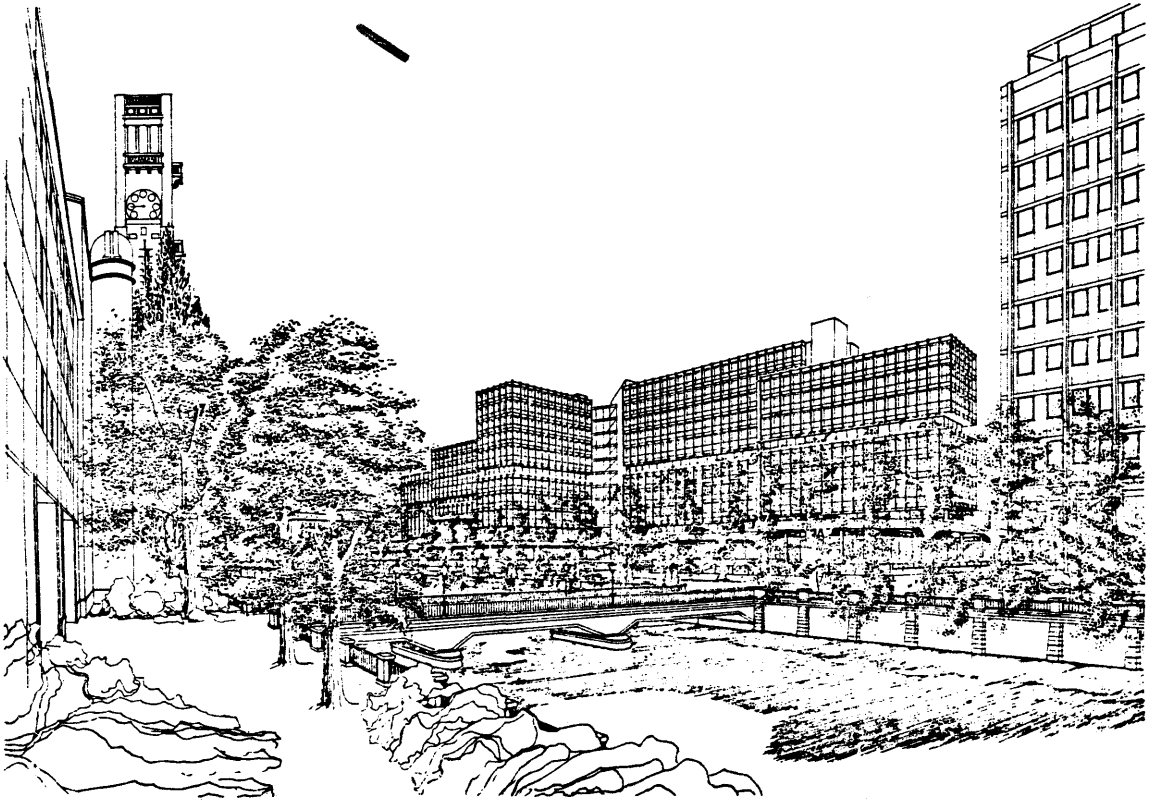
european patent



Cover picture: sketch of the proposed building to house the European Patent Office, Munich (Germany).

THE NEW EUROPEAN PATENT LAW

The main features of the two European Patent Conventions

COMMISSION OF THE EUROPEAN COMMUNITIES
Directorate-General for Press and Information

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PREFACE

Between 10 September and 6 October 1973, the Diplomatic Conference for the setting up of a European System for the Grant of Patents is taking place in Munich at the invitation of the Government of the Federal Republic of Germany. The countries taking part in this Conference are the twenty-one States of the Luxembourg Inter-Governmental Conference (the nine Member States of the Community plus Austria, Finland, Greece, Liechtenstein, Monaco, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and Yugoslavia). The Commission of the European Communities, the World Intellectual Property Organization, the International Patent Institute, the General Secretariat of the Council of Europe and thirteen private international organizations are represented with observer status.

With the Munich Diplomatic Conference, the work on the creation of a European Patent Law, which, on the initiative of the Commission, was begun among the Six in 1959 and was resumed in 1969 with new objectives, will be brought to a successful conclusion and a European patent organization will be in existence. This will mark the opening of a new era for the grant of patents in Europe.

