

The European Patent System: A Descriptive Analysis

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BACKGROUND

- The European Patent System (EPS) consists of national patent offices (NPOs) and the supranational European Patent Office (EPO). EPO and the NPOs have granted patents in Europe side-by-side since 1980.
- Firms must consider a number of variables when selecting the route of patenting they take within this system: price, rigour of examination, duration of examination, quality of legal redress.
- To date there is little descriptive evidence on how firms choose between EPO and NPOs.

METHODOLOGY

- The paper provides a descriptive analysis of patenting within the EPS and some comparisons of how companies from Great Britain, France and Germany use the EPS.

KEY FINDINGS

- The paper shows that demand for patents granted by NPOs remains significant. Specifically, smaller applicants and national research agencies rely more on the NPOs than the EPO. Many large users of the EPO also patent at the NPOs.
- The paper shows that country of origin of applicants, their technology focus and their size affect how the EPS is currently used.
- The paper shows that grant rates and examination durations at patent offices in Europe vary significantly.
- The paper also documents that the patent propensity of UK firms lags significantly behind that of French and German firms and has done for many years. There is a brief discussion of similar evidence recently published elsewhere.

POLICY ISSUES

- The paper contributes to the evidence base around the governance of the EPS. The EPS will change significantly once the Unitary Patent (UP) and the Unified Patent Court (UPC) begin to operate. These new elements of the EPS will provide common administrative and legal procedures and common fees for patent applicants that opt in. Meanwhile the heterogeneity of administrative rules and legal processes within the national patent systems will persist. This raises the question whether more coordination of the national offices would enhance both the performance of the UP and UPC and would benefit users of the EPS more generally.
- The paper shows that companies in the UK have not used the patent system as intensively as many of their rivals on the continent. This raises two questions: what explains this and does it lead to disadvantages in competition?

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