

Developments for the EU IP system?

Bruno VAN POTTELSBERGHE, Dean
Solvay Brussels School of Economics & Management

Perspectives for the IP systems in a globalized world

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ULB Key messages: Developments

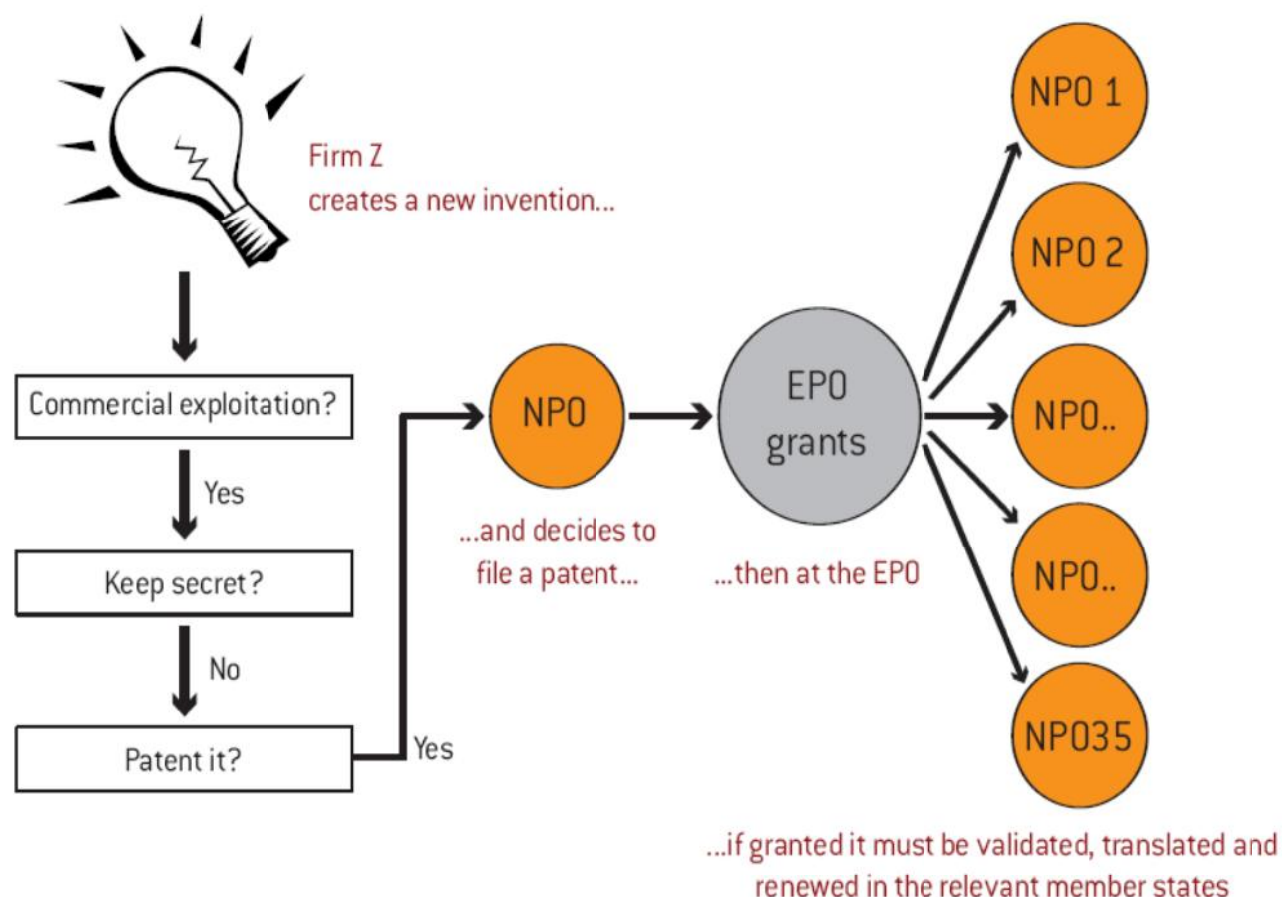
1. **Significant differences for TM, UM, Copyrights, Patents**
2. **Complex systems: variety of influential stakeholders, tensions between EU vs national vs European vs... stakeholders**
3. **Lack of policy leverage for EU industrial policy**
4. **Case study: European patent system development**

	TM	Copyrights	Patents	UM
Wider			EPO	
EU	OHIM	DGs	UPC - EPO	
Regional	yes			
National	yes	yes	yes	yes