For the Member States of the European Communities, the Convention establishing a European System for the Grant of Patents is the necessary basis for a second convention, still to be concluded between them, establishing the European patent for the Common Market (Community Patent Convention). This second Convention will be finally adopted in May next year by an Inter-Governmental Conference in which the Nine and the Commission will take part.

For the information of all who are interested in this field, a short survey is given below of the reasons for, and the objectives of, the new European Patent Law and of the main features of the two European Patent Conventions.

REASONS AND OBJECTIVES

General function of Patent Law

The task of the patent system is to ensure, in exchange for the grant of a right of exclusivity for a specific period of time, that the public is informed of new technical developments with the minimum delay. The prospect of gaining profits from this special form of monopoly serves to promote research activity and to give an incentive for new investment.

Patent Law protects an invention by reserving for the owner of the patent the exclusive exploitation of the invention for a specified period (generally between 16 and 20 years). The protection of the invention is guaranteed by an act of state, namely the grant of a patent. In the examining countries, after the application has been filed with the patent office, and before the patent is granted, the invention is examined as to its patentability (novelty, level of inventiveness, commercial utility). In the registration countries, the patent application is merely checked for compliance with certain formalities. It is only after the patent is granted that any decision is taken as to its validity—when the courts give judgment in an action for infringement of patent or in an action for revocation.

The need for patent reform

The increasing interpenetration of markets at world level is forcing industry to seek patent protection in as many countries as possible. The large number of national patent applications and the sometimes widely differing examination procedures to which they are subject, involve industry in considerable expenditure of time and money.

On the other hand, the examining patent offices are confronted with almost insurmountable technical and organizational difficulties as a result of the rapid development of technology, the ever-increasing number of patent applications and the growing flood of technical literature.

Even though the patentability criteria coincide at least to a certain extent, and despite the fact that the international state of the art has to be taken into consideration in the examination for novelty, a given invention which is the subject of a number of national patent applications has to be examined independently by each of the national patent offices concerned.

This situation leads to serious disturbances of the patent system owing to the fact that the patent-granting process is now too slow to match the rapid pace of technical development and the needs of industry and as a result of the delay in getting information on new technical know-how to competing undertakings.

In the countries which have only a system of patent registration, without prior examination (within the EEC, these are Belgium, France, Luxembourg, and Italy), industry is placed at a disadvantage vis-à-vis large foreign firms which own a large number of unexamined patents and can make use of these patents in licence negotiations, without the national industry being in a position to assess the validity of the patents they are being offered. One or two numerical examples will serve to illustrate this situation. In 1971, 10 400 applications from the USA were filed in France and 11 900 patents were granted to US nationals. In Germany in the same period, 12 100 patent applications from the USA were filed but only 4 400 patents were granted. At the end of 1971, a total of 371 000 patents were in existence in France, whereas in Germany the figure was only 118 000.

It therefore became imperative to find a solution which would enable the patent system to continue functioning and would benefit applicants, competing undertakings and the patent offices, which were being overloaded through unnecessary duplication of work. The solution envisaged was a procedure whereby, on the strength of a single application, an examined patent could be obtained which would be valid in as many countries as possible.

For the Member States of the European Communities it was not simply a question of carrying out a reform of Patent Law from the point of view of a rationalization of the system for the grant of patents. These countries also had to take account of the objectives of the Treaty of Rome.

The national Patent Laws of the Member States constitute an obstacle to the free movement of patent-protected products and cause unequal conditions of competition because:

— the conditions for the grant of a patent differ from one Member State to another, with the result that the acquisition of effective patent protection in all the Member States of the Community is not guaranteed;

— the content, term and legal status of Patent Law are not uniform;

— trade between the Member States is hindered by territorial barriers, since national patents are limited to the territory of the State which grants them.

Thus in order to create a common market with conditions similar to those of a single domestic market as regards the acquisition and exploitation of patents, it was necessary to make provisions for a uniform Patent Law for the Member States of the European Communities.

