

The Unified Patent Court system is not the best solution for Europe and for innovation

The undersigned professors and practitioners recall that the Unified Patent Court Agreement (UPCA) suffers some substantial deficiencies and constitutes a significant precedent that challenges the democratic and institutional processes in the EU. There is still time to reflect on the implications of these changes and to review the options for a EU patent system that could provide effective support for European innovation.

The EU democratic process is challenged by the fact that UPCA leaves a major part of the substantive patent law itself in the hands of a non-EU international organization (the European Patent Organization) and of the participating Members States exclusively, without any realistic possibility for the EU legislator (European Parliament and Council) to intervene for amending the substantive patent rules in the future.

Therefore we urge all the decision-makers and persons involved in the process of adjusting the UPCA, following the withdrawal of the United Kingdom, **to pause** and to consider alternative solutions. We believe that several alternative systems that solve most of the UPCA deficiencies do exist. Those solutions could better benefit the industry and innovation in Europe.

Many European academics and practitioners are ready to further elaborate those alternative solutions¹.

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Alejandro ANGULO, Abogado, Barcelona (Spain)

Christoph ANN, LL.M., Prof. Dr., Technical University of Munich, TUM School of Management, Chair of Intellectual Property (Germany)

Rafael ARENAS GARCÍA, Professor of Private International Law, Autonomous University of Barcelona (Spain)

Emanuela AREZZO, Adjunct Professor of Commercial Law, Università degli Studi di Teramo (Italy)

Pedro Henrique D. BATISTA, Max Planck Institute for Innovation and Competition (Germany)

Nicolas BINCTIN, Professeur, Faculté de Droit, Université de Poitiers (France)

Alegría BORRAS, Em. Professor of Private International Law, University of Barcelona (Spain)

Mireille BUYDENS, Prof. Dr., Université Libre de Bruxelles, Université de Liège, chargé de cours CEIPI (Belgium)

Julien CABAY, Professeur, Université Libre de Bruxelles, Chargé de cours Université de Liège (Belgium)

Vincent CASSIERS, Professeur, UCLouvain – Centre CRIDES Jean Renauld (Belgium)

Anne-Catherine CHIARINY, Maître de conférences à Montpellier (France)

Philippe COPPENS, Professeur at UCLouvain (Belgium)

¹ Reference is made *inter alia* to a Preliminary Research Working Document and the legal literature mentioned, dated October 15th, 2020, and available at <https://uclouvain.be/fr/instituts-recherche/juri/crides/actualites/upc-alternatives.html> .

Thomas CUCHE, Avocat à la Cour, Paris (France)

Christian CZYCHOWSKI, German attorney at law, Honorary Professor at the Legal Faculty of the University of Potsdam (Germany)

Manuel DESANTES REAL, Professor of Law, University of Alicante (Spain)

Luc DESAUNETTES, Postdoctoral researcher at UCLouvain (Belgium)

Fernand DE VISSCHER, Visiting lecturer, UCLouvain – Centre CRIDES Jean Renault (Belgium)

Matthieu DHENNE, Avocat et président de l'institut de Boufflers (France)

Vincenzo DI CATALDO, Professor of Commercial law, University of Catania (Italy)

Vasileios FOUSKAS, Professor, Royal Docks School of Business and Law, University of East London (England)

Mario FRANZOSI, Avvocato, former Visiting Professor, University of Washington & University of Milan (Italy)

Gabriele GAGLIANI, Lecturer of Law, Bocconi University (Italy)

Jean-Christophe GALLOUX, Professeur, Université Paris II Panthéon-Assas, avocat (France)

Thibault GISCLARD, Associate Professor, Université de Lille (France)

Heinz GODDAR, Honorary Professor for Intellectual Property Law at the Legal Faculty of the University of Bremen (Germany)

Frank GOTZEN, Professeur em. at KULeuven (Belgium)

Lisa HEINZMANN, LL.M., Akademische Mitarbeiterin au Centre Juridique Franco-Allemand, Universität des Saarlandes (Germany)

