



Liz Coleman
Intellectual Property Office
Concept House
Cardiff Road
NEWPORT NP10 8QQ

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via e-mail: Liz.Coleman@ipo.gov.uk

Dear Liz

Trade Secrets, Patents and Rio+20 Developments

As you know, the IP Federation represents the views of a wide range of industries operating in the UK, Europe and internationally in intellectual property (IP) matters, both policy and practice, including patents. Its members are listed at the end of this letter.

I am writing to request your support in the context of negotiations for the Rio+20 sustainable development conference that begins in Rio de Janeiro in a few weeks.

We are once again seeing active and concerted attempts to include language on IP as a barrier to "technology transfer", as well as efforts to include non-voluntary tech transfer obligations in the final agreed text, along with broad and somewhat vague requirements for "access to (environmental) information" which may include confidential business information, trade secrets and IP.

Many heads of state and other high-ranking officials are likely to be present at Rio and no strong and coordinated response among key IPR- and technology-friendly delegations appears to exist yet, which is worrying to innovators in the green technology space. Harmful language is still in the current Rio+20 draft - much of it not even bracketed or otherwise qualified. The process really does not appear to be moving forward in as coordinated, positive and inclusive a manner as it was in the United Nations Framework Convention on Climate Change (UNFCCC). UK leadership and active coordination among key IP friendly delegations and stakeholders is urgently required.

Our main concerns, at this stage, are as follows:

- Any Rio+20 outcome text may be a non-legally binding document, but it will have important precedential value and, as such, any concessions in Rio+20 will become a point of reference in the UNFCCC, at the WTO, in bilateral relations and elsewhere across a range of important manufacturing and technology industries.
- Each of the proposals on IPR, tech transfer and access to information is highly counterproductive. The evidence shows that effective IP protection sustains and enables not just innovation, but the commercialization, dissemination and worldwide deployment and use of technologies. Weakening IP protection, which is what all of these proposals are code for, is demonstrably counterproductive

The IP Federation is the operating name of the Trade Marks, Patents and Designs Federation
Registered Office 5th floor, 63-66 Hatton Garden, London EC1N 8LE

Email: admin@ipfederation.com | Tel: 020 72423923 | Fax: 020 72423924 | Web: www.ipfederation.com

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and makes it harder, less likely and more expensive to achieve global development, sustainability, energy and climate change goals.

- Allowing IP language or more indirect non-qualified language on (non-voluntary) tech transfer and “access to information” to be included in a final Rio+20 outcome will effectively undermine the active efforts over several years of UK negotiators at the UNFCCC, the WTO and elsewhere. This cannot possibly be a sensible strategy.
- In terms of negotiating strategy, we are seriously concerned that very little pressure appears to have been put on G77 and other countries that have been demanding inclusion of IP language and that advocate for a broad range of “access to information” provisions. A more coordinated and concerted response is needed as a matter of urgency.

We would appreciate anything that the IPO can do to ensure that UK and EU negotiators enter the final stages of the Rio+20 negotiations well-prepared and with a very clear technology-related brief:

- a) Any Rio+20 outcome must take into account and be fully consistent with prior (and future) UNFCCC outcomes, and the negotiating positions that were taken and agreed.
- b) Language on IP rights has no place in a final Rio+20 outcome and must be rejected.
- c) Any references to technology transfer should be clearly qualified and conditioned to include only voluntary transfer on mutually agreed terms. (They are not consistently conditioned and qualified as such in the current draft).
- d) Any efforts to include non-voluntary tech transfer obligations should be firmly rejected and any such language unconditionally removed.
- e) Broad and often very vague requirements for “access to (environmental) information” effectively provide governments and government-related entities flexibility to access business confidential and proprietary business and commercial information, including the IP that we are trying to protect. Any such provisions must be firmly rejected.

I should appreciate your letting us know your views on this issue and what steps you propose to take.

Yours sincerely

David England
Chartered & European Patent Attorney
Secretary, IP Federation

Copies to:

Neil Feinson <Neil.Feinson@ipo.gov.uk>
Michelle Frew <michelle.frew@ipo.gov.uk>
Matthew Fell <Matthew.Fell@cbi.org.uk>



IP Federation members 2012

The IP Federation represents the views of UK industry in both IPR policy and practice matters within the EU, the UK and internationally. Its membership comprises the innovative and influential companies listed below. Its Council also includes representatives of the CBI, and its meetings are attended by IP specialists from three leading law firms. It is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd
ARM Ltd
AstraZeneca plc
Babcock International Ltd
BAE Systems plc
BP p.l.c.
British Telecommunications plc
British-American Tobacco Co Ltd
BTG plc
Caterpillar U.K. Ltd
Delphi Corp.
Dyson Technology Ltd
Eli Lilly & Co Ltd
ExxonMobil Chemical Europe Inc
Ford of Europe
Fujitsu Services Ltd
GE Healthcare
GKN plc
GlaxoSmithKline plc
Hewlett-Packard Ltd
IBM UK Ltd
Infineum UK Ltd
Merck Sharp & Dohme Ltd
Microsoft Limited
Nokia UK Ltd
Nucletron Ltd
Pfizer Ltd
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Shell International Ltd
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