

EPO-PatCom Meeting

September 17, 2004

Vienna

(Minutes to be commonly agreed upon)

PARTICIPANTS:

PATCOM Members / Associate Members

Willem Geert Lagemaat, Univentio, President
 Gert Frackenpohl, Incom GmbH, Treasurer
 Georg F. Schultheiss, Secretary
 Pierre Buffet, Questel
 Ophir Daniel, Minesoft
 Andreas Barth, FIZ Karlsruhe
 Matt Toussant, CAS
 Steve Lodge, RWS
 Roger Stable, RWS
 Mike Baycroft, Micropatent
 Brian Gore, Thomson/Derwent

EPO Staff:

Curt Edfjäll, DG4
 Wolfgang Pilch, Vienna
 Gerard Giroud, The Hague
 Ferdinand Rudolph, Vienna
 Georg Pantoglou, Vienna
 Daniel Shalloe, Vienna
 Guillaume Minnoye, The Hague
 Noel Campling, Vienna
 Gunther Vacek, Vienna

AGENDA:

Mr C.Edfjäll welcomed the participants and stated that he had studied the Internet notices as far as available. He said there were no changes to the agenda.

Mr W.G.Lagemaat thanked the EPO for the invitation to Vienna and explained how, since the last meeting, PatCom had introduced a new structure with a Board and Executive Council for better management of relationships. He confirmed that, following recommendations at the Hague meeting, PatCom was agreed that future PatCom-EPO meetings would focus on mainly political issues. Technical aspects would be discussed by respective Working Groups, now under formation in PatCom.

1. Role of EPO in Patent Information

a) View of EPO

Mr W.Pilch outlined the EPO's responsibilities:

- to explain the EPO plans
- to improve the usage of patent information in Europe
- to improve the usage for SMEs

- the applicant is seen as the client
- to ensure that technical information is distributed publicly in complete form
- all users benefited from the same treatment

But, he said, there remained much work to be done to help people better understand the patent system and patent information, and the EPO was, therefore, improving training and providing more helps.

Mr Pilch then referred to the PatCom letter following the March meeting. He said that so far as the publication server was concerned, the EPO was following the same line as the DPMA. He added that the page-by-page download service generated many complaints, and following some modifications, complete downloads will be possible in the year ahead.

Mr Lagemaat asked the EPO, and the EPO reconfirmed that Espacenet is intended to be for SMEs and Mr Schultheiss added, that other comments will come later with respect to possible cooperation.

b) View of Commercial Providers

Mr Lagemaat said that the primary role of the EPO was to publish EP documents; a very important element in creating information in the world and one that PatCom fully supported. As to the provision of non-EPO data, PatCom was concerned about the scale of usage. He added that PatCom saw a conflict with the EPO continuing to provide general information services. He said this conflict could be resolved in two ways:

- Either we cooperate to manage the issue together or
- We cannot reach agreement and the relationship deteriorates

Mr Lagemaat's proposal was to have an exchange of ideas; to have sufficient time to establish a level of cooperation; to start commonly agreed work.

Mr Pilch appreciated the view on SMEs and said the EPO wished to cooperate on this. However, the bulk downloading issue needed more discussion. Mr Giroud reminded the meeting that some of the issues, especially when initializing limitations, have to get approval of the EPO's Administrative Council and he saw difficulties in limiting access e.g. to large companies as they are the biggest contributors to EPO.

Mr Edfjäll thanked PatCom for the offered "olive branch" and agreed that cooperation was better than conflict. He acknowledged that Espacenet was initially created for use by SMEs, but large companies were using it as well as PatCom members. Blocking certain types of users would raise the problem of free competition and with evolving technology and changing business environments structures cannot be frozen in time.

Mr Lagemaat replied that PatCom understood that there will be developments. However, he said PatCom needs to know when new developments are going to happen. He stressed that PatCom is not in favour of discrimination, but the EPO and PatCom should try to find a common boundary to define what is available to everyone and what is not. For this he proposed a small team from the EPO and Patcom should find a balance on what is realistic. We suggested starting discussion to see what EPO could do and where PatCom could do something.

Mr Edfjäll said there were political considerations too, as other efforts are underway to make the patent system more known and used among member states. A way to do so, he said, is to provide the national offices with appropriate tools e.g. to evaluate the value of the inventions.

Mr Frackenpohl said this was a decision for the national offices, which is another part of the overall issue. Mr Lagemaat said this should be left with national offices and PatCom would be meeting with them. He stressed that the main problem occurs when all the data is aggregated in one place.