Marie-Angèle HERMITTE, Directeur de recherche honoraire au CNRS, directeur d'études honoraire à l'EHESS (France)

Reto M. HILTY, Prof. Dr. Dr. h.c., Max Planck Institute for Innovation and Competition (Germany)

Martin HUSOVEC, Assistant Professor, London School of Economics and Political Science (UK)

Thomas JAEGER, LL.M., Professor of European Law, University of Vienna (Austria)

Joseph JEHL, ancien Directeur scientifique du JurisClasseur Droit comparé (Paris)

Matthias LAMPING, postdoctoral researcher, Max Planck Institute for Innovation and Competition (Germany)

Emmanuel LAZEGA, Sciences Po, Paris – CSO-CNRS (France)

Michael LEHMANN, Prof. em. Ludwig-Maximilians University of Munich, Affiliated Research Fellow, Max Planck Institute for Innovation and Competition (Germany)

Laurent MANDERIEUX, Professor of Intellectual Property Law, Bocconi University, Milan (Italy)

Thierry MOLLET-VIEVILLE, Avocat à la Cour, Paris (France)

David PELLISE, Abogado, Barcelona (Spain)

Roberto PENNISI, Professor of Commercial Law, University of Catania (Italy)

Aurora PLOMER, Professor of Intellectual Property & Human Rights, University of Bristol (UK)

Bojan PRETNAR, Professor, Ljubljana University (Slovenia) and First Director of Slovenian IP Office (1991-2000)

Andrée PUTTEMANS, Professeure ordinaire à l'Université Libre de Bruxelles (Belgique)

Marco RICOLFI, Professor of Intellectual Property at the Department of Legal Studies at Turin University (Italy)

Thomas RILLS, Professor, University of Copenhagen (Denmark)

Ingrid SCHNEIDER, Professor of Political Science, Universität Hamburg (Germany)

Fabrice SIIRIAINEN, Professeur of private law at Université Côte d'Azur, Avocat au barreau de Paris (France)

Mike SNODIN, Qualified UK and European patent attorney, Park Grove IP Ltd (UK)

Caterina SPANGA, Associate Professor of Comparative Private Law, Sant'Anna School of Advanced Studies, Pisa (Italy)

Marco Saverio SPOLIDORO, Full Professor of IP Law, Università Cattolica – Facoltà di Giurisprudenza, Milano, Avvocato in Milano (Italy)

Alain STROWEL, Professeur, UCLouvain and University Saint-Louis - Brussels – Centre CRIDES Jean Renauld (Belgium)

Dariusz SZLEPER, avocat à la Cour, Paris (France)

Anna TISCHNER, Professor at the IP Law Chair, Jagiellonian University (Poland)

Alberto TORNATO, Avvocato, Milano (Italy)

Tomasz TWARDOWSKI, Professor, Institute of Bioorganic Chemistry of the Polish Academy of Sciences, Poznan (Poland)

Luca VALENTE, IP lawyer, Attorney, Torino (Italy)

Bernard VAN BRABANT, Avocat, professeur à l'Université de Liège (Belgium)

Patrice VANDERBEEKEN, Attorney at law, Brussels Bar (Belgium)

Francesco Paolo VATTI, Patent and trademark attorney, Visiting Professor at the University of Milan (Italy)

Michel VIVANT, Professeur em. à l'École de Droit de Sciences Po, Paris, Docteur honoris causa de l'Université de Heidelberg (France)

Alina WERNICK, LL.M. Associate researcher, Humboldt Institute for Internet and Society (Germany)

Jonathan WILDEMEERCH, Professeur, Droit institutionnel et Contentieux européen, Université de Liège (Belgium)

Dimitris XENOS, Lecturer in Law, University of Suffolk (UK)

Żaneta ZEMLA-PACUD, Assistant Professor, Instytut Nauk Prawnych Polskiej Akademii Nauk (Poland)

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