INDEX

Please note that ‘IP’ stands for ‘intellectual property’.

actor sequitur forum rei see defendant's domicile rule
Agreement on a Unified Patent Court (AUPC) see also patents; Unitary Patent (UP) central division rule 10.10, 10.14 defendant's domicile rule
infringement actions 5.37–5.52 invalidity actions 5.54 non-infringement actions 5.53 domicile of defendant
defendant's domicile rule 5.36–5.54 establishment rule 6.48–6.56 exclusive jurisdiction rule 11.25–11.27 forum delicti rule 9.115–9.131 multiple defendants’ rule 8.46–8.59 plaintiff’s domicile rule 7.29 establishment rule
infringement actions 6.49–6.54 invalidity actions 6.56 non-infringement actions 6.55 exclusive jurisdiction rule
defendant's domicile rule 5.54 establishment rule 6.56 forum delicti rule 9.131 multiple defendants’ rule 8.59 invalidity raised in a non-infringement action 11.27 invalidity raised in an infringement action 11.26 jurisdiction framework 2.56–2.66, 2.70–2.71 multiple defendants’ rule
infringement actions 8.47–8.57 invalidity actions 8.59 non-infringement actions 8.58 non-infringement actions
defendant's domicile rule 5.53 establishment rule 6.55 exclusive jurisdiction rule 11.27 forum delicti rule 9.130 multiple defendants’ rule 8.58 plaintiff’s domicile rule 7.29 Agreement on Trade Related Aspects of Intellectual Property Rights see TRIPS Agreement (Trade Related Aspects of Intellectual Property Rights) applicable law 1.42 AUPC see Agreement on a Unified Patent Court (AUPC) avoiding forum shopping see forum shopping, avoiding Brussels Convention (Convention on Jurisdiction and Enforcement of Judgments in Civil/Commercial Matters) 2.04, 2.11, 2.33 Brussels I Regulation (Regulation on Jurisdiction and Recognition and Enforcement of Judgments on Civil and Commercial Matters) applicable law limits 1.42

279

Torsten B. Larsen - 9781786437518
Downloaded from Elgar Online at 02/02/2019 09:42:25PM
via free access
INDEX

defendant's domicile rule 5.06
establishment rule 6.09, 6.11
‘fall back’ nature of see ‘fall back’ rules
international jurisdiction rules 3.04, 3.09, 3.14
jurisdiction framework 2.04, 2.06
Community Design Regulation (CDR) 2.32, 2.33
Community Plant Variety Regulation (CPVR) 2.39, 2.40, 2.42, 2.43, 2.46, 2.51, 2.55
European Union Trademark (EUTM) 2.10, 2.11, 2.12, 2.13, 2.28, 2.30
evaluation of 2.76
Unitary Patent (UP) 2.60–2.63, 2.67, 2.69–2.74
legal basis for 2.04
multiple defendants’ rule 8.38, 8.42
plaintiff’s domicile rule 7.32
predictability principle 4.08
proximity principle 4.12–4.13

‘cascade rules’
international jurisdiction rules
Community Design Regulation (CDR) 3.14
Community Plant Variety Regulation (CPVR) 3.18
European Union Trademark Regulation (EUTMR) 3.09
jurisdiction framework
Community Design Regulation (CDR) 2.31, 2.36
Community Plant Variety Regulation (CPVR) 2.37, 2.40, 2.41, 2.42, 2.45, 2.46, 2.48, 2.55
domicile of defendant 2.77
European Union Trademark (EUTM) 2.09, 2.17, 2.30
multiple defendants’ rule 8.32, 8.38
CDR see Community Design Regulation (CDR)
central division rule
applying to a European unitary IP right 10.04–10.09
applying to a national IP right 10.03 in the AUPC 10.10, 10.14

