

SIGNIFICANT REDUCTIONS IN TRANSLATION COSTS FOR EUROPEAN VALIDATIONS

Introduction

The translation costs incurred when validating a European patent should fall dramatically from early 2008, when the London Agreement is expected to come into force.

Translation costs have long been viewed as an unfair burden on the most innovative companies and those who wish to obtain patent protection in the greatest number of states. The London Agreement will remove the local translation requirements completely in states where the official language is an EPO official language, and limit the requirements to translating only the claims in other states. It is also expected that many states in the latter group will adopt English as a national official language to obviate the translation requirements altogether (in respect of English-language European patents). Reducing translation costs will enable patent proprietors, particularly individuals and SMEs, to validate European patents in a broader range of states than hitherto.

Background to the London Agreement

In 1999, a conference was held by a number of key EPO member states with the aim to reduce the cost of obtaining European patents, in particular the translation costs. The outcome of this conference was the London Agreement, which was concluded in October 2000.

To enter into force, the London Agreement needed to be ratified by eight states (including France, Germany and the UK). Until recently, France had not ratified the Agreement. However the French Senate approved the draft law ratifying the London Agreement on 9 October 2007, and as a result, the London Agreement is expected to come into force in early 2008.

The parties to the London Agreement are Denmark, France, Germany, Iceland, Latvia, Luxembourg, Monaco, Slovenia, the Netherlands, Sweden, Switzerland, Liechtenstein, and the UK.

The current system

European patents are examined as a single application in the language of the proceedings which must be one of the EPO official languages (English, French and German). For grant to occur, translations of the allowed claims into the other two languages are required.

After grant, the patent proprietor decides whether to validate the patent in one, several or all of the 31 contracting states. Where the language of the proceedings is different from the official language of the state in which the patent is to be validated, currently a translation of the granted text must be filed for the patent to take effect in that state. This step can be very expensive. If a European patent is to take effect in all of the 31 states, the full patent must be translated into 22

languages; for the average patent validated in seven states, translation into five languages is typically required¹.

Effects of the London Agreement

Entry into force of the London Agreement will significantly reduce the translation costs, as explained below.

1. States having an EPO official language as the official language of that state

Under the London Agreement, states having one of the EPO official languages as the official language of that state agree to dispense with the translation requirements.

These states are Austria, Belgium, France, Germany, Ireland, Luxembourg, Monaco, Switzerland, Liechtenstein, and the United Kingdom.

Of these states, Austria, Belgium and Ireland are not yet parties to the London Agreement, and it is understood that full translations will still be required (as appropriate) in these states for the time being.

2. States having an official language which is not an EPO official language

States having an official language which is not an EPO official language will no longer require a translation of the description and the legends of the drawings if the patent is granted in an official language of the EPO which is prescribed by that state, but may require that a translation of the granted claims be filed in the official language of that state. However, it is expected that many of these states will adopt English as an additional official language.

The relevant states party to the London Agreement are currently Denmark, Slovenia, the Netherlands, Sweden, Iceland and Latvia.

In the case of a dispute under the patent in that state however, the patent proprietor must (at their own expense) supply a full translation of the patent into the official language of that state.

States that are not yet party to the London Agreement (e.g. Spain and Italy) will still require a translation in the local official language. However, once the London Agreement comes into force, it is expected that many of the remaining states will sign up to it.

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¹ Source: European Patent Office