

Supporting Europe's technological leadership through a balanced patent system



Europe has the potential to become the world's technology leader

The roll-out of new technologies such as 5G, artificial intelligence and blockchain will be crucial for Europe to maintain and strengthen its global influence.

One of the key prerequisites for this to happen is a balanced and effective Intellectual Property (IP) system adapted to the digital age that enables innovators to scale up and bring new products to market.



Imbalances in the patent system threaten Europe's technological leadership

In the digital age, products are increasingly complex and may be covered by hundreds or even thousands of patents. But even accidental infringement of just one patent can result in an entire product being removed from the market.

In Europe's patent system, many courts order products to be removed from the market upon a finding of infringement without considering whether an alternative more proportionate remedy might be appropriate. This practice is contrary to EU law and hurts the European economy.

Patent Assertion Entities, also sometimes called "patent trolls", are increasingly targeting Europe

Imbalances in the patent system make Europe attractive to Patent Assertion Entities (PAEs) – financial vehicles that make and sell no products. Instead, they buy up patents only to assert them against innovative companies, including SMEs, and extract high settlement fees not based on the economic value of the invention but rather based on the damage that would result from an injunction removing products from the market.

20%

There has been an average 20% year-on-year jump in PAE litigation over the last years

The ICT-industry, central to growth and innovation across many industries, is particularly targeted by PAEs, making up some 75% of all cases.

75%

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Almost a quarter of companies targeted by PAEs are SMEs*.

*Data from the Darts-ip report "NPE litigation in the European Union. A statistical overview", February 2018.

Imbalances exploited by PAEs are damaging European innovators, economy and society

Damages to individual companies

-  High settlement fees
-  Unjustified litigation costs
-  Removal of products from the market
-  Disincentive for R&D investment
-  Reputational damage



Damage to Europe's digital economy



Less choice and increased costs for consumers



Erosion of public confidence in the patent system

We call on the new European Commission and Parliament to inject more balance into the European patent system

To protect Europe's innovators and fulfill Europe's ambition to become the world's technology leader, EU policy makers need to urgently ensure remedies for patent infringement are more proportionate and products not automatically removed from the market. We call on policy makers to adopt guidelines to ensure effective application of the proportionality principle to patent enforcement.

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