



DANISH PATENT AND TRADEMARK OFFICE

Perspectives

Status and Perspectives



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What is the point?

Danish enterprises are getting much better at safeguarding their intellectual capital. Twenty years ago, we were lagging behind almost all other EU countries. Today, Denmark ranks number 6 in Europe when it comes to patent applications per inhabitant, and the enterprises are among the most industrious in Europe in respect of protecting trademarks and designs.

The results could not fail to appear. Today, IPR-active enterprises make up more than one third of the urban trade turnover and employment; and almost half of exports.

If this positive development is to continue, Danish efforts must focus on three areas in particular:

First of all, more Danish enterprises must get better at using the IPR system – especially by using their IP rights strategically. And not only by protecting their knowledge but also by actively trading in rights commercially.

Secondly, Denmark must shoulder its part of the responsibility to make the global IPR system more efficient. Already today, many enterprises are affected by long case processing, heavy costs and varying quality in the international systems. And all the signs indicate that there will be an even larger caseload in the future.

Finally, Denmark must contribute in the political arena to making the global IPR system more coherent, for both patents and trademarks. The more uniform rules and quality standards are, the better are the conditions for a fair international competition; benefiting both the consumer and the innovative enterprise.

In recent years, the Danish Patent and Trademark Office has been working within all three areas. We facilitate the enterprises' use of their intellectual capital, e.g. by offering a first examination of their applications that can compete with the best international offers as regards time and quality. Also, on behalf of Denmark, we participate in political negotiations and in the practical cooperation on making the IPR systems more efficient and coherent.

The efforts reflect that the Danish Patent and Trademark Office plays a very different role today than it did when it was primarily an authority with a monopoly on processing applications and rights. Today, the Office is a service provider in competition with other international players. This makes sure that we are on our toes at all times and maintain a clear focus on the users' needs.

Starting from 2006, this publication takes professional stock of some of the more important trends in the field of IPR. We try to assess what the new challenges will mean for Danish enterprises and we explain what we do to handle the challenges. Hopefully, reading the publication may inspire more enterprises to follow our motto: Turning ideas into assets.

That's the point of it all.

Jesper Kongstad
Director General

A Danish vision for Europe's patent system

In the future, the EPO and the national patent offices should each attend to what must be their most logical function in a European patent system. The national offices shall be the entry to the system in the immediate proximity of the user and shall deliver a quick first examination of high quality. The role of the EPO shall be to perform the final patent processing. A general agreement of this new vision has been obtained – to the benefit of the innovative enterprises.

The patent system in Europe is special in that the European Patent Office (EPO) and the national patent offices operate in parallel. This has, since the system was established 30 years ago, given rise to numerous discussions concerning the degree to which a stronger centralization of the processing of patent applications would be practical.

However, a broad consensus on a new vision for the European system is now settling among the member states of the EPO, a vision that bridges many of the disagreements between centralists and decentralists.

The basic idea of the vision is a new division of work where the EPO functions as the back office of the system while the national offices constitute EPO's front office:

- As its core area, the **EPO** shall process the steadily increasing number of patent cases in the regional phase.
- The **national offices** shall be the enterprises' entry to the patent system. Through the national offices they will receive the first important examination of their applications. And the national offices will, based on their strong knowledge of the enterprises' national context and specific conditions, be able to guide the enterprises on how to proceed with their applications.

- We shall make use of the advantages of combining a strong central EPO with the national offices' proximity to the users. In this way, the enterprises get the best of both worlds. We have to a large extent succeeded in convincing the other member states of this vision, says Jesper Kongstad, Director General of the Danish Patent and Trademark Office. On behalf of Denmark he has been one of the promoters of the so-called "strategic discussions" in which there was an important breakthrough in 2006.

A QUICK RESULT IS ESSENTIAL

An important part of the vision is that the national offices deliver the first search and preliminary examination report, which is crucial to a number of the applicant's decisions early in the patenting process. Is there a basis for protection at all? If affirmative, what patent strategy should be chosen? How can the product be positioned in the market in relation to the competitors' products? etc.

- This examination should be performed very quickly and close to the user. The DKPTO's goal is therefore that 95% of all applicants receive their first examination within 7.5 months. And we are now processing the applications in accordance with the current European procedure in order to render it possible for the applications to be entered into the regional phase in the EPO immediately, Jesper Kongstad explains.

A MORE COHERENT SYSTEM

Especially the elimination of the duplication of work will be one of the important elements in the reorganization to come. A working group under the EPO's council seeks to find procedures to promote the reutilisation of some of the products made by the patent authorities. This could



reduce the processing times within EPO's patent office, among other things.

Another group is working on the establishment of a Pan-European quality assurance system, which is expected to be approved in 2007. The goal is first and foremost to create a more uniform patent practice in Europe.

Finally, a third group is working on the establishment of a network between the European patent authorities: European Patent Network (EPN). Within that framework, the countries can work together to develop a stronger and more coherent patent system in Europe, e.g. comprising uniform technologies, IT systems, structures, etc.

- The fact that Denmark is the only country with a seat in all three working groups illustrates our central role in the reform process. And reflects again that we consider an efficient European patent system of crucial importance for Denmark's future as a leading knowledge and entrepreneur society in an open global economy, says Jesper Kongstad.

UNANIMOUS SURRENDER OF SOVEREIGNTY

Denmark's continued active participation in the European patent cooperation was ensured when the Folketing (the Danish Parliament) on 2 June 2006 unanimously adopted an amendment to the Danish Patents Act. Denmark could thus ratify the amendment to the European Patent Convention which will enter into force in December 2007.

The amendment to the Act was supported by all the parties of the Folketing. The most important amendment was that proprietors of a European patent were given the possibility of requesting the EPO to effect a central limitation of the patent, instead of being obliged to make this request in all the countries in which the patent is valid as has been the case until now.

This practical improvement was, however, considered a formal surrender of Danish sovereignty, and should as such comply with the relevant rules of the Danish constitution. This means that 5/6 of the members of the Folketing shall vote in favour of the question or that the question shall be adopted through a referendum, a procedure which has only been applied a handful of times since Denmark joined the EC in 1972.

Nobody can live with varying quality

For enterprises, the results from the first examination of a patent application will often influence those early decisions which decide the fate of the product. Therefore, the demands on the liability of the authorities' examination are sky-high. The struggle for even more objective examinations can only be won through systematic high-quality work.

- Being responsible for the processing of patent applications is like running towards a goal you can never reach: To deliver the 100% safe, objective examination to the enterprise every single time no matter which persons have processed the application. We cannot give that kind of guarantee and neither can any other patent authority.

With this fact acknowledged, Ms Marianne Rachlitz, Head of one of the Patent Departments, puts forward her account of how she and her colleagues in the patent department strive to obtain the most uniform and best possible quality in the many incoming cases handled by the 85 examiners.

The driving force for Ms Marianne Rachlitz in this work to pursue quality is the awareness of how important the search and examination result is to the enterprises:

- They use the first examination and our other IP products as a basis for making a series of decisions that are very important in the early phases of the innovation. This applies first and foremost to the issue of novelty and inventive step and to the issue of which parts of their knowledge are protectable. If we cannot reduce the uncertainty in the first examination to a very low level, we cannot guarantee that the Danish enterprises will get the right basis for making decisions, she says.

A NEW QUALITY CULTURE

Ms Marianne Rachlitz recognizes that the Danish Patent and Trademark Office has not always provided services at the uniform, high quality level that the customers receive today, and also expect to receive. But she emphasizes that a strong quality culture has been established and exists in the Office today. This means that both the internal processes of the case processing and the final products received by the customers are systematically assessed, checked and improved.

In practice this means that the DKPTO, e.g.:

- has changed the practice of case processing so that all applications are processed according to the international EPO guidelines
- translates the requirements of the law into established procedures and guidelines for all employees to follow
- has organized the work in teams so that no report leaves the Office until at least two employees have gone through it
- carries out spot checks where some of the most experienced patent experts check the quality of the work of their colleagues
- systematically follows up on the deficiencies that are found after all, for instance by investigating whether an uneven quality is due to specific procedures, persons or lack of the right competencies
- is incessantly working on keeping up the knowledge of the organisation
- focuses keenly on quality when new employees are trained.

HARMONIZATION DOES NOT COME SPONTANEOUSLY

That the efforts bear fruit is, according to Ms Marianne Rachlitz, being confirmed e.g. when the Office benchmarks against patent authorities of other countries or performs work for them. This applies e.g. to a long term cooperation with the UK Patent Office who have also introduced a systematic system to ensure the quality.

- Today the UKPTO recognizes that we provide products that fully live up to their high quality requirements. Our examinations etc. can therefore pass directly into the English patent processing system on a par with their own examinations. And when they perform random spot checks they cannot see a difference in quality between our work and their own, says Ms Marianne Rachlitz.

She emphasizes that this harmonization of the quality did not come spontaneously, but through dialogue, cooperation, controls and training across the North Sea. And this is also the way to go if the quality within the entire European patent system is to be lifted.

Therefore, the Danish Patent and Trademark Office has chosen to play a very active role in the project called "The European Quality System", which has drawn up a number of common minimum standards for all of Europe's patent authorities.

