: difficulties in assessing the risk, risk of substantial claims costs, risk of systematic legal proceedings (anti-selection) ▪ No compulsory insurance system or tax incentives

COUNTRY	POTENTIAL DEVELOPMENT OF THE MARKET
1.2.1.16 CH	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialised area requiring specific knowledge, risk of substantial claims costs, risk of systematic legal proceedings, de facto monopoly of lawyers specialised in patents. ▪ No compulsory insurance or tax incentives. ▪ No protection limited to the European Union or protection extended beyond the EU
1.2.1.17 DE	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulty in assessing the risk, very specialist area requiring very specialised knowledge, risk of substantial claims costs, risk of systematic legal proceedings. ▪ No system of compulsory insurance or tax incentives. ▪ Protection limited to the European Union.
DK	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialist area requiring highly specialised knowledge. ▪ No compulsory insurance system.
1.2.1.18 1.2.1.19 1.2.1.20 ES	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialist area requiring very specialised knowledge, risk of substantial claims costs, risk of systematic legal proceedings, lack of demand. ▪ Systems of tax incentives. ▪ Protection extended beyond the European Union.
FR	<ul style="list-style-type: none"> ▪ Partly interesting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialised area requiring specific knowledge, risk of substantial claims costs, cost of systematic legal proceedings.
GR	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reason: lack of demand. ▪ No insurance system or tax incentives. ▪ Protection limited to the European Union
IT	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialist area requiring specific knowledge, risk of substantial claims costs, risk of systematic legal proceedings, lack of demand. ▪ No insurance system or tax incentives. ▪ Protection limited to the European Union.
1.2.1.21 NL	<ul style="list-style-type: none"> ▪ Uninteresting market for LE insurance. ▪ Reasons: difficulties in assessing the risk, very specialist area requiring specific knowledge, risk of substantial claims costs, risk of systematic legal proceedings, lack of demand. ▪ No insurance system or tax incentives. ▪ Protection limited to the European Union.
UK	<ul style="list-style-type: none"> ▪ Interesting market for LE insurance. ▪ But: difficulties in assessing the risk, very specialist area requiring specific knowledge, risk of substantial claims costs, risk of systematic legal proceedings. ▪ Compulsory insurance systems. ▪ Protection limited to the European Union.

*

APPENDIX 9

**CONTRIBUTION BY AN EXPERT INSURER IN THE INDIVIDUAL CAPACITY
(DR. FRANK CUYPERS OF SWISS RE)**

Appendix 9 – contribution by an expert insurer in an individual capacity

Summary

Only option 2, without defence cover was considered. We compute a yearly premium for a pure Patent Litigation Insurance, covering the legal expenses of a patent holder who wishes to enforce one or several of his patents against an infringer. The measure of risk exposure is a granted national patent, and the estimated premiums are understood per national patent.

The formulas derived below permit reproducing all the premium figures presented. If needed, the parameters specified can be altered to produce new figures. However, we advise strong care in altering the parameters, as the values chosen in this analysis reflect industry standards and actuarial best practice.

We do not consider Patent Infringement Liability, because the measure of risk exposure is unrelated to the patents held by the policyholder and cannot be assessed with the data provided. Therefore, defence costs are not covered here.

Data Issues

The data contains a number of oddities and even inconsistencies. We only list here the most prominent and consequential. The assumptions below partially take care of these issues. Nevertheless, this list emphasises the necessity of more systematic surveys.

- Most historical trends display an excessive regularity. This may reflect a best guess resulting from a compromise, which still must be validated by solid data.
- In Germany the number of granted patents (items 2.) rises by almost a factor 3 in the past 4 years: from 21'000 to 60'000. While this may well be possible, this phenomenon must be well understood before an insurance cover is provided.
- The assessment costs (items 15.) vary widely between the different countries: from EUR 4'000 in Austria (or as little as EUR 400 in Hungary) up to 50'000 in Denmark. This discrepancy is difficult to understand.
- In the UK no higher appeals (items 8.) have been reported in the past ten years, while the average costs of such appeals (items 12.c) are reported to amount to EUR 300'000.

