

Kluwer Patent Blog

Jurisdiction Unified Patent Court extends to non EU countries

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The new long arm jurisdiction provision in the Brussels I Regulation (recast) is one of the most remarkable elements of the Unitary Patent (UP) package, according to French lawyer and IP specialist Pierre Véron. Pierre Véron and Thomas Cottier of Bern University are the authors of the renowned [Concise International and European IP Law](#), a widely used resource for IP lawyers on the instruments of intellectual property law, both European and international, applicable in Europe. The updated third edition has just been published.

On 12 February 2015 Kluwer IP Law hosted a [webinar](#) held by Pierre Véron. In addition to this event an interview was done in which Mr. Véron explains how the extended jurisdiction works in practice and other consequences of the introduction of the UP system. He expects patent law will become more complex, but litigation more simple.

In your video report, you point out a new provision, which will give the UPC jurisdiction over acts of infringement committed outside the territory of the Member States. Why is this so important?

‘The long arm jurisdiction provision introduced in the Brussels I Regulation (recast) by [Regulation](#) No. 542/2014 of 15 May 2014 amending Regulation (EU) No 1215/2012 “as regards the rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice” may be important in practice as it allows the proprietor of a European Patent infringed across several countries, including non EU countries like Turkey, to obtain a compensation through a single suit in the EU, before the UPC. It is also important from a theoretical standpoint as it introduces in EU law the concept of asset-based jurisdiction.’

Is this provision similar to regulations in the USA?

‘I don’t think so. I’m not aware of any provision in US law that would allow a US court to compensate a patentee for an act of infringement committed outside the US territory when this act cannot be considered as an act of infringement of a US patent. On the contrary, in [Voda v. Cordis Corp](#), No. 05-1238 (Fed. Cir. Feb. 1, 2007), the Federal Circuit held that the US courts do not have “supplemental subject matter jurisdiction” under 28 U.S.C. § 1367 over foreign patent infringement claims.’

What will the UPC mean for international patent litigation?

‘Many observers note that the Unified Patent Court will be the most important change in the European

landscape of patents since the creation of a European Patent in 1973. It will avoid a patent proprietor whose rights are being infringed in several European countries to bring several legal suits to obtain compensation.'

Will the UPC simplify patent litigation or will things only get more complicated, with national patents, bundle patents and Unitary Patents existing alongside one another, and with a transitional period, in which companies can choose to opt out from the UPC?

'Patent law will become more complex, with a further layer of unitary patents added to national patents and bundle patents. But patent litigation will be simpler.'

What is the main downside of the UPC system, in your opinion?

'A new court is always something frightening until the day you can be confident about the quality and experience of the judges. For the Unified Patent Court, I think that all the appropriate steps have been taken to make sure that the judges will meet the highest standards.'

Are you looking forward to the new challenge of having to deal with the UPC system?

'No challenge can be more exciting for a patent lawyer than having to deal with entirely new patent rules!'

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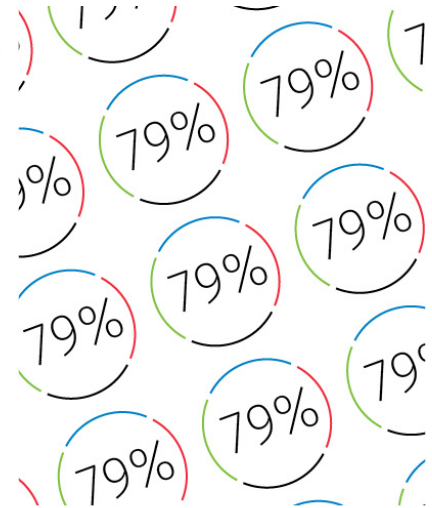
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