NPI: Easier Danish access to efficient case processing

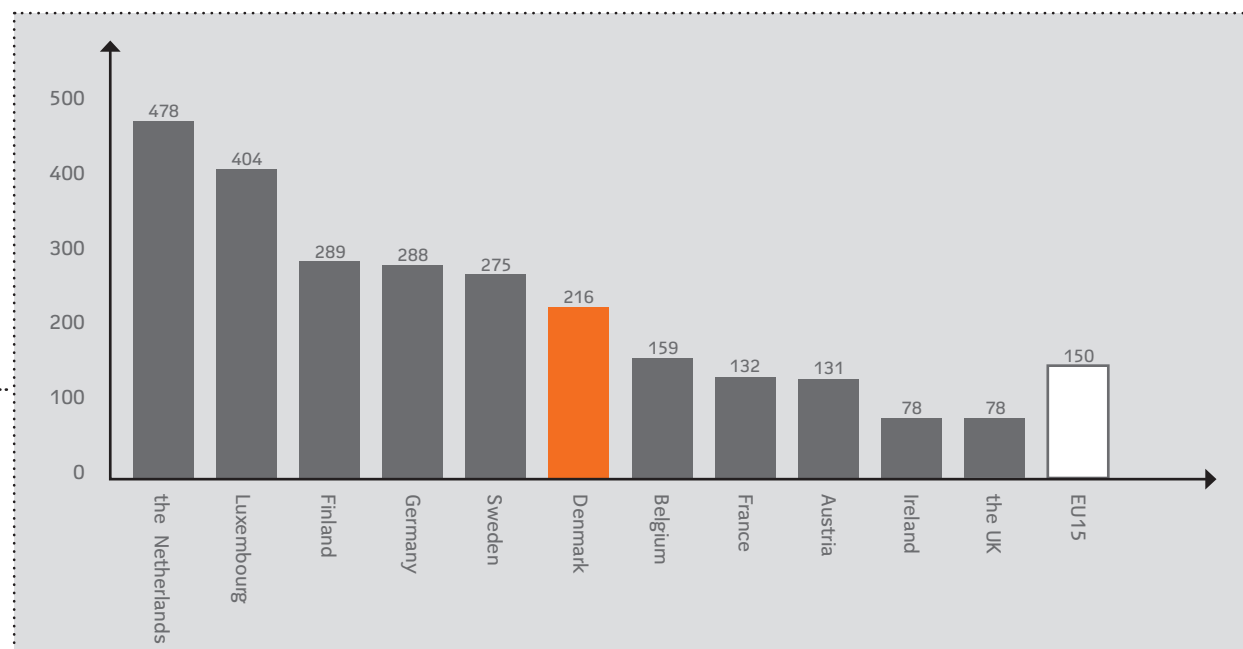
The Nordic Patent Institute (NPI) shall support a promising development in the international IPR activity of the Danish business sector. While bottlenecks are threatening the PCT system globally, the enterprises can get a competitive first examination of their patent applications within 7.5 months from the NPI. The new PCT authority will be operative in Taastrup, Denmark in 2008.

Among the EU15 countries, Denmark is today only surpassed by the Netherlands, Luxembourg, Finland, Germany and Sweden with respect to patent intensity, i.e. how many European patent applications are filed relative to the number of inhabitants. ■.....

The story behind this remarkable 6th place is that Danish industry over the past twenty years has seriously changed its way of using the patent system, and during the same period of time, it has advanced from a clear last place in the EU within this area. Danish enterprises used to produce in particular products developed by others or more standardized products. Today, they predominantly produce unique products either based on their own development or on in-licensed technology.

The development is clear from the financial statistics. Within industry and services, the enterprises active within IPR represent 34% of the turnover, 35% of the employment and 45% of the exports, even though they, in number, represent only 3% of the enterprises.

EUROPEAN PATENT APPLICATIONS PER MILLION INHABITANTS



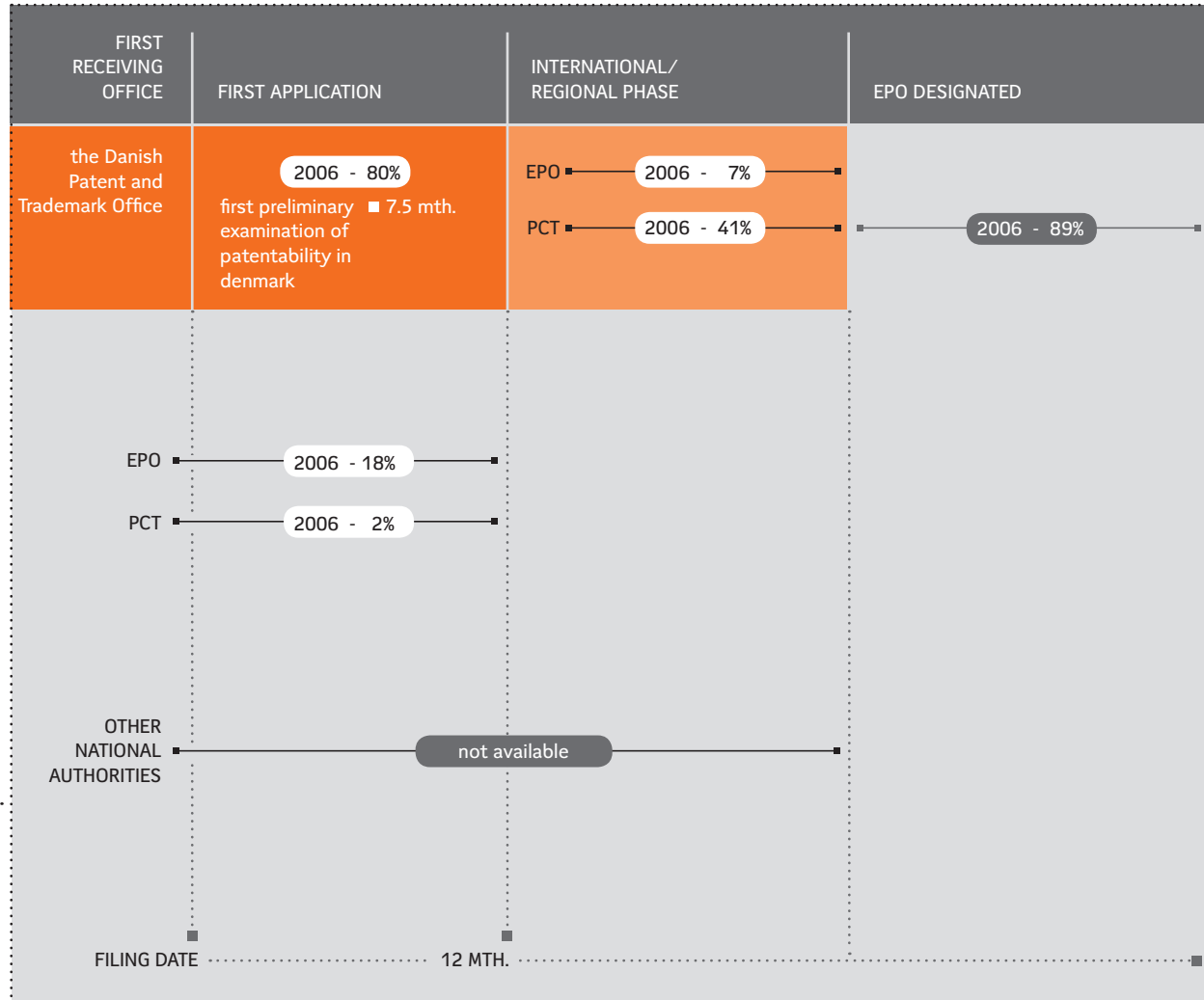
Source: The Danish Patent and Trademark Office

For Denmark to advance further in the EU league table, the enterprises must remain confident that the relevant authorities process their patent applications both thoroughly and quickly. And in this respect the patent statistics show that many Danish enterprises depend on a good national offer. Because they largely use a two-stage rocket when they apply for patents.

Unlike in almost all other EU15 countries, the number of European patent applications per Dane does not increase at the expense of the national applications. ■.....

This proves that Danish enterprises very much use the Danish patent system to get the first preliminary examination of their applications before setting out in the world, where they, to a large extent, avail themselves of the PCT system.

BREAKDOWN OF DANISH APPLICATIONS TO DIFFERENT AUTHORITIES



Source: The Danish Patent and Trademark Office.

Danish applicants increasingly utilize the international possibilities of the patent system, and still more national applications are converted directly into regional European or international applications.

By far the majority of applicants, however, use the Danish Patent and Trademark Office as an entry to the patent system.

The search and examination performed by the Danish Patent and Trade Office constitutes a qualified basis for the applicants' decisions on whether they want to invest a larger amount in entering their application into either the regional phase (EPO) or the international phase (PCT).

Almost half of the national patent applications filed with the Danish Patent and Trademark are entered into the international phase (PCT). Of these international applications, two third are entered into the regional phase in the European system.

A steadily increasing number of Danish applicants file their applications directly with the European patent authority.

Finally, Danish applicants file an increasing number of applications with other authorities, e.g. in the US and in England. This may be due to both the geographical placement of the enterprises and their strategic deliberations.



BOTTLENECKS IN THE PATENT SYSTEM

The PCT system especially is facing a serious challenge in the years to come. Globally, the system is affected by a considerable and increasing imbalance between supply and demand with respect to the capacity to process patent applications. Already today, not more than two out of three examinations are published with a search report. In short, there are too few examiners, which leads to even narrower bottlenecks in almost all the large patent offices.

