

BUSINESSEUROPE



INTELLECTUAL PROPERTY IS KEY



FOR INNOVATION, CREATION, ENTREPRENEURSHIP,
GROWTH & JOBS, TRADE AND SOCIETY

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BUSINESSEUROPE



WHO ARE WE?

BUSINESSEUROPE is the leading advocate for growth and competitiveness at European level, standing up for companies across the continent and campaigning on the issues that most influence their performance.

A recognised social partner, we speak for all-sized enterprises in 35 European countries whose national business federations are our direct members.

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FOREWORD

The protection of intellectual property (IP) is key to drive innovation and creation, which is the basis for progress, growth and job creation especially in mature economies with significant cost components.

Innovators and creators need to know that their inventions and creations can be protected and enforced.

As a result, we benefit every day from new or improved products and services. Innovation is crucial to address the major challenges that Europe will face in the coming decades, such as caring for an ageing population, securing energy supply and fighting climate change.

IP-intensive industries generate about 39% of EU GDP and directly employ 56 million people. Roughly 20 million jobs in Europe stem indirectly from IP-intensive industries, illustrating the positive spillover effects that these industries have on other parts of the EU economy.

Despite the fundamental importance of protecting IP, innovative businesses, and in particular SMEs and start-ups, still experience many challenges when trying to protect their inventions and creative works. Moreover, the enforcement of IP rights - often linked to the fight against piracy and counterfeiting - has proven to be very difficult and increasingly challenging in today's digital world.

Inventors, creators and businesses should be able to fully rely on IP protection in Europe and its effective enforcement, while obtaining it at a reasonable cost. The new Unitary Patent will finally open a new opportunity for companies to protect their inventions.

This brochure outlines some of the challenges that European companies still face, illustrated through concrete business cases and testimonials. It also provides practical recommendations to further strengthen IP protection in Europe.

We need to better understand and appreciate the real value of IP for Europe, and act accordingly. IP is key for European growth, innovation and competitiveness!



Emma Marcegaglia

President of
BUSINESSEUROPE



Markus J. Beyrer

Director General of
BUSINESSEUROPE



INTELLECTUAL PROPERTY IS KEY

PAINTING THE FULL PICTURE:

+ POSITIVE



Young entrepreneurs and start-ups in Europe are full of ideas.



IP is often the foundation for success.



IP helps knowledge-sharing.



96% of Europeans agree that protecting IP is important.



IP-intensive industries account for 39% of EU GDP and 76 million jobs.



The rise of the internet is providing many new opportunities.



IP adds value: for example, for every €100 spent on design, turnover increases by €225.



Advertising expenditure on brands (€174 billion per year) benefits the media, as well as sports, arts and entertainment.



Copyright-intensive industries create more than 7 million jobs in Europe.



The new Unitary Patent will open a new opportunity for companies to protect their inventions.

WHAT'S HAPPENING IN PRACTICE?

— NEGATIVE



SMEs, start-ups and young entrepreneurs have trouble to identify the best way to protect their inventions and creations.



Businesses find it increasingly difficult to enforce their IP rights, especially online and across borders.



2.5 million jobs worldwide are at risk every year as a result of counterfeiting and piracy.



European companies often have to compete unfairly with fake brands.



Nearly 36 million counterfeited items were seized at EU borders in 2013.



Fake medicines, food and untested toys can pose serious health and safety risks. Together with electronic appliances they make up half of what is globally detained.



Illegal downloading is destroying jobs and discouraging the creation of new films and music.



Yet, 57% of young Europeans (15 to 24 years old) consider it acceptable to download for personal use.



IP rights applications grow rapidly worldwide causing longer processing delays and more costs for companies going global.

WHY IS IP IMPORTANT?

Genius is one percent inspiration, ninety-nine percent perspiration.

Thomas Alva Edison



ALMOST **40% OF EU GDP** IS GENERATED BY IP-INTENSIVE INDUSTRIES

76 MILLION JOBS

WITH **56 MILLION JOBS** STEMMING DIRECTLY AND ANOTHER **20 MILLION JOBS** STEMMING INDIRECTLY FROM THESE INDUSTRIES



IT MEANS THAT **1 IN 3 JOBS** IN EUROPE DEPENDS ON IP-INTENSIVE INDUSTRIES



BUSINESS ACCOUNTS FOR OVER **60% OF R&D EXPENDITURE** IN THE EU

Inventing and creating is hard work. It takes a lot of time, resources and trial and error to make a breakthrough.

