

Kluwer Patent Blog

Translating the Unitary Patent II: High Quality is Far From Perfect

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Last week, we [reported](#) on the challenging endeavour to set up [Patent Translate](#), the machine translation system which is under joint development by the European Patent Organisation (EPO) and Google and which is a crucial element of the Unitary Patent (UP) package. Intellectual Property Office (IPO) officials from Hungary, Finland and the Czech Republic told Kluwer IP Law the current quality of the machine translations is ‘rather bad’, possibly even ‘useless’. They are confident the EPO is actively involved in resolving the translation issues, although Jorma Hanski, director of the Patents and Innovations Line of the [Finnish IPO](#), questioned whether the statistical machine translation engines, used for Patent Translate, will work for the Finnish language.

In this post, we ask ourselves: What are the consequences for doing business in a UP system that uses such a language system in countries where the knowledge of English (or French or German, the other two official UP languages) is poor?

[EU Regulation 1260/2012](#) provides for a transitional period of up to 12 years, which must be used to develop high quality machine translations into all official languages of the Union. In this transitional period, a description of a patent must be available in English and in the language of another UP member state. After this period, a patent description can be filed in English, German or French.

This is not going to help business in Finland, Hungary or the Czech Republic very much! It is precisely their relative lack of knowledge of English that is the problem, now that patents from all over the world can easily be validated in all UP Member States. As Csaba Baticz, deputy head of the Legal and International Department of the [Hungarian IPO](#) puts it: ‘Similarly to other Member States with rarely spoken languages, Hungary is concerned about the rapid increase of the number of foreign language patents that is to be expected after the UP system enters into operation. This may make conducting business more difficult for Hungarian enterprises, at least until the system of machine translations reaches reasonable quality.’

Furthermore, a Finnish or Czech company may infringe an English language patent without even knowing it, or without being able to check it in the EPO’s Patent database.

Some interesting remarks about the system of machine translations can be found in the 2012

[Deloitte report](#) ‘Analysis of prospective economic effects related to the implementation of the system of unitary patent protection in Poland’. The report induced Poland not to sign the UPC agreement.

Firstly – confirming Jorma Hanski’s concern – Deloitte writes that despite the EPO’s activities to ensure high quality, ‘it is not certain (...) whether the system will be able to provide the quality of translations at a level which is necessary to verify patent information after the transitional period.’

Deloitte also points out something that tends to be overlooked: the ‘high quality translations’ that the EPO is aiming for with Patent Translate are something else than perfect translations. ‘Automatic translation is aimed to assist a businessman when deciding whether a given passage of a patent documentation should be translated for the purposes of his business and whether it is worth investing in a professional translator.’

In its [Frequently Asked Questions](#) page on the Patent Translate service, the EPO is clear about this: ‘The machine translation should give you the gist of any patent or patent-related document, and help you to determine whether it is relevant. You might decide on this basis whether you need to invest in a human translation of the document.’

This constitutes a clear disadvantage for European businesses with little knowledge of UP official languages. Although under EU Regulation 1260/2012, the SMEs, natural persons, non-profit organisations, universities and public research organisations will be compensated for having to translate their patent applications in English, French or German, none of these groups or bigger companies will be compensated for having to translate UPs into their own language.

A small relief: in case of a court dispute, the patent proprietor will be required to submit a non-legally binding translation into the language of the state where the alleged infringer is domiciled or the alleged infringement took place.

What influence the issue of machine translations will have in the national debates on the UPC Agreement remains to be seen. In Finland, a decision on ratification is scheduled for the end of 2015. Jorma Hanski: ‘The translation issue and many other points are still wide open. It is too early to say anything specific about any potential effects on our decision before we know more about these issues, including the level of renewal fees, the distribution key, the procedural rules etc.’

‘Since only a small number of European patents are currently owned by Hungarian proprietors, they will not be among those who benefit the most from the system’, Csaba Baticz acknowledges. ‘However, through a comprehensive programme for raising patent awareness, stimulating innovation and patenting activities and training patent attorneys the anticipated disadvantages of the new system may be offset and the advantages thereof may be maximised.’ He expects the Hungarian ratification of the UPC Agreement for the second half of 2015.

(Despite several attempts, Kluwer IP Law wasn’t able to obtain any feedback from the EPO concerning the two articles on machine translations.)

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