



Mr Michel Barnier
Commissioner for Internal Market and Services
European Commission
Rue de la Loi 200
B-1049 Brussels
Belgium

23 September 2010

Dear Commissioner, *Cher ami*

In the current economical context, Europe needs to create more growth. Innovation is a strong support of growth. Intellectual property is a key pillar of innovation. A strong and cost-effective patent system is a necessary tool to achieve this.

Europe needs a more efficient patent system and this is why BUSINESSEUROPE has consistently been supporting adoption of a single EU Patent that is of a high quality, available at reasonable cost and ensures legal certainty for companies.

We applaud your systematic efforts since the beginning of your mandate to achieve a breakthrough on this dossier. The unreasonably high patenting costs in Europe compared to the US and Japan are unacceptable and burdensome for companies. They represent a hurdle to innovation and international competitiveness of European companies.

BUSINESSEUROPE has continuously supported the one-language solution (English-only) for the EU Patent, because it has considered it as the most cost-effective and legally secure solution.

However, we have taken note of the impact assessment analysis of the Commission indicating that even though an English-only system may seem as highly simplified and cost-effective at first glance, an English-only solution affecting the pre-grant stage of the EU Patent requires departing from the European Patent Convention (EPC).

BUSINESSEUROPE supports the creation of the EU Patent, but without any amendments of the EPC.

In this context, a majority of BUSINESSEUROPE members – except the Spanish (CEOE), Italian (CONFINDUSTRIA) and Portuguese (AIP-CIP) federations¹- welcome the recent Commission proposal on the translation arrangements of the EU patent

¹These federations consider that the system proposed undermines the equal footing legal framework among companies, creates competitive disadvantages and therefore neither promotes nor enhances competitiveness. They keep on supporting the one language solution (English only) for the EU patent.



proposing a cost-effective, legally secure and simplified system built on the experience of the European Patent Office².

The Commission proposal relies on the current language system of the European Patent Convention (applicant's choice of the procedural language among English, French, and German) that all EU Member States acceding to the EU have also adhered to. In addition, companies in Europe are familiar with and have been using this system for a long time.

Also in terms of enhancing legal certainty, the proposal goes in the right direction as only the text in the language in which the patent was granted will be authentic one, i.e. the only one having legal value for the entire life of the patent. BUSINESSEUROPE has always opposed any legal value of translations, as undermining the unitary character of the single patent for the EU market.

The highest quality of automatic translations that will be available, for information of the public, free of charge, at the time of publication of the application, is key for the success of the EU Patent.

It is now time for EU Member States to act and reach a final decision on this long lasting issue, in order to reinforce Europe's position in the global knowledge economy.

Yours sincerely,

Philippe de Buck

²The Polish federation (PKPP LEWIATAN) supports in principle the proposal from the Commission under condition that an English version of all the documents made publicly available during the process of granting an EU patent be available to the public. Both the French or German version and the English version should be authentic.