Initial steps towards an EEC patent: 1959-1965

In the summer of 1959, the Commission of the European Economic Community transmitted to the Governments of the Member States two memoranda on the objectives and the organization of the work relating to the legal protection of industrial property. On 19 November 1959 the first meeting of the Secretaries of State responsible in the Member States for the legal protection of industrial property was held at the invitation of the Commission and under the chairmanship of the Member of the Commission responsible. A decision was taken to begin an investigation on the harmonization and standardization of legislation governing the legal protection of industrial property. The main purpose of this investigation was to prepare the way for three draft conventions in the field of patents, trademarks and designs. For this purpose, three Working Parties were set up and a Coordinating Committee was established to direct and harmonize the activities of the Working Parties. The Working Parties and the Coordinating Committee were chaired by representatives of the Member States, the secretariat being provided by the departments of the Commission.

The work of the Working Party on 'Patents', which met under the chairmanship of Dr Kurt Haertel, at that time President of the German Patent Office, led in 1962 to the publication of the preliminary draft of an agreement on a European Patent Law.

In the discussions that followed on this preliminary draft, the Governments were unable to reach agreement on a number of basic questions in respect of which the draft agreement had included alternative solutions. These questions related, in particular to the objectives of the agreement (EEC patent or European patent), the accession of non-member countries, accessibility (eligibility of nationals from non-Member States to apply for the European patent) and the economic clauses (prohibition of market-splitting, compulsory licences).

The Permanent Representatives met on numerous occasions during 1964 and 1965 to try and reach agreement, nevertheless the fundamental differences of opinion among the Governments of the Member States would not be bridged and the work was therefore shelved.

Towards the end of 1968 the French Government proposed that work on a European Patent Law be resumed. At the Council meeting of

3-4 March 1969 the Governments of the Member States decided to lay down the future European Patent Law in two conventions:

— the purpose of the first convention was to work out, on an equal basis with European non-Member States, a European system for the granting of patents which would lead to the issue of a European Patent by an international patent office. The European patent thus granted ('batch patent') was to have the effect of a national patent in the contracting states.

The Inter-Governmental Conference, which met for the first time on 21 May 1969, was able at its sixth meeting, from 20-30 June 1972, to complete the draft of a convention on a European system for the grant of patents.

The 17 States represented from the outset (the Nine plus Austria, Greece, Norway, Portugal, Spain, Sweden, Switzerland and Turkey) were joined as the work progressed by a further four States (Finland, Yugoslavia, Liechtenstein and Monaco). In addition to the Commission of the European Communities, the World Intellectual Property Organization, the International Patent Institute and the General Secretariat of the Council of Europe also took part as observers in the work of the Inter-Governmental Conference and of the Working Parties it set up.

— Also planned was a second convention between the Member States of the European Community for the purpose of regulating the effects of the European patent on a uniform basis throughout the Common Market.

The 'Community patent', Group of Experts which was set up by the Permanent Representatives Committee and was composed of representatives of the governments of the Member States and representatives of the Commission of the European Communities, was given the task of preparing this convention.

MAIN FEATURES OF THE CONVENTION ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

The Convention establishing a European system for the Grant of Patents (first Convention) provides for a European Patent Organization with its headquarters in Munich. This Organization comprises the European Patent Office in Munich and a branch office in The Hague, together with an Administrative Council composed of the Representatives of the Contracting States, one of the duties of this Council being to supervise the work of the Patent Office.

The Convention contains all the points of substantive and procedural law necessary for the grant of an examined European patent. With effect from the date of issue, European patents count as national patents in the Contracting States for which they are granted. With the exception of a number of areas in which the Draft makes provision for a process of standardization (maximum solution), they are subject to the provisions of national law. Hence the exploitation of the European patent, the grant of compulsory licences, the lapse of the patent owing to non-payment of the renewal fees, etc. are effected exclusively in accordance with national law. In order that the differing patentability criteria may not lead to a situation whereby the European patent is revoked in some Contracting States and held to be valid in others, the grounds for revocation have been made uniform for all the Contracting States. Consequently, although the national courts remain competent to hear the revocation proceedings, they must apply the Convention law in making their decision.

The period of validity of the European patent has been uniformly fixed at 20 years. In order to take account of the special legal and economic situation in some of the Contracting States, the Convention provides that during a transitional period reservations may be made as to this maximum solution. During this transitional period, the Contracting States have the right to fix a different period of validity for the European patent and, within their territory, to revoke European patents relating, for example, to foods and drugs.