In most cases, millions of euros have to be invested before achieving results. Yet, once an invention or creative work is completed and becomes known to others, it is often easy and cheap to copy it.

IP protection is necessary to assure inventors and creators that nobody will copy or steal the result of their work. This would discourage future investments and the drive to innovate.

Therefore, we need a reliable and enabling IP framework in Europe that rewards innovation and creation. It should allow the inventor to benefit exclusively for a certain period of time in exchange for spreading knowledge to society.

THE BIG CHALLENGE



- Not all companies are often fully aware of the benefits of IP. As a result, they do not protect their inventions and creations properly. This makes it possible for others to misappropriate them without their consent.
- Many SMEs and start-ups struggle to find the right information. They have trouble to understand where and how to obtain protection and how IP can help their business.

IN PRACTICE



Barbara Veldhuis-Stribos,
IP Director at Corbion



IP supports new ways
of preserving food.

Intellectual property rights are of great importance. They not only help to protect our know-how but they also provide a means to enter into cooperation with significantly bigger-sized companies. ”

Originating in the Netherlands, Corbion-Purac is a global leading company in food preservation and biobased chemicals. The company is known for the development of nature based solutions, renewability and sustainability. An example is its innovations in the field of lactic acid based bioplastics, which are made from renewable resources, while minimising CO₂ emissions.

WHAT NEEDS TO HAPPEN?

BUILD KNOWLEDGE AND RAISE IP AWARENESS



- › Teach the value of IP from the classroom to the boardroom.
- › Focus on young entrepreneurs, start-ups and SMEs.
- › Rally national IP offices to increase awareness-raising actions.



WHY MUST IP PROTECTION BE AFFORDABLE?

Daring ideas are like chessmen moved forward; they may be beaten, but they may start a winning game.

Goethe



IP AND INNOVATION

«IP is an integral element of our innovation process. In addition to protecting our new products and innovative manufacturing processes, it serves as a basis for the increasing number of cooperations we have and for our open innovation projects.»

Dr. Udo Meyer, Senior Vice President,
Global Intellectual Property, BASF SE

Companies know that being innovative and creative is the key to success. This would be impossible without good and affordable means to protect their IP.

Different businesses from different industries use different IP rights. Often, various IP rights are combined to fully protect their ideas and creations.

Patents are usually more relevant in sectors with long innovation cycles and high R&D costs, such as the pharmaceutical, chemical and biotechnology industries.

Trade Marks and designs are more common for fast-moving consumer goods. Copyright is most relevant for the media and audio-visual industry. For other companies, trade secrets are vital for their business (see also page 19).

Whatever the form of IP protection chosen, cost is one of the determining factors for companies before embarking into innovation.

THE BIG CHALLENGE

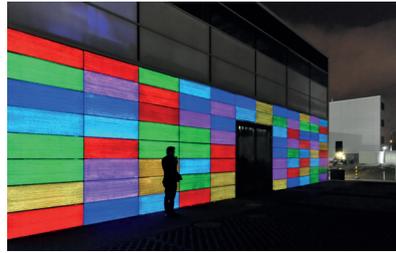


- The complexity of IP rules requires a good knowledge of the relevant legislation to achieve the best cost/benefit results.
- The acceleration of technological progress and the digital revolution make the IP environment even more challenging, especially for SMEs, start-ups and young entrepreneurs.

IN PRACTICE



Dr. Andreas Roye,
Founder of LUCEM GmbH



Innovative use of light becomes
a reality thanks to IP.

Intellectual property is one of our columns to create value. Next to our human resource capital, our high-tech machine equipment and our global customer basis, especially the IP portfolio is of major importance for us as a start-up to create significant value. ”

LUCEM is a leading German company in light transmitting concrete. The material is used for desks and furniture, interior design and façade building. It is the architecture of tomorrow. The company has production plants in Germany, the Netherlands, Poland and six international sales offices worldwide.

WHAT NEEDS TO HAPPEN?

MAKE IP PROTECTION AFFORDABLE AND ACCESSIBLE TO ALL



- › Ensure that the costs for the Unitary Patent are reasonable and non-prohibitive, also for SMEs and start-ups.
- › Make renewal of IP protection cost-effective in line with IP policy objectives.
- › Make access to justice affordable to companies of all sizes, including the new Unified Patent Court.



HOW DOES IP BRING INNOVATION TO THE MARKET?