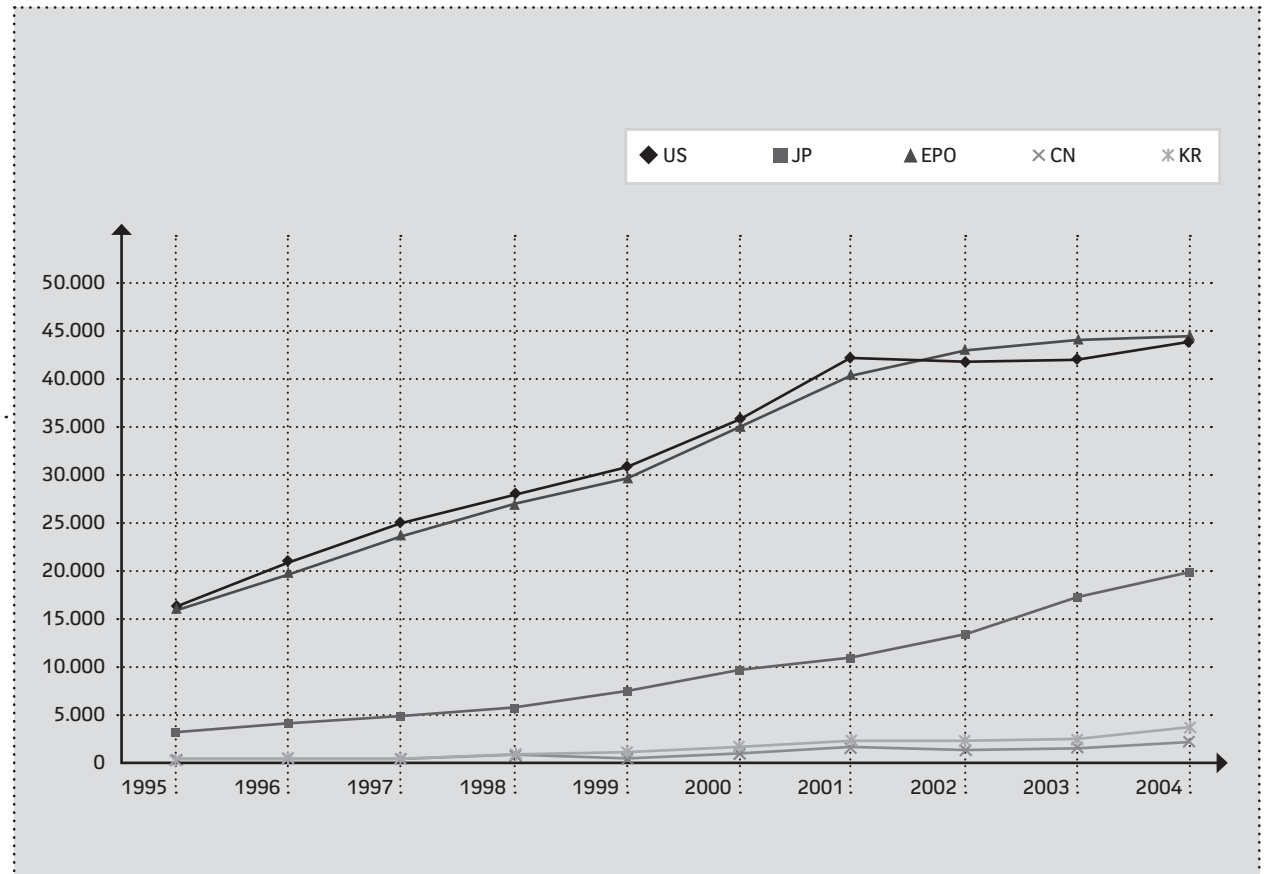
A situation which will, unfortunately, only become worse when the Southeast Asian countries seriously start replacing their national protections with global ones. This development is already gathering speed. ■

COMPETITIVE ADVANTAGE FOR DENMARK

The need for attractive offers to Danish enterprises, and the prospects of capacity problems in the international system, defines the background for establishing the Nordic Patent Institute (NPI). NPI is to offer an international patent product to enterprises in Denmark, Norway and Iceland, and thus ensure that they can proceed quickly from the national to the regional phase and apply for the final patents internationally.

As from 1 January 2008, the NPI will be offering a PCT search and examination, which will be subject to a systematic quality assurance with at least the same quality goals as offered by other PCT authorities.

PCT APPLICATIONS PER COUNTRY OF ORIGIN



Source: Performance and Accountability Report for Fiscal Year 2005 USPTO. JPO Annual Report 2004 and website. CA/14/06 Synoptic table of kwy EPO statistics, EPO. SIPO Annual Report 2001 & 2004. WIPO.

Also, it is a goal of NPI to offer a quick and flexible custom-fit processing. For example the NPI will guarantee that 95% of all cases will be published with a search report. This means that PCT applications with priority from e.g. a national Danish application will be processed within 4 months, i.e. before the 16-months day.

In the case of PCT applications filed directly without priority, the applicant will in 95% of the cases get the first search and examination within 7.5 months, as is also the case for national applications.

For many Danish enterprises this possibility will constitute an interesting alternative to filing their PCT applications in Sweden or directly with the EPO. Easy access to a locally based offer at international level will thus give enterprises in the three NPI countries a competitive advantage compared to enterprises in countries where the patent authorities are not able to meet the market's demands for both quality and speed.

Viewed in this light, the Danish Government's declared goal to have Denmark moved one place further up in the European patent league table definitely seems within reach.

NORDIC PATENT INSTITUTE READY IN 2008

Two decisive breakthroughs in 2006 paved the way for the realisation of a close Nordic cooperation within the field of patents.

- On 5 July Denmark, Norway and Iceland signed an agreement to establish the Nordic Patent Institute (NPI)
- On 28 September NPI was, at the general meeting in the PCT Union, approved as a PCT authority. That is to say an international searching and preliminary examining authority.

An important purpose of NPI is to be able to offer to all the users in the three countries a highly qualified local entry to the patent system. Through the first case processing at the Danish Patent and Trademark Office, Danish users will now have direct access to three patent systems:

- A national patent application with the intention to enter the national phase
- An international patent application, either filed directly or based on an initial national patent application
- A European patent application based on a national patent application.

According to plan, NPI will be operational as a PCT authority as from 1 January 2008. But already now the NPI countries are working closely together and with the other PCT authorities on a harmonization of the patent practice and on improving the quality of the case processing within the PCT system.

The headquarters of the new institute will be situated in Taastrup. It will be placed in connection with, but will be legally independent of, the Danish Patent and Trademark Office.



Big advantages to global patent harmonization

Innovative Danish enterprises are affected by considerable differences in the patent rules in the large global markets. For more than 20 years attempts have been made to reach an agreement to harmonize the rules, and this agreement is now within reach; with Denmark sitting at the head of the table.

Enterprises active within IPR generate more than 34% of the value creation that takes place in Danish enterprises. And to an open and export-orientated economy like the Danish one, it is particularly important that the practical and financial barriers to market innovative products abroad are as low as possible.

However, the rules for patenting are different on the large Danish export markets, such as the EU, Japan and the US. And this makes it expensive and difficult for Danish enterprises to focus on marketing patent-relevant products globally. It involves considerable costs and administrative burdens to obtain patent protection in many countries.

Therefore, Danish enterprises have often expressed a desire for a harmonization of the global patent rules, and in 2005 the Danish Board of Technology recommended that a more uniform global patent system be established.

On this background, Denmark has again set out to promote an international harmonization of the substantive part of the patent legislation. The harmonization is not

a question of establishing more far-reaching rules for patent protection, but of making the existing patent rules more uniform.

20 YEARS OF ATTEMPTS

The discussions for an international harmonization of the substantive patent rules were initiated as early as 1985 on the initiative of a number of European countries in the World Intellectual Property Organization (WIPO). In the early 1990's, however, the discussions were discontinued due to differences of opinion among the industrialised countries.

Subsequently, WIPO took up the less controversial issue of the harmonization of the patent procedures. Only when this process was concluded with the adoption of the Patent Law Treaty in 2000, was focus again turned to the harmonization of the substantive part of the patent legislation. However, little practical progress was made in WIPO, especially as a result of a new conflict originating from the interests of the developing countries.

DENMARK IS TAKING RESPONSIBILITY

In 2005, a number of industrialised countries decided to discuss the harmonization of the substantive parts of the patent legislation. They formed the independent "Group B+", which in addition to the "Group B"-countries of the UN system consisted of a number of other members of the European Patent Organisation and/or the EU, and therefore it is called "B+". Although a lot of countries agreed to participate in the B+ procedure, the develop-

ment towards a common position seemed to come to a standstill.

Denmark has a particular tradition of dialogue and consensus-based solutions and as a small country it also has a good possibility of functioning as a mediator between the central players in the process. On this background, and because the harmonization is so important for the users of the patent system, the Danish Patent and Trademark Office accepted a request to take over the chairmanship of Group B+.

BREAKTHROUGH IN SIGHT

Ms Anne Rejnhold Jørgensen, Director of the Office's International Affairs became the chair of the group, and a temporary breakthrough was achieved in Geneva in September 2006 in the discussions on modernising and harmonizing the essential conditions for obtaining patents all over the world.

The work has thus already been successful and the Danish Patent and Trademark Office expects that a final agreement can be reached in 2007 about the basis for the further negotiations of harmonization within the auspices of WIPO.

In the light of the long and difficult previous history of the harmonization, such a result will be a significant event within the international patent world.



Decorative Art in the foyer by Ruth Campau

Important to strengthen IPR efforts of new EU countries

In many countries the authorities have the will but lack the experience to establish an IPR culture with efficient protection and enforcement. A comprehensive EU-project has in 2006 supported the Polish Patent Office, border guard and police, customs and Ministry of Culture, and has thus also benefited Danish rightholders. Also Danish authorities have achieved important side benefits by participating in the common project.

It is of clear interest to Denmark and Danish enterprises that the other countries' authorities are capable of working with IPR at a high level. Danish authorities have in recent years been strongly engaged in knowledge and capacity building in e.g. the Polish IPR system.

- Poland has EU's longest border to the east and the struggle against counterfeit products must be won here. We have a strong mutual interest in stemming the problem, says Mr Jørli Bak-Hansen, Expert in Customs Task Force Counterfeit, the Central Customs and Tax Administration (SKAT).

The Central Customs and Tax Administration (SKAT) is one of four Danish institutions offering knowledge and manpower to a biennial EU-project with the aim of strengthening the protection and enforcement of IPR in the country of our large southern neighbour.

- To achieve such a strengthening requires that the competencies of all the IPR-related authorities are improved simultaneously and their efforts coordinated. Therefore,

such initiatives should always be carried out as cross-cutting projects, so that the knowledge, tasks and responsibilities of the involved parties are combined, says Mr Michael Poulsen, who has coordinated the entire project in Poland on behalf of the Danish Patent and Trademark Office.

