

EP Facts and Figures

Member Country	EP Member Since	Population (millions 2004)	GDP (€ billions 2003)
Austria.....AT	1 May 1979	8.1	226.0
Belgium.....BE	7 October 1977	10.4	270.0
Bulgaria.....BG	1 July 2002	7.8	17.6
Cyprus.....CY	1 April 1998	0.7	11.6
Czech Republic.....CZ	1 July 2002	10.2	80.1
Denmark.....DK	1 January 1990	5.4	188.0
Estonia.....EE	1 July 2002	1.4	8.0
Finland.....FI	1 March 1996	5.2	143.3
France.....FR	7 October 1977	59.9	1,557.2
Germany.....DE	7 October 1977	82.5	2,128.2
Greece.....GR	1 October 1986	11.0	153.0
Hungary.....HU	1 January 2003	10.1	73.2
Iceland.....IS	1 November 2004	0.3	9.3 (est.)
Ireland.....IE	1 August 1992	4.0	134.8
Italy.....IT	1 December 1978	57.9	1,300.9
Latvia.....LV	1 July 2005	2.3	9.9
Liechtenstein.....LI	1 April 1980	0.034	2.7 (est.)
Lithuania.....LT	1 December 2004	3.4	16.3
Luxembourg.....LU	7 October 1977	0.5	24.0
Monaco.....MC	1 December 1991	0.03	0.7 (est.)
Netherlands.....NL	7 October 1977	16.3	454.3
Poland.....PL	1 March 2004	38.2	185.2
Portugal.....PT	1 January 1992	10.5	130.5
Romania.....RO	1 March 2003	21.7	50.2 (est.)
Slovakia.....SK	1 July 2002	5.4	28.8
Slovenia.....SI	1 December 2002	2.0	24.6
Spain.....ES	1 October 1986	42.3	744.8
Sweden.....SE	1 May 1978	9.0	267.3
Switzerland.....CH	7 October 1977	7.5	271.9 (est.)
Turkey.....TR	1 November 2000	71.3	211.6 (est.)
United Kingdom.....GB	7 October 1977	59.7	1591.4
EP TOTAL		565.0	10,430.0

Extension Country	Since	Population (millions 2004)	GDP (€ billions 2003)
Albania.....AL	1 February 1996	3.1	5.0 (est.)
Bosnia-Herzegovina.....BA	1 December 2004	4.0	6.2 (est.)
Croatia.....HR	1 April 2004	4.4	25.3 (est.)
Former Yugoslav Republic of Macedonia.....MK	1 November 1997	2.0	4.1 (est.)
Serbia and Montenegro.....YU	1 November 2004	8.1	16.9 (est.)
EP (plus Extensions)		586.0	10,480.0

Comparisons

United States of America.....US	291.0	9,727.0
China.....CN	1,288.0	1,253.0
Japan.....JP	127.0	3,798.0
India.....IN	1,064.0	600 (est.)

Based on information from the EPO, the European Commission and the World Bank
For more information on GDP's see: <http://www.worldbank.org/data/databytopic/GDP.pdf>

Newsletter

The European Patent Team

September 2005

31 EP Member Countries

Austria.....AT
Belgium.....BE
Bulgaria.....BG
Cyprus.....CY
Czech Republic.....CZ
Denmark.....DK
Estonia.....EE
Finland.....FI
France.....FR
Germany.....DE
Greece.....GR
Hungary.....HU
Iceland.....IS
Ireland.....IE
Italy.....IT
Latvia.....LV
Liechtenstein.....LI
Lithuania.....LT
Luxembourg.....LU
Monaco.....MC
Netherlands.....NL
Poland.....PL
Portugal.....PT
Romania.....RO
Slovakia.....SK
Slovenia.....SI
Spain.....ES
Sweden.....SE
Switzerland.....CH
Turkey.....TR
United Kingdom.....GB

Member Countries of the European Patent System



5 Extension States

AL.....Albania	HR.....Croatia
BA.....Bosnia-Herzegovina	MK.....Former Yugoslav Republic of Macedonia
	YU.....Serbia and Montenegro

New Member Country of the European Patent System

Latvia became a member country of the European (EP) patent system on 1 July 2005. With all three Baltic states (Latvia, Lithuania, Estonia) in north-east Europe now members, the system has a **new total of 31 member countries** with a total population of well over 550 million – and it is expected that Malta will become the next member country of the European patent system in the near future. Although the number of member countries of the European patent system has increased considerably in recent times, **payment of a maximum of seven designation fees is still sufficient to designate all member countries** in a European or Euro-PCT patent application. Fees for nominating extension states are payable separately from designation fees for member countries. Lists of member countries and extension states can be found at:

→ <http://www.european-patent-office.org/epo/members.htm>

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Extended European Search Report Procedure Now Applies to New Applications

For European patent applications filed from 1 July 2005, and Euro-PCT applications based on International (PCT) applications filed from 1 July 2005 which eventually enter the European regional phase, the European search report or the Supplementary European search report will be extended to include an "opinion" on the application. The opinion issued with the search report will effectively be an initial substantive examination report, although no term for a response to the opinion will be set when the search report is issued. The intention is that the applicant should be able to use the opinion as a basis for a more informed decision about pursuing the application further, at a stage before the fee for substantive examination must be paid, or before the right to refund of that fee is lost, and to encourage applicants voluntarily to deal with problems at an early stage in the hope that the procedure up to patent grant will overall be expedited.

