



PATENTS

KEY MESSAGES

- 1** A strong and effective intellectual property system is necessary to boost Europe's innovation.
- 2** Europe needs a common patent court system that would save approximately € 300 million for companies.
- 3** BUSINESSEUROPE also supports adoption of the EU Patent.
- 4** Both tools must deliver the highest quality, cost-effectiveness and legal certainty for companies.

BACKGROUND

The EU Swedish presidency reached a political compromise in December 2009 on both the EU patent and a common patent court system. The European Parliament also needs to deliver its opinion on the EU Patent proposal. The Commission is set to present a separate proposal on languages for the EU Patent. The European Court of Justice is also assessing the compatibility of the common patent court proposals with the EU Treaty.

Currently patenting costs in Europe are prohibitive for companies in terms of maintenance fees and translation costs, thus making a patent in Europe up to 15 times more expensive than a US patent.

WHAT DOES BUSINESSEUROPE AIM FOR?

- Despite the political agreement of December 2009, a number of key remaining issues must be settled, in particular languages for the EU Patent. The Belgian EU presidency is therefore urged to move forward on this dossier.
- EU Member States and the Commission must avoid creating a system unsuitable for companies as was the case with the 2003 political compromise that failed. BUSINESSEUROPE is committed to shaping a European patent system fit for the future that meets the needs of companies.
- BUSINESSEUROPE supports the setting-up of a common patent court system with highly experienced legally and technically qualified judges sitting in multinational panels and applying common procedural rules. Flexible solutions to handle validity and infringement disputes should be provided. Effective transitional mechanisms, including the possibility of an opt-out, should be put in place to allow companies to gain trust in the new system. In order to have a cost-effective system, BUSINESSEUROPE supports the use of a single language regime for court proceedings, namely the language of the patent.
- Any language proposals on the EU Patent including compulsory translations with a legal effect are rejected, because they go against the unitary nature of the EU Patent, do not provide the cost-effective patent system companies have been asking for and do not guarantee the necessary legal certainty in court proceedings.
- BUSINESSEUROPE fully supports the need for an EU Patent but would rather stay with the current system or be willing to explore other avenues to improve the patent situation in the EU than getting a bad system that companies will not use.