The European Patent Office

The European Patent Office (EPO) has a Receiving Section (at The Hague), Examining Division, Opposition Division, Boards of Appeal and an enlarged Board of Appeal. In addition, the special departments necessary for the implementation of the Second Convention are being incorporated in the Office (Patent Administration Department, Revocation Department and Revocation Board).

The official languages of the EPO are English, French and German. Limitation to these languages, in which the majority of first applications and the greater part of the examination material are written, was necessary in the interests of efficiency. Exceptions to these language arrangements are, however, provided for in the implementing regulations for the procedures of the European Patent Office.

The Convention contains comprehensive provisions on the application of the world-wide Patent Cooperation Treaty (PCT), which was concluded in Washington in 1970. The basis of the PCT plan is that an international patent application can achieve the same effect as a large number of separate national applications. The international phase of the PCT is, however, only of short duration. Once an international search has been performed, the procedure is taken over by the national patent offices, and these carry out the examination and grant national patents.

Under the PCT Treaty, the EPO can be both receiving office and designated office of an international application filed under the PCT. It may also act as the authority responsible under the PCT for the international search and the preliminary examination.

Procedure up to grant

Any natural or legal person may apply for the grant of a European patent. The application must be filed in English, German or French, either directly with the EPO or with the national patent offices of the Contracting States. Applicants who have their headquarters or place of residence in a Contracting State in which another language is used officially may file their application in the language of that State. Within a period of three months, however, they must submit a translation of the application in one of the three official languages of the European Patent Office. The Contracting States to which the European patent is to apply must be named in the application.

The Receiving Section in The Hague is responsible for processing the European patent application up to the stage of publication. It first examines the application to ascertain whether the conditions for the performance of a search as to novelty are fulfilled. If a date of filing has been accorded and if the filing fee and the search fee have been paid, the search as to novelty is carried out by the EPO's Directorate-General for Searching, which is likewise located at The Hague (cf. Centralization Protocol). At the same time, the Receiving Section checks whether the other formal conditions have been satisfied. An European patent application is published eighteen months after its filing or, if priority has been claimed, after the priority date and, wherever possible, together with the novelty search report. Publication is in the official language chosen by the applicant.

From the time for the publication of the novelty report, the applicant has a period of six months to file his request for examination of his application. If no request for examination has been filed by the end of this period, the European application is deemed to have been withdrawn.

With the filing of the request for examination the procedure moves to the Examining Division in Munich. This Division ascertains whether the invention is new, involves an inventive step and is susceptible of industrial application. Patents cannot be obtained for discoveries as such, scientific theories, mathematical methods, programmes for computers, methods for treatment of the human or animal body by surgery or therapy, diagnostic methods, etc. Plant and animal varieties are likewise non-patentable. On the other hand, chemical products, medicaments and foodstuffs, together with the processes for their manufacture, are patentable. Patent protection can also be obtained for new therapeutical applications of known chemical substances and for microbiological processes.

After this examination, the European patent is granted. The patent specification is published only in the language of the application, whereas the patent claims are published in the other two official languages as well. Any Contracting State can prescribe, if the patent specification is not available in its official language, that the European patent shall be without effect within its territory unless a translation of the patent specification in its language is published within a period of time to be determined by the State in question.

This does not apply in respect of the Member States of the Second Convention, which have agreed that only the patent claims will be published in all the languages of the Member States. If the translations are not supplied at the correct time, the Community patent is deemed to be void ab initio. Initial estimates indicate that 60% of patent specifications are published in English, 30% in German and 10% in French.

Opposition and appeals

Within nine months after the grant of the European patent, any person may give notice

to the Opposition Division of the EPO of opposition to the European patent granted.

An appeal shall lie from decisions of the Opposition Division, the Receiving Section and the Examining Division. The Board of Appeal decides on the appeal. In certain cases, an appeal against the decisions of the Board may be made to the enlarged Board of Appeal. It was decided not to ste up an European patent court of last resort but by way of compensation there is provision concerning the independence of the members of the Boards of Appeal and of the enlarged Board of Appeal; members are appointed for a term of five years and may not be removed from office during this term.

Accession of non-Member States

Only those European states which took part, or were entitled to take part, in the Inter-Governmental Conference for the setting up of a European System for the Grant of Patents can accede to the Convention by a simple declaration to this effect (these are the 21 states mentioned previously, plus Cyprus and Iceland). Other European states may only accede at the invitation of the Administrative Council, which decides by a three-quarters majority.

