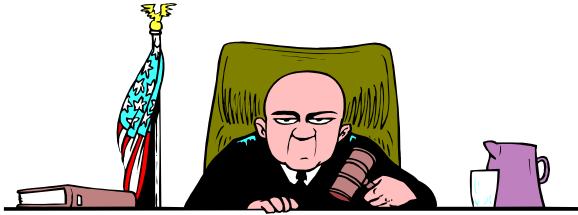


Patent course

Tuesday January 12, 2010

Impact of differences in national patent laws



Anette Hegner

A world of different laws

Common law

Civil law

A world of different Rules/Requirements

First to file – first to invent
 Prior art – Novelty/inventive step
 Requirement to inventive step
 Grace period
 Best mode
 Examples and embodiments
 Possibility for amending claims
 Divisionals



A world of different languages

Translation may be required
 -of claims
 -of whole text
 -of cited prior art
 -of priority document(s)



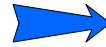
Add to cost

Consider from the start
 where the patent may
 be obtained

A world of different cost

Claim fees varies considerably

In some countries the number of claims can be reduced for reducing cost – in other you must pay for the number of claims in PCT



Add to cost



Total cost varies considerably (10 page, 10 claims)

An average EP (excl. drafting cost) patent cost about 30.000 Euro

An average US (excl. drafting cost) patent cost about 10.000 Euro

An average JP (excl. drafting cost) patent cost about 15.000 Euro

A world of different scope

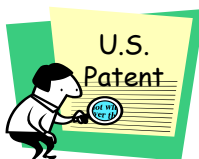
Claims are interpreted different

Even when granted from same EP patent

Progress on making a unified EP patent court



Strength
Enforceability



Literal scope
Equivalent scope
Purposive construction




A world of different litigation systems

In US claims are construed by a judge –
infringement is determined by a jury.
The appeal court is special for patent cases
Full discovery

In DE a few courts deal with patent cases.
The Judges are technical educated
No discovery

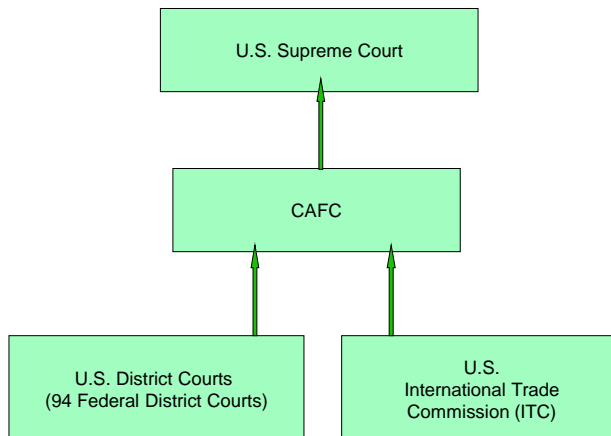
In UK a patent suit can be filed in Patent county
court or high court – the Judge has technical
assistance.
Limited discovery



Different
results
Different
cost
Different
time frame

United versus (Dis)harmonized Court Systems

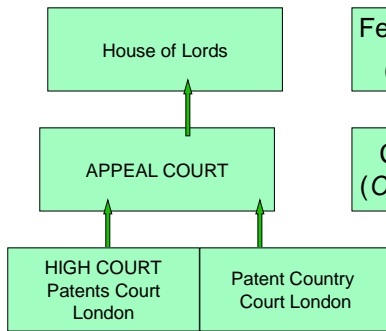
U.S. Court Structure



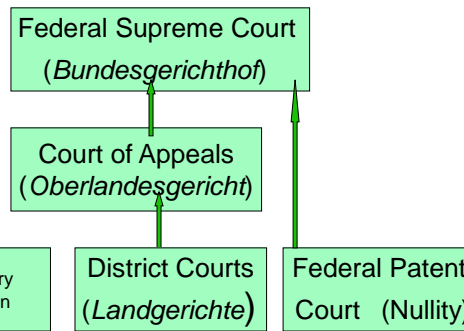
United versus (Dis)harmonized Court Systems

EP Court Structures

UK:



Germany:



A world of different litigation systems

**Before drafting and filing –
consider where a patent
may be relevant and make
your plan for patenting**