## **Kluwer Patent Blog**

## UPC: Advocate General Bot, Philippe Cochet; the good, the bad and the ugly

Miquel Montañá (Clifford Chance) · Thursday, December 11th, 2014

As the readers will know, on 18 November 2014, Advocate General Yves Bot published his conclusions in cases C-146/13 and C-147/13, whereby he has proposed that the Court of Justice of the European Union ("CJEU") reject the nullity actions filed by the Kingdom of Spain against Regulation (EU) 1257/2012 (Enhanced cooperation) and 1260/2012 (Translation arrangements) of 17 December 2012. One of the legal grounds on which he based his conclusions in case C-147/13 is that, under European Union ("EU") law, no principle of equality of languages exists. If this is so, it is a matter of regret that the Advocate General's views on this principle did not reach his fellow French politicians who, by rejecting the "English-only" proposal put forward by the Spanish EU's presidency in 2010, which Germany was prepared to accept, forced two of the five countries (Spain and Italy; 40%, if my math is correct) normally designated in European patents, out of the joint project aimed at creating a truly European patent with a truly unitary effect.

To justify France's opposition against the "English-only" solution, on 1 March 2011, Philippe Cochet, former Mayor of Lyon and current member of the French National Assembly, gave the following explanation to the Committee of European Affairs of the French Parliament:

"The Commission had studied four options. The one that has been chosen – prosecution, grant and publication in one of the three working languages of the EPO, the claims being translated into the two other working languages – will reconcile simplicity and good efficacy/cost ratio, while responding to legal certainty imperatives and preserving linguistic diversity, in particular the use of French. The patent «everything-English» would obviously have been inacceptable for France."

Fair enough. But are we not applying a double standard here?

It is of course most respectful for France to be the only member of the EU that opposed the "English-only" solution proposed by Spain to unravel the linguistic *imbroglio*, and to have put the project at risk due to such opposition. However, taking into account the background of the discussions that led to the deadlock on the language regime, I am not sure he was judging things by the same standard when he sought to justify the stubborn opposition against the "English-only" solution to the need for "preserving linguistic diversity".

All in all, I leave to the readers to decide which role should be assigned to Germany, France and Spain in the repertoire of *The Good*, *the Bad and the Ugly*. The only thing that appears to be clear is that the role of *The Good* should go to Germany.

To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please subscribe here.

## Kluwer IP Law

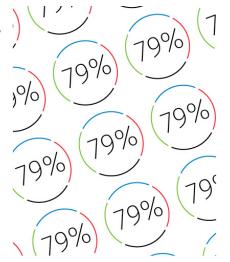
The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how Kluwer IP Law can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer



This entry was posted on Thursday, December 11th, 2014 at 12:45 pm and is filed under UPC You can follow any responses to this entry through the Comments (RSS) feed. Both comments and pings are currently closed.