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*Committee on Industry, Research and Energy*

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**2011/2176(INI)**

24.11.2011

# **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on Legal Affairs

on jurisdictional system for patent disputes  
(2011/2176(INI))

Rapporteur: Alajos Mészáros

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## SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes, as indispensable to guaranteeing unitary patent protection within the European Union, the participating Member States' efforts to establish a Unified Patent Litigation Court by means of an international agreement; recalls that the unitary patent system can be effective only with a functioning patent litigation system which guarantees timely consideration of claims;
2. Believes that the creation of the unified patent litigation system, which will reduce legal costs and shorten the length of time taken to resolve disputes, will play an important role in:
  - strengthening legal certainty,
  - improving the provision of effective, high-quality legal protection,
  - further boosting research and innovation in the EU, and
  - increasing the competitiveness of EU industry, particularly with regard to researchers and small and medium-sized enterprises (SMEs);
3. Welcomes the decentralised court structure approach adopted in the agreement, which enables the parties to enforce their patent-related rights through a cost- and time-effective procedure in the Member State concerned;
4. Suggests that members of national patent office boards of appeal or of the European Patent Office should not be eligible to serve as a judge of the court until the expiry of a six-month period following the termination of their previous appointment, so as to guarantee their neutrality;
5. Underlines that the multinational composition of the local and regional divisions of the Court of First Instance must be guaranteed within a reasonable timeframe;
6. Stresses that, in order to ensure high-quality court decisions, it will be essential for judges to have the necessary qualifications, expertise and specialisations, to receive ongoing training and to have access to expert assistance; also highlights, in this connection, the importance of appointing technical judges both to the central courts and to the local/regional divisions, and points out that judges should not give advice in relation to cases already brought to court; calls on the Member States and the Commission to take appropriate measures;
7. Welcomes the establishment of a mediation and arbitration centre as part of the agreement, and stresses that one of its main aims must be to reduce red tape and keep litigation costs down for the parties involved;

8. Emphasises that a simple, well-functioning unified patent litigation system will be of particular benefit to SMEs and smaller actors, in particular researchers and young, innovative companies; invites the Member States to consider the possibility of introducing differentiated fees for micro- and small enterprises, as defined in Commission Recommendation 2003/361/EC<sup>1</sup>, while fully respecting equality before the law;
9. Stresses the need for legal certainty and believes, therefore, that jurisdiction should fall to the local or regional division hosted by the Contracting Member State in which the defendant is domiciled;
10. Urges the participating Member States to ratify the agreement without delay;

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<sup>1</sup> OJ L 124, 20.5.2003, p. 36.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	23.11.2011
<b>Result of final vote</b>	+: 43 -: 3 0: 0
<b>Members present for the final vote</b>	Jean-Pierre Audy, Ivo Belet, Bendt Bendtsen, Jan Březina, Giles Chichester, Pilar del Castillo Vera, Christian Ehler, Vicky Ford, Adam Gierek, Norbert Glante, Robert Goebbels, Fiona Hall, Jacky Hénin, Edit Herczog, Kent Johansson, Romana Jordan Cizelj, Lena Kolarska-Bobińska, Béla Kovács, Philippe Lamberts, Angelika Niebler, Jaroslav Paška, Aldo Patriciello, Anni Podimata, Herbert Reul, Teresa Riera Madurell, Amalia Sartori, Francisco Sosa Wagner, Patrizia Toia, Evžen Tošenovský, Ioannis A. Tsoukalas, Vladimir Urutchev, Kathleen Van Brempt, Alejo Vidal-Quadras, Henri Weber
<b>Substitute(s) present for the final vote</b>	Francesco De Angelis, Satu Hassi, Jolanta Emilia Hibner, Yannick Jadot, Ivailo Kalfin, Seán Kelly, Holger Krahmer, Werner Langen, Alajos Mészáros, Mario Pirillo, Vladimír Remek
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Cristian Silviu Buşoi