

Improving the Patent System in the EU

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- Patent Law: Between market and government failure
- Harmonization of patent regulation in the EU
- Improving monitoring mechanisms in the system

MARKET FAILURE ↔ PATENT LAW ↔ GOVERNMENT FAILURE

Market disincentives
to innovation

Government disincentives
to innovation

Market failure

- What happens? Disincentives to innovation
- How?
 - Firms are not able to reap the benefits of their investments or of their work.

Government Failure

- What happens? Suffocation of innovation
- How?
 - Overprotection of rights (scope of patentability and strength of rights granted)
 - Burdensome and expensive approvals-litigation procedures
 - Predatory usage of patents
 - Negative externalities into other public sector functions (ie: health, education and scientific research)

Harmonization of patent law in the EU

- Need of organizational consistency
- Need of a balanced approach
- Need of quality
- Need of innovation system perspective

Improving monitoring

- Why more monitoring?: To avoid government failures at EU level.
- How?
 - Macro-level monitoring: Political instance with system overview and critical follow up of the praxis of patentability criteria, reporting to democratic institutions.
 - Meso-level monitoring: More instances assessing the 4 possible government failures
 - Micro-level: Generate new incentives to avoid "capture" of individual firms and EPO.