

**EUROPEAN UNION INTELLECTUAL PROPERTY LAW
(EU IP LAW)
Winter Semester 2022-2023**

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SYLLABUS

A. GENERAL INTRODUCTION INTO EU IP LAW

The notion/definition of “intellectual property rights/IP Rights”: they comprise *industrial property rights*, such as patents, trade marks, designs and geographical indications, as well as copyright and rights related to copyright. *Open* to technological progress: the number of IP Rights is indefinite *since* new rights may be established/awarded in the future

Main features (eg. immaterial and economic character, ubiquity, exclusivity, time-limited protection, territoriality) - Similarities and differences - Justification (*economic* and *idealistic/moral* grounds): in search of the *proper balance between exclusivity and free – use*

Impact and role of intellectual property on the economy of the European Union (EU)

► COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, A Single Market for Intellectual Property Rights - Boosting creativity and innovation to provide economic growth, high quality jobs and first-class products and services in Europe, Brussels, 24.5.2011, COM(2011) 287 final

The **fragmentation** of the IPR landscape in the EU has implications for Europe's growth, job creation and competitiveness

“The answer is in the Single Market” : The legal authority of the EU
(Competence – legal basis)

European Union measures and their legal effects – Unification v.
Harmonisation

Unitary patent protection

Unified patent litigation system

Modernization of the trade-mark system in Europe - The role of the EUIPO

Creation of a comprehensive framework for copyright in the digital single
Market – The role of the Court of Justice of the EU (CJEU) in the development
of EU Copyright Law

Complementary protection of intangible assets: Trade secrets, Geographical
indications

B. COPYRIGHT

Copyright and Related Rights: An Overview

The EU Copyright and Related Rights statutory framework – More specifically:
the development of the relevant law in response to *new* (digital) technologies

Protectable subject matter: the EU definition of *authorial work* pursuant to
CJEU case law ► the requirement of “originality” - absence of any formal
preconditions – the significance of “fixation”

The Rights conferred: *economic* and *moral* rights ► definition, scope, content

Term/ “duration” of Protection

Exceptions & Limitations: The EU legislative scheme – The purpose of
exceptions & limitations – Absence of a general “fair use” clause

Exploitation contracts: basic characteristics – reasons for limited harmonization in this area – recent attempts towards *rebalancing unjust* contractual relationships between authors and their counterparts ► more specifically, the principle of *“fair” remuneration*

Enforcement: measures, procedures and remedies necessary to ensure the enforcement of Copyright (as well as other IP Rights)

Special issues (i.e. linking – framing, platforms liability, press – publisher’s right etc.)

EU Copyright Legislation (indicative list)

Directives

- Directive (EU) 790/2019 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (DSM Directive) [OJ L 130/92 – 15.7.2019]
- Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organizations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130/82 – 15.5.2019)
- Directive (EU) 2014/26 of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi – territorial licensing of rights in musical works for online use in the internal market (OJ L 84/72 – 20.3.2014)
- Directive (EU) 77/2011 of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (OJ L 265/1 – 11.10.2011)
- Directive 24/2009/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of Computer Programmes (OJ L 84/72 – 20.3.2014)

- Directive 115/2006/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version) [OJ L 376/28 – 27.12.2006]
- Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 195/16 – 2.6.2004)
- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (OJ L 167/10 – 22.6.2001)
- Directive 96/9/EEC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77/20 – 27.3.1996)

C. TRADE MARKS

Subject matter

Conferred rights

Benefits of rights Protection

Duration

Basic EU Legislation:

- Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark, *OJ L 154, 16.6.2017, p. 1–99* (EUTMR)
- Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks, *OJ L 336, 23.12.2015, p. 1–26 (TRADE MARK DIRECTIVE)*

D. PATENTS

Introduction to European Patent Law: The nature and scope of Patents – the legal “routes” of obtaining patents in Europe

- ▶ The European Patent Convention (EPC – 1973/2000) – The European Patent Organization (EPO)
- ▶ The Unitary (EU) Patent System (or, “*package*” – 2012) – The current situation

The *procedure* for obtaining a European Patent

- ▶ The nature and stages of the European Patent grant procedure
- ▶ Filing a European Patent application: general principles, filing routes, content (the essential components, the patent claims, the description of the invention), preliminary examination, preparation and transmission of a European search report, publication of the application & the search report, substantive examination of the application & invention, grant, publication and effects of the patent

Patentable Subject matter

- ▶ The requirements of patentability: novelty, inventive step, susceptibility of industrial application
- ▶ Public policy exclusions from patentability
- ▶ The requirement for an invention: the statutory (EPC) definition of “invention” with reference to a non-exhaustive list of non-inventions and its interpretation by the EPO

Patent protection and exploitation

Patent scope: the role of the patent claims (art. 69 EPC)

Patent rights (arts. 29 & 30 EPC)

Patent limitations (arts. 27 & 28 EPC)

Basic European Legislation:

- EPC – European Patent Convention (1973/2000), διαθέσιμη εις: https://www.epo.org/law-practice/legal-texts/html/epc/2020/e/EPC_conv_20220401_en_20220323.pdf

- 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 – 31.12.2012)
- Regulation (EU) No. 1260/2012 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 with regard to the applicable translation arrangements (OJ L 361/89 – 31.12.2012)
- AGREEMENT on a Unified Patent Court (2013/C 175/01), OJ C 175/1 – 20.6.2013 (UPC Agreement) [the last three legal instruments consist the so-called “*Unitary Patent Package*”]