Assumptions

We make a number of assumptions. Some are standard actuarial practice, while others are designed to compensate the data issues. The following list summarises the assumption made and their consequences.

- The severity random variable is distributed according to a Pareto probability distribution. Indeed, the Pareto distribution is well suited for modelling large losses in a wide spectrum of property and casualty lines of business. Moreover, this simple two-parameter distribution is the only standard insurance distribution capable of fitting severity data limited solely to the average claim without performing arbitrary assumption.
- The Pareto power takes the value $\alpha = 1.1$. This is in line with expectations for industrial property, and because this “fat tail” hypothesis is consistent with the observation that there are large outliers. The threshold T is then fitted to reproduce the observed average “from ground up” claim size from the data.
- The lowest possible threshold according to this Pareto model is the threshold T . With $\alpha = 1.1$, this is approximately 10% of the average “from ground up” claim.
- We ignore any discount for payment of late claims. This second order effect is minimal in the current low interest rate environment and is anyway dwarfed by the uncertainty associated with the scarcity of data.
- We ignore subrogation as the data is silent about its occurrence rate.
- The underwriting, management, overhead and capital costs are taken proportional to the premium. Indeed, these expenses depend crucially on the structure of the carrier, as well as the correlation to its remaining risk portfolio. However, in practice these costs vary typically between 30% and 50%.
- All € amount figures from the data are adjusted to reflect monetary inflation.
- The claims frequencies λ are taken 0.3% for Germany and 0.1% for all other countries. This is slightly in excess of the observed frequencies to reflect the uncertainties associated with the data and the inducement to litigate generated by the insurance coverage. This choice of frequencies also takes into account the effect of selection through the assessment process.
- The overhead costs scale proportionally to the premium. This means that we ignore portfolio size effects and therefore the figures remain unchanged when large multinational corporations are excluded.
- All the figures are presented as if the insurance cover were to be given in 2005. Indeed, they are based on data until 2004. An actuarial assessment for later years must be based on newest data.

- There is no anti-selection because the insurance coverage is compulsory.

D	deductible	no less than T BE: EUR 10'000 DK: EUR 30'000 FR: EUR 10'000 DE: EUR 25'000 GR: EUR 10'000 NL: EUR 15'000 ES: EUR 10'000 SE: EUR 15'000 UK: EUR 50'000
C	cover	open

The choice of frequencies λ reflects is slightly in excess of the observed frequencies depicted in Figure 1. This is to reflect the inducement to litigate generated by the insurance coverage. It is also prudent to keep some safety margin, as long as (1) more data is not available for France, Spain, the UK, Denmark and Germany, and (2) the peculiar upward and downward trends of the frequency with the number of patents in force in the Netherlands and respectively in Greece are not understood.

Actuarial Analysis

Claims Frequency

Define:

- N = number of in-force patents in a given calendar year. This is a number provided in items 2 of the data.
- n = number of claims in a given calendar year. This is a random variable. An estimator of its average \underline{n} can be inferred from items 4-8 of the data.

From these we derive the

$$\text{claims frequency} = \frac{n}{N}$$

Claims Severity

Define:

- X = severity of a “from ground up” claim. This is a random variable. An estimator of its average \underline{X} can be inferred from items 11-12 of the data.

We assume this random variable is distributed according to a Pareto distribution with threshold T and power α , where

$$\text{Probability}(X < x) = 1 - (T/x)^\alpha$$

From this we derive the

$$\text{threshold} = \frac{\underline{X}(\alpha - 1)}{\alpha}$$

Within the framework of this Pareto model, the deductibles must exceed this threshold. Taking $\alpha = 1.1$, the smallest deductible is therefore no less than 10% of the average claim.