infringement actions 10.05
invalidity actions 10.07, 10.13
justification for 10.09
non-infringement actions 10.06, 10.12
Charter of Fundamental Rights 4.04
CJEU see Court of Justice of the European Union (CJEU)
Community Design (CD)
see also Community Design Regulation (CDR) below; designs
international jurisdiction rules applying to a European unitary IP right 3.14–3.17
jurisdiction framework governing a European unitary IP right 2.31–2.36
domicile of defendant outside the EU/EFTA 2.33, 2.34, 2.35–2.36
registered designs 9.100, 9.101, 9.103
unregistered designs 3.16, 5.27, 6.39, 9.100, 9.102, 9.103
Community Design Regulation (CDR)
compared with EUTMR 2.34, 2.35
defendant’s domicile rule 5.24–5.28
infringement actions 5.25–5.26
invalidity actions 5.28
non-infringement actions 5.27
domicile of defendant
defendant’s domicile rule 5.24–5.28
establishment rule 6.36–6.40
exclusive jurisdiction rule 11.19–11.21
forum delicti rule 9.97–9.105
multiple defendants’ rule 8.38–8.41
plaintiff’s domicile rule 7.18–7.22
establishment rule
infringement actions 6.37–6.38
invalidity actions 6.40
non-infringement actions 6.39
forum delicti rule
infringement actions 9.98–9.103
invalidity actions 9.105
non-infringement actions 9.104
infringement actions
defendant’s domicile rule 5.25–5.26
establishment rule 6.37–6.38
exclusive jurisdiction rule 11.20
forum delicti rule 9.98–9.103
multiple defendants’ rule 8.39
plaintiff’s domicile rule 7.19–7.20
invalidity actions
defendant’s domicile rule 5.28
establishment rule 6.40
forum delicti rule 9.105
multiple defendants’ rule 8.41
plaintiff’s domicile rule 7.22
invalidity raised in a non-infringement action 11.21
invalidity raised in an infringement action 11.20
multiple defendants’ rule
infringement actions 8.39
invalidity actions 8.41
non-infringement actions 8.40
non-infringement actions
defendant’s domicile rule 5.27
establishment rule 6.39
exclusive jurisdiction rule 11.21
forum delicti rule 9.104
multiple defendants’ rule 8.40
plaintiff’s domicile rule 7.21
plaintiff’s domicile rule
infringement actions 7.19–7.20
invalidity actions 7.22
non-infringement actions 7.21
Community Patent Convention (1975) and defendant’s domicile rule 5.18, 5.41
and establishment rule 6.22
and jurisdiction framework 2.11
and plaintiff’s domicile rule 7.09
Community Plant Variety (CPV)
international jurisdiction rules applying to a European unitary IP right 3.18–3.25
jurisdiction framework governing a European unitary IP right 2.44–2.50
domicile of defendant in the EFTA 2.44–2.50
domicile of defendant in the EU 2.39–2.43
domicile of defendant outside the EU/EFTA 2.51–2.55
Community Plant Variety Office (CPVO) 1.09
defendant’s domicile rule 5.35
establishment rule 6.47
exclusive jurisdiction rule 11.01, 11.23, 11.24, 11.36
forum delicti rule 9.114
jurisdiction framework 2.42, 2.47, 2.49
jurisdiction limits 1.36
jurisdiction rules 3.24
jurisdiction strategies 1.28
multiple defendants’ rule 8.45
plaintiff’s domicile rule 7.28
Community Plant Variety Regulation (CPVR)
defendant’s domicile rule
infringement actions 5.30–5.33
invalidity actions 5.35
non-infringement actions 5.34
domicile of defendant
defendant domicile rule 5.29–5.35
establishment rule 6.41–6.47
exclusive jurisdiction rule 11.22–11.27
forum delicti rule 9.106–9.114
multiple defendants’ rule 8.42–8.45
plaintiff’s domicile rule 7.23–7.28
establishment rule 6.41–6.47
infringement actions 6.42–6.45
invalidity actions 6.47
non-infringement actions 6.46
forum delicti rule 9.106–9.114
infringement actions 9.107–9.112
invalidity actions 9.114
non-infringement actions 9.113
infringement actions
defendant’s domicile rule 5.30–5.33
establishment rule 6.42–6.45
exclusive jurisdiction rule 11.23
forum delicti rule 9.107–9.112
multiple defendants’ rule 8.43
plaintiff’s domicile rule 7.24–7.26
invalidity actions
defendant’s domicile rule 5.35
establishment rule 6.47
forum delicti rule 9.114
multiple defendants’ rule 8.45
plaintiff’s domicile rule 7.28
invalidity raised in a non-infringement action 11.24
INDEX

invalidity raised in an infringement action 11.23
designs 5.60
domicile in the AUPC 5.37–5.52
infringement actions 5.37
invalidity actions 5.54
non-infringement actions 5.53
domicile in the CDR 5.25–5.26
infringement actions 5.25
invalidity actions 5.28
non-infringement actions 5.27
domicile in the CPVR 5.05–5.11
infringement actions 5.05
invalidity actions 5.13
non-infringement actions 5.12
domicile in the EUTMR 5.17–5.20
infringement actions 5.17
invalidity actions 5.23
non-infringement actions 5.21–5.22
domicile outside the EU/EFTA 5.14
European unitary IP right, applying to
5.15–5.54
in the AUPC 5.36–5.54
in the CDR 5.24–5.28
in the CPVR 5.29–5.35
in the EUTMR 5.16–5.23
infringement actions 5.17–5.20,
5.25–5.26, 5.30–5.33, 5.37–5.52
invalidity actions 5.23, 5.28, 5.35,
5.54
non-infringement actions 5.21–5.22,
5.27, 5.34, 5.53