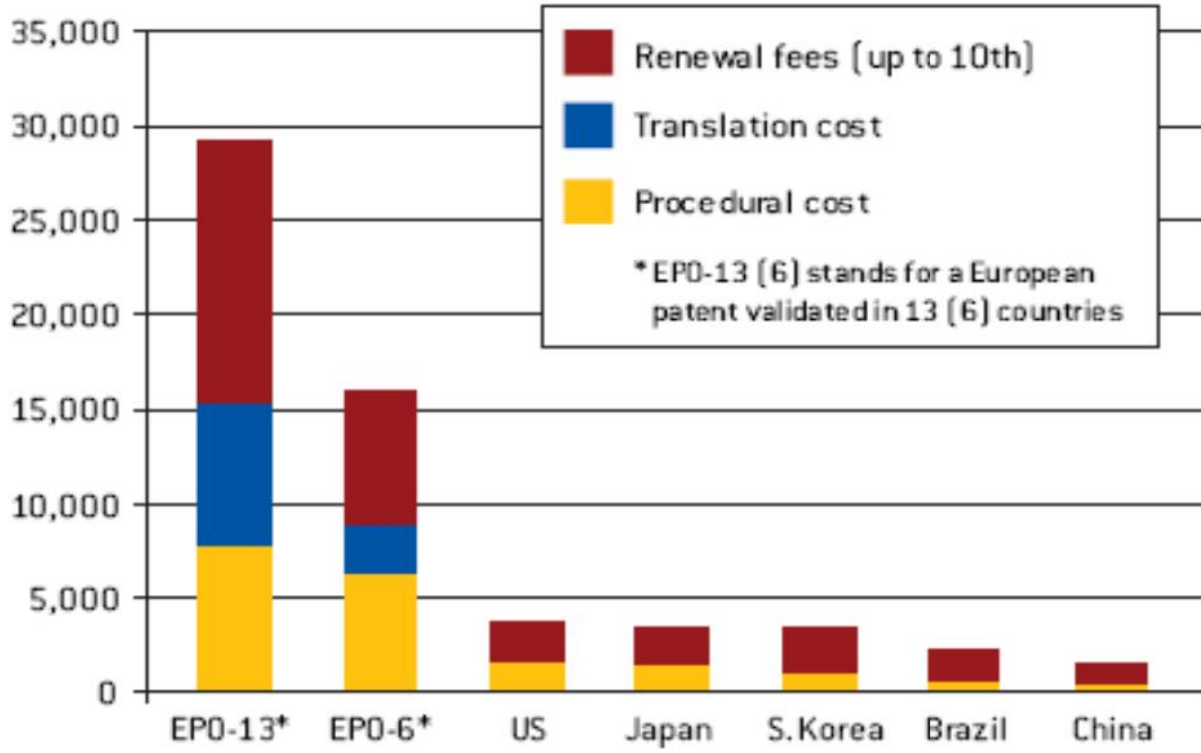
Paradigm: No EU Industrial policy:

- weak/absent for international negotiations
- local policies compete with EU policy
- Important financial flows (Ohim, EPO), **which can't drop** ...
- EPO is not an EU policy leverage (like other patent offices)...

Figure 1: A simplified picture of the European patent system



Cost of patenting in major economies, €s



Source: Bruegel based on van Pottelsberghe and Mejer (2008) and van Pottelsberghe and François (2009). Figures refer to 2008.

Win-Win with the current system of renewal fees

Germany: > 100M (*2)

UK, France: > 45M

NPO

>> NPO budget

>> NPO budget

>> NPO budget

>> NPO bu

>> NPO budget



Prohibitively expensive, for wrong reasons



Uncertainty, Parallel processes

Incongruous

Who resists the beast?

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ULB potential developments of the EU patent system?