Jacques Bauvir,
Head of Michelin's IP Department

«IP is key for Michelin. Not only to develop innovative solutions for every type of tire use, but also to be able to bring new tires faster to the market.»



THE RISE OF CLOUD COMPUTING

Trust is a key issue for doing business, in the offline world and even more so online. The rise of the internet has created many innovative services, such as cloud computing, which provide new opportunities but also new challenges. «Innovation in the cloud is increasingly associated with brands. In such a dynamic environment, brand recognition through Trade Marks - a type of IP protection that has been somewhat under-estimated in recent years - will be increasingly important to increase trust in such online services.»

Horacio Gutierrez, Deputy General Counsel & Corporate Vice President, Legal and Corporate Affairs for Microsoft

Innovation may begin with an idea, but is only complete when its results reach the market. IP is the necessary “currency” that makes this commercialisation process possible.

All forms of IP protection are part of the commercialisation process. While patents will protect an invention, Trade Marks will bring it to the market. European companies innovate to devise a quality product, a unique service or creation. They link it with their brands, for which they register a Trade Mark.

A Trade Mark's mission is to convey the required distinctiveness of a product to achieve recognition by the market. Customers will associate the product's quality and image with the brand. This connotation benefits all the company's products and services. At the same time, it encourages the company to continue to meet customer' expectations and offer the same level of quality.

THE BIG CHALLENGE



- Bringing innovation to the market requires financing. IP valuation is important for this commercialisation process as it makes it possible to license and exploit IP assets.

IN PRACTICE



Simona and Cristina Vecchi,
Owners and Managing
Directors of Worgas



IP drives innovation
to improve performance.

With over 45 years of experience and substantial investments in combustion R&D, Worgas has obtained more than 150 patents giving the company both pioneering technologies and important market share. ”

The Italian company Worgas is highly innovative and a leader in its range of sustainable gas burners and energy transformation technologies. The ability to protect its inventions is fundamental to the company's success. Worgas currently employs more than 20% of its staff in the area of research and technical development, investing each year about 10% of its turnover in R&D.

WHAT NEEDS TO HAPPEN?

ENSURE BETTER ACCESS TO FINANCE AND PROMOTE INVESTMENT



- > Develop a simple and effective European approach for IP valuation to boost public and private investment.
- > Promote the use of IP as a business opportunity through EU and national projects.
- > Build knowledge of how to use IP assets to obtain financing.



WHY IS COUNTERFEITING AND PIRACY SO BAD?

It is piracy, not overt online music stores, which is our main competitor.

Steve Jobs

DAMAGE BY COUNTERFEITING

FROM 2009 TO 2013, THE AMOUNT OF REGISTERED CASES FOR VIOLATING EUROPEAN IP RIGHTS HAS DOUBLED TO ALMOST

90,000 CASES /YEAR 

2.5 MILLION JOBS 

WORLDWIDE ARE AT RISK AS A RESULT OF COUNTERFEITING AND PIRACY EVERY YEAR

In 2013, EU customs detained almost 36 million products suspected of violating IP rights at a value of nearly €800 million.

While the internet is providing many new opportunities, it has unfortunately also led to an increase in the trade of counterfeited goods and piracy worldwide.

Counterfeiting can cause serious damage and have far reaching effects beyond missed sales opportunities and forced job losses.

Depending upon the nature of the product being counterfeited or copied, there can be serious health and safety concerns for consumers caused for example by fake and untested baby formulae, toys, medication, car parts or electronic appliances.

In nearly every instance, counterfeit goods are produced without quality controls, while ignoring safety standards.

THE BIG CHALLENGE



- European companies find it very difficult to enforce their IP rights, especially online and across borders. This is time-consuming, costly and discouraging, especially for SMEs and start-ups.
- The rise of piracy and counterfeiting poses health and safety risks to consumers, leads to value losses and destroys jobs in Europe.

IN PRACTICE



counterfeit / adjective

1. made in imitation so as to be passed off fraudulently or deceptively as genuine; not genuine, forged;
2. pretended; unreal: e.g. counterfeit banknotes.

THE TOP CATEGORIES OF DETAINED ARTICLES AT EU CUSTOMS IN 2013 WERE:



- › Anything can be counterfeited: clothes, watches, perfumes, shampoo, food and medicines.
- › Counterfeiting has been linked to organised crime and child labour.
- › About half of the medicines purchased online have been found to be counterfeits from illegal websites.
- › People are fooled into spending about €8.8 billion a year globally on fake car parts.
- › The rise of counterfeit medicines is alarming. Since 2010, almost 35 million fake medical products have been seized at EU borders.