Jenard report 5.41
legal persons, domicile for 5.10, 5.43
meaning of ‘domicile’ 5.08–5.10
national IP right, applying to 5.03–5.14
natural persons, domicile for 5.09, 5.42,
5.46
patents 5.65–5.68
plant variety cases 5.61–5.64
Pocar report 5.41
‘principal place of business’ 5.10, 5.43,
5.45, 5.47
‘residence’ 5.40–5.41, 5.44
and special jurisdiction rules 4.10
'statutory seat' 5.10
trademarks 5.56–5.59
designs
see also Community Design (CD);
Community Design Regulation (CDR)
defendant’s domicile rule 5.60
establishment rule 6.62
exclusive jurisdiction rule 11.33
forum delicti rule 9.62, 9.100–9.103, 9.137
international jurisdiction rules 3.34
invalidity actions 1.14
multiple defendants’ rule 8.14, 8.62
plaintiff’s domicile rule 7.36
registered 8.14, 9.100–9.101, 9.103
unregistered 3.16, 5.27, 6.39, 8.14, 9.62, 9.100, 9.102, 9.103
domicile of defendant
and the AUPC
invalidity actions 8.59, 9.131
multiple defendants’ rule 8.47–8.57
and the CDR
invalidity actions 5.28, 6.40, 7.22, 8.41, 9.105
non-infringement actions 5.27, 6.39, 7.21, 8.40, 9.104
and the CPVR
invalidity actions 5.35, 6.47, 7.28, 8.45, 9.114
non-infringement actions 5.34, 6.46, 7.27, 8.44, 9.113, 11.24
defendant’s domicile rule
applying to a European unitary IP right 5.15–5.54
applying to a national IP right 5.03–5.14
infringement actions 5.05–5.11, 5.17–5.20, 5.25–5.26
invalidity actions 5.13, 5.23, 5.28
non-infringement actions 5.12, 5.21–5.22, 5.27
in the EFTA
defendant’s domicile rule 5.04–5.13
establishment rule 6.04–6.17
forum delicti rule 9.04–9.73
international jurisdiction rules applying to a national IP right 3.05
jurisdiction framework governing a European unitary IP right 2.16–2.27, 2.34, 2.44–2.50, 2.68
jurisdiction framework governing a national IP right 2.05–2.06
multiple defendants’ rule 8.04–8.29
plaintiff’s domicile rule 7.04
establishment rule
applying to a European unitary IP right 6.19–6.56
applying to a national IP right 6.03–6.18
infringement actions 6.05–6.15, 6.21–6.33, 6.37–6.38, 6.42–6.45, 6.49–6.54
invalidity actions 6.17, 6.35, 6.40, 6.47, 6.56
non-infringement actions 6.16, 6.34, 6.39, 6.46, 6.55
in the EU
defendant’s domicile rule 5.04–5.13
establishment rule 6.04–6.17
forum delicti rule 9.04–9.73
international jurisdiction rules applying to a national IP right 3.04
jurisdiction framework governing a European unitary IP right 2.11–2.15, 2.33, 2.39–2.43, 2.67
jurisdiction framework governing a national IP right 2.04
multiple defendants’ rule 8.04–8.29
plaintiff’s domicile rule 7.04
and the EUTMR
invalidity actions 5.23, 6.35, 7.17, 8.37, 9.96

283

Torsten B. Larsen - 9781786437518
Downloaded from Elgar Online at 02/02/2019 09:42:25PM
via free access
INDEX

non-infringement actions 5.21–5.22, 6.34, 7.15–7.16, 8.36, 9.94–9.95
exclusive jurisdiction rule
applying to a European unitary IP right 11.14–11.27
applying to a national IP right 11.03–11.13
forum delicti rule
applying to a European unitary IP right 9.75–9.131
applying to a national IP right 9.03–9.74
in the CDR 9.105
in the EUTMR 9.77–9.93
invalidity actions 9.71–9.73, 9.96, 9.114, 9.131
international jurisdiction rules applying to a European unitary IP right
Community Design (CD) 3.14–3.17
Community Plant Variety (CPV) 3.18–3.25
European Union Trademark (EUTM) 3.09–3.13
Unitary Patent (UP) 3.26–3.30
international jurisdiction rules applying to a national IP right 3.03–3.07
jurisdiction framework governing a European unitary IP right
Community design 2.31–2.36
Community Plant Variety (CPV) 2.37–2.55
European Union Trademark (EUTM) 2.09–2.30
Unitary Patent (UP) 2.56–2.74
jurisdiction framework governing a national IP right 2.03–2.07
multiple defendants’ rule
applying to a European unitary IP right 8.31–8.59
applying to a national IP right 8.03–8.30
infringement actions 8.05–8.27, 8.33–8.35, 8.39, 8.43, 8.47–8.57
invalidity actions 8.29, 8.37, 8.41, 8.45, 8.59
non-infringement actions 8.28, 8.36, 8.40, 8.44, 8.58
outside the EU/EFTA
domicile rule 5.14
establishment rule 6.18
forum delicti rule 9.74
international jurisdiction rules applying to a national IP right 3.06–3.07
jurisdiction framework governing a European unitary IP right 2.28–2.30, 2.35–2.36, 2.51–2.55, 2.69–2.74
jurisdiction framework governing a national IP right 2.07
multiple defendants’ rule 8.30
plaintiff’s domicile rule 7.05
plaintiff’s domicile rule applying to a European unitary IP right 7.06–7.29
applying to a national IP right 7.03–7.05
infringement actions 7.08–7.14, 7.19–7.20, 7.24–7.26
invalidity actions 7.17, 7.22, 7.28
non-infringement actions 7.15–7.16, 7.21, 7.27
EFTA see European Free Trade Association (EFTA)
enforcement of IP rights
effective, principles of 4.03–4.06
Enforcement Directive (ED) 4.05
trademarks 9.52
EPO see European Patent Organisation (EPO)
equality of arms principle 3.22
establishment rule
application of relevant Agreement or Regulation 6.19
in the AUPC
infringement actions 6.49–6.54
invalidity actions 6.56
non-infringement actions 6.55
‘branch, agency or other establishment’ requirement 6.07

