

National Patent Filings vs. EP Patent Application A Comparison of Filing Strategies



November 2017

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Advantages and disadvantages of EP patents

Starting point

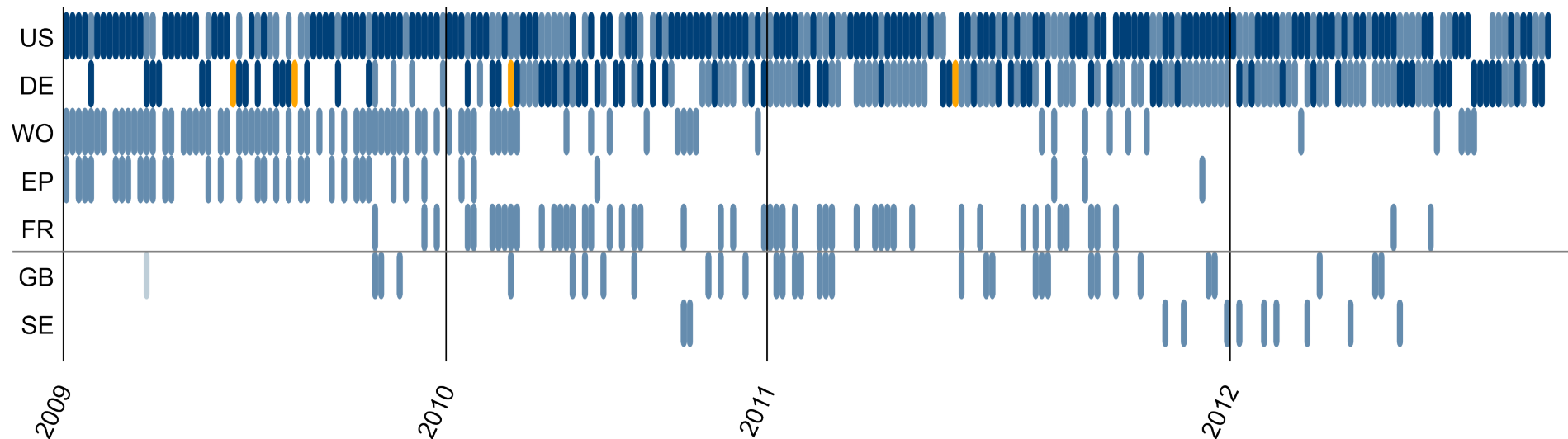
After almost 40 years of operation of the EPO, the proceedings are well-known to applicants. Over the last decade, many applicants perceive the EPO as overly formalistic.

There are applicants which have changed their filing strategy: instead of using the EPO when patent protection in EP countries is needed, national applications are more often being used.

The next slide shows an example of a large company which has changed the filing strategy from using the EPO to national filings (in particular in Germany, France, Great Britain (and in some cases Sweden)).

Summary

Filing strategies have changed over the last years



First filing: dark blue if patent, orange if utility model

Counterpart filing: light blue

➡ Change to national filings in 2010

Advantages of EPO proceedings

Foreseable procedure with detailed Guidelines for Examination

Examination proceedings in English language

Falls apart into independent national parts which have to be attacked separately, once the opposition term has expired or opposition proceedings have been terminated

Disadvantages of EPO proceedings

Search fee and examination fee quite high

Strict requirement regarding unity of invention

High costs for divisional patents

Examination proceedings often focus on formal issues (see separate slides)

Sometimes very long examination proceedings (see separate slide)

Strict approach regarding original disclosure (see separate slides)

High claims fees (see separate slide)

Translation costs if patent to be validated outside London Agreement

Identical scope of protection for all EP countries, making design-around easy