SHORT-TERM EXPERIENCE WITH MARKET ECONOMY

Together with the Polish Patent Office (PPO), the Office will hold 15 seminars directed towards the private business sector, patent agents and research institutions. The seminars are a kind of 2-day foundation course where the participants will be introduced to patents, trademarks, industrial designs, etc. In addition to the seminars, the Danish and Polish patents offices will jointly host two conferences on patents and trademarks/designs, respectively.

- The Poles only have 20 years of experience with market economy. Many of the IPR topics are completely new for especially the Polish small- and medium-sized enterprises. And even though the patent processing of the Polish authorities is technically at a high professional level, they are not as used to thinking in terms of commercialization, i.e. what private enterprises will gain from protecting their rights, says Mr Michael Poulsen.

STRENGTHENS NETWORK BETWEEN AUTHORITIES

An important side benefit in connection with the cooperation in Poland is that it strengthens personal relations between the involved authorities. The Danish authorities have established valuable liaisons with their



Polish colleagues. This facilitates the future dialogue between the countries, and often makes it possible to solve problems at an informal level. Also, there is a closer working knowledge and cooperation between the IPR-active authorities in Denmark.

- For instance, in the field of IPR, the dialogue and cooperation between the Central Customs and Tax Administration (SKAT) and the Danish Patent and Trademark Office have improved through the project. All key persons know each other personally now. The dialogue has become much clearer and the exchange of information has improved between the two authorities, says Mr Michael Poulsen. In 2006, the two parties entered into a general cooperation agreement in the field of IPR.

Mr Jørli Bak-Hansen emphasizes that at both institutional and personal level, cooperation and coordination are particularly important when taking on these kind of projects.

The future holds fine possibilities for demonstrating the improved dialogue and cooperation as the two Danish authorities are jointly involved in similar projects in countries like Romania, Turkey and new projects are under consideration, of which several are in Asia.

TRAINING WORTH DKK 13 MILLION

The Danish Patent and Trademark Office is the project coordinator (lead partner) of a biennial EU-project aimed at strengthening the capacity in the four units of the Polish central administration concerned with IPR: the Ministry of Finance/Customs, the Polish Patent Office (PPO), Border Guard and Police and the Ministry of Culture. Customs is the Polish lead partner of the project.

On the Danish side, the project is cross-ministerial and the participants are the same. Besides the Danish Patent and Trademark Office, the Danish Police, the Central Customs and Tax Administration (SKAT) and the Danish Ministry of Culture will be training their Polish colleagues.

The overall purpose of the project is:

- to improve the protection and enforcement of IPR in Poland. This purpose involves, in particular, the patent offices and Ministries of Culture of both countries.

- to strengthen the battle against infringements of IPR; this purpose has especially involved the cooperative efforts of the countries' police and customs authorities.

The core of the project is training and capacity building. During the 22 months of the project, a total of 85 training activities are carried out in the form of workshops, seminars and conferences. Furthermore, the project has assisted in delivering an IPR-database to the Polish Customs.

The project is financed through the so-called Twinning instrument of the EU, and it has a total budget of 1.8 million EURO, corresponding to about DKK 13 million. Twinning projects typically support cooperation between authorities in EU candidate states and the old member states, with the purpose of streamlining their legislations with the EU acquis. Poland was already a member when the project was initiated, so the legislative framework was formally in place. Instead the project focuses on how the Poles should act within the new framework.

Decorative Art in the foyer by Ruth Campau

Everybody could do with an IP check

IPR novices and global market leaders alike could do with a careful inspection of their use of IPR. A new assessment tool offers a quick check to establish whether the enterprise's exploitation of its knowledge is sufficiently systematic, both strategically and commercially.

One of the large topical challenges of the enterprises is to work strategically and offensively in exploiting their IP. It calls for decisions to be made by the enterprise's top management in dialogue with professional IP consultants.

So far a simple and thought-through tool to tackle these challenges has, however, been non-existent. The Danish Patent and Trademark Office has together with the consulting industry been the initiator in the development of such a tool: A strategic IP Audit. This strategic IP Audit is developed on the basis of the Business Excellence model and with specific inspiration from partners in Southeast Asia.

As from 2006, the DKPTO and the consultants have jointly tested the new method with good results. Up to now, 40 enterprises have accepted the offer to receive a free IP service check and have thus contributed to the testing and further development of the tool.

A DRASTIC SHIFT

The background for the offer is the fact that the earnings of Danish enterprises are becoming more dependent on the IP attached to the products. So one of the purposes is to put the enterprises' IP into a strategic and commercial perspective, which will give the enterprises a better foundation on which to base their choice of the right IP services.

- There has been a drastic shift within the past 10 or 15 years. The enterprises make relatively less money on selling products and relatively more on IP. It is therefore not only important to be able to protect one's own knowledge, but also to be able to trade in and exchange e.g. technological knowledge with enterprises throughout the world, says Mr Thomas Mathiasen, who is a manager of the IP consultants, Plougmann & Vingtoft, and one of the 10 private patent consultants participating in the project.

He emphasizes that any enterprise could benefit by an IP Audit, irrespective of size, line of business or experience.

- Of course, the enterprises that have never thought that IP had anything to do with them would be the most interesting to get in touch with. However, the project has actually succeeded in getting into conversation with many of them. But also enterprises already working seriously with IPR may benefit from being audited, says Mr Thomas Mathiasen.

EVEN THE BEST OF US HAVE SOMETHING TO LEARN

One of the project's enterprises most experienced in IPR is Grundfos. Mr Christian Hartvig, General Counsel, confirms that there is always something to be found:

- Any strategy process could benefit from somebody looking at it from the outside. The IP Audit did not uncover things we were not aware of and are not already working on systematically. But it is still healthy to have one's sore toes stepped upon yet again. For instance the audit indicates that we are not 100% uniform in our way of dealing

with IPR conflicts. The audit also intensified our focus on how we as a production enterprise could make an even more active use of design rights, he says.

Mr Christan Hartvig says that one of Grundfos' recent products, a circulating pump for the average house owner, has been "stuffed with IP." Even though the technical underlying principles in the actual pump are simple and more than 40 years old, the product carries not less than 4 patents, 2 design protections and 16 trademark registrations, including, especially, three-dimensional marks. These protections cover e.g. design of packaging, symbols etc., which it becomes increasingly necessary to protect against so-called brand parasites.

THE WAVE IS APPROACHING DENMARK

Many enterprises are fully aware of the importance of IP and IPR protection, and that it will become even more important in the years to come. But most enterprises have difficulties in handling it in practice. This is the evaluation of most of the private consultants who have been attached to the project.

- It becomes more and more important to the competitiveness to realize what IP really is, how specifically to handle it in the enterprise and how it should form part of the business strategy. Strategies should be managed and planned based on the assumption that the future markets will function in a significantly different manner than traditional product markets, says one of them, Mr Henrik Brieghel, Patent & Design Manager, Zacco Denmark.



He believes that it is a question of time before the global wave of strategic IPR trading will seriously sweep over Denmark.

- It depends among other things on when boards of directors and managements will recognize that the enterprise's ability to get value out of its IP is what will have a real impact on the bottom line. The more you understand that fact, the better you will be at doing business, says Mr Henrik Brieghel.

A NECESSARY PROJECT

It is free to participate in the project Strategic IP Audit. And even though the enterprises have got their money's worth, it has been necessary to apply the free-gratis-and-for-nothing-principle to recruit in particular enterprises without much experience with IPR. Mr Henrik Brieghel explains:

- Many enterprises know so little beforehand that they fail to see their own needs. And if the enterprises are not aware that they have a need, they are not willing to pay for this recognition, he says.

Mr Christian Hartvig from Grundfos also loses no time in recommending a strategic IP Audit to especially novices in the field of IPR:

- Of course, such a brief audit can never be adequate. But for many enterprises it will be a suitable starting point towards working more systematically with the development and implementation of an IPR strategy that will be closely connected with the enterprise's business development and other processes, he says.

IS THE ENTERPRISE MAKING ENOUGH MONEY ON ITS KNOWLEDGE?

Since 2006, the Danish Patent and Trademark Office has offered Danish enterprises a check of their IPR-activities, a so-called Strategic IP Audit. 40 enterprises accepted this offer in 2006.

The purpose is to make the management focus on the enterprise's organization of its IPR work. Is it e.g. properly combined with the business strategy? And does the enterprise make enough money on its unique knowledge?

The Strategic IP Audit consists of three elements:

- **Interview:** The auditors systematically interview the relevant management representatives on the enterprise's IPR work. The interview typically lasts 2 hours
- **Report:** The auditors prepare a written report, a sort of "grade book" with a score for each of the nine principal areas comprised by the audit
- **Evaluation:** The report will be presented at a meeting in the enterprise. At this meeting the auditors and the management will discuss some of the IP issues that the enterprise could keep working on.

The auditing concept is inspired by and structured like the EFQM Excellence model. Focus is on the following areas: leadership, policy and strategy, employees, partnership and resources, processes and not least on the results in the areas of employees, customers, society and bottom line. However, the audit is not a concrete evaluation of the enterprise's existing or future IPR assets.

The project will run in 2006-2007 and is financed by The European Social Fund. It is free of charge for the enterprises to participate. The project primarily appeals to small and medium-sized enterprises that are already working with IPR or have a clear potential to do so.

During the project, the Danish Patent and Trademark Office plans to develop an internet-based "IP Audit Light", where an enterprise easily and quickly can get an indication of where it can improve its IP work.

- The internet-based model shall replace neither a more thorough audit nor professional consultancy, but it will hopefully whet the enterprises' appetite for both, says Mr Jørgen Lindgreen Hansen and Mr Bent Warrer-Madsen, who are the persons responsible for the IP Audit project in the Office.

Southeast Asia opens doors to new opportunities

In a few years, China and other countries in Southeast Asia will become the largest IPR challenge for Danish enterprises. The future global competition will be about efficient protection and exploitation of knowledge. The enterprises must not only focus on the threat from counterfeit products, but must also actively seek possibilities in the Asian markets.