If the EPO believes that the requirements for grant of a patent are not all met, the objections to grant of a patent will be set out in the opinion. If no voluntary response to the opinion is filed, then when substantive examination formally commences the first substantive examination report will simply refer to the opinion, and set a response term for dealing with the objections. However, if the applicant takes the opportunity, it may be possible to shorten the procedure by filing a voluntary response – arguments and/or amendments – to meet the objections raised in the opinion before examination formally commences. Then the first substantive examination report cannot merely refer to the content of the opinion. The examination report must take account of the amendments and arguments submitted.

If a positive opinion is issued with the search report, then when substantive examination formally commences the applicant will in general receive the notice of allowance (Communication under Rule 51(4) EPC) provided that a final topping-up search does not reveal new prior art, which we believe should normally be the case. In the event of a positive opinion, the applicant should consider at an early stage – before the notice of allowance is issued – whether any voluntary amendment of the application is needed and/or whether the filing of any divisional application is advisable to protect or improve their position.

Related Fee Changes

Linked to the provisions for extended search reports, for European patent applications filed from 1 July 2005, and Euro-PCT applications based on International (PCT) applications filed from 1 July 2005 which eventually enter the European regional phase, the fee for an (extended) European or supplementary European search is increased to €960. For applications in respect of which an extended search report is issued, the examination fee is, however, reduced to €1,280. In the case of international applications for which no (extended) supplementary European search report is drawn up, the examination fee remains at the present level of €1,430.

The EPO has announced no changes relating to the reduction (20%) of the search fee which applies to Euro-PCT applications for which an International search was carried out by the USPTO, Japanese, Chinese, Korean, Australian and Russian Patent Offices. Pending any contrary announcement by the EPO we therefore assume that the reduction (20%) applies also to the increased search fee for an extended search report.

Where the International search was carried out by the Patent Offices of Finland, Austria, Sweden and Spain the fee for the (extended) supplementary European search report is reduced by €810. EPO press releases and related information can be found at:-

→ http://www.european-patent-office.org/news/pressrel/2005_06_30_e.htm

→ http://www.european-patent-office.org/epo/president/e/2005_06_30_d_e.htm

→ http://www.european-patent-office.org/epo/ca/e/ca_005_03.htm

→ http://www.european-patent-office.org/epo/ca/ca_pdf/cad18_04.pdf

No Common European Union Position on Software Patentability

As has been widely reported, there will be no European Union regulation of patents for software inventions. In July the European Parliament again rejected the so-called software patent directive, which was intended to establish a common position on the patentability of computer software for all EU countries. Any further attempt to move towards a common position by means of a software patent directive would require the European Commission to submit a new proposal for the directive to parliament, but it was stated that no new proposal will be made. According to a European Parliament statement "Attention now moves to the proposed directive for a Community patent, which was mentioned by a number of members of the European Parliament as the appropriate legislative instrument to address the issue of software patentability". We are, however, sceptical that the proposed Community patent directive is an instrument which will facilitate the establishment of a common EU position on software patents (see the facing page).