284

Torsten B. Larsen - 9781786437518
Downloaded from Elgar Online at 02/02/2019 09:42:25PM via free access
in the CDR
  infringement actions 6.37–6.38
  invalidity actions 6.40
  non-infringement actions 6.39
  close connection requirement 6.09, 6.10, 6.11
in the CPVR
  infringement actions 6.42–6.45
  invalidity actions 6.47
  non-infringement actions 6.46
  designs 6.62
  domicile outside the EU/EFTA 6.18
in the EU/EFTA
  infringement actions 6.05–6.15
  invalidity actions 6.17
  non-infringement actions 6.16
European unitary IP right, applying to
  6.19–6.56
  in the AUPC 6.48–6.56
  in the CDR 6.36–6.40
  in the CPVR 6.41–6.47
  in the EUTMR 6.20–6.35
    infringement actions 6.21–6.33,
      6.37–6.38, 6.42–6.45, 6.49–6.54
    invalidity actions 6.35, 6.47, 6.56
    non-infringement actions 6.34, 6.39,
      6.46, 6.55
in the EUTMR
  infringement actions 6.21–6.33
  invalidity actions 6.35
  non-infringement actions 6.34
Jenard report 6.13
  national IP right, applying to 6.03–6.18
  operation of establishment 6.08
  patents 6.67–6.70
  ‘place of business’ 6.52, 6.53
  plant variety cases 6.63–6.66
  Pocar report 6.13
  ‘residence’ 6.51
  trademarks 6.58–6.61
EUIPO see European Union Intellectual Property Office (EUIPO)
European Convention on Human Rights (ECHR), fair trial, right to 4.04
European Court of Human Rights (EChHR) 4.04
European Free Trade Association (EFTA)
domicile of defendant in
defendant’s domicile rule 5.04–5.13
  establishment rule 6.04–6.17
  forum delicti rule 9.04–9.73
  international jurisdiction rules applying to a national IP right 3.05
  jurisdiction framework governing a European unitary IP right
    2.16–2.27, 2.34
  jurisdiction framework governing a national IP right 2.05–2.06
  multiple defendants’ rule 8.04–8.29
  plaintiff’s domicile rule 7.04
  domicile of defendant outside
  defendant’s domicile rule 5.14
  establishment rule 6.18
  forum delicti rule 9.74
  international jurisdiction rules applying to a national IP right 3.06–3.07
  jurisdiction framework governing a European unitary IP right
    2.28–2.30, 2.35–2.36
  jurisdiction framework governing a national IP right 2.07
  multiple defendants’ rule 8.30
  plaintiff’s domicile rule 7.05
European Union (EU)
domicile of defendant in
  defendant’s domicile rule 5.04–5.13
  establishment rule 6.04–6.17
  forum delicti rule 9.04–9.73
  international jurisdiction rules applying to a national IP right 3.04
  jurisdiction framework governing a European unitary IP right
    2.11–2.15, 2.33
  jurisdiction framework governing a national IP right 2.04
  multiple defendants’ rule 8.04–8.29
  plaintiff’s domicile rule 7.04
  domicile of defendant outside
  defendant’s domicile rule 5.14
  establishment rule 6.18
  forum delicti rule 9.74
  international jurisdiction rules applying to a national IP right 3.06–3.07
INDEX

jurisdiction framework governing a European unitary IP right 2.28–2.30, 2.35–2.36
canon of private international law 2.07
multiple defendants’ rule 8.30
plaintiff’s domicile rule 7.05
European Union Intellectual Property Office (EUIPO)
competence 3.12, 3.16
and exclusive jurisdiction rule 11.01, 11.18, 11.21, 11.31
and forum delicti rule 9.101
and international jurisdiction rules 3.12
jurisdiction framework 2.14, 2.26, 2.34
and jurisdiction rules 3.16, 3.32, 1.36
European Union Trademark (EUTM)
international jurisdiction rules applying to a European unitary IP right 3.09–3.13
jurisdiction framework governing a European unitary IP right 2.09–2.30
domicile of defendant in the EFTA 2.16–2.27
domicile of defendant in the EU 2.11–2.15
domicile of defendant outside the EU/EFTA 2.28–2.30
lex specialis principle 2.14, 2.15
European Union Trademark Regulation (EUTMR)
see also Brussels I Regulation (Regulation on Jurisdiction and Recognition and Enforcement of Judgments on Civil and Commercial Matters); European Union Trademark (EUTM)
and Brussels I Regulation 2.14
compared with CDR 2.34, 2.35
defendant’s domicile rule 5.16–5.23
infringement actions 5.17–5.20
validity actions 5.23
non-infringement actions 5.21–5.22
domicile of defendant
defendant’s domicile rule 5.16–5.23
establishment rule 6.20–6.35
exclusive jurisdiction rule 11.15–11.18
multiple defendants’ rule 8.32–8.37
plaintiff’s domicile rule 7.07–7.17
establishment rule 6.20–6.35
infringement actions 6.21–6.33
validity actions 6.35
non-infringement actions 6.34
exclusive jurisdiction rule 11.15–11.18
infringement actions 11.16–11.17
non-infringement actions 11.18
forum delicti rule 9.76–9.96
infringement actions 9.77–9.93
validity actions 9.96
non-infringement actions 9.94–9.95
forum rules 2.22
infringement actions
defendant’s domicile rule 5.17–5.20
establishment rule 6.21–6.33
forum delicti rule 9.77–9.93
infringement actions 8.33–8.35
plaintiff’s domicile rule 7.08–7.14
validity actions
defendant’s domicile rule 5.23
establishment rule 6.35
forum delicti rule 9.96
multiple defendants’ rule 8.37
plaintiff’s domicile rule 7.17
invalidity raised in a non-infringement action 11.18
invalidity raised in an infringement action 11.16–11.17
jurisdiction framework 2.09, 2.11
multiple defendants’ rule 8.32–8.37
infringement actions 8.33–8.35
validity actions 8.37
non-infringement actions 8.36
non-infringement actions
defendant’s domicile rule 5.21–5.22
establishment rule 6.34
forum delicti rule 9.94–9.95
multiple defendants’ rule 8.36
plaintiff’s domicile rule 7.15–7.16
plaintiff’s domicile rule
infringement actions 7.08–7.14
validity actions 7.17
non-infringement actions 7.15–7.16
European unitary IP right
central division rule 10.04–10.09

