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SZABADALMI ÉS JOGI IRODA KFT.

# Szemezgetés az EPO Gazdasági és Tudományos Tanácsadó testületének (ESAB) 2012. évi munkájából: Érdekessegek, hírek, vitatott témák


**MIE-”Egy új remény vagy A kétség lazaca” c.  
konferencia keretében, Pécs, 2013. május 30-31**

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## Mi az EPO Gazdasági és Tudományos Tanácsadó Testülete?

- alapítás: 2012
- tagok száma: 12
- mandátum: 3 év
- misszió:?



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### Economic and Scientific Advisory Board (ESAB)

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While our main focus is on our core business, we also have a strong interest in the broader economic and social ramifications of the patent system.

In order to address these issues in a more dedicated and selective way, in January 2012 we set up the **Economic and Scientific Advisory Board (ESAB)**.

[Mandate](#) (PDF, 70 KB)

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#### News

**13.3.2013**  
[EPO Advisory Board publishes recommendations for improving the patent system](#)

**27.9.2012**  
[Patent thickets - a phenomenon of increasing complexity](#)

**9.5.2012**  
[EPO Advisory Board kicks off with workshops on 'patent quality' and 'pricing and patent fees'](#)



## EPO Gazdasági és Tudományos Tanácsadó Testülete

- a) “the objective of the EPO's *Economic and Scientific Advisory Board* is to contribute to a comprehensive analysis of the patent system in its economic and social context.”
  
- b) “The Advisory Board addresses issues that are closely related to the patent system and of significant interest to the European economy and society at large.”



## EPO Gazdasági és Tudományos Tanácsadó Testülete

A 2012. év munkaterve:

- a) Patent thickets
- b) Patent quality
- c) Pricing and fees



## Mi az a „patent thicket”?

- a) “a patent thicket usually involves (1) multiple patents and patent applications on (2) the same, similar, or complementary technologies, (3) held by different parties, making it difficult to negotiate intellectual property rights (for example, licensing agreements) by raising market entry costs” (ESAB statement, 2013)



## Milyen kedvezőtlen hatásai vannak?

- a) „High market entry and transaction costs tend to discourage innovation rather than encourage it.”
- b) „uncertainty factors and their impact on freedom to design and operate, search costs, and the cost of legal action.”
- c) „Uncertainty factors can be further broken down into long pendency times, low patent quality, and lack of ownership transparency.”



## Az ESAB hozzáállása a problémához

„Perhaps patent thickets are not a distinct problem in themselves. ... Problems are caused by low-quality patents, and the slowness and expense of the system. Therefore, patent thickets are not necessarily a problem *per se*. There is however a general consensus that they appear to be closely related to innovation management and its complexity.”

A KKV-knak okozott hátrányokról kevés szó esett...



## Az ESAB megállapításai a „patent thickets” tárgykörében

„...the Board clearly states that it does not regard such "thickets" as a root cause of problems in the patent system. It concludes that measures to improve patent quality will help to reduce the complexity of the system and thus deal with patent thickets indirectly.”





## Patent quality

- Mit ért az ESAB a szabadalmi minőség definíciója alatt?
- A Board szerint nincs elfogadott definíció a fogalomra, de...



## Patent quality

„ Patent quality has to be distinguished clearly from the related concepts of patent value and the quality of the patent system. ... These can be condensed into the following definition: a high-quality patent:

- a) satisfies the legal patentability requirements at a given patent office,
- b) has been granted,
- c) is likely to withstand invalidity proceedings in court, or opposition or re-examination proceedings at patent offices, and
- d) enables the skilled person to perform the invention without further experimentation.”



## A szabadalmi minőség szempontjai

- a) mérési mód lehet pl. a megsemmisített szabadalmak aránya;

A javítás iránt történő beavatkozás lehetséges időpontjai:

- a) a minőség javítása a megadás előtti fázisban
- b) a minőség javítása a megadás után

Üzenet:

„In this context, is also important that patent offices do not give applicants any direct or indirect incentives to put quantity over quality in their applications.”



## Lehetséges beavatkozási pontok:

- a) a kutatás minőségének javítása;
- b) Cooperative Patent Classification: USPTO/EPO együttműködésben;
- c) EPO/Google együttműködés a gépi fordítás megvalósításához;
- d) **az Esp@cenet teljes szövegű kereshetősége(MI javaslat) – ez nem lesz**
- e) Unified Patent Court

### A Board álláspontja:

*“the Board highlights the importance of patent quality in boosting innovation. It points out, however, that improving patent quality will require action at both the pre-and post-grant stages of the patenting process. In the pre-grant phase, specific measures are needed to address the speed and quality of patent examination. At the post grant stage, opposition or re-examination proceedings require improvement, together with the litigation system. On this latter point, the establishment of Europe's Unified Patent Court is expected to make a major contribution.”*



## Pricing and fees

„The EPO's traditional fee structure is well designed but may not greatly affect applicants' behaviour; patent fees represent only a small portion of their overall IP costs. That is also one reason why there is no urgent need for a fundamental fee reform. Other major cost drivers like R&D spending or attorneys' fees are beyond the EPO's control.”



## Pricing and fees

„A more open question however is whether to offer SMEs or universities support with their patent fees. In general, while it is true that different interest groups have to be treated differently and there is no “one size fits all” solution, such support can only be part of a broader economic policy involving governments and other decision-makers.”

A magyar rendszert (feltalálói kedvezmény, évdíjak növekedése) pozitív példaként említették.



## Végső vélemény

“As general policies, the Board recognises the need to support independent inventors, small and medium-sized enterprises and universities in their dealings with the patent system.”



## 2013. évi feladatterv:

- a) egységes hatályú európai szabadalom
- b) egységes szabadalmi bíróság
- c) grace period Európában





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