



April 30, 2007

President George W. Bush  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

Dear President Bush:

As you prepare to host leaders from the European Union at the White House this week, the 362,000 members of the National Taxpayers Union (NTU) wish to bring an important matter to your attention.

In addition to foreign and defense policy issues, the summit will address economic and regulatory concerns and ways to enhance prosperity and break through barriers. Yet today, it is becoming increasingly clear that European regulatory authorities have been constructing obstacles against American companies and are taking steps to deprive them of their intellectual property (IP) rights.

After blocking a merger between GE and Honeywell that was approved by US regulators, the EU has continued to target a number of large and successful American companies – Microsoft, Intel, Qualcomm, Apple, and others. In many cases, officials have taken steps to enact remedies that were specifically rejected in the US. Those steps not only threaten to undermine our regulatory policies, but also serve as *de facto* trade barriers for American companies doing business in Europe.

European nations taking regulatory actions against Apple threaten to deny the company of its ability to protect its own intellectual property. Regulators are trying to force Apple to allow consumers to download music to competitors' devices, a clear violation of Apple's IP rights and its right to design its own products. In the Microsoft case, regulators have demanded that Microsoft provide intellectual information to competitors. These same remedies were rejected by US courts and by the Department of Justice because they only serve the interests of a few competitors, not the interests of all consumers.

The most recent European Commission (EC) demands are taking direct aim at the foundation of American companies' value – IP assets. Because intellectual property—patents, copyrights, trademarks, and trade secrets are fundamental drivers of US and global economic growth, this conflict must be addressed at the international political level.

Intellectual property protection also provides value to a wide range of industries. Airbus and Boeing cannot simply copy one another's airplane designs. Instead, they must innovate to compete with each other, resulting in choice for consumers in the marketplace.

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If EC competition regulators can unilaterally determine that a technology is without value and innovation – in the face of compelling contradictory evidence – then virtually no business is safe. European authorities can simply identify one product after another as worthless, arguing that it is only successful because of a market-leading position.

The EC action, therefore, establishes a precedent in which intellectual property can be seized and redistributed whenever a company has a dominant market position. All intellectual property-based companies, not just high-tech ones, stand to lose. Imagine Coca-Cola having to turn its secret formula over to a foreign beverage producer.

While meeting with EC President Jose' Manuel Barroso and European Council President/German Chancellor Angela Merkel, the Administration must begin to ask the hard questions. What will be the global economic impact of the European erosion of intellectual property protections? What will happen if the latest American innovations cannot be accessed by European consumers and businesses because of EC regulatory policy? How will Europe undo the dangerous precedent that it is setting for the developing world by openly expropriating intellectual property?

Immediate solutions cannot be expected from the US-EU Summit, but America must signal to world leaders, to the business community, and to financial markets that intellectual property is a cornerstone of economic growth. Please send the message that our nation simply cannot allow intellectual property to be sacrificed, and that we will not stand by as the EU or others impose higher regulatory barriers on successful American companies. NTU stands ready to advise and assist you in this vital undertaking.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Berthoud', with a stylized flourish at the end.

John Berthoud  
President