



Current developments in the trilateral patent offices

Intellectual Property and Technology News

22 Mar 2011

By: James M. Heintz

In an informative discussion in Washington, DC , the heads of the three trilateral patent offices provided insight into the direction they are heading and summarized recent developments in the three offices.

The Honorable Benoit Battistelli, president of the European Patent Office, the Honorable Yoshiyuki Iwai, commissioner of the Japanese Patent Office, and the Honorable David J. Kappos, director of the United States Patent and Trademark Office, met in late 2010 in a session sponsored by the Intellectual Property Owners Association.

President Battistelli began his remarks by expressing his surprise that more applicants were not using the EPO's fast-track procedure (also referred to as the Patent Prosecution Highway). President Battistelli pointed out that fast-track requests comprised only 7 percent of EPO applications in the last year (16 percent of which were applications originating from the US), despite the fact that requesting fast-track treatment does not require any fees and the request is simple. He also noted the need to raise the bar for greater legal certainty that patents issued by the EPO would be enforceable. Finally, President Battistelli reiterated his support for European patents and centralized litigation.

Commissioner Iwai noted the increase in the number of applications filed around the world and a corresponding decrease in the portion of those applications being filed in Japan. This creates a problem for the JPO with respect to prior art searching, particularly prior art documents published in languages other than Japanese or English. Commissioner Iwai also mentioned the success of the Patent Prosecution Highway and indicated his desire for the JPO to adopt best practices used in other patent offices.

Director Kappos stressed his belief that cooperation among the trilateral patent offices, as well as the other IP5 offices (which include the South Korean and Chinese patent offices), would be critical to enable the offices to keep up with the rise in the number of applications. The growing number of filings in the USPTO , he predicted, will create more opportunities for efficiency through cooperation with other IP5 patent offices. Director Kappos also expressed his desire for improved patent quality in the USPTO and for increased harmonization of intellectual property throughout the world. Global intellectual property protection, he noted, is vital to the world economy and the only way to capture profit from technology. Without IP protection, he said, the value of technology in the world economy would be diminished.

The heads of all three offices agree on the need for better patent quality and that cooperation among the offices will continue to increase in the coming years. This growing cooperation should result in the issuance of better-quality patents and has the potential to reduce prosecution costs and speed up the application process as the offices turn to fast-track procedures and harmonize their practices – welcome developments for applicants seeking to protect their intellectual

property in an increasingly global market.

AUTHORS



James M. Heintz

Partner

Northern Virginia | T: +1 703 773 4000

jim.heintz@dlapiper.com
