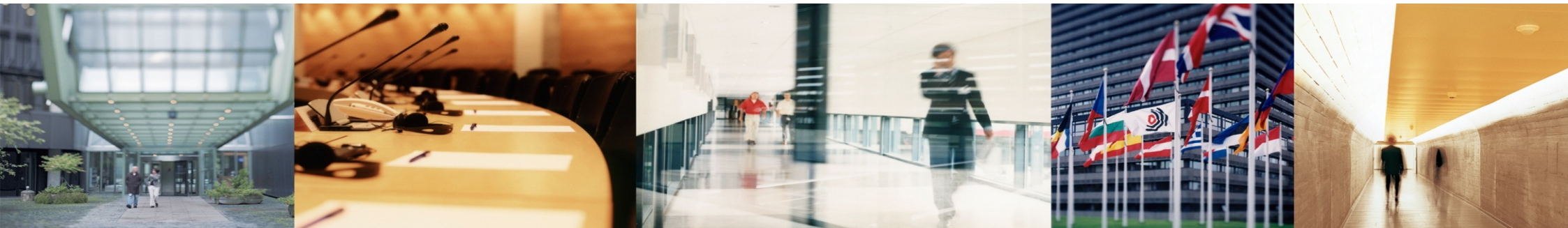


13th JIPA IP Symposium

The Role of IP in Economic Partnerships *- A European Perspective -*

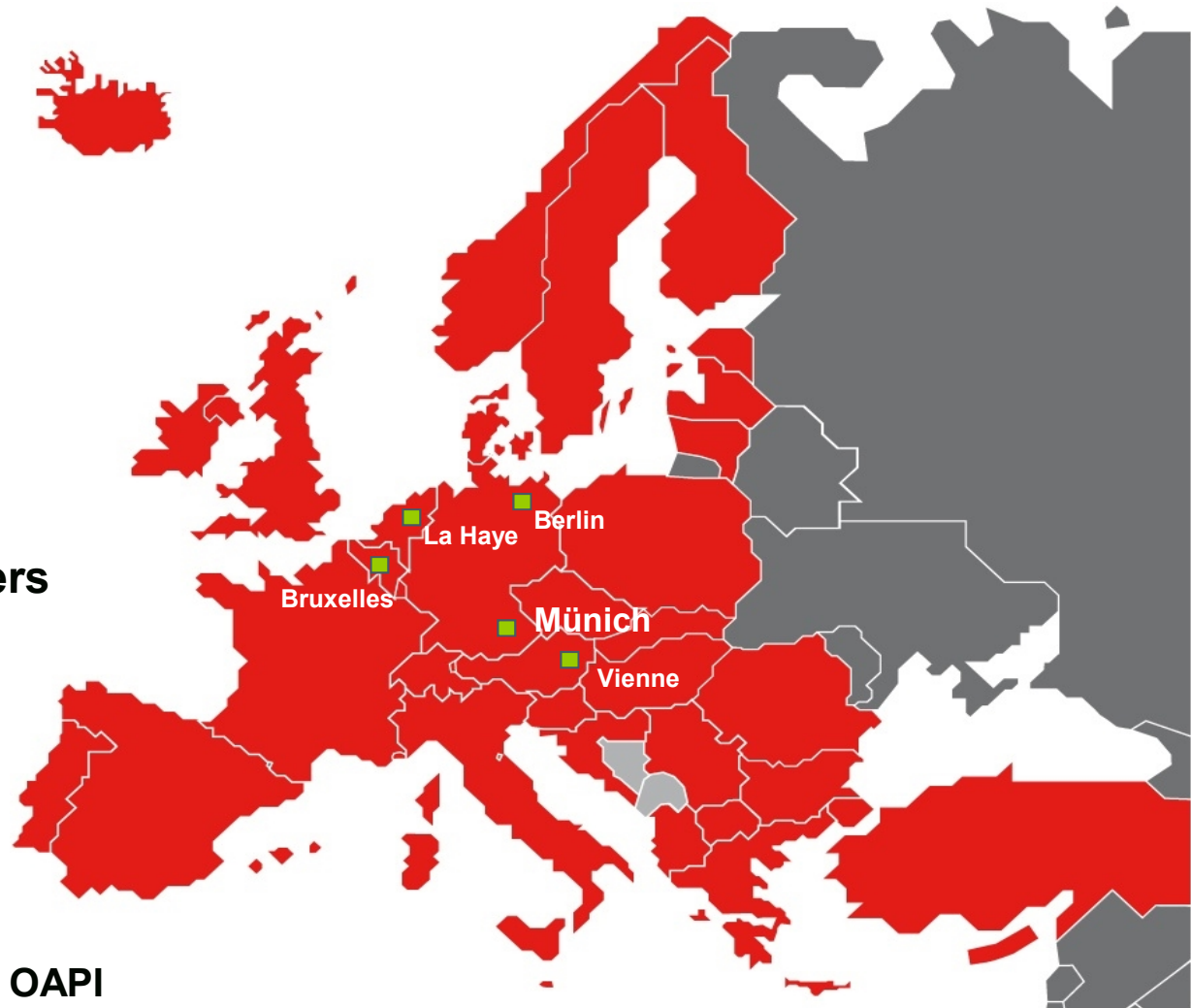
Benoît Battistelli
EPO President

Tokyo, 24.02.2014