Claims Components

Five different types of claims can occur. They are summarised as follows:

a	claim type	claims severity	data source	number of claims	data source	constraints
1	1st action settled	X_1	items 11.a	n_1	items 4 – 5	$n_1 + n_2 = n$
2	1st action judged	X_2	items 11.b	n_2	items 5	
3	1st appeal settled	X_3	items 12.a	n_3	items 6 – 7	$n_3, n_4 \leq n_2$
4	1st appeal judged	X_4	items 12.b	n_4	items 7	
5	last instance	X_5	items 12.c	n_5	items 8	$n_5 \leq n_4$

The aggregate claim in a given calendar year S is given by

$$S = \sum_{i=1-n} X_i = \sum_{a=1-5} \sum_{i=1-n} X_{ai}$$

where S, X and n are random variables, and the probability distribution of S is given by a convolution of the distributions of X and n. Its average is given by

$$\underline{S} = \underline{n} \underline{X} = \sum_{a=1-5} \underline{n}_a \underline{X}_a$$

From this we derive the

$$\underline{X} = \sum_{a=1-5} \underline{n}_a / \underline{X}_a \text{ where } \underline{n} = \underline{n}_1 + \underline{n}_2$$

Insured Claims

Define:

- α = self-insured franchise.
- D = deductible.
- C = cover.
- L = D + C = limit.
- X = severity of a “from ground up” claim. See above.
- Y = severity of the corresponding insured claim. It is given by

$$Y = \alpha \min[C, \max(0, X-D)]$$

The corresponding average insured claim is then given by

$$\underline{Y} = \alpha \sum_{a=1-5} \underline{n}_a / (\underline{n}_a - 1) (T/D)^{\alpha} D [1 - (D/L)^{\alpha-1}]$$

Premium

Define:

- β = total yearly premium.
- P = yearly policy premium.
- A = assessment costs.
- γ = expenses + risk loading.

The total premium is the sum of all policy premiums:

$$\beta = N P$$

The total premium is also the sum of all claims, costs and loadings:

$$\beta = \underline{n} (\underline{Y} + A) + \gamma \beta = \underline{n} (\underline{Y} + A) / (1-\gamma)$$

Therefore the policy premium is given by

$$P = \beta / (1-\gamma) (\underline{Y} + A)$$

Numerical Results

Parameter Values

The formulas derived above contain parameters which are specified in the following table:

parameter	definition	values
α	claims frequency	DE: 0.3% Others: 0.1%
T	Pareto threshold	BE: EUR 5'000

		DK: EUR 30'000 FR: EUR 5'000 DE: EUR 23'000 GR: EUR 2'000 NL: EUR 14'000 ES: EUR 5'000 SE: EUR 13'000 UK: EUR 50'000
<input type="checkbox"/>	Pareto power	1.1
A	assessment costs	data items 15.
<input type="checkbox"/>	expenses + risk loading	40%
<input type="checkbox"/>	self-insured franchise	20%
D	deductible	no less than T BE: EUR 10'000 DK: EUR 30'000 FR: EUR 10'000 DE: EUR 25'000 GR: EUR 10'000 NL: EUR 15'000 ES: EUR 10'000 SE: EUR 15'000 UK: EUR 50'000
C	cover	open

The choice of frequencies reflects is slightly in excess of the observed frequencies depicted in Figure 1. This is to reflect the inducement to litigate generated by the insurance coverage. It is also prudent to keep some safety margin, as long as (1) more data is not available for France, Spain, the UK, Denmark and Germany, and (2) the peculiar upward and downward trends of the frequency with the number of patents in force in the Netherlands and respectively in Greece are not understood.

