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Statements on behalf of the EU

WIPO - 27th session of the Standing Committee on the Law of Patents - EU Statement: Quality of patents, including opposition systems

EU Statement: Quality of patents, including opposition systems (SCP/27/4 Rev., SCP/27/5 Rev.)

Chair,

I am speaking on behalf of the EU and its Member States. We continue to reiterate our strong support and commitment for advancing work on the topic of quality of patents. We are glad that at the last session of the SCP we managed to agree on an appropriate work programme on this topic for this session.

We thank the Secretariat for updating the summary of the responses to the Questionnaire on the term “Quality of Patents” and Cooperation between Patent Offices in Search and Examination, taking into account the additional responses that were submitted by Member States after SCP 26. We are glad to note that it proved justified to give additional Member States and regional patent offices the possibility to submit responses to the questionnaire, as 20 new contributions were made. This increases the weight and value of the outcomes of the questionnaire even more.

As already stated at SCP 26, the EU and its Member States found the questionnaire and the compilation of answers prepared by the Secretariat helpful as we pursue work in the area of quality of patents. The results help us to gain a better understanding of how each Member State understands the term “quality of patents”. Although there are various approaches to which factors define the “quality of patents” and the meaning of the term may be different for each stakeholder in different contexts, there nevertheless appears to be a similar understanding of the main issues. We are confident that the findings of the questionnaire will prove useful in carrying out our work in the area of quality of patents and in engaging in harmonisation of substantive patent law in the future. The additional questions set out in the proposal by Canada and the UK in SCP/18/9 may provide a useful next step in this area and would allow the committee to learn more about how Member States evaluate and improve quality.
The updates made to the second part of the compilation of answers in document SCP/27/5 Rev. reinforce our earlier conclusion that there is extensive cooperation between IP offices and a wide and growing use of different collaboration methods at the bilateral, regional and international level. As expected, such cooperation has been found to facilitate the work of IP offices. It has also proven to have a positive impact on the efficiency of patent examination and the validity of granted patents.

Given the potential positive benefits of work-sharing, the EU and its Member States welcome the decision of SCP 26 to hold a half-day information exchange session on cooperation between patent offices in search and examination during this session. We look forward to hearing about the experiences and successful examples of WIPO Members, including the effects of such cooperation on patent granting procedures and capacity building. The EU and its Member States have continued to encourage more widespread use of work-sharing among patent offices of different sizes and from different levels of development. We trust that sharing sessions such as the one scheduled for this week will encourage more member states to learn about and participate in work sharing programmes.

In addition to facilitating the exchange of information and experiences, we continue to see merit in a study by the WIPO Secretariat on how different laws and practices may limit the potential for work-sharing and what voluntary measures could be put in place to address any problems at the international level. We thank the Secretariat for maintaining and updating a dedicated page on WIPO’s website for existing work sharing activities that improves awareness of existing initiatives and enables patent offices to collaborate more efficiently. The WIPO CASE platform can be seen as a good example of cooperation between IP offices and dissemination of information about a particular method of work-sharing.

The EU and its Member States welcome the decision of the Committee to have a sharing session at this SCP on examples and cases relating to assessment of inventive step, giving particular attention to the topics suggested in the proposal by Spain contained in document SCP/24/3. Inventive step is a central concept in substantive patent law and its proper evaluation is key to guaranteeing a high quality patent system. Thus, we welcome the fact that this complex topic has continued to be discussed in the SCP. We believe that these discussions on the concept as well as methods of assessing the inventive step used in the WIPO Member States greatly benefit our work in this area. This is evidenced by the success and usefulness of a similar sharing session held during SCP 25. We are confident that this week’s sharing session will also be useful for preparing a further study on inventive step to be submitted to SCP 28.

As for our future discussions on the topic of quality of patents, the EU and its Member States would like to reiterate support for advancing work in this Committee pursuant to the proposals made by the US (SCP/19/4 and SCP/23/4) and the Republic of Korea, the UK and US (SCP/20/11 Rev.), as well as earlier proposals concerning the quality of patents made by the Delegations of Canada and the UK (document SCP/17/8), the Delegation of Denmark (document SCP/17/7), and the Delegation of the US (document SCP/17/10). We are committed to contribute to advancing our work under a work program on Quality of Patents which reflects key elements of these contributions.

We look forward to a constructive discussion on this agenda item.

Thank you.

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