286
and defendant’s domicile rule see European unitary IP right, and defendant’s domicile rule
and enforcement rule see European unitary IP right, and enforcement rule
and exclusive jurisdiction rule see European unitary IP right, and exclusive jurisdiction rule
and forum delicti rule see European unitary IP right, and forum delicti rule
and jurisdiction framework see European unitary IP right, jurisdiction framework governing
and multiple defendants’ rule see European unitary IP right, and multiple defendants’ rule
versus national IP right see national IP right/ European unitary IP right comparison
and plaintiff’s domicile rule see European unitary IP right, and plaintiff’s domicile rule

European unitary IP right, and defendant’s domicile rule 5.15–5.54
in the AUPC
infringement actions 5.37–5.52
invalidity actions 5.54
non-infringement actions 5.53
in the CDR
infringement actions 6.37–6.38
invalidity actions 6.40
non-infringement actions 6.39
in the CPVR 6.41–6.47
infringement actions 6.42–6.45
invalidity actions 6.47
non-infringement actions 6.46
in the EUTMR
infringement actions 6.21–6.33
invalidity actions 6.35
non-infringement actions 6.34

European unitary IP right, and enforcement rule 6.19–6.56
in the AUPC
infringement actions 6.49–6.54
invalidity actions 6.56
non-infringement actions 6.55
in the CDR
infringement actions 6.37–6.38
invalidity actions 6.40
non-infringement actions 6.39
in the CPVR 6.41–6.47
infringement actions 6.42–6.45
invalidity actions 6.47
non-infringement actions 6.46
in the EUTMR
infringement actions 6.21–6.33
invalidity actions 6.35
non-infringement actions 6.34

European unitary IP right, and exclusive jurisdiction rule 11.14–11.27
in the AUPC 11.25–11.27
infringement actions 11.26
non-infringement actions 11.27
in the CDR 11.19–11.21
infringement actions 11.20
non-infringement actions 11.21
in the CPVR 11.22–11.27
infringement actions 11.23
non-infringement actions 11.24
in the EUTMR 11.15–11.18
infringement actions 11.16–11.17
non-infringement actions 11.18

European unitary IP right, and forum delicti rule 9.75–9.131
in the AUPC
infringement actions 9.116–9.129
invalidity actions 9.131
non-infringement actions 9.130
in the CDR 9.97–9.105
infringement actions 9.98–9.103
invalidity actions 9.105
non-infringement actions 9.104
in the CPVR 9.106–9.114
infringement actions 9.107–9.112
invalidity actions 9.114
non-infringement actions 9.113
in the EUTMR 9.76–9.96
infringement actions 9.77–9.93
invalidity actions 9.96
non-infringement actions 9.94–9.95

European unitary IP right, and multiple defendants’ rule 8.31–8.59
in the AUPC 8.46–8.59

287
INDEX

infringement actions 8.47–8.57
domestic of defendant in the EFTA 2.16–2.27
domestic of defendant in the EU 2.11–2.15
domestic of defendant outside the EU/EFTA 2.28–2.30
Unitary Patent (UP) 2.56–2.74
domestic of defendant in the EFTA 2.69–2.74
domestic of defendant in the EU 2.67
domestic of defendant outside the EU/EFTA 2.69–2.74
EUTM see European Union Trademark (EUTM)
EUTMR see European Union Trademark Regulation (EUTMR)

invalidity actions 8.49
in the CDR 8.38–8.41
domestic of defendant in the EU 2.11–2.15
domestic of defendant outside the EU/EFTA 2.28–2.30
invalidity actions 8.41
non-infringement actions 8.40
invalidity actions 8.45
non-infringement actions 8.44
in the EUTMR 8.32–8.37
invalidity actions 8.33–8.35
domestic of defendant in the EFTA 2.69–2.74
domestic of defendant in the EU 2.67
domestic of defendant outside the EU/EFTA 2.69–2.74
non-infringement actions 8.36

