

« DEALING WITH THE BACKLOG PROBLEM »

- French Experience -

FICPI / AIPLA COLLOQUIUM

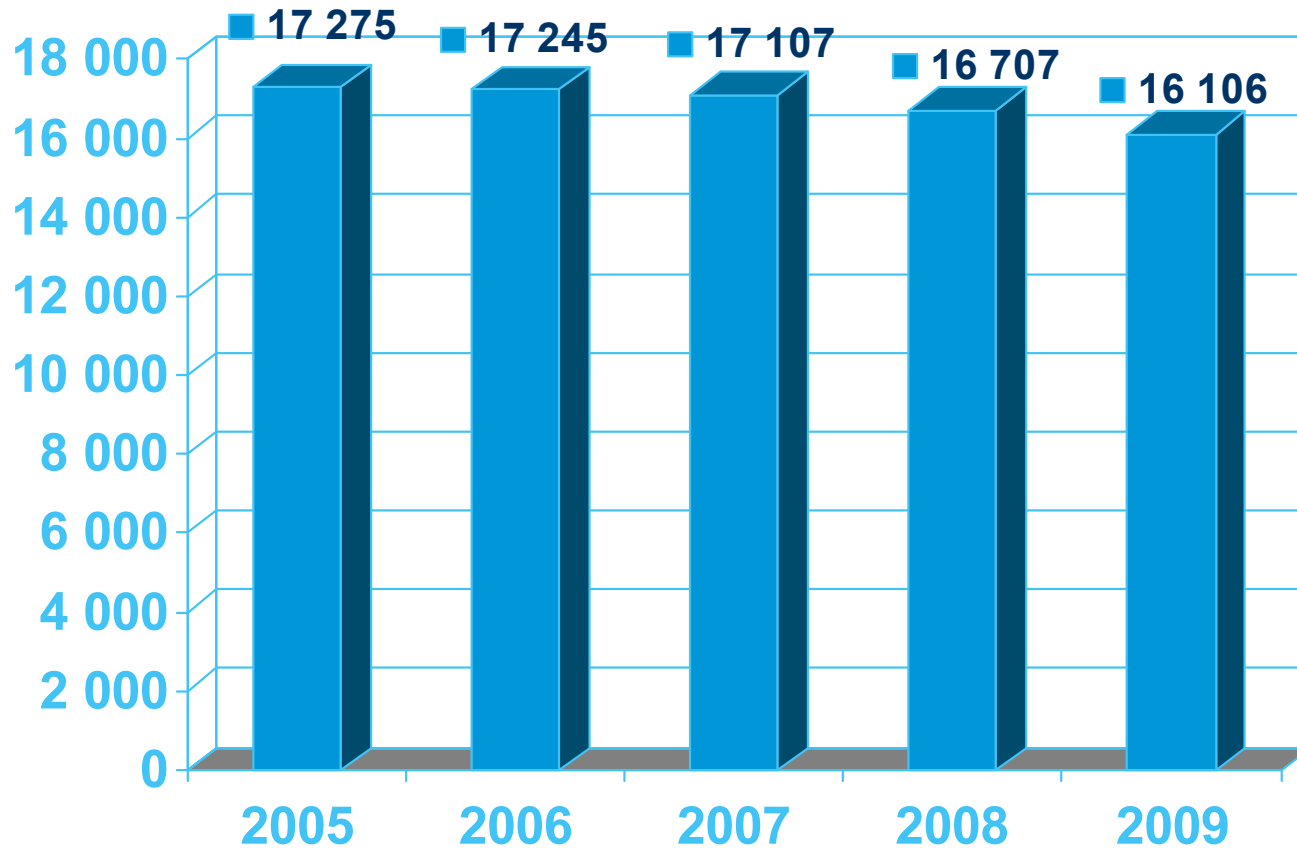
« THE PATENT OFFICES BACKLOG CRISIS »