WHAT NEEDS TO HAPPEN?

INCREASE EFFORTS TO FIGHT COUNTERFEITING & PIRACY



- › Empower the European Observatory on Infringements of IPRs to facilitate actions against counterfeiting and piracy at EU and national level.
- › Foster cooperation among IP owners, advertisers and payment processors to cut financial resources away from online illegal traders.
- › Enable EU customs to effectively combat IP rights infringements at EU borders.

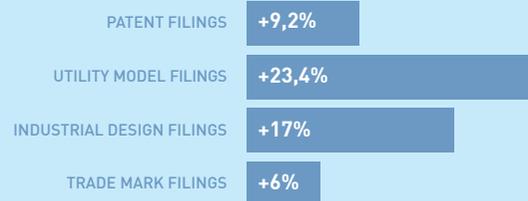


HOW TO ENFORCE IP RIGHTS AT GLOBAL LEVEL?

He that will not apply new remedies must expect new evils, for time is the greatest innovator.

Francis Bacon

IP GROWTH IN 2012



THERE IS A WORLDWIDE BACKLOG OF OVER

4,000,000

UNPROCESSED PATENT APPLICATIONS



EACH YEAR OF DELAY COSTS

€9 BILLION

IN EUROPE, THE US AND JAPAN ALONE

Innovation and IP are becoming more and more global. This raises new challenges for policy-makers and IP offices around the world.

In recent years, the EU has stepped up its efforts to tackle IP rights enforcement challenges and IP misuse in third countries. It uses IP dialogues, bilateral trade agreements and technical cooperation programmes. This is done in line with the TRIPs agreement, which sets the minimum IP rights protection standards globally.

Global challenges such as backlogs and enforcement issues have prompted the IP offices of Europe, US, Japan, China and South Korea to cooperate to streamline rules and procedures. This will benefit businesses globally through less duplication of work, less costs and less red tape.

As the EU and US share the biggest trade relationship in the world, their cooperation on IP rights enforcement in third markets and multilateral organisations is key. The TTIP negotiations provide a unique opportunity to further advance this cooperation.

THE BIG CHALLENGE



- The global IP system is confronted with ever-growing numbers of IP applications, leading to costly delays and an enormous backlog of unprocessed applications.
- Inventors, both domestic and foreign, are increasingly confronted with a challenging IP environment in some third countries. This creates hurdles and makes it more difficult to bring innovative products to the market.

IN PRACTICE



Vainer Marchesini,
Chairman & CEO at WAMGROUP



The use of patents boosts
R&D investment.

Patents carve a competitive advantage for the future. ”

The Italian company WAMGROUP is a worldwide leader in bulk material handling technology. Its equipment can be found in nearly every sector where solid components have to be handled and processed, from building and construction to foods, mining and disposal of waste water. Innovation is key to retain its strong position on the global market, investing every year about 5% of its global turnover in R&D.

WHAT NEEDS TO HAPPEN?

COOPERATE BETTER AT INTERNATIONAL LEVEL



- › Align global IP standards through various EU bilateral trade agreements.
- › Fight against IP expropriations and non-market IP restrictions through international cooperation.
- › Eliminate red tape in rules and practices through closer cooperation between IP offices in different regions of the world.



IN WHAT WAYS DOES IP BENEFIT SOCIETY?

Never before in history has innovation offered promise of so much to so many in so short time.

Bill Gates

IP fosters innovation, creation and helps knowledge-sharing, which is the basis for progress, growth and employment. IP protection is a positive pact between society and innovators.

Europe is facing major societal challenges - from the increased need for healthcare to developing clean energy, to improving the global food chain. Substantive R&D investments are needed to be able to address these future concerns.

IP protection enables open innovation where inventions and technologies can be exchanged between universities, research institutes, SMEs, government bodies and larger companies.

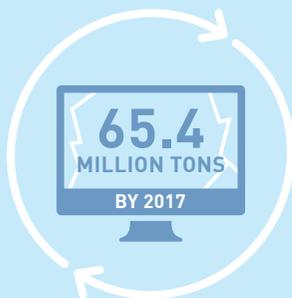
IP also supports and fosters artistic creation and cultural expression that enrich and broaden our lives, such as films, music, art and architecture. Future generations can continue to build on the innovations of the past.