European unitary IP right, and plaintiff’s domicile rule 7.06–7.29
in the CDR
domestic of defendant in the EU 2.11–2.15
domestic of defendant outside the EU/EFTA 2.28–2.30
in the CPVR
domestic of defendant in the EU 2.11–2.15
domestic of defendant outside the EU/EFTA 2.28–2.30
in the EUTMR 11.15–11.18
invalidity actions 11.16–11.17
domestic of defendant in the EU 2.11–2.15
domestic of defendant outside the EU/EFTA 2.28–2.30
invalidity actions 11.16–11.17
domestic of defendant in the EFTA 2.69–2.74
domestic of defendant in the EU 2.67
domestic of defendant outside the EU/EFTA 2.69–2.74

exclusive jurisdiction rule
in the AUPC 11.25–11.27
in the CDR 11.19–11.21
in the CPVR 2.48
in the EUTMR 11.15–11.18
infringement actions 11.04–11.12
invalidity raised in an non-infringement action 11.13
invalidity raised in an infringement action 11.04–11.12
infringement actions 11.16–11.17

European unitary IP right, applying to
in the CDR 11.19–11.21
in the CPVR 2.48
in the EUTMR 11.15–11.18
Community design 2.31–2.36
infringement actions 2.47–2.50
domestic of defendant in the EU 2.33
domestic of defendant outside the EU/EFTA 2.35–3.6
invalidity raised in a non-infringement action 11.13
infringement actions 11.04–11.12

European unitary IP right, jurisdiction framework governing

Community Plant Variety (CPV) 2.37–2.55
domestic of defendant in the EU 2.33
domestic of defendant outside the EU/EFTA 2.35–2.36
invalidity raised in an non-infringement action 11.13
national IP right, applying to 11.03–11.13
non-infringement actions 11.13
patents 11.38–11.41
perpetuatio fori principle 11.08, 11.11
plant variety cases 11.34–11.37
trademarks 11.29–11.32

fair trial, right to 4.04
‘fall back’ rules
Brussels I Regulation
  defendant’s domicile rule 5.20
  international jurisdiction rules 3.09, 3.14
  jurisdiction framework 2.12–2.14, 2.41
  multiple defendants’ rule 8.32, 8.42
Lugano Convention
  international jurisdiction rules 3.14
  jurisdiction framework 2.47, 2.48, 2.50, 2.77
  multiple defendants’ rule 8.32, 8.42
Folien Fischer judgment
  facts and reasoning 9.66–9.67
  impact 9.70
  interpretation 9.68–9.69
forum actoris see plaintiff’s domicile rule
forum delicti rule
  in the AUPC 7.06, 7.29, 9.115–9.131
  infringement actions 9.116–9.129
  invalidity actions 9.131
  non-infringement actions 9.130
in the CDR
  infringement actions 9.98–9.103
  invalidity actions 9.105
  non-infringement actions 9.104
in the CPVR
  infringement actions 9.107–9.112
  invalidity actions 9.114
  jurisdiction framework 2.37
  non-infringement actions 9.113
defamation 9.40
designs 9.62, 9.100–9.103, 9.117
domicile outside the EU/EFTA 9.74
in the EU/EFTA
  infringement actions 9.05–9.64
  invalidity actions 9.71–9.73
  non-infringement actions 9.65–9.70
European unitary IP right, applying to 9.75–9.131
  in the AUPC 9.115–9.131
  in the CDR 9.97–9.105
  in the CPVR 9.106–9.114
  in the EUTMR 9.76–9.96
  invalidity actions 9.96, 9.105, 9.114, 9.131
  non-infringement actions 9.94–9.95, 9.104, 9.113, 9.130
in the EUTMR
  infringement actions 9.77–9.93
  invalidity actions 9.96
  non-infringement actions 9.94–9.95
  and international jurisdiction rules 1.17
international jurisdiction rules
Community Plant Variety Regulation (CPVR) 3.19
European Union Trademark Regulation (EUTMR) 3.10–3.11
Unitary Patent (UP) 3.27
jenard report 9.41
jurisdiction framework
  Community Plant Variety Regulation (CPVR) 2.48, 2.53
  European Union Trademark (EUTM) 2.09, 2.17
‘mosaic’ rule 9.38, 9.40, 9.45
national IP right, applying to 9.03–9.74
patents 9.142–9.145
and plaintiff’s domicile rule 9.32, 9.33, 9.38, 9.41, 9.127
plant variety cases 9.138–9.141
Schlosser report 9.41
territoriality 9.33, 9.41, 9.45, 9.46
forum domicilii see defendant’s domicile rule
forum negotii see establishment rule
forum non-conveniens doctrine
central division rule 10.11
defining 1.27
INDEX

establishment rule 6.06
forum delicti rule 9.06
multiple defendants’ rule 8.06
forum shopping, avoiding 4.15–4.16, 9.21–9.24
defining forum shopping 1.22

harmful events
see also infringement actions
forum delicti rule 9.135, 9.140, 9.144
applying to a national IP right 9.05, 9.09, 9.19, 9.52, 9.55, 9.56, 9.58
international jurisdiction rules 3.04
jurisdiction framework 2.67

infringement actions
applying to a European unitary IP right
in the CPVR 5.30–5.33, 6.42–6.45, 7.24–7.26, 8.43
forum delicti rule 9.98–9.103
applying to a national IP right
defendant’s domicile rule 5.05–5.11
establishment rule 6.05–6.15
exclusive jurisdiction rule 11.04–11.12
forum delicti rule 9.05–9.64
multiple defendants’ rule 8.05–8.27
in the AUPC
defendant’s domicile rule 5.37–5.52
establishment rule 6.49–6.54
exclusive jurisdiction rule 11.26
forum delicti rule 9.116–9.129
multiple defendants’ rule 8.47–8.57
in the CDR
defendant’s domicile rule 5.25–5.26
establishment rule 6.37–6.38
exclusive jurisdiction rule 11.20