Edinburgh

June 16-18, 2010

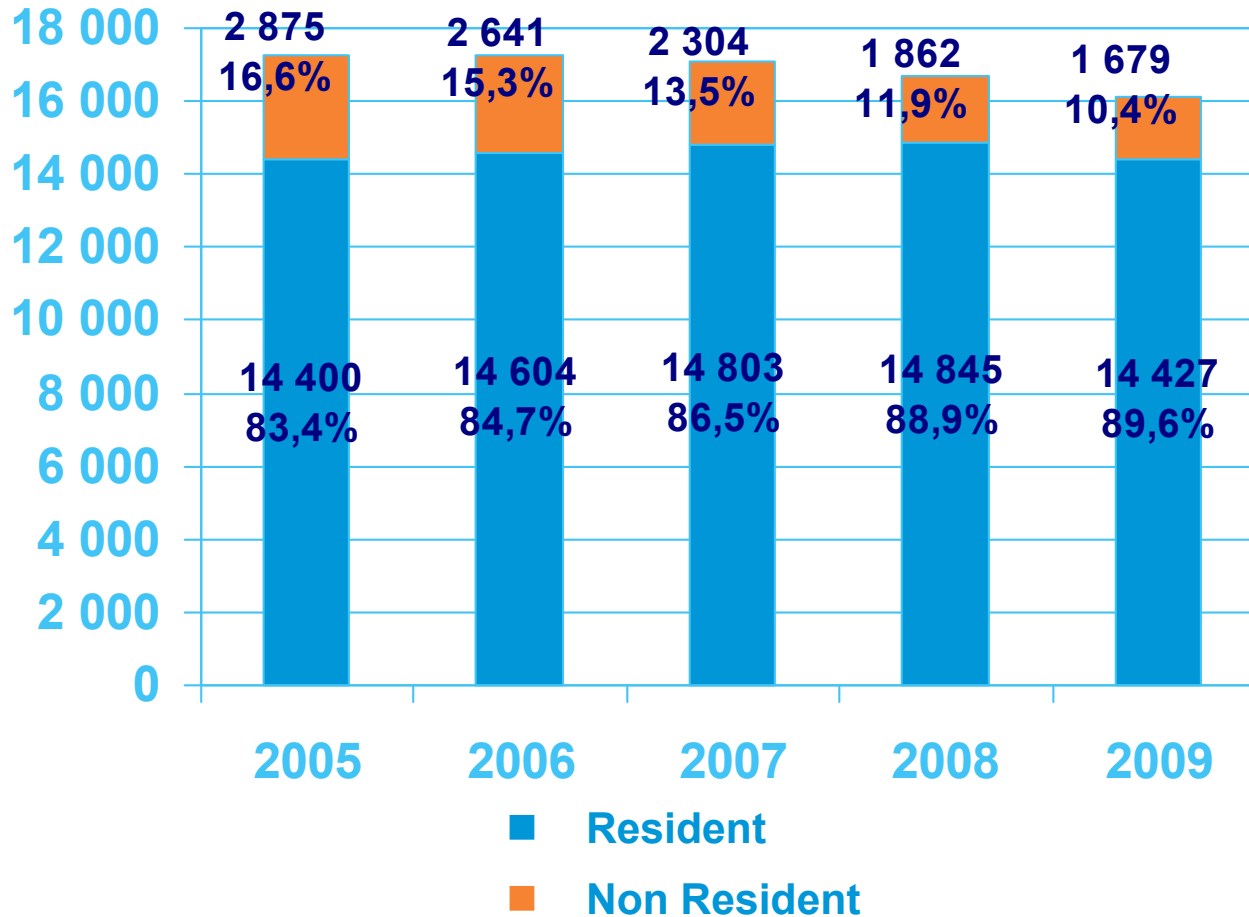
I - PATENT ACTIVITY AND TRENDS (2005 – 2009)

