The European Patent Office as the executive body of the European Patent Organisation

Enrique Molina Galan
Director Biotechnology

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European Patent Organisation

- A European intergovernmental institution, but not an EU institution
- Self-financing, i.e. revenue from fees covers operating and capital expenditure
- 36 member states
- a market of over 500 M citizens
- Single procedure & language

Member states:
- Austria • Belgium • Bulgaria • Croatia
- Cyprus • Czech Republic • Denmark
- Estonia • Finland • France • Germany • Greece • Hungary • Iceland • Ireland • Italy • Latvia
- Liechtenstein • Lithuania • Luxembourg • Former Yugoslav Republic of Macedonia • Malta • Monaco • Netherlands • Norway
- Poland • Portugal • Romania • San Marino • Slovakia • Slovenia • Spain • Sweden • Switzerland • Turkey • United Kingdom

Extension agreements:
- Albania • Bosnia-Herzegovina • Serbia
A bit of History

- 1973 Diplomatic conference setting up EPC

- 1977 EPC enters into force

- 1978 EPO starts operating and receives first European applications

• 2000 Diplomatic conference performs the first comprehensive overhaul of EPC; EPC 2000

• 2007 EPC 2000 enters into force
Structure of the EPO
Structure of the European Patent Organisation

European Patent Organisation

European Patent Office

The executive body

- responsible for examining European patent applications

Administrative Council

The legislative body

- made up of delegates from the member states
- supervises the activities of the Office
- has a specific legislative function
Structure of EPO - Cluster Biotech

Joint Cluster Biotech - A. Stamatopoulos - 260 examiners

- V. Kaas - 2401
- R. Hermann - 2402
- U. Thiele - 2403
- B. Isert - 2404
- M. Fotak1 - 2405
- S. Yeats - 2406

Patent Administration
Operational Support M

- E. Molina Galan - 1212
- F. Fernandez y Branas - 1222
- S. Hoekstra - 1223

Patent Administration
Operational Support TH
### Number of staff and locations

<table>
<thead>
<tr>
<th>Location</th>
<th>Staff Count</th>
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<tbody>
<tr>
<td>Munich</td>
<td>3,629</td>
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<tr>
<td>The Hague</td>
<td>2,659</td>
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<tr>
<td>Berlin</td>
<td>276</td>
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<tr>
<td>Vienna</td>
<td>117</td>
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<td>Brussels</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>6,685</strong></td>
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</tbody>
</table>

Around 60% (3,990) are patent examiners.

Headquarters are in Munich.
## Staff from 32 different countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of staff</th>
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<tbody>
<tr>
<td>AT Austria</td>
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<td>BE Belgium</td>
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<td>Others</td>
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<td><strong>Total</strong></td>
<td><strong>6,685</strong></td>
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Status: December 2008
Munich

- Patent grant procedure
- Appeals
- Quality management
- Administration
- Legal services
- International affairs
The Hague

- Patent grant procedure
- Information management
- Administration
- Legal services
Berlin

β Patent grant procedure
β Administration
Vienna

- Patent information
- Administration
- European affairs
Brussels

Relations with the European institutions and other organisations/associations
Applications filed EPO-wide

<table>
<thead>
<tr>
<th>Category</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
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<tbody>
<tr>
<td>Direct European filings</td>
<td>63013</td>
<td>62755</td>
<td>61133</td>
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<tr>
<td>PCT applications entering the regional phase</td>
<td>83548</td>
<td>78684</td>
<td>74296</td>
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</table>
Applications by residence of applicant (2008)

- US: 25.5%
- JP: 15.7%
- Other member states: 7.2%
- Others: 6.5%
- KR: 3.0%
- CH: 4.1%
- IT: 3.5%
- SE: 3.0%
- GB: 3.0%
- FR: 6.2%
- NL: 5.0%
- DE: 18.2%
Leading applicants and patentees in 2008