In recent years, Western countries have become spectators to a very exciting development, where a number of countries in Southeast Asia are fighting for promotion to the first division of the industrialized countries. This means that Danish as well as all other European enterprises must shortly prepare themselves for a radically different competitive situation.

Already today, many enterprises and products from the regions are streaming towards the classical industrial markets. And once the Southeast Asian enterprises, authorities and IP consultants really learn to master the IP tools, a wave of Asian patent applications will inevitably be released in the West.

There is definitely also another side of the coin: Enormous opportunities exist within the new markets for Western enterprises. Opportunities that Danish enterprises have already begun to explore. And in the future even more of our industrial cooperation and business partners will come from the Southeast Asian region.

Both threats and possibilities challenge Danish enterprises to work far more systematically with their IPR. They also need to know and to consider that the Southeast Asian

countries not only differ in culture and tradition, but also exist at rather different levels of industrial development.

HIGH IPR EXPECTATIONS

Under all circumstances, the days have long passed when Asia as a whole could be regarded as just a reservoir of cheap manpower. Some of the countries still primarily pursue the low pay strategy. But for the region's front runners, it is the struggle to establish and protect knowledge that defines the competition of the future. In China, the government's overall vision is e.g. that within the next 15 years the country shall become one of the world's leading innovation societies.

It cannot for a moment be assumed that Asian enterprises will only seek protection in their home markets. Countries like India are beginning to make themselves known with applications in the European patent system. Even though the number of applications from India is still modest, a multiplication by 7 during the past five years speaks for itself; the Asian tigers will soon be ready to jump into the new global competitive arena for the right to knowledge.

FROM ASIA WITH INTELLECTUAL PROPERTY

These and many related issues were on the agenda when the Danish Patent and Trademark Office in 2006 made Asia the main theme of its Spring Conference which is held on the international IPR day every year, that is on 26 April.

More than 200 persons participated in the conference on Base Camp in Copenhagen where a series of Danish and international speakers focused on the threats as well as the possibilities in the new markets.

In recent years, the DKPTO has chosen to prioritize its activities in the regions – especially in China. We base this choice on our saying that we as an IPR authority have to follow closely in the wake of the growing part of the Danish business sector which has already set up in business or has otherwise become involved there.

10 PIECES OF GOOD ADVICE

– WHEN OPERATING IN ASIA

1. Make sure to have written documentation of your rights in all of the countries in which your product is being produced or marketed, and also in the countries where your competitors might do the same. Obtain patents on your inventions and have your trademarks and designs registered.
2. Make non-disclosure agreements with subcontractors, if any, so that they will be legally bound not to disclose anything.
3. Make sure to be completely on top of the information security both at your business and at your subcontractors.
4. Spread the production over more enterprises in order to make it more difficult for counterfeit pirates to copy your products.
5. Give your goods special identifiers that are difficult to copy.
6. Get in contact with the Central Customs and Tax Administration (SKAT) and ask them to keep an eye on your goods and their identifiers. They will then keep a sharp look out at the borders and put a curb on possible imports of counterfeit goods.
7. Make sure that your packaging is recognisable.
8. Find local assistance throughout the world and have them check whether copies of your products are sold in stores.
9. Tackle it if your products are being copied. Make it clear that your rights shall not be infringed.
10. Consider making raids, suing the counterfeit pirates and making settlements.

Globalisation challenges the patent practices of banks

The fact that business methods are not patentable in Europe has somewhat kept Danish financial enterprises away from the IPR system. Globalisation is now challenging Danish and European banks to have a more active and creative IPR strategy. American banks are patenting like never before, also in Europe.

For American banks the work with patents has long been as integrated a part of daily life as the trade in advanced financial instruments. During the past ten years, the financial patent market has almost exploded in the US. In 2005, the USPTO received more than 6,000 applications for patents on different methods to process financial and management information.

Naturally, the high level is especially due to the fact that the Americans, unlike the Europeans, can apply for patents on business methods and pure software. But at the same time, it reflects that the IPR-thinking today is firmly established in the business logic of American banks. They now bring this IPR-thinking to Europe. And even though the patent system is more restrictive here in Europe, the US-based enterprises understand how to utilize their possibilities to the utmost extent.

- The financial sector in Europe should take this development seriously. At a minimum, they should keep a keen eye on what happens in the field. Who are the patent-active competitors? What is applied for and what are patents granted on? There has been a lot going on in the field in

recent years, says Ms Lone Hartung, Director, Sales and Marketing, the Danish Patent and Trademark Office.

The number of patents in the financial sector has indeed increased dramatically since 1995, where the EPO did not receive more than 77 applications in the field. In 2003, the number was nearly 1,600 applications, and even though the increase peaked that year, approx. 900 new patent applications are still filed every year. A considerable part of the innovations do, however, not come from the banks but from software suppliers and other types of IT and telecommunications enterprises.

Despite several major cases that have emphasized that the patenting of business methods is prohibited, the financial enterprises in Europe have not dropped the idea of patenting. They have just changed their focus, e.g. to comprise technology that implements their financial innovations. For example, technical systems for risk assessment of investments, money transfer and securing of data integrity and databases.

NEED FOR NEW IP SERVICES

- Financial products become still more global and the same applies to the competition within the sector. If Danish and European banks are to assert themselves on the American market or compete globally with American banks, they must start working more systematically with their IPR. It is not only a question of protecting their own innovation, but it's also stronger IP intelligence, says Lone Hartung.

Because, while many patents are granted within the financial field in both the US and in Europe, the IPR activity in Denmark is very low. This indicates that Danish banks need to know more precisely within which technical fields patents on financial inventions are applied for and who is applying.

This is the reason why the Danish Patent and Trademark Office since 2006 has been in close dialogue with a number of enterprises in the financial sector. The goal is to develop a series of IP products tailored to the conditions and needs of the sector. The method is to combine the banks' own comprehensive knowledge of products, procedures and markets with the DKPTO's expertise in the possibilities and limitations of the IPR system.

One of the future IP products will be a so-called Patent Intelligence Report providing the bank with a survey of the patent development within the financial sector, or a selected part of it. For instance the technical areas within which patents are applied for. This would give the individual bank a more precise picture of its competitors' IPR strategy and would identify unexpected technical developments that could be of relevance to the bank's own innovation process.

In 2007, the dialogue with the financial sector will result in a number of specific proposals as to how the financial enterprises can handle their innovation, and how authorities and consultants can support this IPR work.



Electronic market place will promote IPR-trading

Enterprises must have better possibilities for trading in rights via the internet. A new market place will contribute to releasing the commercial potential of the enterprises' protected knowledge.

If innovative Danish enterprises are seriously to profit from their knowledge, it must be easier for them to buy and sell the rights to each others' ideas. This is the background for a new internet-based market place, which will open next autumn.

The goal is to establish a transparent and well-functioning market for the buying and selling of rights. In this market, it should be possible for an enterprise that has been granted a patent for an invention, to present such invention and its commercial potential. It should be done in an illustrative way and in a simple language in order for potential buyers to be able to form an idea of the invention. It will also be possible to demand a technology in the market place, and there will be shortcuts to international platforms for knowledge-trading. Finally, the market place should help to disseminate information about new patents.

STIMULATING NEW IPR STRATEGIES

One of the factors deciding the background for the initiative is international experience, which shows that the buying or in-licensing of rights can be an efficient way of strengthening the innovative capacity of an enterprise. Similarly, the selling or out-licensing can increase earnings.

There is no doubt that also Danish enterprises may profit in this way if they increase their trade in rights. One barrier is the difficulty in getting an overview of who will buy and sell. The IPR market place must help to establish that overview.

According to a recent Danish survey, the group of IPR-active enterprises comprises between one third and half of all innovative enterprises with more than 10 employees. In this group especially, there is the unutilized potential for moving from traditional IPR protection to a more dynamic application of IPR.

Today, most IPR-active enterprises embrace all stages of the innovation process; idea, protection, production, commercialization. However, two minor groups stand out by focusing on either the role as "developers" selling their rights or "licensees" buying rights of others in order to exploit them commercially. A new market place will e.g. make it easier for more enterprises to pursue such IPR strategies.

The Danish Patent and Trademark Office is the promoter of the new initiative, which forms part of the Danish Government's strategy for Denmark in the global economy. The market place is expected to open in September 2007.

Better local guidance on rights

The new regional growth centres will have an important task introducing enterprises to the rights system. This task places heavy demands on the competencies of the growth centres in the field of IPR.

Danish enterprises' knowledge of how to handle their unique knowledge and to exploit their rights in practice should be strengthened. An important player in this upgrading will be the new regional growth centres, which after the alignment of tasks and structural change will replace the former commercial service centres.

When an enterprise approaches its regional growth centre with an idea, it should be offered guidance on whether it will be relevant to apply for a patent, a design registration or to protect the idea otherwise. The enterprise should also have easy access to other relevant information, e.g. on application procedures etc.

Therefore, it is necessary to strengthen the guidance competencies of the regional employees within the field of IPR. In financing the growth centres, an amount of money has been allocated to this purpose. And the Danish Patent and Trademark Office has been charged with the task of planning and carrying out the necessary training and instruction. This will take place in close dialogue with every single one of the five growth centres, and in accordance with their prior knowledge and specific needs.

GRANTS TO PERFORM MORE SEARCHES

The enterprises will also be offered a first examination of the novelty of their ideas. It could for instance be in the form of a European trademark scanning, a patent or design search depending on the needs of the enterprise. The growth centre will then be in a position to refer the enterprise to a relevant consultancy, where the enterprise can discuss the specific possibilities and commercial perspectives involved in protecting its idea.

For the moment, DKK 2 million have been put aside for the purpose of such examinations. It means that many enterprises will have an easy and inexpensive access to these examinations, and that a lot of new and useful IPR knowledge will be sown in the enterprises.

The new regional growth centres ensure that the guidance is brought together in any one of the 5 centres and is based on a deeper and more comprehensive knowledge. This also applies within the field of IPR. Therefore, the Danish Patent and Trademark Office welcomes the new knowledge centres. We look forward to cooperating, sharing knowledge and establishing networks to the benefit of the enterprises and for the dissemination of profitable IPR strategies in the Danish business sector.