Mr Edfjäll asked PatCom to understand that some things are under EPO control and some are not. EPO has a board of some 30 members. Patent services are interesting for national offices that are looking for new activities, as they are less involved in patent examination. National offices ask themselves the question of how to serve the industry in their country. All in all, EPO wants to remain transparent and has no intention to harm e.g. PatCom. He said that we all have to be adaptable and all have to learn.

Mr Frackenpohl said it was important to have this information and for PatCom to talk to the national offices on these issues. He raised the issue of the use of Epoque by the national offices and asked what the EPO's position was.

Mr Edfjäll explained that Epoque is a good example of a system for specialists. Epoque, he said, had to be accessed by the national offices. He added that some large industries were also pressing for access to Epoque but this was contrary to EPO policy. However Mr Edfjäll stressed that no one knew what would happen in the 10 years time. He said it was not planned at all for the time being but it could happen. What the EPO develops today might turn into something different in the future.

c) 3-Year Plan for Patent Information

Mr Lagemaat said it was important for PatCom to know what plans lie ahead and he returned to his proposal of a small team to work on e.g. a 3 year plan. He said it is better to be warned at an earlier stage than to learn about plans only today and he cited Espacenet, OPS, and new services as examples. He said PatCom would be more able to help or warn the EPO in advance.

Mr Edfjäll stated that PatCom had asked for this information several times in the past but he said that the EPO's problem is that they are also learning as they move forward. He added that the EPO is not against informing PatCom on its thinking, on the contrary the EPO wants to be as transparent as possible, but EPO has its limitations. Mr Minnoye said that the EPO does have a 3 year plan, which is updated every year. In this respect EPO can be transparent. But PatCom should keep in mind that plans are subject to change. He added that it was the European Patent Organization, not only the Office, that sets the policy.

Going back to point 1 c on the agenda, Mr Giroud said there had been very detailed exchanges in the past and that PatCom was in a privileged position, enjoyed by no other user group. He said it was impossible to adhere rigidly to the contents of these discussions and that the best way was to hear from the EPO as soon as possible what would happen. Mr Giroud made the point that a major publisher has plans to distribute all patent documents free. He said that very soon there would be Espacenet + scientific publisher free of charge on the Internet. He said it was wrong to concentrate just on Espacenet.

Mr Lagemaat reiterated PatCom's desire to look for a balance and to know in advance what is going to happen.

Mr Edfjäll replied that both sides should try to find a way forward:

- At the moment information flows in one direction only, from the EPO to PatCom
- In principle, there was agreement to communicate better. PatCom relies on the EPO but both have duties vis-à-vis the patent system.
- The question to be asked was: is it better for the applicant or the information industry? The answer had to be the applicant.

Mr Pilch said that the flow of information should be in both directions and Mr Lagemaat replied that PatCom will send the EPO a summary of this meeting and both sides will be able to refer to this in the future. He added that it is difficult to tell the EPO about every PatCom development and Mr Schultheiss said that the PatCom also had to consider what is pre-competitive.

Mr Edfjäll said he was unhappy about feedback from working groups "influenced" by PATCOM but he suggested:

- A draft report on the updates for automation planning would be sent to PatCom to increase transparency and for discussion at the spring meeting.
- The meetings in the future should have commonly agreed minutes.

Mr Lagemaat said he appreciated these suggestions as good first steps and confirmed that PatCom would be happy with commonly agreed minutes.

2. Conclusion and Follow-up of Study on the SMEs

Mr Lagemaat reminded the meeting that this point was on the agenda last March. The worrying result so far is that SMEs are still not using patent information and the question is what can we do together to improve this situation.

Mr Pilch explained that the EPO would concentrate on SMEs and universities by networking with the European Patent Academy in Munich in the near future. He said that the EPO now has better learning tools and sessions on the Internet. The EPO was cooperating with the national offices as the understanding of patents varies from country to country. He asked PatCom to let the EPO know how the presentations could be improved and to provide information about useful business models and how they could be introduced to the EPO courses.

Mr Giroud reminded the meeting that the SME study had shown what needs to be done and although much has already been achieved, there remained a lot of work to be done.

Mr Lagemaat asked whether it was known what SMEs want because experience suggested that their focus on patent information was minor because they see it as difficult, complex and expensive.

Mr Edfjäll replied that the EPO can only encourage SMEs to use patents more. In his view, the EPO needed to be much closer to the market, to involve national offices and to get the awareness of the education system.