Centralization Protocol

The Protocol on the Centralization of the European Patent System and on its introduction contains a number of far-reaching decisions:

— The International Patent Institute, which is responsible for carrying out the search as to novelty, is to be incorporated into the European Patent Office as the Directorate-General for Searching; this is to be located at The Hague, with branch offices in Berlin, Rome and, possibly, in Madrid. The tasks at present incumbent upon the International Patent Institute, in particular the carrying out of searches for certain of its Member States' national patent offices, are also to be taken over by this Directorate-General.

— The Contracting States undertake to renounce, in favour of the European Patent Office, the exercise of any powers they may have under the Patent Cooperation Treaty as International Searching or Examining Authorities. Special arrangements are, however, envisaged for Contracting States in which the official language is not English, French or German.

— During a transitional period of 15 years, the national patent offices of those states in which it is possible to conduct the proceedings in one of the official languages of the European Patent Office, may be entrusted with preparatory work on the examination of European patent applications. These arrangements are intended to lighten the burden on the European Patent Office in its initial stages. Furthermore, the adaptation to the decline in the number of national applications as a result of the introduction of the European patent and to the correspondingly reduced work load should also be made easier.

Opening of the European Patent Office

The deposition of the documents of ratification by the nine Member States of the European Communities is sufficient, but is also necessary, to put the Convention into force. Ratification by the national parliaments will probably take two years, so that the Convention could come into force by 1 January 1976. This means that the European Patent Office can be expected to open some time in 1976.

In the early stages of its work, the European Patent Office will be able to process European patent applications only in certain areas of technology. The progressive extension of its activities to all areas of technology is provided for under a five-year plan.

Cost of the grant of patents

After the Convention has entered into force, the Administrative Council will adopt the Rules relating to Fees, attentative draft of which has already been prepared as a basis for discussion.

This draft, which is based on studies conducted in 1970/71, shows that, on a comparable basis, the expense involved in obtaining national patents in four European States (e.g. Germany, France, Great Britain, and the Netherlands) would be considerably higher at the present time.

MAIN FEATURES OF THE COMMUNITY PATENT CONVENTION

The Convention for the European Patent for the Common Market (second Convention) was prepared in draft form in the spring of 1973 by the "Community Patent" Working Party.

The Draft Convention and the other related texts (Implementing Regulations, Protocol, various Draft Declarations and Resolutions) are to be laid before a final conference for definitive adoption. This conference, which is to be held in Luxembourg from 6 to 31 May 1974, will be composed of representatives of the nine Member States and of the Commission of the European Communities.

The second Convention is intended to create a unitary Patent Law which will contribute towards the realization of the objectives of the Treaty of Rome by eliminating, within the Community, the unequal conditions of competition and the obstacles to the free movement of goods which result from territorial limitation of national Patent Laws. The national Patent Law will continue, for the time being, to exist alongside the Community Patent Law. The Draft, however, also contains provisions in respect of national patents, with the aim of minimizing the effects on the Common Market arizing from the maintenance of these national patents.

Unitary nature of the Community Patent

The European patent granted by the European Patent Office in accordance with the provisions of the first Convention is a 'batch' patent which has the effect of a national patent in the Contracting States. In order to prevent a fragmentation of the effects of the European patent within the Member States of the Community, the 'batch' of nine national patents must be combined into a unitary patent, the Community patent. This Community patent will have the same effect in all the Member States. Only as a single whole can it lapse, be transferred or revoked. The body of law arising from the Community patent is subject solely to the provisions of the second Convention.

One result of this unitary nature is that the Member States may not make use of the reservations, provided for in the first Convention, relating to the term of patents and to certain exceptions to patentability (in respect of foods and drugs). This is of particular importance to Italy, which has not so far acknowledged the patentability of medicaments in its national law.

A further requirement arising from the unitary nature of the Community patent is that in the European patent application it should only be possible to designate all the Member States jointly. Designation of one or some only of the Member States will be deemed to be designation of all the Member States.