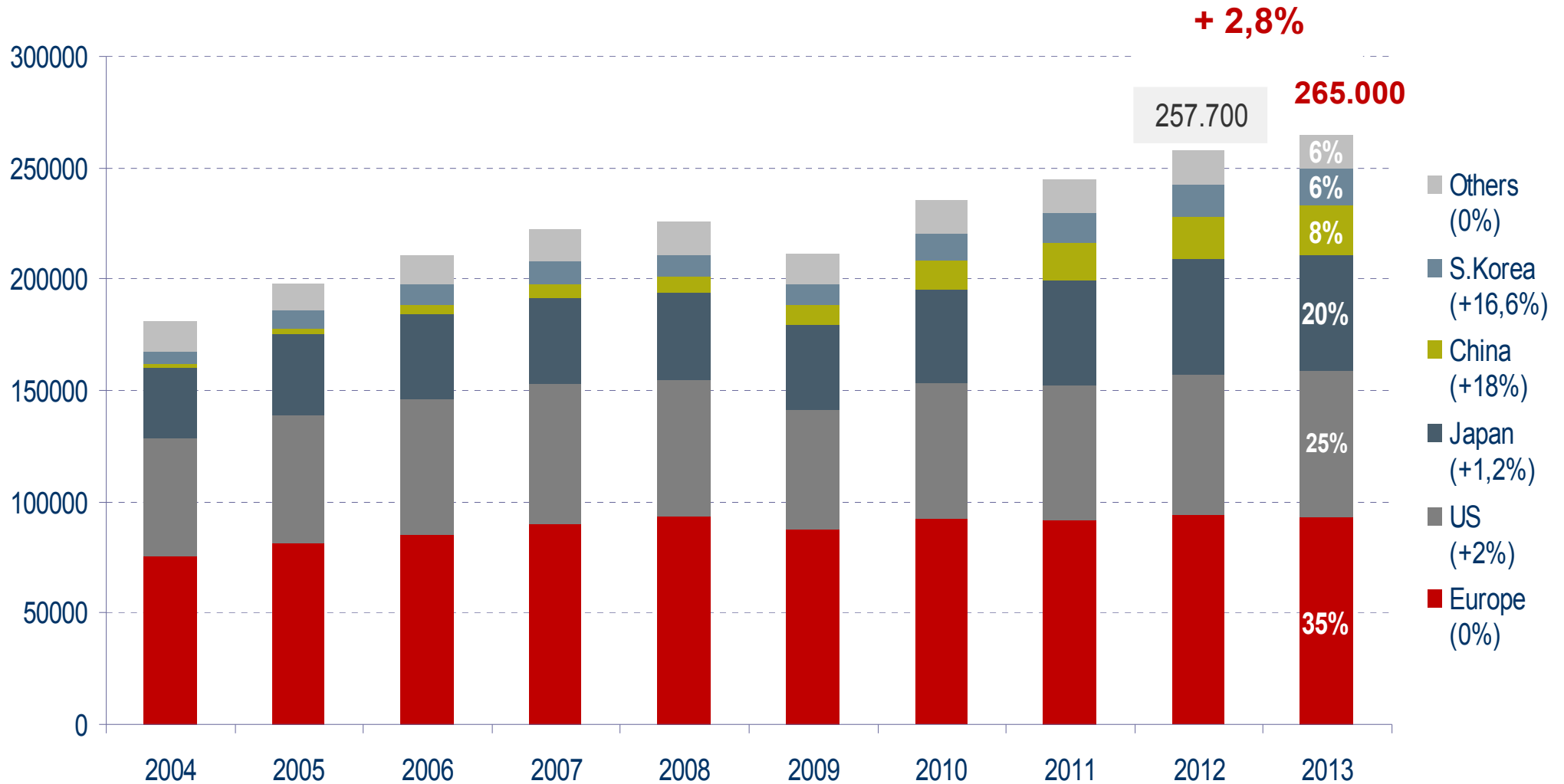


The EPO in few words

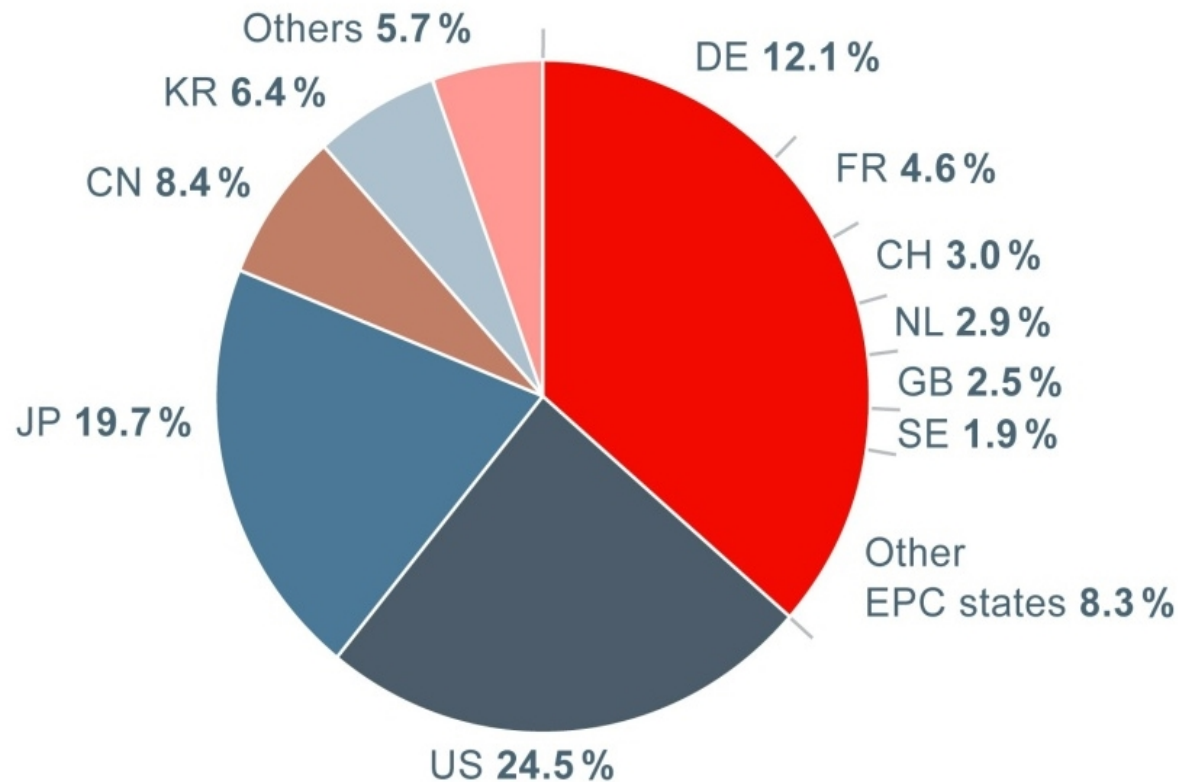
- Created in 1973
- 38 Member States, including all EU
= 600 million inhabitants
- 7 000 employees (4 100 highly specialised engineers and scientists); 35 nationalities
= second largest European International Organisation
- Self financed budget via fees from the users
= € 2 billion in 2014
- Extension States: Bosnia, Montenegro
- Validation (in preparation): Morocco, Tunisia, Moldavia, Georgia, OAPI



