
CONTENTS

<i>Preface</i>	v
<i>List of Abbreviations</i>	xi
<i>Author's Note</i>	xiii
1. Innovation and the Industrial Property Protection Systems in the European Union	1
I. The Genesis of Innovation.....	1
II. Patent Protection as an Incentive to Innovation	2
III. The Systems of Industrial Property Protection within the European Union: The Community Trademark and the Community Industrial Design	3
IV. The Lack of a Unitary Patent System within the EU	5
2. Towards the Establishment of an Integrated European Patent System for the Protection of Inventions	6
I. First Attempts at the International Harmonisation of National Patent Legislations and Procedures	6
II. The 1962 Draft Convention for a European Patent Law – The 1969 Memorandum on the Setting up of a European System for the Grant of Patents – The European Patent Convention and the Community Patent Convention.....	8
III. Parallel International Developments: The PCT.....	12
IV. 1978–94: Towards a Global Protection of Intellectual Property Rights. The Project for the Revision of the Paris Convention for the Protection of Industrial Property and the TRIPS Agreement.....	13
V. New Attempts at the Establishment of the Community Patent System.....	16
3. The First Phase of the Negotiations for the Adoption of a Regulation on the Community Patent	18
I. The Commission Proposal for a Council Regulation on the Community Patent (2000)	18
II. The Common Political Approach (2003)	21
III. Commission Proposals on Jurisdictional Matters (2003).....	22

IV.	The 2006 Consultation and the Subsequent Commission Communication on the Strengthening of the Patent System in Europe (2007).....	24
4.	The Second Phase of the Negotiations for the Adoption of a Regulation on the Community Patent: Enhanced Cooperation.....	27
I.	Stagnation of the Negotiations: General Considerations 2008–11.....	27
II.	The Decision Authorising the ‘Enhanced Cooperation’ in the Area of the Creation of Unitary Patent Protection (2010).....	27
III.	The Legal Basis of ‘Enhanced Cooperation’: The Council Decision of 11 March 2011.....	29
IV.	The Debate on the Creation of a Unified Patent Litigation System: The Decision of the European Court of Justice on the Creation of a European Patent Court (2011).....	31
5.	Carrying out the Enhanced Cooperation.....	34
I.	The Council Decision of 10 March 2011 and the Opinion of the European Court of Justice of 8 March 2011.....	34
II.	Two Commission Proposals of 26 May 2011 in Relation to the Creation of Unitary Patent Protection and with Regard to the Applicable Translation Arrangements.....	34
III.	The Presidency Proposal of 25 May 2011 for the Resumption of Negotiations on the Creation of a Unified Patent Litigation System.....	36
IV.	Agreement on the ‘Patent Package’: Approval by the European Parliament on 11 December 2012.....	37
6.	The European Patent with Unitary Effect.....	39
I.	Introduction: The Legal Nature of the Regulations.....	39
II.	Regulation (EU) 1257/2012 of 17 December 2012.....	41
A.	The Legal Basis and Structure of the Regulation.....	41
B.	Unitary Effect.....	41
C.	Effect of Registration.....	42
D.	Rights Conferred.....	42
E.	The Unitary Patent as an Object of Property.....	42
F.	Administration of the Unitary Patent.....	43
G.	Financial and Final Provisions: Entry into Force.....	43
III.	Regulation (EU) 1260/2012 of 17 December 2012.....	45
A.	Legal Basis.....	45
B.	Situations Covered.....	45
IV.	Conclusion.....	47
7.	The Unified Patent Court.....	49
I.	Introduction.....	49
II.	The UPC Agreement and the Statute.....	49

A.	General and Institutional Provisions	49
i.	The Court of First Instance	50
ii.	The Court of Appeal	51
iii.	The Registry.....	52
iv.	Primacy of EU Law, Sources of Law and Substantive Law.....	52
v.	International Jurisdiction and Competence.....	53
vi.	Patent Mediation and Arbitration.....	54
B.	Organisational and Procedural Provisions	54
i.	Legal Capacity	55
ii.	Representation.....	55
iii.	Language of Proceedings	55
iv.	Proceedings before the Court.....	56
v.	Powers of the Court	56
vi.	Appeals.....	57
vii.	Decisions.....	57
C.	Transitional Regime	57
8.	The Implementation of the UPC Agreement.....	59
I.	The Elements for the Entry into Force and for the Implementation of the UPC Agreement.....	59
II.	The Regime for the Allocation of Jurisdiction and for the Reciprocal Enforcement of Judgments.....	60
III.	The Brussels I Regulation (Recast)	61
IV.	The Preparatory Committee for the Entry into Force of the UPC Agreement and the Rules of Procedure.....	64
	Conclusion.....	66
	Appendices.....	68
I.	Regulation (EU) No 1257/2012 of the European Parliament and of the Council	69
II.	Council Regulation (EU) No 1260/2012	83
III.	Agreement on a Unified Patent Court.....	90
	<i>Index</i>	<i>145</i>