

Territorial jurisdiction and applicable law

before the European Patent Court

Vers une juridiction européenne des brevets
Towards a European Patent Court
CEIPI • Strasbourg 16-17 April 2010

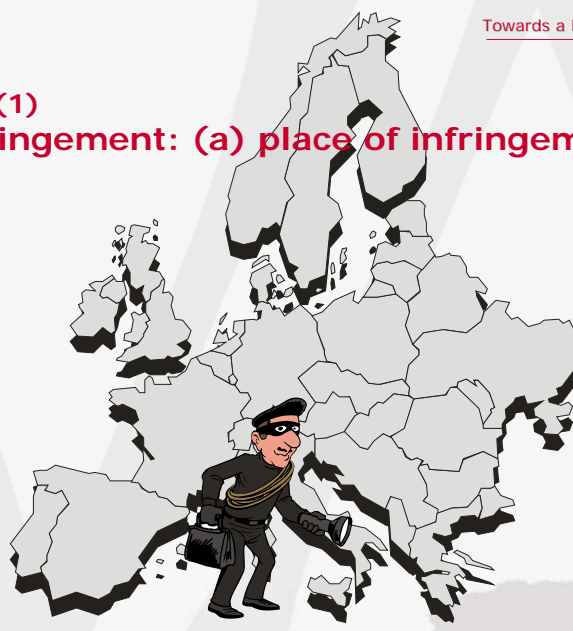
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(European Patent Lawyers Association)

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Paris ■ Lyon



Towards a European Patent Court

15a (1) Infringement: (a) place of infringement




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**15a (1)
Infringement: (b) defendant's domicile**



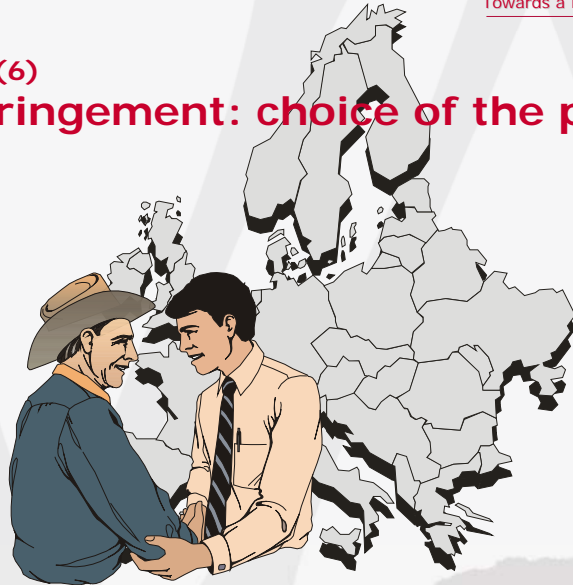
A cartoon illustration of a man with a mustache and glasses, wearing a yellow shirt and blue trousers, holding a yellow sign with the words 'HOME SWEET HOME' and a red heart. He is pointing the sign towards a map of Europe. The map is grey with black outlines of the countries. The background features a large, faint watermark of the European Union flag.

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**15a (6)
Infringement: choice of the parties**




A cartoon illustration of two men shaking hands. The man on the left is wearing a brown hat and a blue shirt. The man on the right is wearing a light-colored shirt and a dark tie. They are standing in front of a map of Europe. The background features a large, faint watermark of the European Union flag.

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Community law library: civil law section



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Towards a European Patent Court

Article 14a

Applicable law: European and international law

"(1) When hearing a case brought before it under this Agreement, the Court shall respect Community law and base its decisions on:

- (a) this Agreement;*
- (b) directly applicable Community law, in particular Council Regulation (EC) No ... on the Community patent, and national law of the Contracting States implementing Community law [...];*
- (c) the European Patent Convention and national law which has been adopted by the Contracting States in accordance with the European Patent Convention; and*
- (d) any provision of international agreements applicable to patents and binding on all the Contracting Parties."*

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Towards a European Patent Court


Article 14a

Applicable law: National law

“(2) To the extent that the Court shall base its decisions on national law of the Contracting States, the applicable law shall be determined:

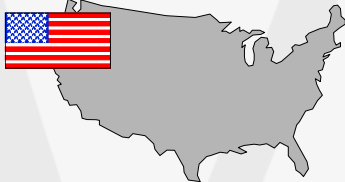
- (a) by directly applicable provisions of Community law, or
- (b) in the absence of directly applicable provisions of Community law, by international instruments on private international law to which all Contracting Parties are parties; or
- (c) in the absence of provisions referred to in (a) and (b), by national provisions on international private law as determined by the Court.”

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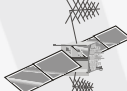


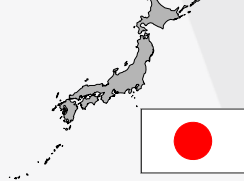
Towards a European Patent Court

A simple licence case (1/2)




**Americansat
patentee**






**Nippon Receivers KK
licensee**



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Towards a European Patent Court

A simple licence case (2/2)

Americansat

Nippon Receivers KK

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Detailed description: This slide illustrates a simple licensing case. It features a map of the world with three regions highlighted: the United States (labeled 'Americansat' with a US flag), Europe (with a mobile phone icon and the European Union flag), and Japan (labeled 'Nippon Receivers KK' with a Japanese flag). A satellite icon is positioned above the European region. The text 'Towards a European Patent Court' is in the top right corner, and the slide number '9' is in the bottom right corner. The logo for 'VÉRON VA & ASSOCIÉS AVOCATS' is in the bottom left corner.

Towards a European Patent Court

An ordinary priority right case

John Erfinder

Priority right

US Greentech

Copycat China Inc.

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Detailed description: This slide illustrates an ordinary priority right case. It features a map of the world with three regions highlighted: the United States (labeled 'John Erfinder' with a US flag and a document icon), Europe (labeled 'Copycat China Inc.' with a Chinese flag and a document icon), and China (labeled 'US Greentech' with a building icon). A red arrow labeled 'Priority right' points from the US region to the Europe region. The text 'Towards a European Patent Court' is in the top right corner, and the slide number '10' is in the bottom right corner. The logo for 'VÉRON VA & ASSOCIÉS AVOCATS' is in the bottom left corner.

Towards a European Patent Court

Article 14a
Applicable law: National law

Proposals


“(2) To the extent that the Court shall base its decisions on national law ~~[of the Contracting States]~~, the applicable law shall be determined:

(a) by directly applicable provisions of Community law, or

(b) in the absence of directly applicable provisions of Community law, by international instruments on private international law to which all Contracting Parties are parties; or

(c) in the absence of provisions referred to in (a) and (b), by ~~[national provisions on international private law as determined by the Court]~~ the principles of international private law which stem from the corpus of the national legal systems *.”

* Eurocontrol ECJ 14 October 1976

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Thank you

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