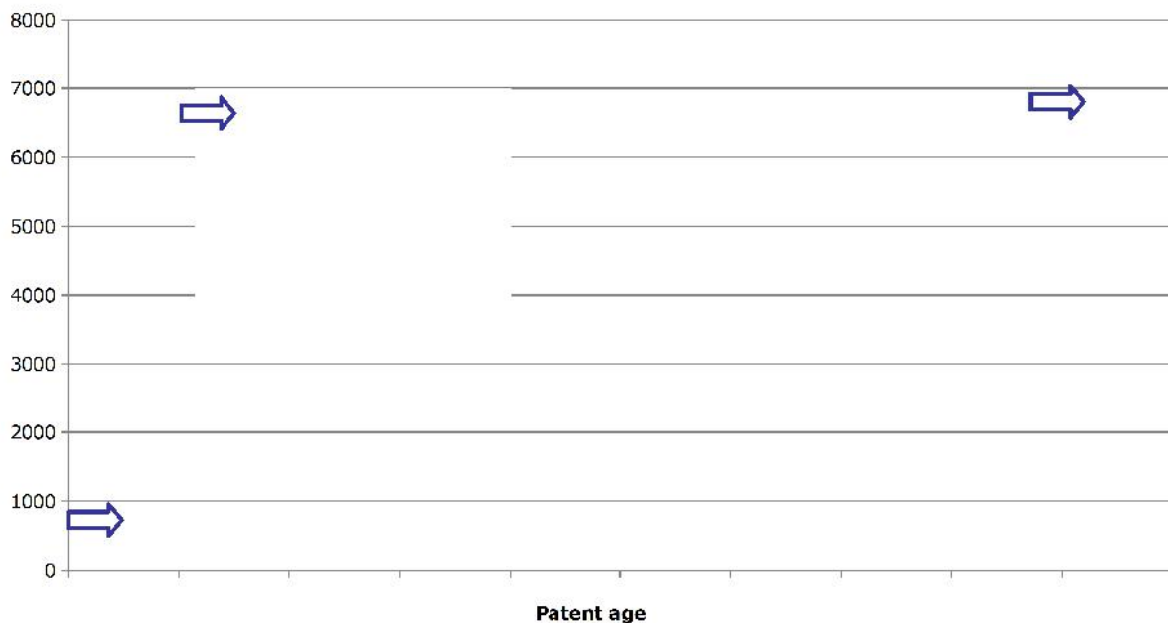


**1. Do not expect much from the new 'UP'
(a key first step, but only 'first')**

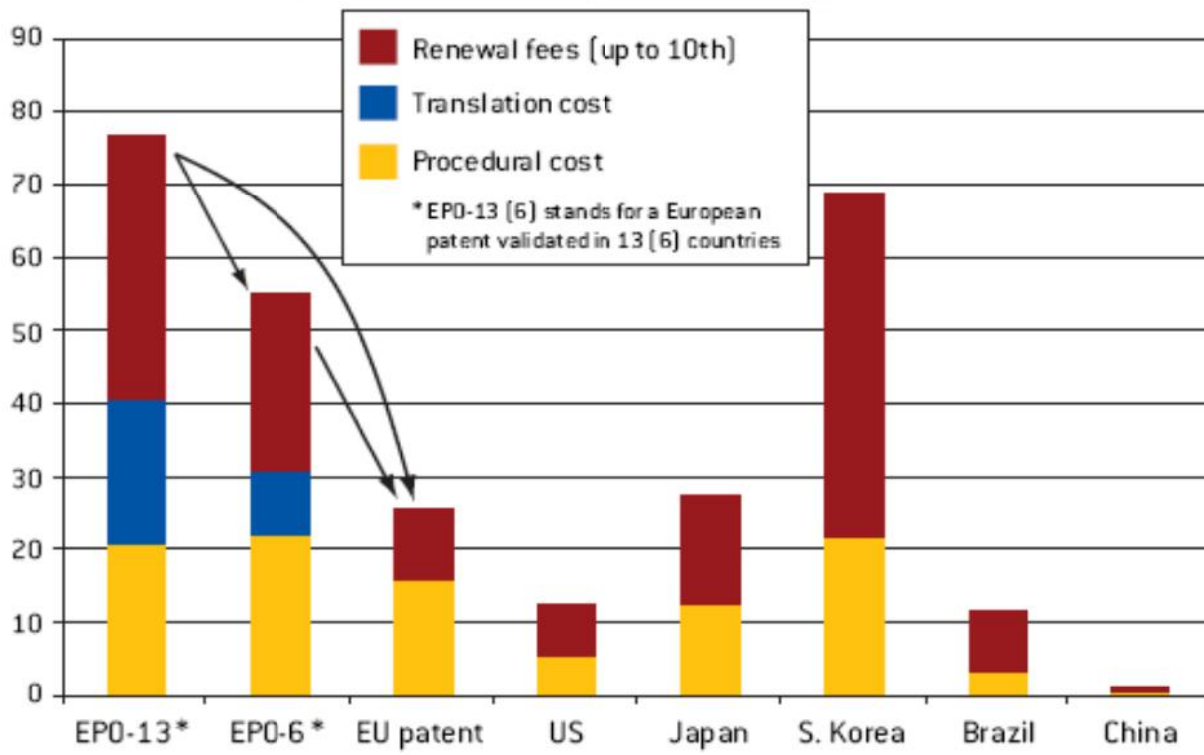


Select an 'acceptable' renewal fee structure??