Filings at the EPO (2004 - 2013) : Evolution



Filings at the EPO (2013) : Origin



64,7% of filings coming from outside Europe

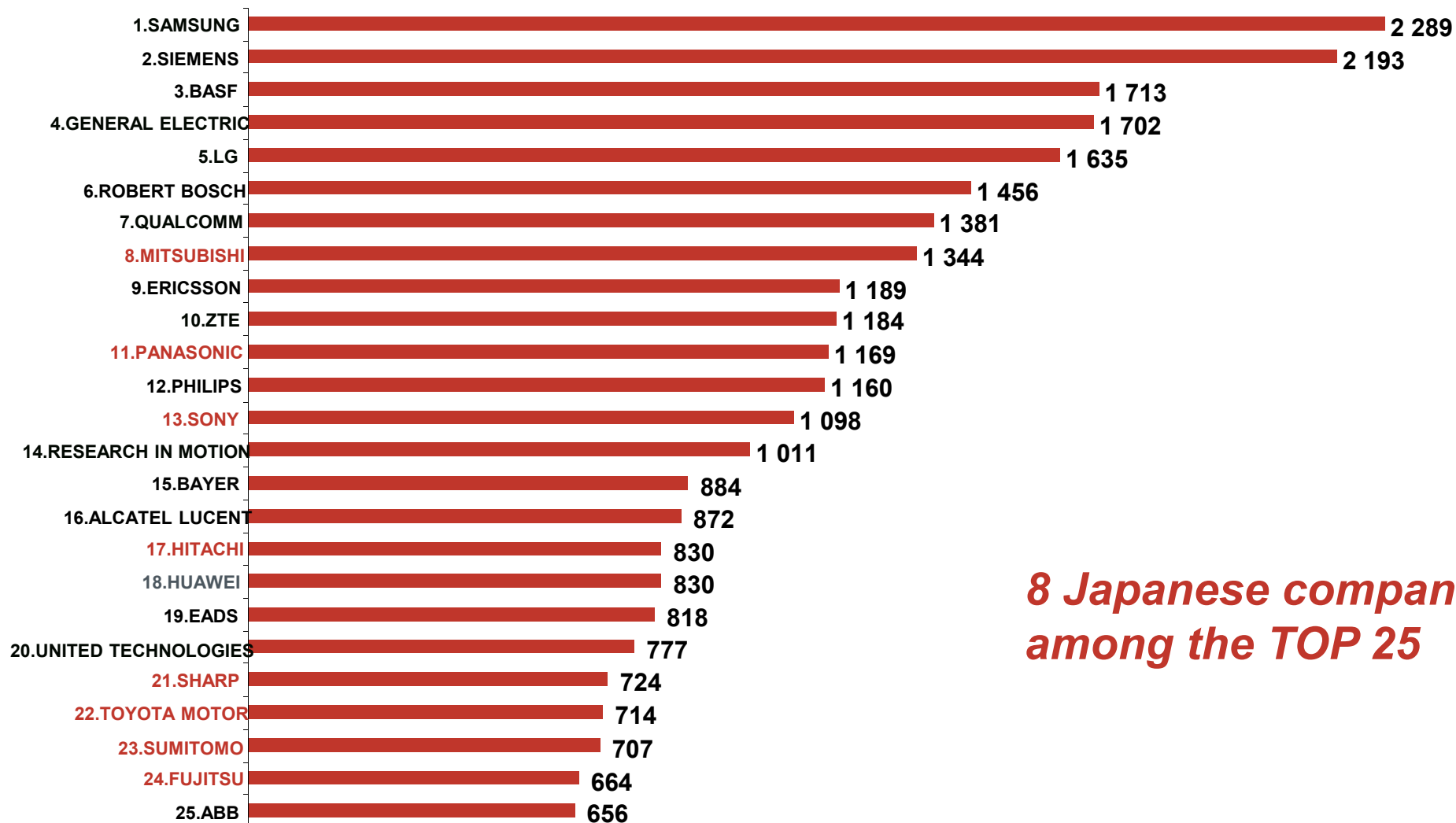
- CN: People's Republic of China (China)
- KR: Republic of Korea (South Korea)
- JP: Japan
- US: USA
- EPC: the 38 member states of the European Patent Organisation
- DE: Germany
- FR: France
- CH: Switzerland
- NL: The Netherlands
- GB: United Kingdom
- SE: Sweden

