

The Patent Application: A Comparison between Europe and the U.S.
Research project

Investigator:

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Abstract:

Research and development are key elements of a competitive and dynamic knowledge-based economy. Patents, in particular, are a driving force for promoting innovation and growth. At the 2007 Summit in Washington, the EU and U.S. emphasized their joint goal to strengthen the transatlantic economic partnership including a strong focus on Intellectual Property Rights. Transatlantic trade barriers and unnecessary differences between the regulatory systems of the U.S. and Europe shall be eliminated or at least reduced.

While there is a uniform patent law system in the U.S., European patent law is based on the European Patent Convention (EPC), an international treaty, which is not part of EU law. Currently, only the patent application procedure is harmonized by the EPC. Successful applicants are granted a bundle of national patents under the EPC. The EU considers to introduce a European Community Patent system, which would allow it to grant a single patent valid throughout the EU. Political quarrels, especially regarding the language question, prevented the EU in introducing the Community Patent so far. On the other hand, the European Community Trade Mark was a real success story and could be seen as a general reference of how attractive a Community Patent might be for enterprises.

In this comparative research, the differences and similarities regarding the patent application system in Europe and the U.S. are analysed and discussed in detail as well as their relevance for the transatlantic marketplace and for possible joint transatlantic approaches. This research covers issues such as the patentable subject matter, the utility requirement, the disclosure requirement, the inventor's rights, the priority right and the appeal system.

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