



Intellectual Property

From the accession of the Portuguese State to the London Agreement, citizens and companies, who intend to validate a European patent in Portugal, will be only obliged to translate the claims of the patent into Portuguese language.

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Portuguese State joins the London Agreement

On October 28, 2010, the Council of Ministers has approved the accession of Portuguese State to the London Agreement relating to the European Patent Convention. The London Agreement establishes simplifying rules on the procedure for translation of European patents granted under the European Patent Convention dated 5 October 1973.

European patents granted by the European Patent Office ("EPO") entitle their holders to the same rights as the rights of a national patent granted by local authorities. Notwithstanding this, a European patent must be validated in each State where it should be made effective.

In Portugal, the validation of European patents is held by the Portuguese Institute of Industrial Property ("INPI"). Currently, the completion of this validation process requires that the holder of patent submits a Portuguese translation of the descriptions, claims and abstracts of the European patent.

With the accession of Portuguese State to the London Agreement, the holder of the European patent will be only obliged to translate into Portuguese the claims of the patent. The remaining elements can be now submitted in English. These elements are mainly of technical nature, such as descriptions, abstracts and drawings, and represent between 70% and 90% of patent documentation.

This translation scheme exemption is not still extended to all patents granted by the EPO. The English patents granted in English are exempted from translation; however, this does not apply to the patents issued in German or French.

Furthermore, the European patents will continue to be fully translated into Portuguese to the extent they may be subject to legal proceedings in Portugal, which is explained by facilitating the understanding of the matters in dispute between the parties.

This translation scheme is mainly aimed at reducing the high costs of translation incurred by citizens and companies, thus increasing foreign investment in Portugal.

Nevertheless, some critics point out that this new scheme may undermine the protection of the Portuguese language.

The INPI and the European Patent Organization are therefore developing a software tool that enables an automatic and free of charge translation of the technical elements of the patents into Portuguese. This translation tool is expected to be available in 2011, providing consultation to all the elements of the patent in Portuguese.

Portuguese State has joined a group of 16 countries that are already signatories of the London Agreement, which was originally signed in 2000 by the EPO.

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