Applications at the EPO (2012) : Technological fields

Evolution 2011 / 2012

1- <i>Medical technology</i>	10 412 (+1,6%)
2- <i>Electrical machinery, energy</i>	9 799 (+11,4%)
3- <i>Digital communication</i>	9 592 (+20,4%)
4- <i>Computer technology</i>	8 288 (+3,3%)
5- <i>Transport</i>	6 633 (+7,2%)
6- <i>Measurement</i>	6 428 (+1,9%)
7- <i>Organic fine chemistry</i>	6 002 (-6,9%)
8- <i>Engines, pumps, turbines</i>	5 668 (+20,0%)
9- <i>Pharmaceuticals</i>	5 364 (-0,2%)
10- <i>Biotechnology</i>	5 309 (-4,3%)

Applications at the EPO (2012) : Top ranking



*8 Japanese companies
among the TOP 25*

EPO and JAPAN

- Japanese companies were among the first applicants at the EPO (1978)
- Japanese applicants rank second largest at the EPO for years (20%)
- Regular contacts between the EPO and Japanese stakeholders both in Europe and Japan, at different levels
- Close cooperation between the EPO and JPO for many projects (recent examples: CCD, Patent Translate, PCT Quality metrics)
- EPO and JPO were among the founding fathers of the Trilateral (1983) and IP5 co-operation (2007)
- EPO will host the 32nd Trilateral Conference in Italy in April 2014

Main challenges to the patent system

- *Continuous increase in patent filings*
- *Complexity of patent applications*
- *Gap between globalisation of trade and lack of harmonisation of national patent frameworks*
- *Critics questioning the role of IP / patents*

EPO answers to these challenges

- *Maintaining Quality as the n°1 Priority*
- *Improving the Efficiency of the patent system*
- *Developing Strategic Partnerships*
- *Being active in the Social Debates*

Quality at the EPO

- *High specialisation and intense training of EPO examiners*
- *State-of-the-art tools allowing efficient access by examiners*
- *Very comprehensive prior art coverage: Almost 90 million documents available to examiners*
- *International Co-operation: Concrete projects improving the patent system*

Users rank EPO no 1 in quality

International co-operation

■ Technical Harmonisation

- Global Dossier
- IP5 Patent Prosecution Highway programmes (PPH)
- Data exchange policy
- *EPO encourages concrete projects with a user-friendly oriented approach*

■ Substantive Patent Law Harmonisation


- Tegernsee Process
- Trade partnerships: Transatlantic and Transpacific
- *EPO supports harmonisation efforts leading to a real simplification of the system and increasing the overall quality*