Dr Gore understood that difficulty and added that looking at patent information as a solution may be to miss the point. He said the link should be to encouragement innovation and from his experience of working with WIPO in developing countries, more money and advice is needed.

3. Espacenet Developments

The EPO confirmed that there were no developments scheduled other than the two mentioned here:

a) Non-Patent Literature

Mr Giroud explained that the EPO wanted to allow access to NPL citations only when they have been cited in the search report. He said that the examiner would provide the ECLA code for the citation to be indexed. The resulting hit list will include patents and bibliographic data of cited search literature and that in the future although a link will exist to the site of the publisher, the full text will not be available directly.

Mr Lagemaat asked whether this might create a reseller problem and whether a new database of ECLA code oriented searches would be possible. Mr Giroud confirmed that the material might be delivered via tape from the EPO. Mr Barth asked about links for customized solutions.

b) Multipage Document Downloading

Mr Lagemaat said that the main issue concerned high volume downloads. He added that PatCom saw no arguments against multipage downloading of EP documents but the problem lies in the aggregated data and the unlimited access. Also whereas the USPTO allowed only page-by-page downloading as was agreed between the USPTO and the coalition, DPMA for example offers US patents for unlimited download despite the agreement between the USPTO and the commercial sector.

Mr Pilch stated that robot usage by resellers resulted in downloads of large volumes. He added that he did not expect that future usage would explode after the multipage downloading would be implemented and that it would be easier for inexperienced users.

Mr Edfjäll reminded PatCom, that this situation was foreseen several years ago and warnings have been given several times.

Mr Lagemaat requested a 15-minute break in the session for PatCom members to agree a statement to be delivered after lunch.

4. Open Patent Services Developments

Mr Pilch said that on OPS the EPO will provide a set of commands to download data and that this might be an opportunity for PatCom members to create value added services.

a) Patent Alerting

In reply to Mr Lagemaat's question about whether the EPO had plans to offer a push-service, Mr Pilch stated that there is no push service planned and that there are no plans to store profiles on the EPO server.

Mr Frackenpohl referred to the watch service on the EPO register, but Mr Pilch replied that this was not OPS.

5. Downloading of Documents and Data

This topic has been discussed already especially in 3.

6. Publication Server

Mr Lagemaat explained that the EPO publication server is understood to be a service for EP documents only, with no searching options other than the publication number and IPC class (4 digit). Mr Pilch confirmed that this was the case but said that if queries were made via Espacenet, the hit list could be downloaded. The publication server would help to transfer the paper world functionality to the electronic world. It has been in test for two months and the official launch will be in January 2005.

Mr Edfjäll added that the EPO was not the first to offer this service; they were following DPMA and the EPO was simply modernising their system to create a library of EP documents.

(Lunch)

After the restart Mr Lagemaat read out PatCom's statement announced in 3. b):

The EPO shall realize that PatCom is not supportive of multipage document downloading and states that this has an impact on PatCom member business and revenues.

7. Cooperation between EPO and Commercial Providers

a) Initiative in Training Procedures (Pilch Paper Ilmenau)

Mr Pilch gave a short introduction to his paper. He said that training tools were under further development to explain the value of the "Patent System" and of "Patent Information" to interested clients. He said that the tools were not only for technical or managerial users but also for lawyers. Training information would also be available for services provided by EPO and others.

Mr Lagemaat expressed the interest of PatCom and its members and said he would send an e-mail request to Mr Pilch and to the national offices.

b) SMEs

Cooperation for SMEs has been discussed already under 2.

c) European Patent Academy

Mr Edfjäll explained that the academy is designed to assist attorneys, developing countries and professors from universities, as multipliers for know how in patenting issues. It will start in January 2005 and is organized by EPO DG5.

As this activity has direct links to PatCom member work, Mr Lagemaat said he saw another area for cooperation and asked for a more intensive information exchange.

d) Open Access Initiative

Mr Giroud asked for more information from PatCom member to the Open Access Initiative. Additionally he mentioned the possibility that Google and/or Elsevier might include patent information into their services using EPO material at marginal costs, referring back to item 1c. Mr. Lagemaat made the remark that, despite the fact that Elsevier might offer basic information for free, the ultimate purpose of Elsevier is to make profit on their products. Mr. Toussant from CAS supported this remark.

Mr Lagemaat further replied that Patcom members were already aware of this initiative but there had not yet been time to quantify the potential business effects. He added that the Google search resulted in less quality than that of qualified sci-tech databases.

8. AOB

Date of the next meeting in Munich:

Friday, March 4, 2005 (to be confirmed).