multiple defendants’ rule 8.39
plaintiff’s domicile rule 7.19–7.20
central division rule 10.05
in the CPVR
defendant’s domicile rule 5.30–5.33
establishment rule 6.42–6.45
exclusive jurisdiction rule 11.23
multiple defendants’ rule 8.43
plaintiff’s domicile rule 7.24–7.26
defendant’s domicile rule in the CPVR 5.25–5.26
in the CDR 5.30–5.33
in the EU/EFTA 5.05–5.11
defining 1.12
establishment rule
in the CPVR 6.42–6.45
in the EU/EFTA 6.05–6.15
in the EUTMR 6.21–6.33
in the EU/EFTA
defendant’s domicile rule 5.05–5.11
establishment rule 6.05–6.15
forum delicti rule 9.05–9.64
multiple defendants’ rule 8.05–8.27
European unitary IP right, applying to, infringement actions 7.24–7.26

in the EUTMR
defendant’s domicile rule 5.17–5.20
establishment rule 6.21–6.33
exclusive jurisdiction rule 11.16–11.17
forum delicti rule 9.77–9.93
multiple defendants’ rule 8.33–8.35
plaintiff’s domicile rule 7.08–7.14
exclusive jurisdiction rule, national IP right 11.04–11.12
forum delicti rule
in the AUPC 9.116–9.129
in the CPVR 9.107–9.112
in the EU/EFTA 9.05–9.64
in the EUTMR 9.77–9.93
international jurisdiction rules 3.04
choice by plaintiff 3.32
Community Design Regulation (CDR) 3.15
Community Plant Variety Regulation (CPVR) 3.19
European Union Trademark Regulation (EUTMR) 3.10
Unitary Patent (UP) 3.27
and invalidity 1.28
invalidity raised in
in the CDR 11.20
in the CPVR 11.23
in the EUTMR 11.16–11.17
multiple defendants’ rule
in the AUPC 8.47–8.57
in the CDR 8.39
in the CPVR 8.43
in the EU/EFTA 8.05–8.27
offline infringements 9.87, 9.88, 9.124
online infringements 9.87, 9.124
plaintiff’s domicile rule
in the CDR 7.19–7.20
in the EUTMR 7.08–7.14
threatened 1.30
Wintersteiger judgment
facts and reasoning 9.08–9.11
impact 9.51–9.64
industrial property rights 9.07
interpretation 9.12–9.50
intellectual property jurisdiction see jurisdiction, IP
intellectual property law, principles 4.19
intellectual property rights (IPRs)
jurisdictional scope 1.07–1.09
European unitary IP right see European unitary IP right
national IP right see national IP right
international jurisdiction rules
applying to a European unitary IP right 3.08–3.30
Community Design (CD) 3.14–3.17
Community Plant Variety (CPV) 3.18–3.25
European Union Trademark (EUTM) 3.09–3.13
Unitary Patent (UP) 3.26–3.30
applying to a national IP right 3.03–3.07
domicile of defendant in the EFTA 3.05
domicile of defendant in the EU 3.04
domicile of defendant outside the EU/EFTA 3.06–3.07
‘competent courts’ 3.22, 3.23
focus areas 1.15–1.18
identification of nature of, necessity for 5.01, 6.01, 7.01, 8.01, 9.01, 10.01, 11.01
trademark cases 3.32–3.33
where advantageous to the plaintiff 12.04
invalidity actions
applying to a European unitary IP right
in the AUPC 5.54, 6.56, 8.59
in the CDR 5.28, 6.40, 7.22, 8.41, 9.105
in the CPVR 5.35, 6.47, 7.28, 8.45, 9.114
in the EUTMR 5.23, 6.35, 7.17, 8.37, 9.96
applying to a national IP right 5.13, 6.17, 8.29, 9.71–9.73
in the AUPC
defendant’s domicile rule 5.54
establishment rule 6.56
forum delicti rule 9.131
multiple defendants’ rule 8.59
in the CDR
defendant’s domicile rule 5.28
establishment rule 6.40
forum delicti rule 9.105
multiple defendants’ rule 8.41
plaintiff’s domicile rule 7.22
central division rule 10.07, 10.13
in the CPVR
defendant’s domicile rule 5.35
establishment rule 6.47
forum delicti rule 9.114
multiple defendants’ rule 8.45
plaintiff’s domicile rule 7.28
defendant’s domicile rule
in the AUPC 5.54
in the CDR 5.28
in the CPVR 5.35
in the EU/EFTA 5.13
in the EUTMR 5.23
defining 1.14
designs 1.14
establishment rule
in the AUPC 6.56
in the CDR 6.40
in the CPVR 6.47
in the EU/EFTA 6.17
in the EUTMR 6.35
in the EU/EFTA, national IP right 5.13
in the EUTMR
establishment rule 6.35
forum delicti rule 9.96
multiple defendants' rule 8.37
plaintiff's domicile rule 7.17
forum delicti rule
in the AUPC 9.131
in the CDR 9.105
in the CPVR 9.114
in the EU/EFTA 9.71–9.73
in the EUTMR 9.96
and infringement 1.28
international jurisdiction rules 3.04
choice by plaintiff 3.32
Community Design Regulation (CDR) 3.16
Community Plant Variety Regulation (CPVR) 3.24
European Union Trademark Regulation (EUTMR) 3.12
Unitary Patent (UP) 3.29
multiple defendants' rule
in the AUPC 8.59
in the CDR 8.41
in the CPVR 8.45
in the EU/EFTA 8.29
in the EUTMR 8.37
and non-infringement 1.29
patents 1.14
plaintiff's domicile rule
in the CDR 7.22
in the CPVR 7.28
in the EUTMR 7.17
plant variety cases 1.14
trademarks 1.14
IPRs see intellectual property rights (IPRs)
jurisdiction, IP
actions brought in plaintiff's home
Member State 1.25
advantage for the plaintiff in IP litigation 1.21
available fora 1.24
example 1.04–1.05
extent of 1.26
framework see jurisdictional framework
international rules 1.15–1.18, 1.22
limits 1.33–1.44, 9.38–9.47
litigations 1.10–1.14
purpose 1.02–1.03
scope 1.06–1.18
strategies 1.01, 1.19–1.32
territorial 1.26
unlimited full 9.38–9.47
jurisdiction framework governing a European unitary IP right 2.08–2.74
Community Design (CD)
domicile of defendant in the EFTA 2.34
domicile of defendant in the EU 2.33
domicile of defendant outside the EU/EFTA 2.28–2.30
Community Plant Variety (CPV)
domicile of defendant in the EFTA 2.44–2.50
domicile of defendant in the EU 2.39–2.43
domicile of defendant outside the EU/EFTA 2.51–2.55
European Union Trademark (EUTM)
domicile of defendant in the EFTA 2.16–2.27
domicile of defendant in the EU 2.11–2.15
domicile of defendant outside the EU/EFTA 2.28–2.30
Unitary Patent (UP)
domicile of defendant in the EFTA 2.68
domicile of defendant in the EU 2.67
domicile of defendant outside the EU/EFTA 2.69–2.74
jurisdiction framework governing a national IP right 2.03–2.07
domicile of defendant in the EFTA 2.05–2.06
domicile of defendant in the EU 2.04