THE BIG CHALLENGE



- A stable and solid IP environment is necessary to pursue research, innovation and creativity. Yet, broader societal awareness of the importance of IP for growth, job creation and innovation remains a challenge.
- Many SMEs have great growth potential and can become successful by participating in open innovation projects. However, they are often unaware of such existing cooperations in their field. Proper guidance is also lacking.

INCREASING E-WASTE
PATENT ACTIVITY WILL
HELP DEAL WITH A
RAPIDLY GROWING
NUMBER OF OLD
ELECTRONIC DEVICES
THAT WILL REACH



1.5 MILLION

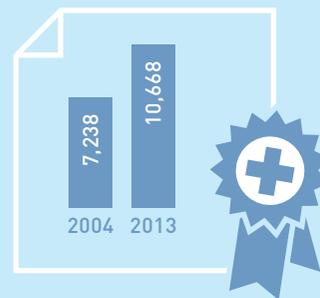
DOCUMENTS RELEVANT TO MOST CLIMATE
CHANGE RELATED TECHNOLOGIES ARE FREELY
ACCESSIBLE GLOBALLY VIA THE EUROPEAN
PATENT OFFICE, SINCE THE END OF 2012

53%

OF INDUSTRY INVOLVED IN WATER
TREATMENT INNOVATION USE
PATENTS TO DELIVER POTABLE
WATER AND SANITATION SERVICES



THE NUMBER OF
PATENT APPLICATIONS
RELATED TO MEDICAL
TECHNOLOGIES AT THE
EUROPEAN PATENT
OFFICE HAS CLIMBED



WHAT NEEDS TO HAPPEN?

SHOW THE SOCIETAL BENEFITS THAT IP CAN OFFER



- > Promote and support open innovation projects to achieve high-value results for society.
- > Launch education campaigns at European and national level to make young and old understand the need for IP protection.



DID YOU KNOW?

IP BRINGS NUMEROUS SOCIETAL BENEFITS!



Golden Rice grains are easily recognisable by their yellow to orange colour.

In most developing countries there is vitamin A deficiency. This particularly affects children, impairing their immune system and normal development, causing disease, blindness and often death. The problem is that white rice - the most common food in these countries - does not contain any provitamin A, which the body converts into vitamin A.

Professor Ingo Potrykus from the ETH Zurich and Professor Peter Beyer from the University of Freiburg developed a special rice that already contains a source of vitamin A. Yet, they were only able to advance their philanthropic vision through technology donation (full technical dossier, licenses to enabling patents) and through partnership with companies as well as the public and philanthropic sector, jointly helping with the financing and other development challenges. The Golden Rice project was born: www.goldenrice.org.

Thus the inventors will soon be able to see their vision to supply the nutritional technology free of charge to those developing country farmers whose communities can benefit from consuming it.

Through the participation of the companies involved, people in developing countries shall benefit from a more nutritious diet, the Universities have achieved important translation of their research into practical application, and developing countries will reduce blindness and death through their own, free exploitation of the donated technology.



EDUCATING NEW GENERATIONS ABOUT IP



Teaching the value of IP from the classroom to the boardroom.

In Italy, the Italian Association of Independent Phonographic Producers (AFI), which gathers 200 small and medium companies involved in music, video production and publishing, took action to reach out to school students and educate them about IP, artistic creation and piracy.

AFI jointly created, under the patronage of the Italian Ministry of Education, the school awareness campaign "Respect Creativity" to explain to teenagers the consequences of illegal downloading, breaching copyright and importance of IP rights for the creation of new music and film.

Given their passion for music and movies the students are eager to learn and respond positively to the campaign. From 2009 to 2013, almost 3,000 classes participated in the project reaching out to more than 65,000 students.

