

5.12.2012

A7-0001/71

Amendment 71

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

Amendment

This Regulation constitutes a special agreement within the meaning of Article 142 of the Convention on the Grant of European Patents (European Patent Convention), as amended (hereinafter ‘the EPC’).

deleted

Or. en

Justification

A Regulation of the European Parliament and the Council is a normative act included in EU internal law and it cannot be governed by international law. Therefore, this Regulation cannot constitute a special agreement within the meaning of article 142 of the Convention on the Grant of European Patents. Article 118.1 TFEU should be the legal basis for this Regulation.

5.12.2012

A7-0001/72

Amendment 72

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3 a

The Commission shall present a proposal for a directive, along with an impact assessment, for harmonisation of substantive patent law relevant for European patents with unitary effect.

Or. en

Justification

The European Parliament and the Council shall exercise their legislative powers for the substantive patent law with regard to the European patent with unitary effect. Rights conferred by patents could conflict with other areas of EU policy, and could harm important freedom interests, as it has been acknowledged by the Court of Justice. The validation of European patents with unitary effect cannot be left to the European Patent Office or courts, but need a regular oversight by the EU legislator.

5.12.2012

A7-0001/73

Amendment 73

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3 b

1. European patents with unitary effect shall be granted for any inventions, in all fields of technology, provided that they are new, involve an inventive step and are susceptible of industrial application.

2. The following in particular shall not be regarded as inventions within the meaning of paragraph 1:

(a) discoveries, scientific theories and mathematical methods;

(b) aesthetic creations;

(c) schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;

(d) presentations of information.

Or. en

Justification

The goal of this amendment is to codify into EU Law, provisions defining an invention as set up by the European Patent Convention and other international agreements. The wordings of the amendment is compliant with the EPC, and moreover is enhancing the EPC own wordings, by clarifying some difficulties that have resulted in divergent interpretations by various national courts. Hence, this amendment contributes to the goal of having a unified

AM\P7_AMA(2012)0001(071-078)_EN.doc

PE479.467v01-00

enforcement of European patents with unitary effect.

5.12.2012

A7-0001/74

Amendment 74

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3 c

1. A set of instructions for solving a problem by means of an automated system consisting only of generic data processing hardware (universal computer), also called "program for computers" or "computer-implemented solution", is not an invention within the meaning of the substantive patent law applicable to a European patent with unitary effect, regardless of the form under which it is claimed.

2. A claimed object may be an invention within the meaning of the substantive patent law applicable to the European patent with unitary effect only if it contributes knowledge to the state of the art in a field of applied natural science; an invention is a teaching about cause-and-effect relations in the use of controllable forces of nature.

Or. en

Justification

This amendment defines some rules of patentability in the same way as voted by the European Parliament on September 24/ 2003 on its first reading on the software patents. The wordings

AM\P7_AMA(2012)0001(071-078)_EN.doc

PE479.467v01-00

of the amendment is compliant with the EPC, and moreover is enhancing the EPC own wordings, by clarifying some difficulties that have resulted in divergent interpretations by various national courts. Hence, this amendment contributes to have a unified enforcement of European patents with unitary effect.

5.12.2012

A7-0001/75

Amendment 75

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

A European patent with unitary effect ***shall have a unitary character. It shall provide uniform protection and shall have equal effect in all*** participating Member States.

A European patent with unitary effect ***is a patent title of the European Union that has effects throughout the territories of the*** participating Member States.

Or. en

Justification

The European patent with unitary effect should be a title of the EU in compliance with Article 118.1 TFEU, which is the legal basis for the present Regulation.

5.12.2012

A7-0001/76

Amendment 76

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

A European patent with unitary effect shall have an autonomous character. It shall be subject only to the provisions of this Regulation, to the Treaties and Union law, and, to the extent that this Regulation does not provide for specific rules, to those provisions of the European Patent Convention which are binding upon every European patent and which shall consequently be deemed to be provisions of this Regulation.

Or. en

Justification

The autonomous character of the unitary patent is included in the measures implementing enhanced cooperation outlined by the Commission in its explanatory memorandum of the proposal for a Council decision authorising enhanced cooperation in the area of the creation of unitary patent protection (COM(2010) 790). This measure is important to be implemented in order to guarantee the legal certainty of this regulation implementing enhanced cooperation

5.12.2012

A7-0001/77

Amendment 77

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

***(a a) the acts allowed pursuant to the
Treaties and Union law;***

Or. en

Justification

Compliance with EU Law is mandatory for the legal certainty of rights conferred by the European patent with unitary effect. Such compliance is mandatory according to Article 326 TFEU and Article 334 TFEU. Hence, it should be guaranteed that the European patent with unitary effect does not prevent acts authorised by any existing or future EU legislation.

5.12.2012

A7-0001/78

Amendment 78

Eva Lichtenberger, Christian Engström
on behalf of the Verts/ALE Group

Report

A7-0001/2012

Bernhard Rapkay

Enhanced cooperation in the area of the creation of unitary patent protection
COM(2011)0215 – C7-0099/2011 – 2011/0093(COD)

Proposal for a regulation

Article 8 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the use of biological material for the purpose of plant and animal breeding, discovering and developing new varieties and their commercialisation;

Or. en

Justification

A broad breeders' privilege on plants and animals is needed in order to ensure the diversity of species.