The regional growth centres are expected to be ready to introduce the enterprises to the IPR system from October 2007.

Debate about the European trademark and design systems

The European trademark and design systems have proven successful and are now remunerative. There is work in progress towards reduction in fees. Several countries recommended a closer cooperation in Europe based on an in-depth analysis of the European trademark area.

Since the European trademark and design systems were established 10 years ago, they have experienced a dramatic increase in applications. Today, the Office for Harmonization in the Internal Market (OHIM) receives as many applications as the national systems in e.g. Germany and France. A good and constant balance has apparently been found between the European systems and the member states' own systems.

In other words, the European systems have proven successful and have found an obvious need in the business sector. Denmark has supported this development, e.g. in the governing bodies of OHIM.

OHIM is an independent, self-financing agency under the European Commission. Its activities are based on income from fees within the field of trademarks and designs. Due to the many applications, the systems have in recent years worked up a profit. In 2005, it resulted in a reduction in the trademark fees.

The debate about the future development continued during 2006, and the member states were in favour of reducing the fees yet again. However, many member states are of the opinion that there should be invested in the quality of case processing and also in the strengthening and development of the cooperation within Europe on new IT solutions, access to data etc.

The Commission has announced that it will prepare a new strategy for the IPR area in 2007. Before the turn of the year, the Commission presented a so-called communication serving as a discussion paper in the specific discussions on the European systems, including fee reductions. It is expected that, during the course of 2007, the Commission will propose concrete motions for such an adjustment and to how the area could be developed in future.

NEW STRATEGY REQUIRES ANALYSIS

Among the member states it is widely held that the time has come to look at the possibilities for further developing the European trademark and design systems to benefit the users. In this regard a number of users have expressed the opinion that the quality of the European trademark registrations should be further improved.

At the same time, wishes have been expressed for strengthening the interaction between the European and the national systems so that the systems complement each other more than they do today. Today, it lies with the national offices to inform all users of and instruct them in the European systems. These efforts should, as many see it, be financed by the income derived from fees from the European systems. Today, the expenses are actually paid by the national authorities, and thus by the users of the national trademark system.

In order to be able to weigh the many considerations, a large number of countries have suggested that an analysis of the European trademark area be prepared. Such analysis should e.g. include the business policy consequences of a fee reduction. For instance, it is an open question whether considerably reduced fees will lead to so many

new EU registrations that it will become difficult for small and medium-sized enterprises to gain access to the market or make it difficult for them to enforce their rights.

In 2007, we will endeavour to make such an analysis part of the preparations for the overall IPR strategy, which the Commission will be drawing up this year.

DENMARK IS AT THE FOREFRONT IN THE PROTECTION OF TRADEMARKS AND DESIGNS

Danish enterprises are clearly among the leaders in Europe when it comes to protecting business identifiers by trademark registration and design protection. In 2006, both fields show Denmark to be among the most industrious countries for filing EU applications; measured on applications per number of inhabitants.

Figure 1: Denmark is number 2 among the EU countries within Community trademarks, only surpassed by Austria.

Figure 2: Relatively speaking, Danish enterprises are the most frequent users of the EU design system.

FIGURE 1: NUMBER OF APPLICATIONS FOR THE COMMUNITY TRADEMARK PER MILLION INHABITANTS

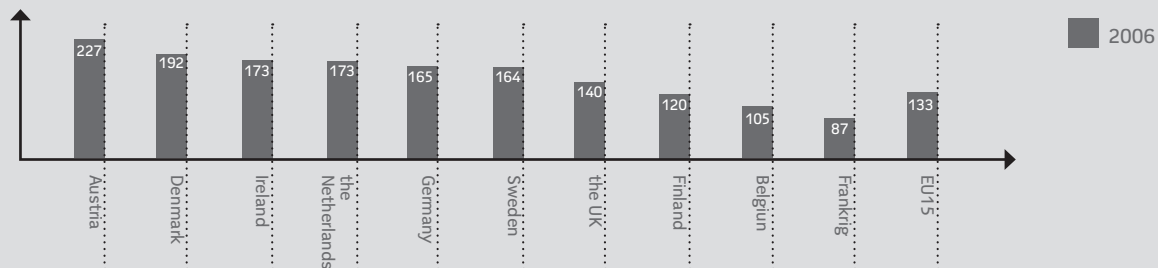
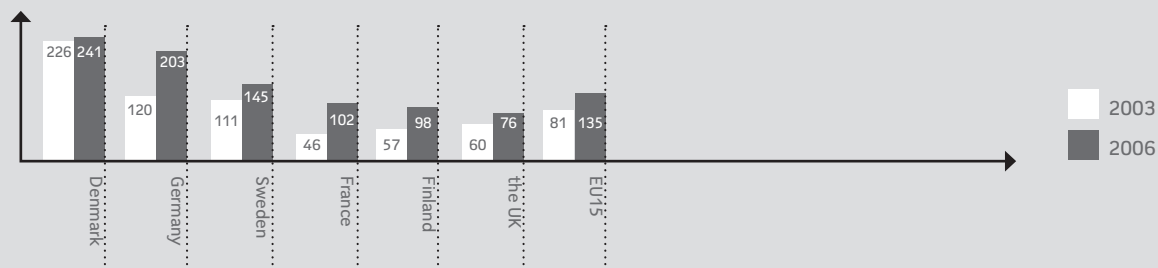


FIGURE 2: NUMBER OF APPLICATIONS FOR EU DESIGN PROTECTION PER MILLION INHABITANTS



Source: OHIM website: <http://oami.europa.eu>

Necessary to improve quality in trademarks

Today trademark applicants can decide whether they want to ignore an existing mark. And this requires a proper basis for such a decision. Therefore the enterprises are entitled to an improved quality in the trademark registration procedures.

Danish trademark legislation has since 1999 allowed that the market decide whether two identical trademarks could coexist. The patent authorities no longer have the role of superior judge in that question. It is now up to the applicants to decide if they want to take the risk of a possible dispute of the right to the mark.

There is no reason to contest this principle of relative grounds for refusal which holds many obvious advantages for the users. The same applies to the establishment of the Community trademark. But all in all the development has resulted in a dramatic increase in the share of non-searched rights over the past ten years.

Unfortunately, this has also resulted in generally less reliable searches in connection with trademark registration. This produces a risk of putting applicants in a situation where they practically do not know how well their trademark is protected.

Some of the applicants may prefer a registration procedure that is as quick and inexpensive as indeed possible. But there has to be an alternative so that the applicant has a possibility for having a trademark searched in full, and thus get the best possible basis for deciding his strategy within the field of trademarks.

STRATEGIC RESTRUCTURING

This is the background for the decision in 2006 of the Danish Patent and Trademark Office to deliberately focus on a further improvement of the quality in the registration of trademarks.

- We will systematically ensure the optimum quality in searches and analyses and at the same time strive to obtain a short processing time, says Kristine Riskær Povlsen, Director of the Trademark and Design Department.

Already in late 2005, our registering of rights within the field of trademarks was ISO-certified. In this connection, we examined our quality level and standards, and we decided to restructure our department in consideration of the quality in case processing.

For a short period of time, the readjustment meant long case processing times, which was not satisfactory. But as from mid-2007, applicants can expect their trademark application to undergo a high-quality examination within 1½ months.

Earlier focus on design protection

Globalisation and the development in the concept of design make it still more complicated and necessary to protect designs. Therefore, new designers must learn to think along the lines of IPR right from the beginning. In 2006, open consultation facilities were set up, where designers can receive a quick reply to their legal questions

Today, it is considerably more complicated than it used to be to protect oneself against counterfeit products even though it is basically still a question of securing a national or international exclusive right to the design of a particular product.

- Globalisation has widened the enterprises' field of operation as well as increased their IPR challenges. Therefore, it is indeed more important than ever to acquaint oneself with what e.g. will happen when choosing to put a design product on a number of new markets. When will it be copied? What rights do I have? How can I protect myself in practice? etc., says Ms Susie A. Ruff, Head of Design Promotion, the Danish Design Centre.

She stresses that not only the production enterprises, but also the designers and the design profession should know more about what tools they can avail themselves of to cope in the future.

It is on this background that the Danish Patent and Trademark Office, in collaboration with the Danish Design Centre and the Danish Designers, has established a so-called Design Help Desk, which is a parallel service to the free legal aid service of the Danish system of justice, which for many years has offered legal guid-

ance to persons in need of professional assistance, but who cannot afford actual legal assistance.

IMPORTANT IN TERMS OF BUSINESS POLICY

The Design Help Desk is not offering consultancy, but is only imparting knowledge and guidance and is willingly referring persons to e.g. a lawyer or IP consultant, if they are in need of this kind of assistance. Actually the help desk comes into contact with quite a number of designers who would otherwise never seek guidance and knowledge on design protection. In particular, many designers mistakenly think that they are protected by copyright.

- In terms of business policy, the Design Help Desk is a very important initiative, because it contributes to the focussing on the protection of Danish design. We try to make future designers professional very early in the innovation phase, says Ms Kristine Riskær Povlsen, Director, Trademarks and Designs.

The help desk is also an important listening post for the IP professionals at a time when the concept of design is undergoing a drastic development. Design is no longer only a question of lamps or chairs, but also comprises industrial designs, service designs, identity, graphical designs and much more.

- Many people wish to have their ideas, concepts or processes protected. From our legal point of view, there must be a product before a design can be protected. But when the development is so vigorous, we must as a modern authority have our finger on the pulse in order to know in what direction the protection needs of the trade are heading, says Ms Kristine Riskær Povlsen.

THE DESIGN HELP DESK

Since the end of October 2006, one or two employees of the Danish Patent and Trademark Office have been present at the Danish Design Centre for a few hours every Wednesday afternoon. At that time designers can come in from the street and get answers to their specific questions about design protection - and informal guidance on how to proceed towards the protection of their design.