Filings of national patent applications



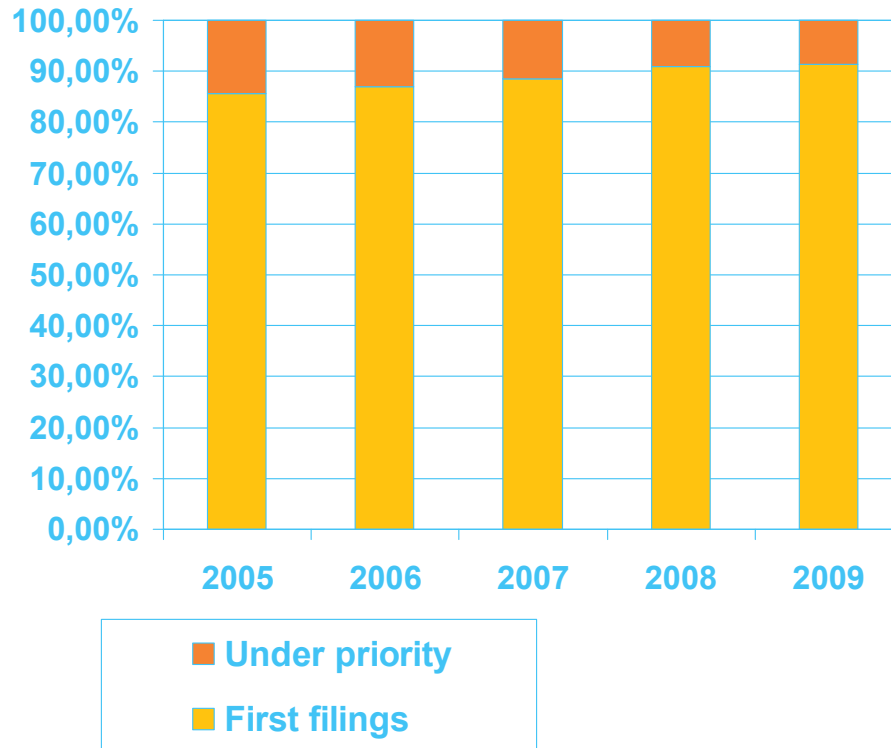
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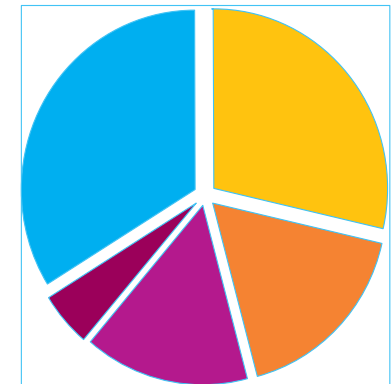
I - PATENT ACTIVITY AND TRENDS (2005 – 2009)

Filings of national patent applications



Origin of filings under priority

- DE = 28,7%
- JP = 17,0%
- US = 15,5%
- KR = 4,8%
- Others = 34,0%



I - PATENT ACTIVITY AND TRENDS (2005 – 2009)

Filings of national patent applications

	2006	2007	2008	2009
SME's	1 178	1 783	2 120	2 264
<i>(% of total)</i>	6.8%	10.4%	12.7%	14.1%

Granted Patents

	2005	2006	2007	2008	2009
Total Granted Patents	11 473	13 788	12 110	10 812	10 528

I - PATENT ACTIVITY AND TRENDS (2005 – 2009)

European and PCT Filings by French applicants

EP	2005	2006	2007	2008	2009
Applications	8 034	8 051	8 359	9 050	8 936
<i>Evolution</i>	-0.6%	+0.2%	+3.8%	+8.3%	-1.3%

PCT	2005	2006	2007	2008	2009
Applications	5 756	6 264	6 570	7 074	7 166
<i>Evolution</i>	+11.1%	+8.8%	+4.9%	+7.7%	+1.3%

I - PATENT ACTIVITY AND TRENDS (2005 – 2009)

General Trends 2005-2009

- Small decrease in the total of national patent applications filings: -6.8%

Taking into account:

- increase in filings by SME's
- decrease in the number of filings under priority
- impact of the economic downturn in 2008 – 2009

(NB: in 2010, January – April, patent applications = +4.5%)

- Increase in European Patent filings by French applicants: +11.2%
- Strong increase in PCT applications by French applicants: +24.5%

II – NATIONAL CONTEXT

Legal Framework

■ Patent proceeding from filing to granting (quick overview):

After formalities examination, classification and first technical examination by the INPI, and a preliminary search report (including the written opinion) drawn up by the EPO (8th month from the filing date), the patent application is published with the preliminary search report (18th month).

During a 3 months period, third parties may provide their observations (rare). The applicant can reply during another 3 months period, which can be renewed once. The INPI draws up the final search report and performed the last operations till the mention of the decision for granting is published.

■ Ratification of the Patent Law Treaty (January, 2010) + related modifications of the national legal framework (December, 2008).

Conclusion: in the current legal framework, the average pendency time before granting can hardly be less than 24 months.