Patent Translate

- Launched in February 2012, finalised in December 2013
- In co-operation with 
- All **28 official languages of EPO member states**, plus **Japanese, Chinese, Korean and Russian** available free-of-charge via **Espacenet**
- JP-EN language pair added in June 2013: **6.5 million** documents
- **17.000 requests** for translation / day



Abstract of EP1693640 (A1)

Translate this text into 



 powered by EPO and Google

protection unit (6) arranged in a
area (5) that is arranged in an inner
provided with a coating made from
with a supporting structure by using
transverse to an impact direction,
having a thickness of approximately

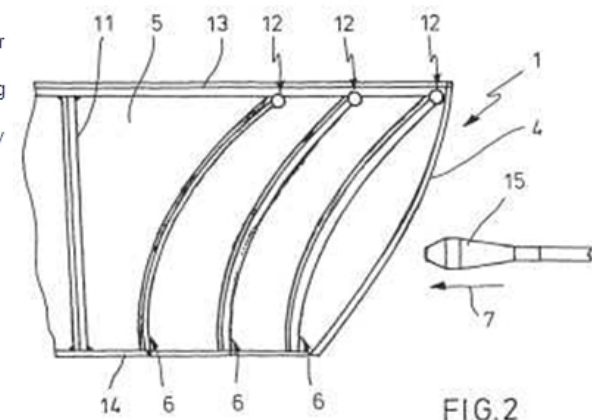
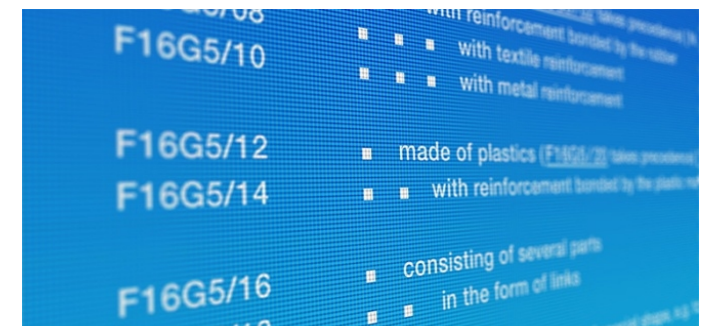


FIG.2

Cooperative Patent Classification - CPC

- In force at **EPO** and **USPTO** since 1 January 2013
- **250.000 categories**, IPC - compatible
- Many offices have joined this endeavour, among them the offices of **China, South Korea, Russia, Brazil, UK**
- Full transparency: **626 CPC Definitions** containing **50 000 pages** how to search and classify into the CPC (*on www.cpcinfo.org*)
- CPC is a major step forward in simplifying work of patent offices and users, an important element for the technical harmonisation of the patent system
- Partial alignment of CPC and JPO's FI in progress within the IP5



