



International Chamber of Commerce

The world business organization

Mr Klaus-Heiner Lehne
Chair of the Committee
on Legal Affairs
European Parliament
Bât. Altiero Spinelli 10E103
60, rue Wiertz / Wiertzstraat 60
B-1047 Brussels, Belgium

14 November 2011

Subject: Unitary Patent Protection Regulation – Articles 6-8

Dear Mr Lehne,

ICC (International Chamber of Commerce) is the world business organization, grouping hundreds of thousands of member companies and associations in over 120 countries.

From the outset ICC has participated in the debate on EU Patent Reform, and has made several contributions, including recent letters on the Presidency proposal for a unified patent court, and on the EC Proposal for enhanced cooperation (see attached).

ICC supports the initiative to create unitary patent protection in Europe, provided it results in a reliable, high quality, efficient, cost-effective and cost-competitive system compared with what we already have in Europe today.

One of the strengths of the current proposal for unitary patent protection is that it is built on the foundation of the existing European patent system, namely the European Patent Convention (EPC).

The EPC has over the last three decades of operation established a robust and well-respected body of jurisprudence. Reflecting the experience of users of the system, ICC believes that unitary patent protection should also build on this established framework and not risk creating a new, potentially divergent jurisprudence. We do not want to see a two-track Europe with different jurisprudence across different EU countries.

From this point of view, and to avoid creating greater legal uncertainty in Europe in the future, ICC would urge that the substantive patent law provisions in Articles 6-8 are moved from the Unitary Patent Regulation to the Court Agreement.

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ICC speaks on behalf of its members inside and outside Europe, who are all interested in creating a trustworthy and reliable new system of excellence. We join other European industry and professional organizations, which are also worried about Articles 6-8 in the Unitary Patent Regulation and we expect you will have heard from other interests and commentators, perhaps from different perspectives. For example, we are aware that Professor Dr. Rudolf Krasser and the Rt. Hon. Professor Sir Robin Jacob have recently expressed legal Opinions on this matter.

ICC also has concerns about other aspects of both the Regulation and the Court Agreement, but if Articles 6-8 are left in the Regulation we believe that the whole dossier will have failed to meet its most fundamental objective of delivering a better patent system in Europe.

In summary, ICC is fervently advocating that Articles 6-8 should be moved from the Unitary Patent Regulation to the Court Agreement, and we trust that the European Parliament under your guidance will support amending the Regulation in this way to ensure we achieve a better patent system in Europe than we have today.

Yours sincerely,



Jean-Guy Carrier
Secretary General

Attachments:

- ICC letter on Presidency proposal for a Unified Patent Court (23 September 2011)
- ICC letter on European Commission Proposal for enhanced cooperation to create a Unitary Patent in Europe (21 January 2011)