



## The EU's unitary patent Yes, ja, oui, no, no

**After 40 years of trying, Europe has a unified patent system. Sort of**

Dec 15th 2012 | from the print edition

IN 1973, 16 countries signed a convention establishing a European patent, so that inventions in one country might be safe from imitation in another. Five years later the first applications were filed at the European Patent Office (EPO) in Munich. Last year the EPO received more than 142,000. Today 38 countries, including the European Union's 27 members, are signatories. Yet the business of securing patents across Europe is far from smooth. Even equipped with the EPO's stamp of approval as well as a domestic patent, inventors wanting to protect their intellectual property abroad must still tramp from one national patent office to another, translations in hand.

Forty years on, the EU has taken a big stride towards a unified system. On December 11th the European Parliament voted for proposals, approved the day before by the Council of Ministers (EU national governments), to create a "unitary" patent, recognised automatically in 25 EU countries and overseen by a new court, and to do away with the need to translate patents into lots of languages.

The European Commission, the EU's executive body, estimates that the cost of having a patent recognised in every EU country can be €36,000 (\$46,900), €23,000 of it accounted for by translation. American patents cost a mere €1,850. This tariff on inventors may partly explain why national patent offices still do not receive many applications from other EU countries (see chart). Between 2008 and 2011 filings for European patents fell by about 2.5%—though that probably had more to do with the sickly economy than the sticky system. In the same period, says the World Intellectual Property Organisation, filings in America rose by about 10%. In China, which handled more than any other country last year, knocking America off the top spot, they went up by

two-thirds.

The new system of unitary patents is likely to come into effect in 2014. Applications must be in English, French or German, or translated into one of the three. The commission thinks the cost of a unitary patent will eventually be less than €5,000. The system might be cheaper still were the “Unified Patent Court” not in fact divided between Paris and specialised branches in London and Munich, thanks to a Euro-fudge concocted in June.



Not everyone is happy. Because their tongues are not on the privileged list, Italy and Spain are not joining in. They are also disputing the right of the other 25 to press ahead without them. But the EU’s advocate-general has said the union’s Court of Justice should dismiss their claim. It usually follows his advice. With little bargaining power left, they may eventually fall in.

Three owners of fistfuls of patents—BAE Systems, a British aerospace firm, Ericsson, a Swedish telecoms-equipment company, and Nokia, a Finnish maker of mobile phones—wrote in vain to urge the Parliament to reject the plan. They worry that because the new court must apply a patent-owner’s domestic law when ruling on infringements, different standards will apply in different cases. Patent “trolls” may thus choose friendly territory and hold more innovative companies to ransom.

Bruno van Pottelsberghe, of the Solvay Brussels School of Economics and Management, a former chief economist of the EPO, calls the unitary patent “a great achievement”. But he sees room for improvement. Europe, he notes, “is the only region in the world to have three layers”: national, European and now unitary patents. He thinks the national offices should cease granting patents and focus on giving advice and other services to applicants, helping them save time and money.

from the print edition | Business

Copyright © The Economist Newspaper Limited 2012. All rights reserved. [Accessibility](#) [Privacy policy](#) [Cookies info](#)

[Terms of use](#)

[Help](#)