www.cpcinfo.org

EPO's Asian patent documentation

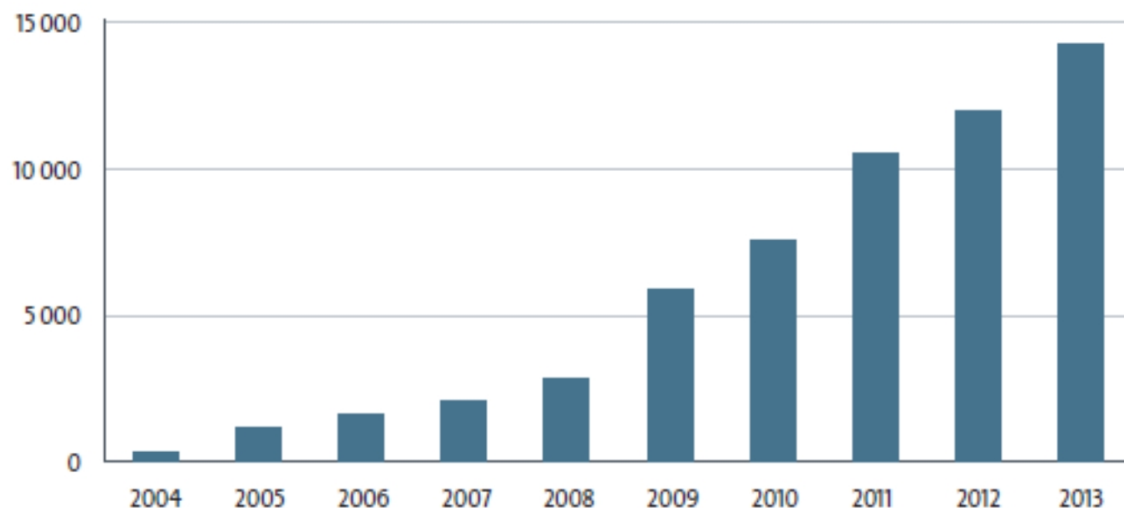
- 20% of the cited documents in EPO search reports in 2012 had an Asian priority
- On an annual basis, EPO examiners view in full text around:
 - 2.5 million Japanese patents
 - 730 000 Chinese patents and utility models
 - 220 000 Korean patents
- Documentation, tools, translation options, training and knowledge of Asian documentation is revolutionising the work of examiners
- For bibliographic and image patent data, the EPO has almost 100 % coverage for the major Asian countries:

Origin	Number of documents	Time coverage
China	6.5 million	from 1985
Japan	22 million	from 1931
Korea	2.6 million	from 1878

Patents and standards

- The EPO has a policy of co-operation with key standards development organisations
- Collection of documentation from **ETSI, 3GPP, MPEG, ITU, IEEE-SA**, and many more
- EPO examiners are trained in searching more than **1.6 million standards documents** incorporated in internal EPO databases
- Over 14 000 standards documents were cited as prior art in 2013

No. of standards citations in EPO search reports



PCT - a priority for the EPO

- In 2013, the EPO has established:
 - **77,445** International Search Reports (38,4% of the total)
 - **7,863** International Preliminary Examination Reports (50%)
- Japanese users: **1,724 ISR** established by the EPO in 2013 for Japanese companies which filed their application in English (4% of the total)
- Improving the services to the users:
 - **Top-up search in the IPER as of 1st April 2014**
 - **Further flexibility regarding non-Unity cases in European phase**
 - **Freezing of the International Search Fee until April 2016**



Early Certainty from Search

- EPO already provides its comprehensive search reports with written opinion on patentability few months after the filing date:
 - 5.2 months for the first filings
 - 15.1 months for the PCT
 - = **9.2 months** in average
- Users need a feedback from patent offices at the earliest stage
- "**Early Certainty from Search**" project =
 - **6 months** to provide the search report **for all files**
 - third parties may request acceleration of the examination
- User consultation is on-going ; decision to be taken on 01.07.2014

Economic impact of IP

- **EPO - OHIM** macro economic study published in September 2013, supported by the EU Commission.



- It covers all major IP rights and identifies the industries that use them relatively intensively, and quantifies the contribution of these IPR-intensive industries to major macro-economic variables

Indicators	Share of IP intensive industries in the EU	
Jobs	35%	77 millions jobs
GDP	39%	4.700 billion €
Importations	88%	1.400 billion €
Exportations	90%	1.200 billion €

Economic and Scientific Advisory Committee

- Created in January 2012, independent body
- **Composition:** 11 patent experts (economists, judges and practitioners), appointed for 3 years. Representative from Japan: **Professor Sadao Nagaoka** from Hitotsubashi University
- **Mandate:** to contribute to a comprehensive analysis of the patent system in its economic and social context.
- Studies / reports already produced:
 - **"Quality of the patent system",**
 - **"Pricing and fees",**
 - **"Patent thickets".**
- Studies / reports to be finalized:
 - **"Economic effects of the Unitary Patent and the Unified Patent Court".**
- Programme 2014:
 - **"Patents and competition laws",**
 - **"Grace period in Europe from an economic perspective".**

