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The European Commission consulted between 23 March and 15 June 2016 on the role of publishers in the copyright value chain. This response by the European Copyright Society (1) analyses why an intervention creating a new neighbouring right for publishers is being considered in the wake of recent decisions by the CJEU in Reprobel (2015), and the German BGH (2016) in Verlegeranteil; (2) examines the rationale for neighbouring rights; (3) advises against double layering of rights; (4) assesses the implications of a neighbouring right for publishers for "open access" policies; and (5) identifies regulatory design flaws in the introduction of an ancillary right for press publishers in Germany (2013) and Spain (2014). In conclusion, it is argued that value generation in itself is not a good case for intellectual property protection, and that the onus of proof needs to lie with the proponents of a new right. They need to show what the costs are, who will carry them, and that the costs are necessary and proportionate; and to provide verifiable evidence.

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What Now for the Unified Patents Court Following the Brexit Referendum? 595

The Unified Patents Court is to be a new patents court for European patents and for new "unitary" European patents, established by agreement among 25 EU Member States including the UK. The Cameron Government was at the fore in pressing for the unitary patent and the new court. It was agreed by negotiation that a section of the Central Division of the new court would be in London. This is explicit in the Unified Patents Court Agreement. Now that the UK electorate have voted to leave the EU, a hiatus is created. The court cannot open for business without ratification by the UK, and the other participating states cannot bypass the UK while the UK remains a member of the EU. A burning question among IP practitioners in Europe is whether it might yet be politically possible for a new UK Government to proceed with the project and yet leave the EU. Surprisingly, this may not be such a major dichotomy.

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Mr Justice Henry Carr, in the UK Patents Court, held that three European (UK) patents owned by the US biopharmaceutical company Cubist were invalid on grounds of obviousness. An array of legal issues arose, including the law of priority and the strictness of the legal test. In the latter respect, Carr J examined the "same invention" test under art.87(1) EPC and its growing prominence as a factor in the English law. In this case, the underlying facts provided an interesting comparative as the first priority document failed the test, whereas the second passed it. This comment considers the judgment and its implications.

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In a surprising decision, the owner of a famous European luxury watch brand was handed an unexpected stunning trade mark defeat by the Intellectual Property High Court of Japan, which held that a junior trade mark registration FRANK MIURA was not confusingly similar with the iconic luxury watch brand FRANK MUELLER. The article will examine the Japanese courts' handling of such parody marks and also review the comparative law position of such parody marks in the EU and the US.

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