VCOM(x) = sum of x countries
VCOM(200) = 600; 800; 1000; 1200



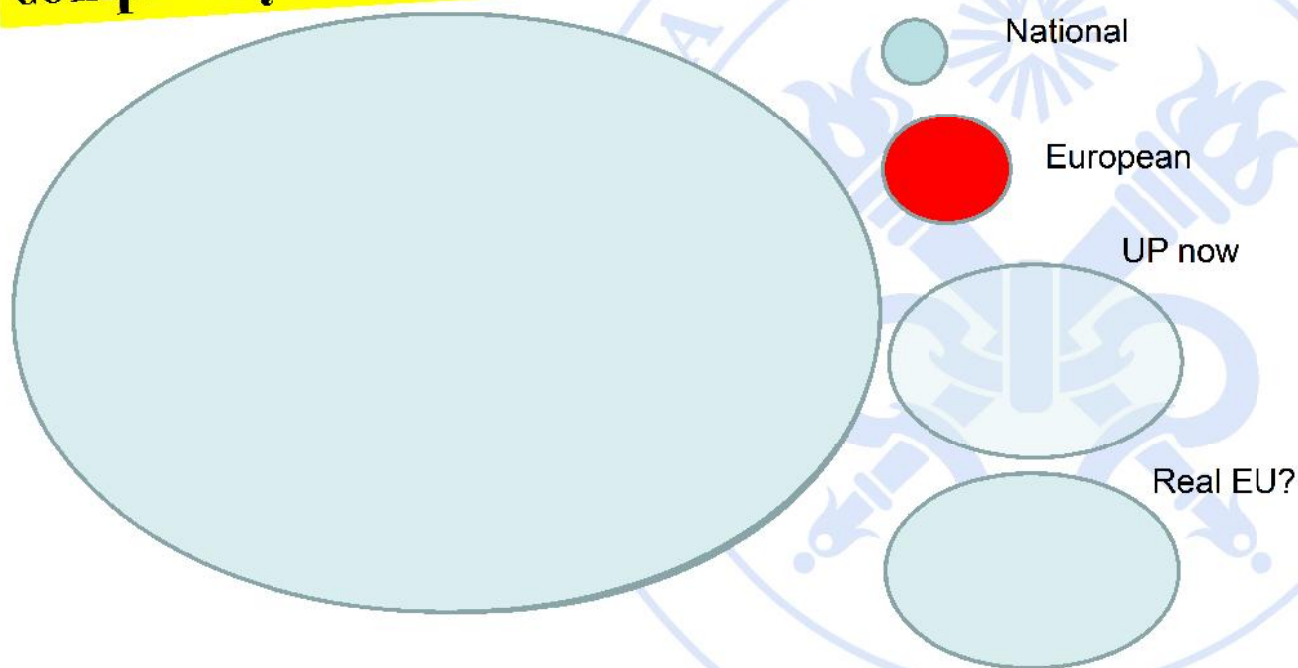
**Figure 3: Relative patent costs
[cumulated cost per million capita, €s]**



Source: Bruegel based on van Pottelsberghe and Mejer (2008) and Danguy and van Pottelsberghe (2009). Figures refer to 2008.

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Complexity: the UP adds a third layer...