Revocation procedure

In the Contracting States party to the first Convention which do not belong to the European Communities, the national courts decide, with effect for their respective territories, on matters relating to the revocation of the European patent, applying the grounds for revocation laid down in the first Convention. For example, the European patent can be revoked by a Swedish court, without its status being immediately affected in Switzerland or Austria. Decisions on the revocation of the Community patent, however, are taken, with effect for all the Member States, by the Revocation Divisions (department of first instance) and the Revocation Boards (department of second instance), set up by the second Conventions, in a revocation procedure laid down by unitary regulations. These two departments, which will be incorporated into the European Patent Office as special departments, naturally also make their decisions on the basis of the grounds for revocation laid down in the first Convention. Appeal to the Court of Justice of the European

Communities against the decisions of the Revocation Boards will be permissible.

Procedure for infringement of patent

On the other hand, the national courts are competent to hear actions relating to infringement of the Community patent. The appropriate national court shall give its decision in accordance with the provisions of the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, which entered into force on 1 February 1973 between the Member States (with the exception of the new Member States). The national courts, however, also have to apply the corresponding provisions of the second Convention, in which the rights attached to a Community patent are defined. In order to ensure a unitary application of these provisions, the Court of Justice of the European Communities has been empowered to give preliminary ruling concerning their interpretation. The aid of the Court of Justice can be invoked by any national court if there is a dispute as to the interpretation of the Convention. In such a case Courts of last instance are, indeed, obliged to bring the matter before the Court of Justice.

The above-mentioned Convention on Jurisdiction and the Enforcement of Judgments is of great practical importance in the matter of legal proceedings. All infringement actions, even if they relate to more than one Member State, can be conducted in a single procedure before the court in the place of residence of the infringer. The judgment on an alleged infringement is recognized in principle in all the Member States and can be enforced in a simplified procedure even outside the state in which the judgment was given.

Prohibition of market-splitting

One of the main aims of the second Convention is the dismantling of territorial barriers to the marketing of patent-protected products. The Draft therefore prohibits the splitting of the Common Market into nine national sub-markets. The products protected by the Community patent can circulate freely once the orginator of the patent has marketed them in any part of the Common Market. The same also applies to products lawfully put on the market by contractual licensees; that is to say area licences covering parts of the Common Market are still permissible, but do not guarantee absolute protection in a given area. If, for example, a contractual liecnsee for France has lawfully put a product on the market, the contractual licensee for Germany cannot prohibit the importation of this product. In any judgment as to what is lawful, the future development of Community law, in particular the interpretation of Articles 36 and 85 *et seq.* of the Treaty of Rome with respect to the Community-orientated exercise of the rights attached to patents, will play a significant role.

In order to guarantee the free movement of goods in cases where the patent protection is not based on a Community patent but on one or more national patents held by the same person or by persons who are linked commercially, the Draft contains a provision by virtue of which the marketing of the product in question in any Member State results in the exhaustion of the rights attached to the patent; in other words, the proprietor of national patents for Germany and France, for example, cannot use his German or French patent to prohibit the importation of products which be himself or a third party acting in concert with him has put on the market, say, in Italy.

In order to make it easier for the proprietors of patents to adapt to the above arrangements, it is laid down in one of the protocols appended to the Draft Convention that the provisions relating to the prohibition of market-splitting by means of the Community patent or national patents will not be applied

during a transitional period of between five and a maximum of ten years. This protocol is the one solitary, but important, point on which there is disagreement between the Member States and the Commission.

The Commission is of the opinion that by virtue of Court of Justice jurisprudence, in particular according to the Court's judgment of 8 June 1971 in the case of Deutsche Grammophongesellschaft v. Metro Großmärkte A.G., the maintenance of a transitional period is incompatible with the provisions of the Treaty of Rome.

Compulsory licences

The Patent Laws of each of the Member States contain provisions under which the right of exclusivity conferred by the grant of a patent can be limited, if the manner in which the monopoly right is used is prejudicial to the public interest. The following kinds of compulsory licence are of particular importance: compulsory licences for the public interest (public safety, health, national defence); compulsory licences for lack of exploitation (i.e., when the patent-protected product is not being manufactured indigenously or is not being manufactured on a sufficient scale); compulsory licences by reason of dependence (i.e., when the invention which is the subject of an earlier patent is based on an invention protected by an even older patent and for that reason cannot be realized without the agreement of the proprietor of the older patent).

