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Mr John Mitchell,

Thank you for your e-mail of to the Secretary of State following his visit to Concrete Canvas, and requesting a 30 minute meeting to discuss the enforcement of patents by SMEs. He has asked me to reply. I apologise for the delay in replying.

The Government recognises that SMEs face particular challenges in defending their patents against infringement. That is why we have reformed the Intellectual Property Enterprise Court (IPEC) to improve access to justice for lower value cases. However, in cases where the £500k cap on damages does not sufficiently represent the claimant's losses, then proceedings in the Patents Court may be more appropriate. In the Patents Court, patent owners can and do recover costs and damages from an infringing party running to millions of pounds.

In the light of the recent IPEC reforms we are also exploring how we can support the development of the market for IP legal expenses insurance as part of wider work to help SMEs raise finance on the basis of their IP. You will already be aware of the IPO's non-binding opinions service which can help SMEs resolve disputes without recourse to the courts.

The Government does not consider that criminalising patent infringement would improve the situation for SMEs. Moreover, we are not aware of any evidence that the regimes in the US and Germany offer greater protection in practice, particularly as the criminal sanctions provisions in Germany have hardly ever been used. Indeed research suggests that SMEs are less able to deal with the situation in Germany where they may be accused of infringing a patent which turns out much later to have been invalid.

The Secretary of State is aware of a number of meetings you have had with Ministers and officials. Unfortunately, he will not be available for a meeting with you on this issue on this occasion. He has, however, asked me to pass on his best wishes.

Best wishes

ANDY ORMEROD-CLOKE

Private Secretary to the Secretary of State for Business, Innovation and Skills