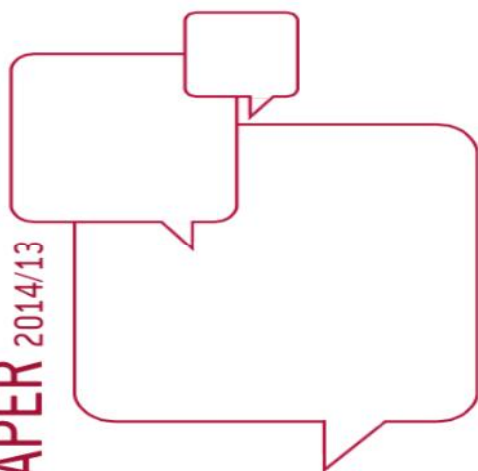
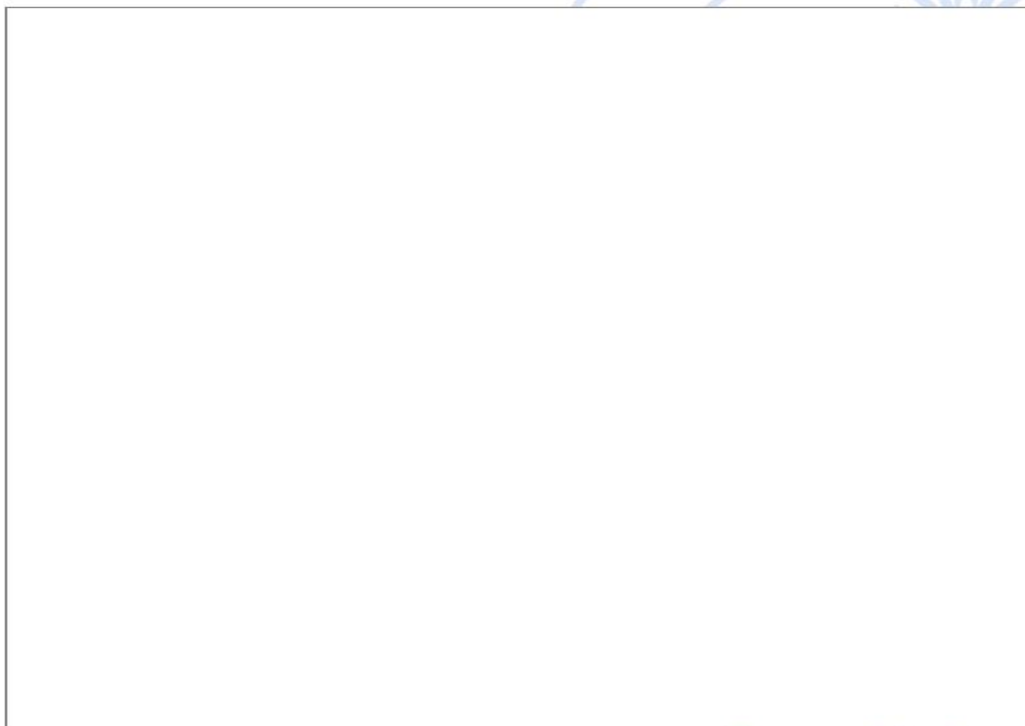
ULB Are we Fixing the SYSTEM?

- **Affordability (high absolute and relative costs):** 😊
- **Low quality:** NPOs grant patents independently of the EPO, inducing heterogeneous quality standards 😞
- **Complexity** 😞
- **Uncertainty:** parallel litigations with divergent outcomes 😊
- **Lack of coherence:** 'parallel imports' and 'time paradoxes', 😊
- **No coordination at EU level** 😞
- **Weakness in global negotiations:** PPHs 😊

UTP Who resists the UP (million Euro)?

- **Business sector: +236 = no but...**
- **National Patent offices: +78 = no but...**
 - Germany would loose
 - But would loose control....
- **EPO: +43 = no but...**
- **Attorneys & translators: -256 = yes**
- **Lawyers: -121 = yes**

**Resistance to change:
How to split the « 'NPO' revenue » ?
... Natural pressure for high renewal fees**



THE POLICY DILEMMA OF THE UNITARY PATENT

JÉRÔME DANGUY* AND BRUNO VAN POTTELSBERGHE DE LA
POTTERIE**

Highlights

- This paper provides new evidence about the budgetary consequences – for patent offices – of the coexistence of the forthcoming Unitary Patent (UP) with the current European Patent (EP). Simulation results illustrate a dilemma between (1) high UP renewal fees to ensure enough financial income for all national patent offices (NPOs) and (2) low UP renewal fees to make the UP system affordable, with very few NPOs losing on financial revenues. The simulations help to understand the positions of several patent offices, and underline an alternative way to proceed with the negotiations while reducing financial risks for the whole system.

JEL Classification: 034, 038, P14

Keywords: patent systems, unitary patent, patenting cost, renewal fees, maintenance rate.

- Université libre de Bruxelles (Solvay Brussels School of Economics and Management, ECARES and iCite). Email: jdanguy@ulb.ac.be

Are we 'really' looking at what European innovators need?

8 ULB The new deal will not (yet) bring further innovation... therefore let us get 'creative'

- **Suppress two of the three layers (National GRANTING of patents and European patents) must be considered**
- **Radically change the governance of the system (IMF?, EU)**
- **Need affordable UP renewal fees!! Rely instead on EP fees?**
- **If INNOVATION in Europe is the main issue, don't ask too much to current stakeholders, we need political courage**

Thank You For Your Attention



References: (cfr. also RePEc website)

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