

RESOLUTION ON LANGUAGES

The European Patent Lawyers Association (EPLA) adopted the following resolution on the languages of the proceedings before the CPC (Community Patent Court):

Taking into consideration:

1. that the present proposal (Art. 1.7 of the Common Political Approach of March 3, 2003) states that the CPC will conduct the proceedings in the official language of the Member State where the defendant is domiciled;
2. that after the Enlargement of the EU this proposal means that the Court has to conduct proceedings in 21 different languages;
3. that it is essential for a successful community patent system that disputes are settled in efficient proceedings by expert judges;
4. that the present proposal will not be able to achieve such settlement of disputes. The proposed proceedings will involve costly and time consuming translations and will make a direct exchange of views between the parties and the Court during the hearings in many cases virtually impossible, the latter being very important for the good administration of justice in patent cases;
5. that under the law of the EU as it stands at present a defendant domiciled in the EU who engages in activities outside his country of domicile or who is summoned as a co-defendant in patent proceedings outside his country of domicile has to defend himself in a language which is not necessarily the language of the Member State where he is domiciled (compare Art. 5 under 3 and Art. 6 under 1 of the Regulation on Jurisdiction);
6. that the present proposal does not give a solution for proceedings involving a defendant from outside the EU or proceedings involving multiple defendants;
7. that the present proposal has not addressed the issue of the Court partially invalidating a patent granted in a different language than the language of the proceedings;
8. that EPLA, although convinced that the language system as proposed in the European Patent Litigation Agreement would lead to a more efficient and better system, has noticed the concern for the rights of the defendants who operate within the border of their own Member State more especially the medium and small enterprises;
9. that it is important for third parties to be able to take knowledge of the judgments of the courts.

Resolves that:

1. If the present proposal remains unamended, a viable and credible Community Patent will not be possible and the only solution would than lie in having the specialized Courts of the Member States dealing with Community Patent litigation (compare the Community Trademark).
2. In order to achieve a more workable solution the proposal should be amended as follows:
 - a) If a defendant acts or threatens to act outside the Member State where he is domiciled, the language of the proceedings will be one of the languages of the European Patent Convention as chosen by the plaintiff.
 - b) If the defendant is domiciled outside the EU, the rule established under a) will apply.
 - c) In proceedings with more defendants which are not all domiciled in the same Member State, the rule established under a) will apply.
 - d) The Court will deliver a judgment in the language of the proceedings but if the language of the proceedings is not one of the EPC languages, the Court will also make available a translation of its decision in the language in which the patent was granted.
 - e) If the decision of the Court contains an amendment of the patent, the part of the decision formulating the amendment will be in the language in which the patent was granted.