

# Future patent policy in Europe

*- follow-up to the Commission consultation on a patent strategy for Europe -*

**Santander Summer School**

**“Science, technology and patents”**

**9 July 2007**

**Erik Nooteboom**

European Commission

# Patent policy – Commission perspective

Common EU interest

Renewed Lisbon Agenda for growth and employment

Promotion of innovation !

# Public consultation on the Patent System in Europe, why ?

- Progress in the field of patents difficult
- Seek views of **all** interested stakeholders (from individuals to multinational companies, research and academia)
- Ensure that future patent policy reflects stakeholders' needs

# Public consultation on the Patent System in Europe

Consultation launched on 16 January 2006.  
Extended deadline 12 April 2006.

Parallel consultation through the SME Panel

**Over 2500 replies !**

Public hearing in Brussels 12 July 2006  
Wide range of speakers from interested circles

# Results on improvement of the European Patent System

## London Protocol:

- Clear priority for industry (would have an immediate effect on the attractiveness of European patents).

# Result on European Patent Litigation Agreement (EPLA)

**European Patent Court** to deal with European Patents

Strong support

## Advantages

- Uniform Jurisdiction with Regional chambers 1st Instance (proximity) but Centralised Appeal
- Attractive language regime
- Technical Judges
- Common Rules of procedure
- Cost ?!
- Quality of patents

# Results on Community Patent

- Stakeholders generally support the Community Patent (COMPAT).
- However not at any price, must offer advantages over existing system.
- Rejection of the 2003 Common Political Approach, mainly because of an unsatisfactory language regime and jurisdictional arrangements.

# Jurisdictional arrangements

## Community Patent

**Community Patent Court** – strong support for the idea but different opinions on details

**Concerns** include:

- Centralisation first instance
- Technical knowledge
- Languages

Some favour Community Trademark and CD system as a model



# Follow-up to the consultation 2<sup>nd</sup> half of 2006

Commission preliminary findings and conclusions

Reactions Member States

Reactions Industry

# Commission Communication 2007

## Jurisdiction

- *One jurisdiction for Compats & Europats*
- *EPLA, EC Judge for europats, or « hybride »*
- *Focus on consensus on substance rather than differences on architecture*

## Community Patent

- *Improve 2003 compromise*

## Divers

- *Quality, cost & efficiency; SMEs; enforcement; ADR*

# German Presidency

January – June 2007

- **Fact finding**
  - Some surprises
- **Seeking consensus**
- **June Council – progress report**
  - More agreed than disagreed:
    - decentralised 1st instance, central appeal, technical expertise
  - But more work needed:
    - Degree of decentralisation, validity and infringement proceedings, participation of technical judges or experts, languages

# What next ?

- **Continue search for solutions regarding the Compat and a single European-wide patent litigation system**
  - Options on Compat and litigation system
- **Clarify the legal situation regarding the architecture**
- **Find practical and legally indisputable solutions**

# Portuguese Presidency

July – December 2007

**Prepare for decision making under,  
at the latest,  
the French Presidency (July – December 2008)**

**Thank you for your attention**

- [http://europa.eu.int/comm/internal\\_market/indprop/index\\_en.htm](http://europa.eu.int/comm/internal_market/indprop/index_en.htm)