IP INDEX

WHAT?	IT COVERS	REQUIREMENTS FOR PROTECTION	RIGHT AND DURATION	WHERE TO OBTAIN IT?	EXAMPLES
PATENT	An invention, which is a product or a process that provides in general, a new way of doing something, or offers a new technical solution to a problem.	Novelty, inventive step and industrial applicability.	<p>Exclusive right to make, use and sell the patented invention.</p> <ul style="list-style-type: none"> › Generally 20 years, subject to payment of annual renewal fees. 	<ul style="list-style-type: none"> › National patent offices or the European Patent Office (EPO). 	 
TRADE MARK	A sign, design or expression capable of distinguishing the goods or services of one enterprise from those of other enterprises.	Distinctiveness.	<p>Exclusive right to use the Trade Mark in trade.</p> <ul style="list-style-type: none"> › A period of 10 years, which can be renewed indefinitely for a fee. 	<ul style="list-style-type: none"> › National IP offices or the Office for Harmonisation in the Internal Market (OHIM). 	
COPYRIGHT	Rights that creators have over their literary and artistic works.	Originality of the work, irrespective of its literary or artistic merit.	<p>Right to reproduction, communication, rental, resale, translation and public performance.</p> <ul style="list-style-type: none"> › For authors, lifetime plus 70 years. › For performers and film producers 70 years after the creation is made or communicated to the public. 	<ul style="list-style-type: none"> › Automatic upon creation. Some national copyright offices and laws do however provide for registration of works. 	  
DESIGN	<p>An industrial design is the ornamental or aesthetic aspect of an article.</p> <p>The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colour.</p>	Novelty and individual character.	<p>Exclusive right to use the design.</p> <ul style="list-style-type: none"> › For registered designs, the usual maximum term is 25 years. 	<ul style="list-style-type: none"> › National IP offices or the Office for Harmonisation in the Internal Market (OHIM). › For unregistered designs, automatically acquired by the act of disclosure. 	 
GEOGRAPHICAL INDICATION	A product originating in a particular geographical location whose quality or reputation is linked to its geographical origin.	Technical specifications justifying the special characteristics of the product and their link to the geographical location.	<p>Collective right. Exclusive rights to commercialise comparable products and prevent imitation or evocation.</p> <ul style="list-style-type: none"> › Indefinite, no need for renewal. 	<ul style="list-style-type: none"> › Examination by the national authority (depending on the country), then by the European Commission. 	 
TRADE SECRETS	A trade secret is a formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over its competitors.				



KEY RECOMMENDATIONS

1

Provide clarity and certainty to companies by putting in place an effective and enabling IP rights framework.

2

Educate Europeans about the value of IP from the classroom to the boardroom.

3

Facilitate cooperation between national IP offices and the sharing of best-practices.

4

Make IP protection, including renewal, cost-effective.

5

Build a predictable IP environment in Europe to attract more public and private investment.

6

Develop a simple and effective European approach for IP valuation.

7

Engage all actors from public and private sectors in the fight against counterfeiting and piracy, also online and across borders.

8

Ensure better cooperation between international partners to address global challenges such as backlogs and enforcement difficulties.

9

Align international rules and procedures to better protect IP at the global level.

10

Raise awareness of the societal benefits that IP offers through information campaigns, as well as school and university curricula.

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OUR SOURCES AND WHERE TO GO FOR MORE INFO?

- › BUSINESSSEUROPE: www.businessseurope.eu
- › The European Patent Office (EPO): www.epo.org
- › Link to all national IP offices:
www.epo.org/service-support/useful-links/national-offices.html
- › World Intellectual Property Organisation (WIPO): www.wipo.int
- › The Office for Harmonization in the Internal Market (OHIM), the registry for Trade Marks and designs in the EU: www.oami.europa.eu
- › DG MARKT, European Commission:
www.ec.europa.eu/internal_market/intellectual-property/index_en.htm

BUSINESSEUROPE

BUSINESSEUROPE IS THE LEADING ADVOCATE FOR GROWTH AND COMPETITIVENESS AT EUROPEAN LEVEL, STANDING UP FOR COMPANIES ACROSS THE CONTINENT AND CAMPAIGNING ON THE ISSUES THAT MOST INFLUENCE THEIR PERFORMANCE. A RECOGNISED SOCIAL PARTNER, WE SPEAK FOR ALL-SIZED ENTERPRISES IN 35 EUROPEAN COUNTRIES WHOSE NATIONAL BUSINESS FEDERATIONS ARE OUR DIRECT MEMBERS.

 Austria	 Belgium	 Bulgaria	 Croatia	 Cyprus	 Czech Republic
 Denmark	 Denmark	 Estonia	 Finland	 France	 Germany
 Germany	 Greece	 Hungary	 Iceland	 Iceland	 Ireland
 Italy	 Latvia	 Lithuania	 Luxembourg	 Malta	 Montenegro
 Norway	 Poland	 Portugal	 Portugal	 Rep. of San Marino	 Romania
 Serbia	 Slovak Republic	 Slovenia	 Spain	 Sweden	 Switzerland
 Switzerland	 The Netherlands	 Turkey	 Turkey	 United Kingdom	

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