

The value of a well-designed EU patent

Lunchtalk, 16 November 2012

Speaker: Bas Straathof

Discussant: Bruno Van Pottelsberghe

Chair: Mario Mariniello

Bas Straathof presented his recent policy contribution discussing the potential gains from the introduction of the EU Patent, a policy reform that would entail a single set of rules for patents in EU countries and the introduction of a centralized court.

It is widely understood that one way to encourage innovation and eventually drive economic growth is to reward investors with a monopoly to use their inventions, and this can be done by patenting an invention. However, patenting is very costly in the EU, as there is no such thing as an EU patent and each Member State still has its own patent law and institutional arrangements.

After decades of negotiations, a single patent for the EU seems to be within reach. The topic that has dominated the discussion so far has been the one of translation requirements, which make European Patents much more expensive than in other countries. Another issue at stake is that of the participation of Italy and Spain in the EU Patent, as both countries complained to the European Court of Justice in 2011 against the use of the so-called “enhanced cooperation” procedure for the patent. Negotiations are now focusing on patent courts and litigation rules.

The gains from the introduction of an EU Patent have been estimated under different scenarios by the author: the reduction in translation costs; the adoption of best-practice institutions, such as the German ones; the participation of Italy and Spain to the EU Patent. Simulations show that the proposed reduction in translation costs will be sufficient to make the EU Patent a success already. The adoption of best-practice in legal institutions could double the value of the EU Patent to 8.5 billion euro per year in comparison to maintaining the EU-average. These gains can materialize immediately with the introduction of the EU Patent if markets trust that best-practice will be achieved from the start. Moreover, the potential gains from achieving best-practice legal institutions dominate the potential gains from the participation of Italy and Spain in the EU Patent. The main conclusion is that the adoption of best-practice institutions would have, by far, the largest impact.

Bruno Van Pottelsberghe contributed to the discussion by expressing criticism towards the currently outlined parameters of the EU Patent. He showed how the introduction of the EU patent in the current patent system is likely to have little impact on innovation and will make the system even more complex. Moreover, he added that renewal fees necessary to keep the patent in force are likely to be 60 percent of the current cumulated fee that firms have to pay in order to be protected in the EU countries, thus lowering the perceived value of a European Patent.

Event notes by Francesca Barbiero