III – OBJECTIVES & POLICY

At national level

■ **Contract of Objectives signed between the INPI and the Ministry of Economy**

- ▶ **General Obligation to reduce pendency in every IPR proceedings**

■ **Actions implemented:**

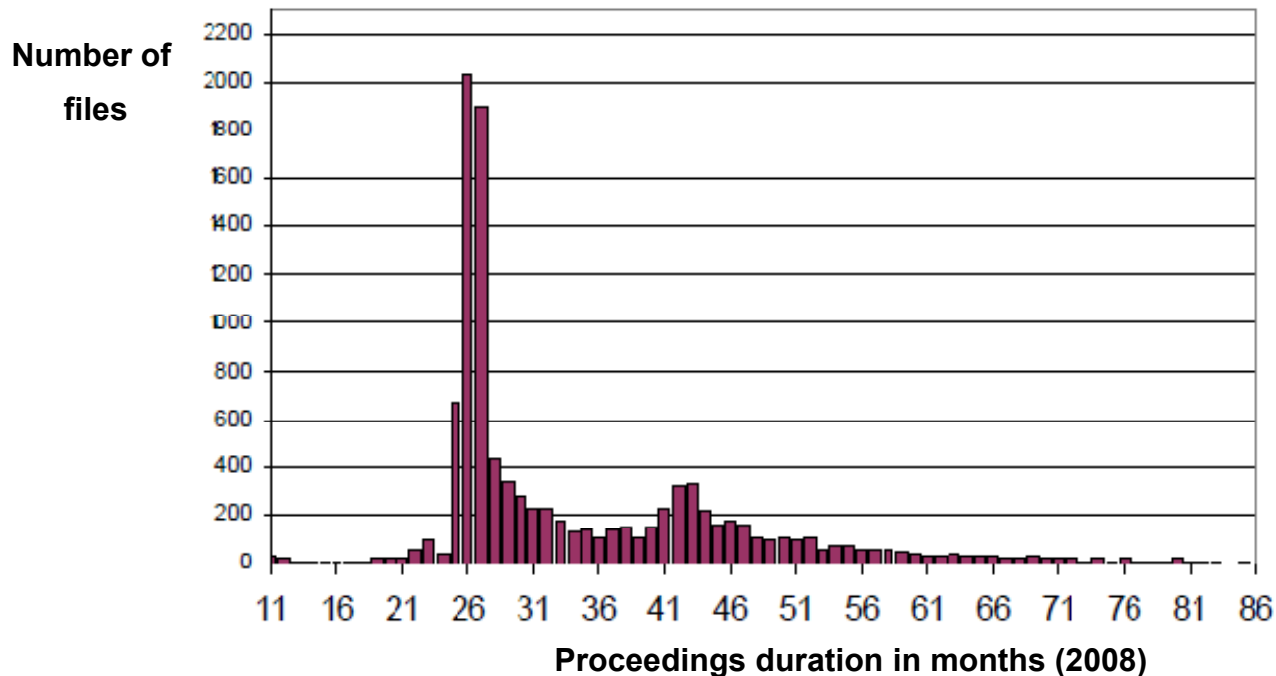
- **HR management** : specific HR Commission to accelerate the recruitment of examiners
- **Automation**: new IT tools to reduce the duration of technical operations
- **Control**: Internal Quality Audit Service
- **Fees Policy**: higher fee for the 11th claim and each subsequent claim
- **Patentability**: strict appreciation of the scope
- **Legal framework**:

1/ abolition of the possibility to defer the preliminary search report during 18 months from the filing date

2/ obligation for applicants to disclose prior art cited in other Offices (similar to Rule 141 EPC).

III – OBJECTIVES & POLICY

At national level



■ First results:

- in 2004: the average pendency time before granting was 35.7 months.
- in 2009: the average pendency time before granting was 33.2 months.

■ The reduction of pendency is an important objective but the quality of the final product must be maintained.

III – OBJECTIVES & POLICY

At European and International levels

■ EPO

- ▶ **European Quality System, Utilisation Implementation Project**
- ▶ **Raising the bar, fees policy**
- ▶ **International Cooperation, Trilateral, IP5**

■ WIPO : PCT Roadmap

- ▶ **Enhancing the international phase**
- ▶ **Removal of reservations / incompatibilities**
- ▶ **Improving the availability and the completeness of the information**

Thank you for your attention !

Gilles REQUENA

Head, European and International Affairs

INPI - FRANCE