

European Community



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INFORMATION NOTE

EUROPEAN PATENT CONVENTION IN FORCE

The European Patent Convention (EPC) came into force on 7 October 1977. The Convention, concluded in 1973, has 16 signatories: the nine members of the European Community, plus Austria, Greece, Liechtenstein, Monaco, Norway, Sweden and Switzerland. Six of these 16 states - France, Germany, Luxembourg, the Netherlands, Switzerland, and the UK - have now ratified the Convention.

On 1 November 1977 recruitment will open for the European Patent Office, to be based in Munich, and European patent applications will begin to be filed on 1 June 1978. The EPO's branch for searching will be in The Hague, following integration with the former International Patent Institute. Since most of the applications will be in English, many of the substantive examinations will be made by the 100 or so examiners to be transferred to Munich from the British Patent Office; the remaining applications in English will be processed in London for a transitional period lasting 15 years.

Under the new system batches of individual national patents can be obtained by a single application in one language - English, French, or German - and by a single grant. The creation of a centralized European system gives protection to patents in the 16 European countries involved.

For EC member states, this is an important step to a system in which a single EC patent, with a central revocation procedure, will be valid throughout the Community under a uniform Community patent law. This goal will be achieved after another convention, the European Community Patent Convention, receives the necessary ratification by the Nine.

The EPC system supplements rather than replaces the existing national patent laws of signatory states. The national systems will remain, and their less costly and less complicated procedures will continue to be attractive to smaller firms. Movements for reforming and streamlining these systems are under way in Britain, France, and other European countries.

So far EC patent policy has been shaped both by the case law of the EC Court of Justice and by the practice of the EC Commission. The result has been to curtail patent monopoly and to minimize partition of the Common Market by the use of patents and trade-marks. The European Court has firmly established that if a patentee markets a product in any member state, patents rights are exhausted for the entire EC.

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The EC patent system, therefore, aims to protect inventors, by making it easier for them to get protection and thus recompense; companies, by assuring them of security and stability; and consumers and the interests of European integration, by encouraging free competition and the unrestricted movement of trade and commerce. The new system of "diplomatic instruments" of the EPC, and the forthcoming European Community Patent Convention, seek to stimulate and satisfy all of these interests.
