

Council agrees common political approach to Community patents

After a 30-year deadlock, the [European Council](#) has finally agreed upon a common political approach to Community patents. This will be particularly useful for software-related inventions, the protection of which has suffered because of material differences between the laws of EU member states.

Currently, there are two ways to obtain patent protection in Europe: (i) through the [European Patent Office](#) (EPO), or (ii) via national patent offices. However, whichever route is chosen, national law applies once the patent is granted. This can lead to uncertainty and inconsistencies regarding protection, particularly with regard to software-related inventions as there are material differences between member states' laws. Although the European Commission has attempted to remove these inconsistencies with a proposed directive (see [Commission proposes strict rules for software patents](#)), this process seems to have ground to a halt. Moreover, even if the proposed directive were to be finally adopted, the Community patent would still provide significant benefits to companies seeking to patent software-related inventions.

The European Council's newly negotiated agreement has the following four main features:

- Community patents would begin to be issued in 2008, giving national parliaments time to implement the necessary legislation.
- A single, centralized European Patent Court would be created to settle disputes relating to Community patents. (Germany strongly objected to relinquishing the jurisdiction of its national courts, so this unified judicial system would not come into play before 2010.)
- A patent applicant would have to present a complete application in one of the three official languages of the EPO - English, French or German. However, upon the grant of the patent, applicants would also have to file translations of the claims in all the official languages of the European Union (currently 11, but expected to rise to 21).
- The cost of obtaining a Community patent would be about €25,000 - half the cost of obtaining a patent in just eight EU states.

Many consider the European Council's agreement on the Community patent essential to boosting the research and development of software-related inventions in Europe.

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