Climate Change Technology

- 2010: EPO new patent classification scheme to identify technologies related to climate change mitigation: **Y02** and **Y04**
- Several sectors are already covered:
 - **Clean energy technologies**,
 - **Buildings**, including the residential sector,
 - **Transportation** of goods and persons,
 - **Smart Grids** technologies, such as remote network operation, smart metering, electric and hybrid vehicles interoperability, and energy trading and marketing
- **Studies**
 - 2010, "Patents and clean energy: bridging the gap between evidence and policy"
 - 2013, "Patents and clean energy in Africa"
 - 2014, "Patents and clean energy in Latin America"

Recent major developments in the European patent system

- Unitary Patent Protection -
- Unified Patent Court -



- Historic agreement on the European Union's "patent package"
 - **December 2012**: European Parliament adopts regulations paving the way for the creation of the Unitary Patent Protection and relevant language regime
 - **February 2013**: agreement for establishing a Unified Patent Court signed in Brussels by 25 member states



Unitary Patent

The entry into force of the EPC in October 1977 provided Europe with a very **successful centralised patent granting procedure**

- **Shortcomings** in the post-grant phase:
 - > High costs/complexity for patent proprietors
 - validation costs (translations, publication fees, attorney costs)
 - different modalities of renewal payments in the MS
 - national registers with different requirements
 - > Sub-optimal national enforcement scheme
 - multiple litigation with risk of diverging national decisions, high costs, legal uncertainty
 - differences in procedure, speed
 - no common court of appeal

Unitary Patent

Unitary Patent = a classic European patent granted by the EPO
under the rules and procedures of the EPC
to which, after grant, unitary effect is attributed.

Advantages for the applicants:

- **Wide scope of protection:** 25 EU Member States. Possibility to combine with classical EP.
- **Simplified administration:** post-grant operations (annual fees, register, ...) centralized at the EPO, simplified linguistic regime.
- **Reduction of the costs:** all costs (fees, translations, national registers, attorneys) should be reduced by 70% for the same geographical coverage
- **Easier management:** facilitate patent portfolio management or licensing, improve the defense of the rights at EU borders (customs actions)

Unitary Patent

- Much-awaited reform in support of innovation
- EPO has been entrusted with several new tasks and is currently preparing the necessary legal and financial framework
- **Select Committee** set up in March 2013 (rules implementing the UPP, level of the fees, distribution key)
- The UPP will enter into force when the Treaty on the Court has been ratified by **at least 13 Member States** including **France, Germany** and **UK**.

Unified Patent Court

- Agreement on UPC signed in (February 2013) Brussels
Entry into force after the deposit of 13th instrument of ratification

Status: **Austria** (August 2013), **Malta** (January 2014), **France** (February 2014). Process well advanced in **Belgium, UK, Denmark.**

- Preparatory Committee (EPO as observer)
- Selection of candidate judges (1.300 candidates received!)
- Preparation training by EPO's Patent Academy



Unified Patent Court

- Specialised supranational patent court, common to EU Member States, dealing with disputes (validity, infringement) relating to Unitary Patent and classical European Patents.
- **Organisation:**
 - a Central Division (Paris + branches in Munich and London)
 - several Local / Regional Divisions set up in the EU Member States
 - Centralised Court of Appeal (Luxemburg)
- **Advantages for the users: reduction of costs, enhancing legal certainty**
 - Unified set of rules, one proceeding, one decision having effect in the 25 EU Member States
 - Specialisation: pool of technical judges covering all the fields



Unified Patent Court

Concerns about the UPC favouring "patent trolls"?

Several arguments against this rumour:

- UPC = no punitive damages
- UPC = no automatic preliminary injunction
- UPC = litigation costs may have to be borne by the losing party
- UPC = specialised patent judges, no jury

Conclusions

To address IP world challenges

The EPO's answers are:

- **Quality**
- **Efficiency**
- **International co-operation with user driven approach – focus on concrete projects**



www.epo.org

Thank you for your attention!

ご清聴有難うございました。