- The frequency of visits to the help desk varies from week to week. On the odd day, the help desk has had few visitors, while on other days people have been queuing after closing hours. All in all, the help desk has been a great success, says Ms Susie A. Ruff from the Danish Design Centre. The help desk is facing an immediate evaluation of the first half year. The project has no expiry date, but based on the results in 2007, we will determine whether the help desk should continue, she says.

Besides the help desk, the Design Help Desk also comprises a series of well-attended design seminars, at which a number of the legal aspects of design, based on concrete examples, have been discussed; e.g. cooperation agreements, protection mechanisms and infringements. The Design Help Desk also hosted a seminar at the School of Architecture in Aarhus, Denmark and the attendance was large. That is why the programme in 2007 will stage events and offer open guidance elsewhere in the country so that even more designers and idea makers can be assisted.

The Design Help Desk gets its financial resources from the Danish Patent and Trademark Office, the Office for Harmonization in the Internal Market (OHIM) and from the National Agency for Enterprise and Construction, where the Danish Design Centre is the executive power in the work of promoting design.

A HEAD START IN THE WORLD OF DESIGNS

Among the many visitors to the Design Help Desk were two young female students from the Danish School of Art and Design just before Easter. They had previously attended a folk high school together and had participated in a Louis Poulsen competition to design a new lamp. The students did not win the competition, but they were encouraged to put further efforts into their lamp design.

- We were actually of the opinion that we had made a good piece of work. But we could not figure out what to do to get on with our design. Who can you contact to start production of your design, and what will it involve? says one of the young designers, Ms Josephine Dohlmann.

Together with her co-student Ms Kira Gottlieb, she approached the school's students' information office and was referred to the Design Help Desk.

- We came and told them of our project in short, and they guided us as to what we could do to ensure a head start. For instance, we received guidance on the non-disclosure agreement and how you by means of DesDoc can document your ownership of the design, as well as a referral to the regional growth centres.

Josephine and Kira are now about to make a proper prototype before talking to potential producers. And they are very satisfied with the support they received from the Design Help Desk:

- It has been really good and we have recommended the help desk to others. It's a good way to start when you are not fully acquainted with that world, says Ms Josephine Dohlmann.

The battle against counterfeit products is being won both at home and abroad

Piracy has spread to cover types of goods where counterfeit products can be lethal or injurious to health. This odious practice should be combated, e.g. by limiting the demand, but also by assisting the authorities in e.g. the Far East to build up efficient IP systems that prevent copying. A working group set up by Mr Bendt Bendtsen, the Danish Minister for Economic and Business Affairs, is bringing forth new initiatives.

Illegal copying of other people's products and counterfeiting of protected trademarks are scourges on the societies that base a large part of their wealth on knowledge and innovation. Nobody knows the precise scope of the problem, but studies estimate that counterfeit goods constitute between 2 and 7% of the global trade in goods and services.

Piracy not only entails considerable negative consequences for the economy as well as for the individual trader and consumer, the infringements of the law also shake the basic values of a society where knowledge, innovation and competition are the corner stones of the development of the business sector.

Product development, artistic innovation and branding are thus often the results of large investments. Extensive copying can therefore in the long run weaken the enterprises' incentives to continuous innovation and to using IPR strategically in their business development.

Denmark is particularly vulnerable because we have a very open and export-orientated economy in which the IP-protected products play an important role.

NEW COUNTERFEIT PRODUCTS WITHOUT SECURITY

In addition to the economic consequences, the development in the range of counterfeit goods gives cause for great concern. It is no longer only lifestyle and luxury goods like branded clothing, bags, sun glasses etc. that are being copied. To an increasing degree it also applies to goods like drugs, foodstuffs, sanitary articles, electric articles and spare parts for cars etc., where the use of illegal counterfeit goods may involve a health or security risk.

The original products must typically meet a number of requirements and make declarations in respect of the contents of the products, additives, side effects, sub-components etc. And this makes it even more important for the consumers to be certain that they actually buy the genuine article.

SUPPORT THE LOCAL AUTHORITIES

The battle against the counterfeit goods has many fronts. Taking a hard line on the enterprises that manufacture the products is not sufficient. Part of the effort should be directed towards the consumers and to the enterprises that illegally import the counterfeit goods and sell them on the home market. A general change of attitude in the popula-

tion is called for in order that counterfeit goods are not looked upon as attractive or smart, but as illegal parasitism on other people's investments.

But at the same time we must preserve and extend our contact to the countries from which the counterfeit goods come. Many of these countries actually make a serious effort in connection with the development of a more well-functioning and efficient IP system in their country. They also want to move beyond the "imitating phase" of their industrialization and promote an industry based on genuine development of own protectable products and process competencies.

We, the Western countries, can support this positive development e.g. by assisting the countries in the development and implementation of good IP systems, and at the same time, in respect of IPR, try to influence the opinions of both the authorities and the enterprises.

It is an important part of the long-term battle for a fair and IPR-based global competition. And the Danish Patent and Trademark Office is well under way with such a dialogue with countries from which many counterfeit goods come.

NEW WORKING GROUP ON COUNTERFEIT GOODS

In January 2007, the Danish Ministry of Economic and Business Affairs set up a working group charged with the task of proposing initiatives that can reduce the spreading of piracy and counterfeiting.

The Danish Patent and Trademark Office participates in the working group and also functions as the group's secretariat. The chairmanship is attended to by the Office of the Permanent Secretary of the Danish Ministry of Economic and Business Affairs. The other participants are the Danish Ministry of Culture, the Central Customs and Tax Administration (SKAT), the Danish Ministry of Justice and the Public Prosecutor for Serious Economic Crime (SØK). The working group obtains contributions from other relevant authorities and from consumer and industrial organizations. The working group is expected to furnish its report in the second half of 2007.

IPR competencies for sale

Both Danish and foreign enterprises increasingly seek external assistance within the field of IPR. They demand in particular the combination of technical-professional insight, IPR expertise and search competencies. In 2006, the Danish Patent and Trademark Office extended its range of services to meet the enterprises' needs.

- We have about 20 different services to offer within commercial services, but in reality we only have one single thing in stock: Employees with unique competency profiles. And they are really in high demand, both in this country and in the large foreign enterprises.

That is how Mr Lone Hartung, Director, Sales and Marketing, explains the rapid growth in the Office's activities within the field of trade and industry. She is referring to the employees' special combination of:

- **Technical-professional insight** – the employees are graduates of a university as a minimum
- **IPR expertise** – the employees know “everything about IPR”, including how rights are granted/registered, interpreted and exploited commercially
- **Search competencies** – the employees are specialists in searching for, finding and analysing information in the international databases.

FLEXIBLE SERVICES

Today many enterprises make use of the Danish Patent and Trademark Office far more systematically in support of their own IPR activities. This takes place in manifold ways.

Some large enterprises have their own search departments, but have the Danish Patent and Trademark Office help them during peak periods. For instance by stationing an employee in the enterprise for a period of time.

Others have modest search competencies and have to give up when they are to search and analyse IPR outside their own field. It could e.g. be a pharmaceutical enterprise that develops products which also embody electronic components.

Yet others choose to outsource the entire search and to concentrate on their strategic use of IPR.

There are also considerable differences regarding how the enterprises wish to receive new knowledge:

- Some enterprises just want a list of our search results. Others want to have a more advanced analysis. We are very flexible in this respect. However, we do not offer actual consultancy or evaluation. Our cooperation with the enterprises is a matter of providing them with the best information and analyses possible. The strategic decisions are made by the enterprise, and if necessary in consultation with their IP consultants, says Ms Lone Hartung.

A WIDE RANGE OF SERVICES

The customers buy the Danish Patent and Trademark Office's competencies to have a very broad spectrum of issues examined. Examples:

- **Novelty?:** An enterprise has a new idea and wishes to find out whether the idea is new and whether it would be worthwhile applying for a patent on (part of) the idea.
- **Infringement?:** An enterprise is new and wants to market a new design, and it wants to know if there is a risk of infringing existing design registrations.
- **Collision?:** An enterprise is to choose among a range of possible trademarks and wants to find out whether there are any possible impediments to the registration and use of the marks.
- **Invalidation:** An enterprise wants to find out whether an earlier patent has been granted on the wrong basis, with the purpose of having it declared invalid in full or in part.
- **Patent intelligence:** An enterprise wishes to monitor the IP activities of its competitors. For instance what they patent in which countries and if new players are entering the area.
- **Legal specialized knowledge:** An enterprise wants an account of the national or international legislation and practice in a specific legal field within IPR.

Detailed descriptions of all of the Office's services within commercial services can be found on www.dkpto.org

High expectations both on the part of the employer and the employees

In modern enterprises, both the management and the employees make demands and expect something from each other. For instance, the Danish Patent and Trademark Office expects extensive professional qualifications and personal involvement of its approx. 270 employees. On the page opposite, three of the employees give an account of their respective jobs in the Danish Patent and Trademark Office.



HOLDING GOLD IN MY HANDS

As a graduate engineer and researcher, 31-year-old Mr Thorkild Sørensen has tried to apply for patents on two inventions. Therefore, he knows exactly what is at stake when he and his colleagues in the Patent Department process a patent application.

- What we are working with is of tremendous value to the customer. We simply hold people's gold in our hands and it is very motivating, he says.

Thorkild is among other things working with patents on consumer electronics and after his first year in the job, he is still fascinated by the insight into the newest trends on the market the job provides.

Even though the workload at times is huge, he feels that there is time for the necessary professional absorption and compared to the jobs Thorkild used to have elsewhere, the stress level is low in this job. One of the reasons for this lower stress level is that Thorkild feels he is the master of his work situation, which he is very satisfied with. The fact that the working hours are more or less kept within 37 hours, he considers a large advantage:

- When you have your eyes glued to a screen or buried heavy technical literature on a day-to-day basis, you would go nuts if you didn't unwind at night. And luckily there is plenty of room for that. Thorkild's leisure time activities have nothing at all to do with patents. He brews beer in a small beer guild with some friends, plays cards and dances Salsa.

