

STOA Workshop
Policy Options for the European Patent System
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Wrap-up session

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1. Flexibility and dynamism

- *About*
 - More efficient distribution of rights, greater optimisation of market effects
 - More flexibility than the ‘one size fits all’

- *Proposals*
 - Distinction per sector
 - Patentable *subject matter*
 - Flexibility within the system
 - Utter limit: art. 27 TRIPS
 - Patentability *standards*
 - Differing standards: already takes place, case law of TBoA
 - Embedded in patent law?
 - Yardstick
 - Economic mission [in preamble EPC]
 - General clauses

2. Access to markets

- *About*
 - Patent “thickets” and royalty stacking complicating access to market
 - Blocking patents, hold up problem

- *Proposals*
 - Patent quality
 - Patentability *standards*: raise bar
 - *Cost*: reallocation of resources within the EPO [who carries the burden?]
 - Role EPO: widen approach on patent quality
 - Abuse
 - Tackle within patent law, *not* within competition law
 - Tackle on the national vs. Community level?
 - Re-assess existing remedies
 - Research exemption: Fit for current technologies?
 - Compulsory licenses: Efficient?

– Alternative mechanisms

- *Within* the patent system: IBM proposal
- *Outside* the patent system: Should rewards take the shape of a monopoly? Other incentives

3. Governance

- *About*
 - Transparency
 - Representation/participation of a variety of actors in developing the patent system

- *Proposals - Transparency*

- *Actors*

- List of members advisory + policy bodies public

- *Patents*

- External audit check - Opening up the 'black box'
 - Transparency register

- *Proposals* – Participation - Three pillars
 - *Law making*
 - Representation of ‘outsiders’ (users, scientists, consumers) patentable subject matter, ..
 - Ad hoc committee within European Parliament
 - ‘Feedback loops’
 - *Examination*: centralisation vs. decentralisation
 - (New) roles national patent offices
 - *Jurisdiction*: harmonization vs. equal access
 - Integrated European Patent Court, National designated courts