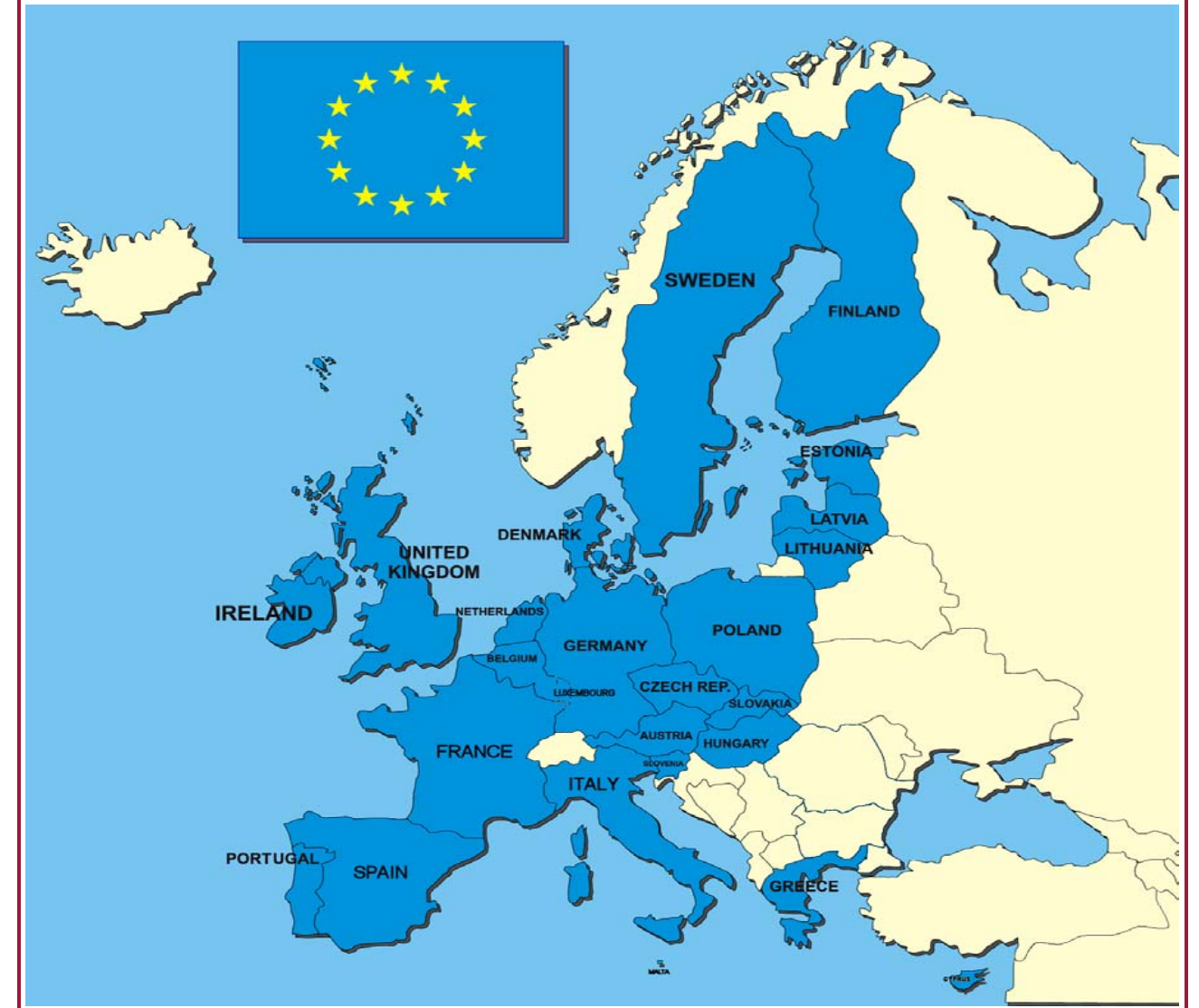
Without a directive establishing a common EU position on software patents, **the present situation in European countries continues unchanged**. This means that patent offices and courts of different European countries could take different views on the patentability of software inventions. **In our view, EPO case law and practice will continue to set a standard for patenting of software inventions (also called computer-implemented inventions or "CII") which is generally favourable to software inventions** and will largely be followed by Patent Offices and Courts of European countries. In a statement the President of the EPO said that the office was in favour of harmonization of the understanding of what constitutes a patentable invention in the field of software inventions ("CII"). The President noted that under the European Patent Convention **a well-defined practice on granting patents in the field of CII has been established: "As with all inventions, CII are only patentable if they have technical character, are new and involve an inventive technical contribution to the prior art"**.

→ <http://cii.european-patent-office.org/> (EPO microsite concerning computer-implemented inventions, with little content as yet)

→ http://cii.european-patent-office.org/_pdf/cii_brochure_en.pdf (downloadable brochure on CII)

→ http://www.european-patent-office.org/epo/pubs/oj005/05_05/05_sup.pdf (comments of Mr. Steinbrenner, the Chairman of the Board of Appeal responsible for most decisions relating to CII, beginning at page 82, are also of use in understanding the EPO position on CII)

Member Countries of the European Union (European Community)



The Proposed Community Patent

The proposed Community patent (invention patent), if adopted, would apply to all member countries of the European Union (EU), or the European Community as it is also called, essentially as if all those countries were one single country. The 25 member countries of the EU (see the map above) are all members of the European patent system, which also has six non-EU member countries (and five further "extension" states). If introduced, the Community patent system would exist as an alternative alongside European patent system and Community patent applications would be handled by the European Patent Office alongside European patent applications.

Progress towards the proposed Community patent last occurred in 2003, when agreement was reached on in some jurisdictional and language issues. Actions for invalidity and infringement, and other proceedings relating to Community patents, should fall exclusively under the jurisdiction of EU judicial institutions (in the first instance a Community Patent Court), not national courts. Up to grant, the language regime for the Community Patent should be the EPO regime with the applicant providing the application, or a translation of the application, in one of the official languages of the EPO and, upon allowance the application, a translation of the claims into the two other EPO languages. Other issues were perhaps partially resolved, but since 2003 there has been no indication of further progress towards resolution of outstanding issues. Adding software patentability questions to the issues still to be resolved would seem to us to make progress towards adoption of the Community patent even more difficult.

Community Trade Marks and Community Designs

Unlike the proposed Community patent, Community trade mark and design (design patent) systems have been in operation for a number of years, administered by the Community Trade Mark Office, more properly known as "The Office for Harmonization in the Internal Market (OHIM)".

→ <http://oami.eu.int/>

At present there are no concrete plans to introduce a Community utility model (utility model patent) system in the EU.