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IPR in the EU 2011, 2012, 2013, 2014...

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New challenges

- From a **Danish perspective** the European IP systems are facing challenges:
- Increasing backlogs
- Increasing filing activities
- The simultaneous existence of increasing processing times and decreasing average patent life times



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Main IPR challenges for Danish companies

1. The lack of efficient enforcement instruments in Europe
 2. The lack of sufficient instruments given today's need for various filing routes:
 - Fast versus slow patent granting
 - International versus regional/national patent protection
- ↓
- **In other words:** wide range of filing strategies is necessary and filing routes must be optimized to suit company needs



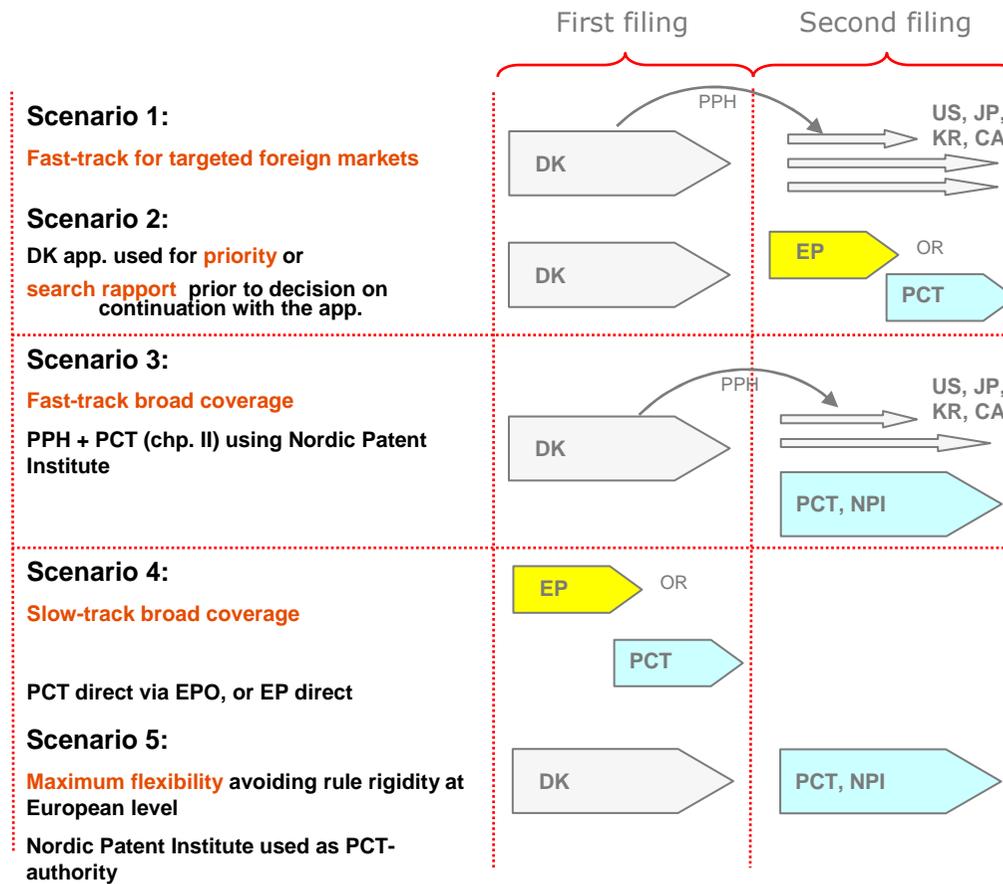
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Filing strategies

Main parameters for deciding on filing strategies:

- The need for security
- The need for fast or slow patent granting
- Geographical coverage (targeted or broader patent protection)
- Economy (cost-benefit)

Different filing scenarios





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An example: The PPH succes story

- Very expedient processing of applications
- The number of Office Actions is reduced thereby reducing legal costs
- PPH is easy to use; forms are available and documents to be furnished are readily available



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Danish applicants' use of DKPTO-USPTO PPH Program

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- Currently around 75 PPH request/applications has been filed to the USPTO since start of agreement November 3, 2008
- Use of PPH is steeply increasing; around 50 of the total PPH request were filed in 2010 and more is expected in 2011
- DK applicants received a granted US patent only 1½-2 years from the filing of the DK priority application in some instances
- First Office Action received from the USPTO within 3 month from filing



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PPH facts and figures

- USPTO allowance rates:
 - PPH-Paris route: 91%
 - PCT-PPH: 97%
 - Non PPH cases: 46%

- Number of Office Actions:
 - PPH-Paris route: 1,88
 - PCT-PPH: 1,17
 - Non PPH: 2,41

- Average pendency from PPH request to first action:
 - PPH: 3,9 months
 - Non PPH: 25,8 months

- Average pendency from PPH request to final decision:
 - PPH: 4,7 months
 - Non PPH: 34,6 months



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Two important objectives

1. Implementation of an efficient unified litigation system in Europe
2. Optimizing capacity utilization through closer operational interaction between the relevant national and regional IP institutions



Result: Strengthening home markets and companies' possibilities on international markets



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Unitary Patent Protection must produce added value and should:

- Be accompanied by a Unified Patent Litigation System with jurisdiction for both classical European Patents and European Patents with Unitary Effect
- Contribute to make the EPO more effective
- Focus on overall cost efficiency including a limited translation regime
- Complement – not replace – existing options



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A Unified Patent Litigation System should:

- Apply to most common types of patent litigation concerning both Classical European Patents and European Patents with Unitary Effect
- Facilitate faster and cheaper enforcement of patent rights
- Simplify proceedings and contribute to reducing the overall number of litigation cases across Europe
- Develop a coherent and consistent case-law thereby increasing legal certainty and predictability



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Points for thought

- **How does these developments influence patent advisers, patent lawyers and companies?**
- **What does companies want to achieve?**
- **Integrating IPR in business planning and differentiate the use of different filing strategies**

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