The Draft provides that compulsory licences in respect of a Community patent are in principle granted by the appropriate national authorities in accordance with the national law and with effect for the territory of the state concerned. As the conditions laid down for the grant of compulsory licences vary among the Member States, the reference to the national law applicable in this case leads to differing degrees of restriction of the rights attached to the Community patent and thus to unequal conditions of competition for industry.

For these reasons, the Member States have undertaken, in a draft resolution, to commence the necessary work, as soon as the Convention enters into force, to enable the text of the Convention to be supplemented after the expiry of the transitional period by joint rules on the granting of compulsory licences.

Participation of non-Member States

Accession to the Community Patent Convention is open only to future Member States of the European Communities. Non-Member States which are parties to the first Convention and form a customs union or a free-trade area with the European Economic Community may, however, be invited by the Council to conclude a special agreement with the Member States in which the conditions of their participation in the Community Patent Convention are determined.

Simultaneous entry into force

Since the Community Patent Convention is based on the first Convention, it cannot enter into force before this first Convention. On the other hand, it should not enter into force at a later date, since it must be ensured that the European patent has a unitary effect in the Member States. In view of this, a draft declaration has been prepared in which the Member States declare their intention of ensuring that the two Conventions enter into force simultaneously.

European Patent Law and the PCT

In a further declaration, the Member States declare their intention of bringing into force the Patent Cooperation Treaty, which was signed in 1970 but has not yet come into operation, at

a date which will not be prior to that of the entry into force of the two European Conventions. This declaration is of particular importance in view of a provision of the PCT whereby the Contracting States which are parties to the European patent can block the access of a PCT application to the national patents and can refer this application to the European patent. If, for example, a Member State of the Community were to make use of this possibility, it would be impossible for a PCT applicant to obtain a national patent in the EEC area; he could only obtain the examined European patent, i.e., in this case, the Community patent.

CONCLUSION

The new European Patent Law is of decisive significance from the legal, economic and political standpoints.

For the first time, a group of states has succeeded in setting up a common system for the grant of patents and a unitary Patent Law. One of the main factors in the success of this great reform was undoubtedly the need to adapt the patent system to the requirements of economic and technological development. But without the will on the part of the states involved to work together in close economic and political cooperation, it would not have been possible to achieve this objective.

The new system outlined here is designed to meet the requirements that are made of a modern system of Patent Law. By means of a single application to the European Patent Office, industry can obtain a European patent which is effective for all the Contracting States named in the application and has unitary effect in the Member States of the European Communities. This European patent will be an examined patent and will therefore be of great value. In addition, owing to the strict conditions regarding patentability a large part of the new technical know-how contained in patent applications will become generally available for immediate use. Through the rapid publication of the patent application and of the novelty search report (after 18 months), the public will obtain an overall idea of the latest state of the art. As a result the necessary information and incentive will be provided for building on the basis of the inventions detailed in patent applications; unnecessary duplication of research work by competing undertakings will be avoided.

For the Member States of the European Communities, the two European Patent Conventions have the effect of an unitary Treaty which creates, within the Common Market, uniform internal-market conditions for the acquisition and exploitation of patents. Industry is enabled to implement a manufacturing and sales policy which is adapted to the scale of the Common Market and is enhampered by national frontiers. The new patent system will facilitate and expand international trade by bringing about equal conditions of competition and free movements of goods. It will further contribute towards the more effective use of the available technical and economic potential in the Community and will thereby strengthen the positions of Community industry in the field of technological competition.

For further information :

Please contact
the Information offices of the
European Communities.

— **For Great Britain :**

- 23 Chesham Street
  London S.W. 1
  Tel. 01-235 4904

— **For the United States :**

- Suite 707
  2100 M Street, NW
  Washington D.C. 20037
  Tel. 296-5131
- 277 Park Avenue
  New York, N.Y.

Enquiries from the *Republic of Ireland*
should be addressed to :
European Communities
Information Centre
27 Merrion Square
Dublin 2
Tel. Dublin 63448

Commission
of the European Communities
Directorate-General
for Press and Information
Division for industrial
and scientific information
200, rue de la Loi
1040 Brussels

OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES
Case postale 1003 - Luxembourg 6256

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