

3 March 2026

Stéphane Séjourné
European Commission Executive Vice-President
for Prosperity and Industrial Strategy
European Commission
Rue de la Loi 200
1049 Brussels

CC:

Ursula von der Leyen, President of the European Commission
Henna Virkkunen, Executive Vice-President for Tech Sovereignty, Security and Democracy

Dear Executive Vice-President Séjourné,

We, the undersigned representatives of industry associations representing over 100 companies from various sectors (including automotive, information technology, semiconductors, software & services, AI, quantum technology, telecoms, communications and consumer goods), collectively holding more than 580.000 patents, and employing around 2,5 million people in the EU, urge the European Commission to take steps to modernise the 20-year-old Intellectual Property Rights Enforcement Directive (IPRED) in relation to proportionality of remedies for patent infringement, to ensure that the system is fit for purpose in the digital age and supports Europe's competitiveness.

The results of a recently published independent study¹ commissioned by your services clearly show that the proportionality requirement set out in the IPRED is not being effectively applied to patents, despite the European Commission having issued guidelines to this end in 2017. As a result, the patent enforcement framework lacks the balance needed to support investment in new innovative technologies in Europe, negatively impacting Europe's competitiveness and consumers.

As the independent study clearly demonstrates, despite the existing IPRED's requirement that remedies for patent infringement be proportionate, European courts consistently issue automatic permanent injunctions upon a finding of patent infringement without undertaking a proportionality assessment: proportionality has been applied in less than 1% of cases in EU countries, according to data provided by Darts-ip, the most comprehensive database of European court decisions².

The consequence of injunctions being issued automatically is that even an accidental infringement by a manufacturer of a patent that relates to a minor feature of a complex product can result in the entire existing product range being immediately removed from the market.

¹ [Follow-up study on the application of the Directive on the Enforcement of Intellectual Property Rights - Publications Office of the EU](#)

² An analysis of patent court rulings undertaken by Darts-ip for the period 01.1.2015 to 31.12.2020 shows permanent injunctions are granted effectively automatically, without any proportionality assessment, in over 99% of cases in which an infringement was found and injunction requested. Proportionality assessment was done only in 2 out of 628 cases (0.3%) in the EU countries.

Companies often settle claims to avoid that, which gives patent owners excessive leverage to demand settlements far surpassing the patented technology's value³. The situation is even more egregious when the defendant is a small and medium-sized enterprise (SME) and the recalled product provides their only source of revenue.

This imbalance has made Europe attractive to Patent Assertion Entities (PAEs), whose attacks harm innovative operating companies – and ultimately the public – by creating a huge disincentive for investment in the R&D necessary to bring to market the next generation of innovative products. Critical digital technologies such as 5G, the Internet of Things, edge computing, Artificial Intelligence and the underlying hi-tech semiconductors - because of their complexity - are at the highest risk of abusive patent litigation⁴, which significantly discourages R&D investments. The immediate and full removal of products from the market can harm third parties and the public and disrupt supply chains.

While the US has succeeded in clamping down on the harm caused by PAEs by effectively scrapping automatic injunctions, this has not yet happened in Europe at large. A patent system in which injunctions are granted in effect automatically creates a locational disadvantage for companies having their main manufacturing base in the EU, compared with regions where proportionality is applied, such as the US.

We therefore believe that now is the time to modernise the 20-year-old IPRED through targeted amendments to ensure that courts in the EU Member States and the newly established Unified Patent Court effectively consider the proportionality of remedies in their handling of patent litigation cases. Amending the IPRED is identified in the independent study as a potential solution to ensure proportionality is effectively applied – and we believe it to be the only solution that will work. Further non-binding guidelines would not be effective in addressing this issue, as evidenced by the November 2017 IPRED guidance from the Commission, which failed to improve the situation⁵.

Modernising IPRED to ensure true proportionality in patent enforcement directly advances the EU's goals of cutting red tape and simplifying business regulations. The current black-and-white approach to automatic injunctions forces businesses to expend significant resources navigating unpredictable legal risks which can result in entire product lines being taken off the market for infringement by a single feature among thousands. This system is particularly harmful to SMEs. Clear proportionality standards would ease this regulatory burden for businesses and create predictable outcomes, supporting investment in productive activities rather than litigation. A more balanced patent enforcement framework would also reduce the risk of opportunistic patent attacks that hurt SMEs and undermine knowledge transfer, thereby protecting the startup ecosystem the Commission wants to scale up.

We hope that in light of this new evidence, the European Commission will take decisive action on this issue that is critical for Europe's competitiveness, productivity, and innovation.

We stand ready to support you and your team in this endeavor.

³ According to a brief by Copenhagen Economics - Economic implications of automatic injunctions in German patent litigation – in the Broadcom-Audi case the estimated settlement payment exceeds the value of the invention by more than ten thousand.

⁴ PAEs filed 38% of ICT cases in 2024. Source: independent research initiative led by Valerio Sterzi (University of Bordeaux), tracking all UPC infringement cases since June 1, 2023, available at [Key figures – UPCTrack](#)

⁵ Darts-ip data for the period 2015 to 2020 demonstrates that injunctions continued to be granted effectively automatically both before and after the guidance was issued.

List of signatories

- IP2Innovate
- European Automobile Manufacturers' Association (ACEA)
- ACT / The App Association
- Computer & Communications Industry Association (CCIA Europe)
- European Association of Automotive Suppliers (CLEPA)
- Fair Standards Alliance (FSA)*

For further information, please contact IP2Innovate: Patrick Oliver, Executive Director

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* The positions and statements in this letter do not necessarily reflect the specific corporate positions of each individual member company of the signatory trade association.