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Institute of European
and Comparative Law

The Unitary EU Patent System

**Edited by
Justine Pila and
Christopher Wadlow**

B L O O M S B U R Y

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PREFACE

These are the collected papers of the Workshop on the Unitary (EU) Patent and Unified Patent Court, jointly organised by the University of Oxford (Institute of European and Comparative Law) and the University of East Anglia (ESRC Centre for Competition Policy), held at Jesus College, Oxford, on the 4th and 5th of October 2013.

The Unitary Patent Regulation¹ and the Agreement on the Unified Patent Court² represent the culmination of over 50 years of attempts to legislate for a system under which patents could be enforced within Europe on a supranational, and perhaps ultimately pan-European, basis. Although the Unified Patent Court Agreement is not yet in force (it has not yet received all necessary ratifications), preparations for the new regime are proceeding apace, and it is increasingly likely that the organs of the Unified Patent Court will be up and running in 2015 or 2016, initially to adjudicate the validity and infringement of existing European patents, the owners of which have not chosen to opt out of the system.

The 10 full papers published in this volume explore these two interlinked systems from the perspectives of their historical origins (Justine Pila and Christopher Wadlow), their relationship with the European Patent Office and the Court of Justice of the European Union (Stefan Luginbuehl and Angelos Dimopoulos), their place in the EU legal and constitutional order (Tuomas Mylly), their relationship to competition law (Stefan Enchelmaier and Steven Anderman), and to American law and private international law (Rochelle C Dreyfuss and Paul LC Torremans), and finally with regard to the expectations of likely users (Alan Johnson). Our thanks to all our speakers and contributors (and where appropriate to their institutions or firms) both for their participation, and for these published papers.

We are also particularly grateful to Sir David Kitchin for opening the Workshop and to Alison Brimelow CBE (herself a UEA alumna) for delivering the closing remarks.

At the time the Workshop was held, the legal situation regarding the Unitary Patent and Unified Patent Court was very fluid (as is the case even today) and some of the contributions may now need to be read in the light of more recent developments which it has not been possible to incorporate here.

¹ Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection, OJ L 361/1 (31 December 2012).

² Agreement on a Unified Patent Court, OJ C 175/1 (20 June 2013).

The Workshop was made possible by the generous financial support of the ESRC Centre for Competition Policy at the University of East Anglia and the Oxford Institute of European and Comparative Law at the University of Oxford.

Christopher Wadlow and Justine Pila
Norwich and Oxford
June 2014

LIST OF ABBREVIATIONS

CJEU	Court of Justice of the European Union
EC	Consolidated Version of the Treaty Establishing the European Community, OJ C 325/33 (24 December 2002)
European Convention on Human Rights (ECHR)	European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, ETS 5
ECtHR	European Court of Human Rights
EU Charter	Charter of Fundamental Rights of the European Union, OJ C 364/1 (18 December 2000)
Paris Convention	Paris Convention for the Protection of Industrial Property (20 March 1883) 13 UST 1 (as revised)
SME	Small and medium sized enterprise
Supplementary Protection Certificate (SPC) Regulations	Regulation 1610/96/EC of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products; Council Regulation (EC) 469/2009 of 6 May 2009 concerning the supplementary protection certificate for medicinal products
TEU	Consolidated Version of the Treaty on European Union, OJ C 83/13 (30 March 2010)
TFEU	Consolidated Version of the Treaty on the Functioning of the European Union, OJ C 83/01 (30 March 2010)
Treaty of Lisbon	Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, OJ C 306/1 (17 December 2007)
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, Legal Instruments-Results of the Uruguay Round, vol 31 (15 April 1994) 33 ILM 81

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