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**Regulation (EU) N° 542/2014 of 15 May 2014  
amending Regulation N° 1215/2012  
as regards the rules to be applied with respect to the  
Unified Patent Court and the Benelux Court of Justice**  
12 February 2015 • Concise International and European IP Law

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**Regulation N° 542/2014 of 15 May 2014**

Regulation (EU) N° 542/2014 of 15 May 2014 amending Regulation N° 1215/2012 as regards the rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice (OJ L 163, 29.5.2014, p. 1–4)  
[http://www.upc.documents.eu.com/PDFs/2014-05-14\\_Regulation\\_542\\_2014\\_amend\\_1215\\_2012\\_Brussels\\_I\\_.pdf](http://www.upc.documents.eu.com/PDFs/2014-05-14_Regulation_542_2014_amend_1215_2012_Brussels_I_.pdf)

Regulation N° 1215/2012 is known as the “*Brussels I Regulation (recast)*” and replaces Regulation N° 44/2001 as of 10 January 2015.

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## Reasons for Regulation N° 542/2014

- To allow the entry into force of the Agreement on UPC
- To ensure compatibility of the Brussels I Regulation N° 1215/2012 with courts "common to several Member States"



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### Article 71a § 1 Regulation N° 542/2014

## A common court is a national court for the application of the Brussels I Regulation

*"1. For the purposes of this Regulation, a court common to several Member States, as specified in paragraph 2 (a "common court"), shall be deemed to be a court of a Member State when, pursuant to the instrument establishing it, such a common court exercises jurisdiction in matters falling within the scope of this Regulation."*

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**Regulation N° 542/2014**  
**A strange numbering scheme**  
**for the new articles of the Brussels I Regulation**

DE	EN	FR
Artikel 71a	Article 71a	Article 71 bis
Artikel 71b	Article 71b	Article 71 ter
Artikel 71c	Article 71c	Article 71 quater
Artikel 71d	Article 71d	Article 71 <i>quinquies</i>

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**Why a court**  
**common to several Member States**  
**should be deemed to be**  
**a court of a Member State?**

Stockholm  
Sweden

Estonia

Italy

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**New Article 71a § 2 Regulation Nº 542/2014**

## UPC and BCJ are common courts

"2. For the purposes of this Regulation, each of the following courts shall be a common court:

- a) the **Unified Patent Court** established by the Agreement on a Unified Patent Court signed on 19 February 2013 (the "UPC agreement"); and
- b) the **Benelux Court of Justice**, established by the Treaty of 31 March 1965 concerning the establishment and statute of a Benelux Court of Justice (the "Benelux Court of Justice Treaty")".

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**New Article 71b (1) Regulation Nº 542/2014**

## Jurisdiction of a common court

"The jurisdiction of a common court shall be determined as follows:

- (1) a common court shall have jurisdiction where, under this Regulation, the courts of a Member State party to the instrument establishing the common court would have jurisdiction in a matter governed by that instrument;"

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**New Article 71b (2) Regulation N° 542/2014**  
**Application of Brussels I rules to  
defendants which are not domiciled in EU**

*"(2) Where the defendant is not domiciled  
in a Member State, and this Regulation does  
not otherwise confer jurisdiction over him,  
Chapter II shall apply as appropriate  
regardless of the defendant's domicile."*



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**New Article 71b (2) Regulation N° 542/2014**  
**Provisional measures**

*"(2) ...  
Application may be made to a common court for  
provisional, including protective, measures even if the  
courts of a third State have jurisdiction as to the  
substance of the matter."*



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**New Article 71b (3) Regulation N° 542/2014  
Jurisdiction for infringement of a European patent  
committed outside the territory of the Union  
(EP non-UE)**

" 3. Where a common court has jurisdiction over a defendant under point 2 in a dispute relating to an infringement of a European patent giving rise to damage within the Union, that court may also exercise jurisdiction in relation to **damage arising outside the Union** from such an infringement.

