

## Unified Patent Court Agreement

ICC (International Chamber of Commerce) is the world business organization, grouping hundreds of thousands of member companies and associations in over 120 countries.

ICC supports the initiative to create unitary patent protection in Europe, provided it results in a reliable, high quality, efficient, cost-effective and cost-competitive system compared with what we already have in Europe today. One of the strengths of the current proposal for unitary patent protection is that it is built on the foundation of existing European best practice.

A common patent jurisdiction system for both European patents and unitary patents is needed. It is important that the patent jurisdiction is in place when the first European unitary patent is granted.

ICC speaks on behalf of its members inside and outside Europe, who are all interested in creating a trustworthy and reliable new system of excellence. Therefore we highly commend the efforts of the Commission, the Presidency and the Member States to move towards conclusion of the agreement to set up the unified patent court which meets these goals.

From the outset, ICC has participated in the debate on EU patent reform and has made several contributions, including a letter dated 23 September on the Presidency proposal for a unified patent court.

In order to meet these goals, which will deliver real benefits for business, consumers and the European economy, the draft Court Agreement now on the table needs a limited number of important changes.

- Rules of Procedure providing general guidance as to how various powers of the Court will be exercised (while allowing judicial discretion to be exercised as appropriate) should be in an advanced state of development before the agreement is signed. Such guidance should also be provided in the Court Agreement.
- There should be a right to bring proceedings for infringement and interlocutory relief (injunctions and other preliminary measures) in the central division.

Furthermore, business communities in many European countries see the necessity for inclusion of the following points:

- The right for patent owners to opt out of the exclusive jurisdiction of the new Court for all European patents applied for during the transitional period.
- A review period to allow for any necessary improvements to the system to be made. The transitional period should not be shorter than the review period.

We also take the opportunity to draw your attention to our letter of 14 November 2011 to the European Parliament Legal Affairs Committee, in which we advocate that Articles 6-8 of the Unitary Patent regulation should be moved to the Court Agreement.

ICC looks forward to assisting the EU institutions and Member States further as we move towards finalisation of this project.