

Introduction to the Unitary Patent and the Unified Patent Court

The (Draft) Rules of Procedure of the Unified Patent Court

PIETER CALLENS AND SAM GRANATA



Wolters Kluwer
Law & Business

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Foreword

This book describing the functioning of the new Unitary Patent and the to be established Unified Patent Court will be most welcome for patent practitioners, lawyers, patent attorneys, IP specialists in companies in Europe and abroad.

At a time when Europe's long awaited patent reform has been finally agreed, there is an urgent need for practitioners to become familiar with the new system. Although the system is not expected to come into operation before spring 2014 at the earliest, practitioners will need to start reflecting on how to adapt their patent prosecution and litigation strategies and practices in the future. This book contains the necessary practical information to help them to get a better understanding on how the system will work.

The new system means change, change for the better, reducing the high costs, complexity and legal insecurity of the current fragmented patent system in Europe. But for practitioners change is always a challenge. This book should contribute to meeting this challenge, in particular by providing a description of the different options patent holders and litigants will have in the future.

It is very useful that this book, beyond a description of the new system, also gives an overview of the history of patent reform in Europe and of the complicated political decision-making process that led to the final adoption of the patent package. Some of the political and legal choices legislators made and some of the provisions both in the EU Regulations creating the unitary patent and in the Agreement creating the Unified Patent Court, can be fully understood only against this background.

It is further helpful, and not only for historical reasons, to understand the importance of the breakthrough under the Belgian Presidency of the Council of the European Union in the second half of 2010, which led to the establishment of enhanced cooperation among 25 Member States of the European Union on the unitary patent. The book describes in detail the process and the elements of compromise developed by the Belgian presidency, which paved the way for the enhanced cooperation. One of the authors of this book, working at the time for the Belgian presidency, is in a very good position to provide this information.

Finally, the book contains a description of the draft Rules of Procedure of the Unified Patent Court, with flowcharts to facilitate their understanding. Although the Rules of Procedure are still in the making, it is important that practitioners become familiar with them at an early stage. This will not only allow them to better assess how the Unified Patent Court is supposed to work in practice, but will also put them in a better position to contribute to further work on the draft Rules of Procedure and to participate in the forthcoming public consultation. This is further value added by this much-needed and welcome book.

Margot Froehlinger

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