Applications

- Philips: 2,857
- Siemens: 1,863
- Samsung: 1,677
- BASF: 1,664
- Robert Bosch: 1,425
- Qualcomm: 1,134
- LG Electronics: 1,108
- Panasonic: 1,104
- NXP: 981
- Toyota: 869
- Sony: 802
- Honeywell: 791
- Hitachi: 741
- IBM: 720
- Bayer: 697

Granted European patents

- Robert Bosch: 941
- Siemens: 658
- Samsung: 622
- Panasonic: 602
- Philips: 548
- Ericsson: 478
- Canon: 449
- BASF: 410
- Hitachi: 369
- Mitsubishi: 361
- Alcatel Lucent: 356
- Sony: 342
- Nokia: 330
- Fujitsu: 329
- Honda: 325
JC Biotechnology: capacity and workload

260 examiners (1/3 TH, 2/3 MU)

Incoming searches: 9000/year

Request for examination: 6000/year

Oppositions filed: 170/year
The EPO
&
Its role in innovation
Right balance is essential!

βProtection
βIncentive to innovate
βReturn on investment
βBetter market position

βDisclosure
βSharing knowledge
βStepping stone
βInnovation leaps

Apply high patent standards!
EPO'S Mission statement

As the Patent Office for Europe, we support innovation, competitiveness and economic growth across Europe through a commitment to high quality and efficient services delivered under the EPC
Cornerstones to assure Quality and Efficiency

Granting with high presumption of validity
- enabling disclosures
- undisputed inventive contribution
- commensurate scope of protection

Timeliness of grant procedure
- dealing with increasing amounts of workload
- minimising procedural delays
- minimise legal uncertainty as early as possible
Quality at the EPO: four key ingredients

- Highly skilled / specialised examiners
- Rigorous controls and commitment to improvement
  - Examining division
  - Operational Quality Control
  - Quality Audit
  - User satisfaction survey
- Comprehensive search documentation
- Thorough and consistent procedures
"Raising the Bar"

Goal:

Improving the quality of incoming patent applications and streamlining the grant proceedings.
– when deemed appropriate the search can be restricted to one independent claim per category;
– where a meaningful search is not possible, the applicant will be invited to clarify the subject-matter to be searched.
  ß Examination will be limited to searched subject matter
– a response to the search opinion will be mandatory
– amendments and their basis shall be clearly identified.
– amendments at applicants initiative are restricted
– All that with associated tight time limits and severe sanctions!
Divisionals

β time limits for the filing of divisional applications as of April 2010

β voluntary divisional applications: to be filed within a period of two years from the first communication by the examining division in respect of the parent application

β mandatory divisional applications: to be filed within a period of two years from the first objection of lack of unity
Workload sharing and avoiding duplication

**European level**
- with National Patent Offices
  - **EPN** (European Patent Network)
  - **UPP** (Utilisation Pilot Project)

**Worldwide**
- **Trilateral**: USPTO, JPO, EPO
- **IP5**: As above plus SIPO and KIPO (Chinese and Korean Patent Offices)
IP5: Foundation Projects

Developing common tools among the 5 Offices to support work-sharing:

- Common documentation database
- Common hybrid classification
- Sharing and documenting search strategies
- Common search and examination support tools
- Common access to search and examination results
- Common training policy
- Mutual machine translation
- Common application format
Further collaboration initiatives

βTriway

βPPH (Patent Prosecution Highway)
  – bilateral agreements

And of course:

βPCT (Patent Cooperation Treaty)
  – preferred option with a developed and well known infrastructure and procedures.
Community Patent

Imminent introduction or permanent Utopia?
– Waiting 30 years on the shelves
– Why?
  – Language regime
  – Common European Litigation System

– 2009; new attempts to clear the path!
Need more information?

Relating to EP or PCT patent granting procedure:

EPO Information Office Munich
infomunich@epo.org
Tel +49-89-23994512

EPO Customer Services
info@epo.org
Tel +49-89-2399INFO (2399 - 4636)