NO TWO DAYS ALIKE

No two days at work are ever exactly alike. Ms Camilla Hjermind, political scientist, loves this unpredictability in her job. Her job is to produce analyses and political presentations which will ensure a continued central position for the rights system in the Danish business policy.

- My tasks are of varying nature with few defined frames, and therefore I have every possibility to influence my own job.

35-year-old Camilla has had quite a few other jobs within the Ministry of Economic and Business Affairs. When asked what she finds special about her job in the Danish Patent and Trademark Office, she gives prominence to the broad contact and cooperation with many different people both inside and outside the Office.

- I especially work closely with other offices and agencies and service the Office of the Permanent Secretary and the Minister. One of my most important tasks is to secure a good foundation for new political initiatives in our field, she says.

Camilla sees the company culture in the Danish Patent and Trademark Office as very accommodating and the tone is informal and nice. Most of us are placed in open-plan offices, including the management. This signals openness and accessibility, she says.

SHORTER HOURS AND MORE RESPONSIBILITY

After 5 years as a secretary to the management, Ms Trine Skou felt like pitting her strength against project work. At the same time, she wanted to spend more time with her small children and had difficulties in figuring out how that could form a synthesis. But it could: She is now a project secretary and is working shorter hours in Business Development.

- I thought I would have to forfeit my interesting job tasks to get more time with my family. But I have actually got both more challenging tasks and more responsibility, says 34-year-old Trine, who is the anchor of one of the Office's projects in Romania.

She uses her competencies in new ways and has benefited from the fact that her personal latitude has been extended.

- I have the benefit of my secretarial expertise and have at the same time become involved in the project work, which really interests me. After a few months in the job, I can already feel how I'm taking part in moulding and developing it so it becomes the job I want it to be.

Trine considers it a substantial asset that the Office is made up of many different professional groups, each with their important tasks.

- The Office has succeeded in integrating widely different professional cultures so that all of us feel equally valuable. Everybody has a chance to get involved and this creates a strong feeling of belonging.

Financial facts 2006

In 2006, most of the activities of the Danish Patent and Trademark Office developed in accordance with the Office's strategy. The increase in turnover is satisfactory and annual profits were a significant improvement against profits for 2005. The Office is thus well prepared for next year's growth.

- The turnover for 2006 was DKK 177.4 million. It is an increase of 3.1% compared to 2005. The increase relates to all activities of the Office and this development is expected to continue in the years to come.
- Total costs increased by DKK 2.1 million. The largest increase is due to increased payroll costs as a result of the strategic enlargement of the production capacity within the field of patents as well as trademarks. On the other hand, there has been a decrease in the rent which in 2005 was burdened with extraordinary rebuilding costs.
- The profits for the year were improved by DKK 3.3 million compared to the previous year and totalled a satisfactory DKK 4.9 million.

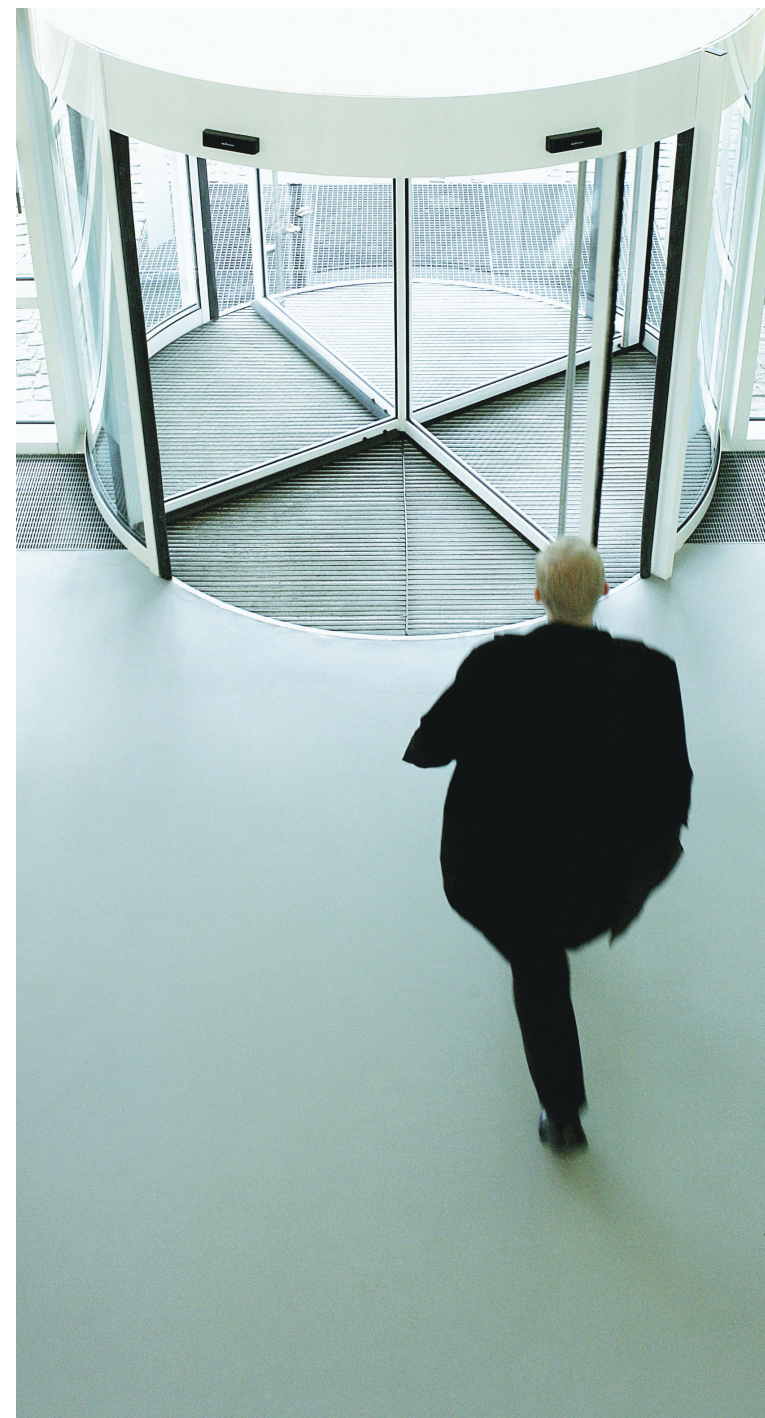
The Danish Patent and Trademark Office expects a continuous positive growth in the coming years in the level of activity and results on a par with 2006.

ACCOUNTING POLICIES

The preparation of the financial statements for 2006 saw the same principles applied as those employed at the preparation of the opening balance sheet in connection with the transition to the cost-based financial statements.

For the Budget for 2007, a financial analysis of the Office's assets was made in cooperation with the Danish Ministry of Finance, and in this connection it was agreed that a correction at the beginning of the year was made by writing down the intangible fixed assets of DKK 12.7 million and the tangible fixed IT assets of DKK 0.9 million.

For further information please see our financial report on www.dkpto.org.



PROFIT AND LOSS ACCOUNT

DKK

2006

2005

Income	177,435,303	171,999,003
Rent and lease of office machines, etc.	-10,923,429	-17,694,312
Other expenditure	-37,297,752	-36,718,457
Wages and salaries	-96,927,162	-92,810,469
Pension	-13,769,269	-12,790,281
Reimbursements of wages and salaries	3,800,870	4,077,061
Other staff costs	-1,085,393	-1,109,843
Other ordinary operating costs	-10,028,826	-10,040,694
Depreciation and amortisation	-5,631,336	-2,750,840
Profit from ordinary activities	5,573,006	2,161,167
Other operating costs	-228,246	-183,752
Profit before financial items	5,344,761	1,977,416
Financial income	39,433	69,165
Financial expenses	-508,446	-468,173
Profit before extraordinary items	4,875,748	1,578,408
Extraordinary income	0	65,000
Extraordinary expenses	-5,630	0
Profit for the year	4,870,118	1,643,408

BALANCE SHEET

DKK

2006

2005

FIXED ASSETS
I. Intangible fixed assets

Completed development projects	3,162,432	15,904,857
Acquired concessions and licences	173,736	285,133
Development projects in progress	0	873,041
Total intangible fixed assets	3,336,168	17,063,011

II. Tangible fixed assets

Land, areas and buildings	6,579,285	6,372,970
Material handling equipment	123,092	0
Tools and equipment and IT equipment	12,334,029	13,032,555
Total tangible fixed assets	19,036,405	19,405,525

III. Fixed assets investments

Treasury bond	30,850,242	30,134,910
Total fixed assets investments	30,850,242	30,134,910
A. Total fixed assets (I-III)	53,222,816	66,603,446

CURRENT ASSETS

I. Inventories	0	0
II. Debtors:		
Accounts receivables	17,935,890	6,432,277
Other debtors	3,583,169	5,418,143
Accruals and deferred income, accounts receivables	0	0
Total debtors	21,519,059	11,850,420
III. Short-term securities	0	0
IV. Cash	-6,594,127	-3,687,388
B. Total current assets	14,924,931	8,163,032

Total assets (A+B)	68,147,747	74,766,47
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EQUITY AND LIABILITIES

DKK

2006

2005

EQUITY

I. Total equity	8,189,700	5,449,600
II. Provisions	3,010,300	5,894,400
III. Long-term liabilities		
Total long-term liabilities	0	0
IV. Current liabilities		
Trade payables	5,097,170	20,546,820
Other current liabilities	24,823,012	19,962,925
Holiday pay due	16,016,700	14,875,388
Accruals and deferred income, liabilities	11,010,864	8,037,345

Total current liabilities	56,947,747	63,422,478
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Total long-term and current liabilities (III-IV)	56,947,747	63,422,478
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Total equity and liabilities (I-V)	68,147,747	74,766,478
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Contingent liabilities	99,000,000	97,000,000
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