

# EPO looks ahead to position Europe in a changing world

**The European Patent Forum showed that the EPO was prepared to think ahead and set the agenda. But if words are to turn into concrete action, the office must continue to look beyond the patent community**

The European Patent Office hits 30 this year and, as is traditional on a landmark birthday, seems to be looking to the future as well as celebrating past achievements. To this end it presented four Scenarios for the Future at the European Patent Forum, held in Munich in April. These not only examine

what might lie in store for intellectual property and how such developments might affect the office, but also question how Europe can best position itself to be a key player in the future IP and economic scene.

The project was started three years ago by outgoing EPO president Alain Pompidou. It involved over 150 interviews with stakeholders – ranging from big multinationals to SMEs, politicians, academics and social commentators (including the editor of *IAM*). The interviews formed the basis of four scenarios (see box) outlining directions that the world might take if the main drivers were business,

geopolitics, society and technology. Rather than predict the future, these scenarios are designed to stimulate debate about how IP regimes might evolve by 2025.

None of the scenarios is neutral, suggesting that all stakeholders will need to adapt rapidly and robustly in order to face a changing world. Although there is an element of fatalism common to all four, this is accompanied by a sense of optimism that if it acts now, Europe has an excellent opportunity to play an active, even pivotal, part in whatever happens next. Above all, the scenarios set out a clear and powerful message: the world is

changing; institutions such as the EPO need to change with it or they will be left behind.

The Patent Forum was certainly an impressive opening to the dialogue and demonstrated that the EPO is not afraid to take the difficult step of imagining the future. More importantly, it was able to bring together over 600 stakeholders, share with them the fruits of its speculations and then offer them an opportunity to debate the scenarios. Along with its examination and registration duties, this is exactly what the EPO is there for. It is difficult to imagine

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## The EPO's Scenarios for the Future

### Market rules

This scenario follows the most common assumption about the future of intellectual property: business is the dominant driver resulting in an IP system so successful that it is in danger of collapsing under its own weight. Patent protection is extended to new forms of subject matter, including services; multinationals with immense portfolios call the shots and patents are used as financial tools in an increasingly litigious world. The scenario questions whether the system could become overloaded, and whether it can balance protection and increasing competition.

### Whose game?

This snapshot focuses on a world shaped primarily by geopolitical forces and looks at what part intellectual property might continue to play. It examines the possibility of a widening gulf between developed and developing countries, and shows how intellectual property might become a tool of national competitiveness. In exploring a world dominated by growing regionalism, the scenario demonstrates how knowledge economies could lose control of that knowledge and posit the development of IP trading blocs.

### Tree of knowledge

This sketch explores the

engagement of the IP system with ethical and moral issues. It examines how excessive IP legislation could prompt small, local groups across the world to join forces and fight for greater access to knowledge. In this scenario patents are largely abolished by 2025 as too slow, unwieldy and open to abuse by patent trolls; copyright is also reformed and remaining IP rights work on a model closer to the current open source system. However, the scenario also explores how the absence of profit motivation could reduce innovation, especially in the field of biotechnology, and shows how research could become politically driven.

### Blue skies

The final scenario shows how the urgent need to address climate change could lead to a softening of IP rules. As systems become more complex there is a corresponding need to share technological solutions. A two-tier system emerges as 'soft' patents are developed for climate-change technology, while industries such as pharmaceuticals fight tooth and nail to keep traditional 'hard' protection for their inventions. The main question becomes whether the existing system can adapt to the changing nature and pace of technology.

another European institution that could have provided a more inclusive and stimulating forum.

However, despite this forward-facing optimism, it is not at all clear what the next step will be.

The President-elect of the EPO, Alison Brimelow, told the Forum that there would, of course, be a follow-up to the scenarios, joking that the EPO did not invest in such an exercise and then shred the results. "We know these problems will not go away," she said. "If we want another 30 years of success we have to be part of writing the future."

This is a laudable sentiment, but perhaps a little vague. The fact that Chancellor Angela Merkel was on hand to deliver the keynote speech was a fillip for the importance of intellectual

property to the future of Europe. However, despite the feel-good factor there was no clear sense about what we can expect to see happen next in terms of concrete steps.

Intellectual property is a fast-moving area and 2025 is not that far away. Yet Europe still lacks a common patent litigation agreement, let alone a Community patent (despite a confident assertion by Günter Verheugen, vice president of the DG responsible for enterprise, that we would see one within five years – does he know something Internal Market Commissioner Charlie McCreevy, the man tasked with the thankless job of trying to build a European patent strategy, doesn't?).

While the EPO has little

control over these problems, Europe's collective failure to find a common position on such crucial issues suggests that it still has a way to go before it can match its lofty ambitions to build the world's number one knowledge economy with concrete results. The Patent Forum was a great opportunity to bring like-minded people together, to open debates and get stakeholders to consider different ways that the future might pan out. But if the EPO wants to meet its commitment to facing the future it will need to do more than preach to the choir. If it wants governments and policy makers to consider its scenarios and take the steps necessary to put Europe in the best possible position to play a key part in that future, the EPO

will have to take its message beyond IP experts. This is something that Pompidou has been willing to do during his time at the office; will Brimelow, who succeeds him at the end of June, do the same? It is not yet clear.

Of course, setting policy is not the EPO's role; as the executive arm of the European Patent Organisation, its main job is to examine applications and to grant European patents. But there is a sense that with these scenarios it is trying to set the agenda, to carve out a place for itself as a leader rather than a mere jobsworth. This is a laudable ambition, but to realise it the EPO is going to need some heavyweight friends. Despite the impressive

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## IP Hall of Fame 2007

Nominations are now being accepted for potential 2007 inductees into the IP Hall of Fame. All nominations will be considered by the IP Hall of Fame Academy, which will make the final decision on who should be inducted.

Developed by *IAM* magazine, the IP Hall of Fame honours individuals from business, politics, finance, the law, academia and elsewhere who have played a major role in making today's IP system a vital driver of global economic and social growth. The first inductees were announced in 2006.

To make a nomination or to learn more about the IP Hall of Fame and the Academy, please visit:

[www.iphalloffame.com](http://www.iphalloffame.com)