

Intellectual Property Action Plan – European Commission

Founded in 1920 in the UK, IP Federation represents IP intensive companies who are extensively involved in business activity in Europe and internationally across a range of industries – a list of members is attached. Not only do our members own considerable numbers of IP rights, both in Europe and elsewhere, but they are affected by the activities and IP rights of competitors and third parties. They may be either plaintiffs or defendants in IP related court actions, across the globe. IP Federation believes that a cost effective, high quality and balanced IPR framework is a critical component in industry's present and future successes in the global economy and in social progress.

We welcome the opportunity to provide comments on the Commission's [Intellectual Property Action Plan](#) to ensure that intellectual property can boost economic resilience both in the EU and beyond. The essential role of IP in the EU's main ecosystems by stimulating innovation and development is widely recognised by our members. As set out in the roadmap, balanced IP policies are particularly important in helping towards an economic recovery following the outbreak of Covid-19.

We agree that the EU already has a robust IP framework. Before embarking on the objective to upgrade the system for IP protection, we urge the Commission to ensure an evidence-based approach to support any changes through continued dialogue with stakeholders. In the area of artificial intelligence and IP, premature legislation may adversely impact innovation. The need for continued conversation on this topic is clearly demonstrated by public engagement in the World Intellectual Property Organization's Draft Issues Paper on Intellectual Property and Artificial Intelligence. Similarly, the need for modernisation of EU legislation on Industrial Designs should be evidence led. In this regard, the IP Federation sees clear evidence against the drastic step of imposing criminal sanctions for design infringement.

Our members welcome consideration of ways to make the supplementary protection certificate (SPC) system less fragmented and would advocate the introduction of a single application and grant procedure via an appropriate central office for generating a bundle of national SPCs, or possibly unitary SPCs.

We also support the Commission's willingness to ensure effective and harmonised implementation of the Copyright Directive's TDM exception, which will facilitate AI innovation and protect rights of content owners.

Innovation is often facilitated by licensing and sharing of IP assets, and confidential information. As outlined in the roadmap, data sharing is increasingly important across many different sectors and we welcome the objective to promote voluntary data sharing. Such data sharing can drive valuable outcomes which can, further encourage sharing by private organisations. Our members can provide examples of beneficial data sharing activities, not least in responding to the Covid-19 crisis. Private organisations must, however, also

be able to rely on legal safeguards to protect data that they consider to be confidential. The action plan states that “the implications of the IP framework for data sharing remain to be clarified”. As before, our members urge the Commission to ensure an evidence-based approach to identify if any issues exist, particularly before considering the creation of new IP rights for data.

We welcome the objective to promote global fair play. Our members welcome the EU’s commitment to continued cooperation to enhance international substantive patent law harmonisation. To ensure that this competition is fair, the EU should maintain a strong, high-quality and coherent IP strategy when it comes to discussing any bilateral trade agreements.

We applaud the Commission’s transparency in inviting stakeholders to provide comments on the IP action plan and welcome the opportunity to engage further on future proposals.

IP Federation
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IP Federation members 2020

The IP Federation membership comprises the companies listed below. The UK Confederation of British Industry (CBI), although not a member, is represented on the IP Federation Council, and the Council is supported by a number of leading law firms which attend its meetings as observers. The IP Federation is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

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