



14 October 2022

**Response of the IP Federation to the public consultation by the Costs Working Group created by the Civil Justice Council.**

The IP Federation support the concept of a cost cap for Patent cases in the STS along the lines suggested by AIPLA namely adopting the current procedures for the STS in PD 57AB and adding a single total (overall) costs cap of £500,000. Recovery of costs would follow the standard principles.

This would fill a gap between the IPEC and the 'usual track' in the Patents court and provide improved access to justice for "mid-tier" patent disputes by providing potential litigants with greater certainty about the total costs risk of commencing/defending proceedings.

For businesses, budgeting the overall cost of a litigation is one of the important criteria in deciding whether to proceed to issue or defend against certain proceedings. This is perhaps more obvious for smaller enterprises however even for major companies not all patent disputes are of equal weight, value and/or complexity. Regardless of size of enterprise, funding considerations form part of the go/no-go decisions for each and every potential case. The costs cap proposed for patent cases in the STS should help businesses by providing some certainty in terms of maximum recoverable costs and therefore allow businesses to move forward with patent cases that would be notionally too valuable / complex for IPEC but cost prohibited in the usual patent court track.

We support the piloting of a costs cap for patent cases in the STS. We agree with AIPLA that 5 years would seem a reasonable trial period and that it is not retroactive.

On Behalf of IP Federation



## **IP Federation members 2022**

The IP Federation represents the views of UK industry in both IPR policy and practice matters within the UK, Europe and internationally. Its membership comprises the innovative and influential companies listed below. The CBI, although not a member, is represented on the Federation Council, and the Council is supported by a number of leading law firms which attend its meetings as observers. It is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd  
Airbus  
Arm Ltd  
AstraZeneca plc  
BAE Systems plc  
BP p.l.c.  
British Telecommunications plc  
British-American Tobacco Co Ltd  
Canon Europe Ltd.  
Caterpillar U.K. Ltd  
Cummins Ltd.  
Cytiva  
Dyson Technology Ltd  
Eisai Europe Limited  
Eli Lilly & Co Ltd  
Ericsson Limited  
GE Healthcare  
GlaxoSmithKline plc  
Hitachi Europe Ltd  
HP Inc UK Limited  
IBM UK Ltd  
Johnson Matthey PLC  
Merck Sharp & Dohme (UK) Ltd  
Microsoft Limited  
Mundipharma  
NEC Europe  
Nokia Technologies (UK) Limited  
Ocado Group plc  
Pfizer Ltd  
Philips Electronics UK Ltd  
Pilkington Group Ltd  
Procter & Gamble Ltd  
Reckitt  
Renishaw plc  
Rolls-Royce plc  
Shell International Ltd  
Siemens plc  
Smith & Nephew  
Syngenta Ltd  
UCB Pharma plc  
Unilever plc  
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