Mr John Alty CB
Chief Executive
Intellectual Property Office
Room 3R36
Concept House
Cardiff Road
NEWPORT NP10 8QQ

URGENT

1 December 2011

Dear John

Unitary Patent Regulation and Unified Patent Court Agreement

I am writing to you following the European Patent Reform Consultation Group meeting held at the IPO on 29 November 2011.

From that meeting we understand that there is to be a Competitiveness Council Meeting on **5 December 2011** (where there will be a push for political agreement on these dossiers), followed by an initialling ceremony on **22 December 2011**.

We also understand from the IPO meeting that, once the draft Regulation and draft Agreement have been initialled, it will be difficult to make further changes to them.

The IP Federation is in favour of Unitary Patent Protection, and broadly in favour of a Unified Patent Court which brings benefits to users over the current system.

However, the Federation is extremely concerned that the draft Regulation and draft Agreement will precipitate a patent system in Europe which is **worse** than we have today. This was also the consensus view of representatives of industry, judges, lawyers and patent attorneys at the meeting.

Our main concerns are:

- Articles 6–8 (defining the rights conferred by a Unitary Patent) should be removed from the draft Regulation.
- The draft Agreement should allow patent owners to initiate infringement proceedings and proceedings for protective and provisional measures before the Central Division.
- The draft Agreement should allow patent applicants to opt-out of the jurisdiction of the Unified Court those patents applied for via the EPO (other than unitary patents) during the transitional period.
- The Central Division should not be located such as to encourage delays in the consideration of validity.
- A satisfactory and advanced draft of the Rules of Procedure should be available before signature of the Agreement.

We therefore urge the UK not to initial, agree to or sign anything in which our concerns are not dealt with or, at least, the UK should not agree anything which precludes further progress on these structural issues. In addition, sufficient flexibility should be left to deal with other more technical issues, such as privilege, that are problematic in the latest draft we have seen.

We are happy to discuss this further with you, and look forward to the meeting arranged together with CBI on 19 December 2011.

Yours sincerely

James Hayles
President, IP Federation

c.c. Rt. Hon. Dr John Vincent Cable MP
Baroness Wilcox
Rt. Hon. Kenneth Clarke QC MP
Jonathan Djanogly MP

IP Federation members 2011

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.

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