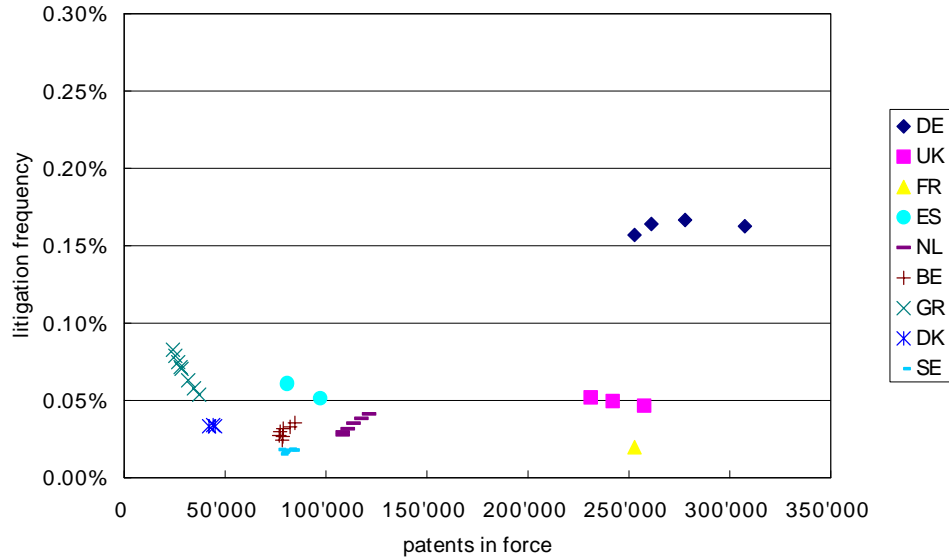


Figure 1

The deductibles D for Belgium, France, Greece and Spain could be chosen lower. It is however unlikely in a commercial line that a deductible below EUR 10'000 achieves any deterrence effect. Particularly so when the deductibles become a mere fraction of the assessment costs A.

Premium

We depict in Figure 2 how an annual premium for a given national patent increase as a function of the cover C. The deductibles D are chosen here to be the minimal ones, as specified in the parameter table above.

Some explicit figures in € are displayed in the following premium table:

deductible	cover	BE	DE	DK	ES	FR	GR	NL	SE	UK
10'000	200'000	33			36	50	23			
	600'000	39			41	54	24			
	1'000'000	41			43	56	25			
15'000	200'000							65	93	
	600'000							80	107	
	1'000'000							86	113	
20'000	200'000	28			32	46	21			
	600'000	34			37	50	23			
	1'000'000	36			39	52	23			
25'000	200'000		295							
	600'000		373							
	1'000'000		407							
30'000	200'000			162				52	82	
	600'000			195				67	95	
	1'000'000			210				73	101	
50'000	200'000		237							142
	600'000		309							199
	1'000'000		343							226
60'000	200'000			137						
	600'000			168						
	1'000'000			182						
75'000	200'000									119
	600'000									172
	1'000'000									198

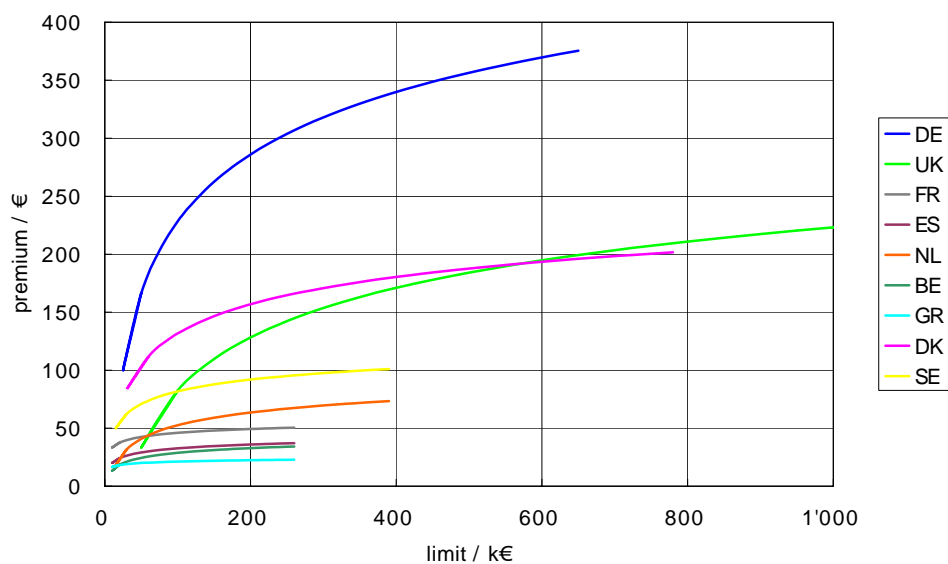


Figure 2