

## **Balanced patent legal system crucial for safeguarding Europe's leadership in AI**

With its new Strategy on Artificial Intelligence the EU wants to maximise the benefits of this technology and strengthen Europe's competitiveness. The initiative, unveiled by the European Commission on 25 April, reaffirms Europe's potential to become a leading power on AI: Europe has a strong industrial base, a large academic research community and successful AI start-ups. The proposed EU approach combining investments, industrial competitiveness policies and a stable regulatory framework has the goal to build public acceptance of AI and further accelerate innovation in the region.

While Europe is clearly on the right track to become a competitive market power on AI, this progress can be undermined by existing imbalances of Europe's patent legal system.

The patent landscape in today's fast growing high-technology areas is increasingly complex. The days of just a few patents being associated with a single product are gone. AI involves multi-feature, integrated products that are often covered by hundreds if not thousands of patents.

These technological developments pose new challenges for Europe's patent ecosystem – one of them is the rise of the Patent Assertion Entities exploiting certain imbalances in the European patent legal system through abusive litigation tactics. Their practices put Europe's digital innovation at risk by obliging productive companies to dedicate scarce financial and human resources to expansive patent wars, thereby diverting critical R&D investment in new technologies of the future. These outcomes directly contradict the goal of the European patent system to foster innovation.

Patrick Oliver, Executive Director of IP2Innovate, said: "Without rigorous implementation of safeguards by Member States, abusive litigation practices will undermine Europe's efforts to lead the AI revolution. We need to restore balance to Europe's patent legal system, make sure it adapts to fast technological changes and protects Europe's' digital economy".

### Notes to editors

1. IP2Innovate (IP2I) is a coalition of small and large companies that create innovative products and services in Europe and collectively hold thousands of European patents, as well as European industry groups that collectively represent 65 companies. IP2I members have directly experienced patent assertion entities that are adept at exploiting the rigidities of Europe's patent systems on automatic permanent injunctions, inadequate fee shifting and poor-quality patents. IP2I advocates for a robust, balanced and flexible patent legal system in Europe that protects innovators against abuse, works in the public interest and rewards innovators fairly.

2. Watch the [video](#) on Patent Assertion Entities, how they operate and how they damage innovation. PAEs do not innovate and do not create and sell new products. They are financial vehicles that buy up patents and profit from asserting these patents against operating companies. Their business model relies heavily on making threats to operating companies that must then choose to employ significant and financial resources to fight their claims or to settle them with payments or licenses dictated by PAEs. In pursuing this model, PAEs exploit Europe's patent litigation system for their own financial gain at the expense of European innovation and digital economy.

3. Safeguards to restore balance to Europe's patent legal system:

PAEs are increasingly drawn to Europe because they have discovered that they can profitably exploit certain imbalances in the European patent legal system through abusive litigation tactics. But each of those imbalances can be corrected through reasonable safeguards that we urge the Commission and Member States to implement. These safeguards include:

- Applying the principles of proportionality and equity to the decision of whether to grant a permanent injunction in patent cases;
- Bridging the injunction gap in which an injunction follows a finding of infringement even though a validity challenge is on-going through improved case management;
- Improving patent quality;
- Making fee shifting effective by eliminating artificially-low caps and requiring that underfunded PAEs post a bond; and
- Increasing the transparency of court proceedings and the information available about patent cases.

Such safeguards will ensure a robust patent legal system that protects R&D and invention while preventing abuse that could undermine the goals of the system to encourage innovation.

4. European Commission's Communication on "Maximising the benefits of Artificial Intelligence" ([here](#)):

The Communication of 25 April proposes an integrated approach aiming at:

- Boosting Europe's technology and industrial capacity in AI and its uptake;
- Addressing new ethical and legal issues, including respect for fundamental rights, and ensuring that questions of safety, liability, security, transparency and access to data are properly dealt with;
- Tackling socio-economic challenges in the labour markets and modernizing Europe's education and training systems.

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