Such jurisdiction may only be established **if property belonging to the defendant is located in any Member State party to the instrument establishing the common court and the dispute has a sufficient connection with any such Member State.**"

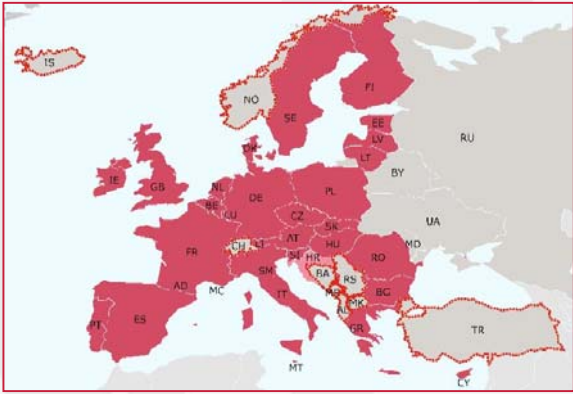
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**New Article 71b (3) Regulation N° 542/2014  
Jurisdiction for infringement of a European patent  
committed outside the territory of the Union  
(EP non-UE)**



EPO and EU

EPO NON-EU

(currently Albania, Bosnia, the Former Yugoslav Republic of Macedonia, Iceland, Monaco, Montenegro, Norway, Serbia, Switzerland and Turkey)

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**New article 71b (3) Regulation N° 542/2014**  
**Jurisdiction for infringement of a European patent**  
**committed outside the territory of the Union**  
**(EP non-UE)**

**Conditions of the statutory extension of jurisdiction**

- The defendant is being sued before the UPC
- He is accused of having committed acts of infringement of a European Patent in a UPC territory
- He is domiciled outside the European Union
- He owns property in any Member State party to the instrument establishing the common court and
- the action has a sufficient connection with this State

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**New Article 71b (3) Regulation N° 542/2014**  
**Jurisdiction for infringement of a European patent**  
**committed outside the territory of the Union**  
**(EP non-UE)**

**Scope of the statutory extension of jurisdiction**

- The Unified Patent Court « *may also exercise jurisdiction in relation to damage arising outside the Union from such an infringement* »
- This means exercise its jurisdiction to damages arising in States where the European patent in suit has effect, but which are not Member States of the EU, hence not Contracting Parties to the UPC Agreement  
 (currently Albania, Bosnia, the Former Yugoslav Republic of Macedonia, Iceland, Monaco, Montenegro, Norway, Serbia, Switzerland and Turkey)

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**Article 71c Regulation N° 542/2014**

***Lis pendens and related actions***

"1. Articles 29 to 32 shall apply where proceedings are brought in a common court and in a court of a Member State not party to the instrument establishing the common court. (**Spain, Poland**)

2. Articles 29 to 32 shall apply where, during the transitional period referred to in Article 83 of the UPC Agreement, proceedings are brought in the Unified Patent Court and in a court of a Member State party to the UPC Agreement."

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**Article 71d, first sentence, a) Regulation N° 542/2014**

***Recognition and enforcement***

"This Regulation applies to the recognition and enforcement:

a) judgments given by a common court which are to be recognised and enforced in a Member State not party to the instrument establishing the common court; and..."

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**Article 71d first sentence, b) Regulation Nº 542/2014**  
**Recognition and enforcement**

*"b) judgments given by the courts of a Member State not party to the instrument establishing the common court which are to be recognised and enforced in a Member State party to that instrument."*


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**Article 71d, second sentence Regulation Nº 542/2014**  
**Recognition and enforcement**

*"However, where recognition and enforcement of a judgment given by a common court is sought in a Member State party to the instrument establishing the common court, any rules of that instrument on recognition and enforcement shall apply instead of the rules of this Regulation."*

(Art. 82 UPC Agreement: "Decisions and orders of the Court shall be enforceable in any Contracting Member State")


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**UPC documents are available on  
[www.upc.documents.eu.com](http://www.upc.documents.eu.com)**

Unitary Patent and Unified Patent Court  
document repository

UPC

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Updates

Signing ceremony of the Agreement on a Unified Patent Court - Brussels - 19 February 2013

This webpage, created and maintained by Véron & Associés, 100% patent litigation French law firm, gives access to the main publicly available documents relating to the future Unitary Patent and Unified Patent Court.

Please [click here](#) for possible recent updates in the official sites

Regulations on European Patent with Unitary Effect	Draft agreement on a Unified Patent Court
REGULATION (EU) No 1257/2012 of the Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection	Draft agreement on a Unified Patent Court
2012-12-17_Vorstellung_1207-2012_ Veron_Pierre_Jacques_Arnould_Patent Practitioners.pdf	2012-01-11-Draft_agreement_ UPC_Agreement_Court_-_ Stake_at16301_en12.pdf
2012-12-17_Regul_1207-2012 Enhanced_coop_creation UPC_Agreement.pdf	2012-01-11-Draft_agreement_ UPC_Agreement_Court_-_ Stake_at16301_en12.pdf

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**Pierre Véron**

Thank you

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