



“The voice of SMEs in Europe”

Press Release

FOR IMMEDIATE ISSUE

Patent litigation agreement is not a substitute to a comprehensive patent policy

Brussels, 29 September 2006. UEAPME, the European SME employers’ organisation, cautiously welcomed the intentions of the European Commission to revive the European Patent Litigation Agreement (EPLA), as outlined by Commissioner McCreevy during his speech at the European Parliament yesterday (Thursday). It warned, however, that the EPLA must not be seen as a replacement to the European Community Patent and should not encourage misgranting of software patents under any circumstances.

“A workable EPLA should foresee local Courts of First Instance with the relevant technical knowledge in every Member State, working alongside an appeal Europe-wide Patent Court. The first level of judgment would ensure that small businesses involved in a litigation case could easily substantiate their claims thereby minimising litigation-related expenses. The EU-wide level would then allow for a homogenous interpretation of harmonised substantial patent law, reducing risks of getting diverging decisions by various courts and increasing legal certainty both for patent holders and third parties”, said **Maria Cimaglia**, UEAPME Legal Affairs Adviser.

UEAPME nevertheless reminded that the discussions on the EPLA must not cripple the efforts towards a European Community Patent. “As Commissioner McCreevy pointed out, the entire patent agenda must not be left in a limbo. While the EPLA may ease the litigation-related burden for SMEs, it does not touch upon other issues such as filing procedures. A Community Patent is still the best option in this respect”, added Ms Cimaglia.

UEAPME also voiced concerns about the possibility of the EPLA being used to introduce patents on software “through the back door”. “The European Patent Office policy towards software patents has been very liberal so far. Applying the EPLA to software patents granted by the EPO would create a dangerous body of jurisprudence on an issue which was clearly discarded by the European Parliament and by European stakeholders one year ago”, continued Ms Cimaglia. According to UEAPME, the Munich convention excluding the granting of software patents must be respected by the EPO – consequently, only well founded cases should be accepted under the EPLA. Effective measures should also be put in place to ensure the independence of the EPLA judges from the EPO.

“We look forward to reading the European Commission’s communication and action plan announced by Commissioner McCreevy. We trust that our comments during the past consultations and the concrete suggestions made by SMEs will be taken into consideration”, concluded Ms Cimaglia.

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EDITORS’ NOTE: UEAPME is the employer’s organisation representing crafts, trades and SMEs from the EU and accession countries at European level. UEAPME has 78 member organisations, which represent crafts and SMEs across Europe, covering over 11 million enterprises with 50 million employees. UEAPME is a European Social Partner.

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