domicile of defendant outside the
EU/EFTA 2.07
governing a national IP right vs a
European unitary right 2.02

lex specialis principle, jurisdiction framework 2.14, 2.15, 2.42, 2.47, 2.49

limits 1.33–1.44
applicable law 1.42
jurisdictional 1.34–1.41
recognition and enforcement 1.44
substantive intellectual property law 1.43

lis pendens rule 9.65

Lugano Convention (Convention on
Jurisdiction and Recognition and
Enforcement of Judgments in Civil
and Commercial Matters)
defendant’s domicile rule
Community Plant Variety Regulation
(CPVR) 5.30, 5.33
national IP right 5.05
equity into force 2.05
establishment rule 6.42
‘fall back’ nature of see ‘fall back’ rules
forum delicti rule 9.110

international jurisdiction rules
applying to a national IP right 3.05
Community Design Regulation (CDR) 3.14
European Union Trademark Regulation
(EUTMR) 3.09, 3.12
jurisdiction framework 2.05, 2.06
Community Design Regulation (CDR) 2.32, 2.34, 2.36
Community Plant Variety Regulation
(CPVR) 2.40, 2.44, 2.46–2.53,
2.55
European Union Trademark (EUTM) 2.10, 2.16–2.22
evaluation of 2.76
Unitary Patent (UP) 2.60–2.63, 2.68,
2.69–2.74
multiple defendants’ rule 8.38, 8.42

‘mosaic’ rule, forum delicti rule 9.38, 9.40,
9.45

multiple defendants’ rule
in the AUPC
infringement actions 8.47–8.57
invalidity actions 8.59
non-infringement actions 8.58
in the CDR
infringement actions 8.39
invalidity actions 8.41
non-infringement actions 8.40
close connection requirement 8.09
in the CPVR
infringement actions 8.43
invalidity actions 8.45
non-infringement actions 8.44
designs 8.14, 8.62
domicile outside the EU/EFTA 8.30
in the EU/EFTA
infringement actions 8.05–8.27
invalidity actions 8.29
non-infringement actions 8.28
European unitary IP right, applying to
8.31–8.59
in the AUPC 8.46–8.59
in the CDR 8.38–8.41
in the CPVR 8.42–8.45
in the EUTMR 8.32–8.37
infringement actions 8.33–8.35, 8.43,
8.47–8.57
invalidity actions 8.37, 8.41, 8.45, 8.59
non-infringement actions 8.36, 8.40,
8.44, 8.58
in the EUTMR
infringement actions 8.33–8.35
invalidity actions 8.37
non-infringement actions 8.36
national IP right, applying to 8.03–8.30
patents 8.16, 8.64
plant variety cases 8.63
substantially identical law requirement
8.10, 8.34
trademarks 8.13, 8.61

national IP right
central division rule 10.03
compared with European unitary IP right
see national IP right and European
unitary IP right

293
 INDEX

defendant’s domicile rule applying to
   domicile of defendant in the
   EU/EFTA 5.04–5.13
   domicile of defendant outside the
   EU/EFTA 5.14
establishment rule applying to
domicile of defendant in the
EU/EFTA 6.04–6.17
domicile of defendant outside the
EU/EFTA 6.18
exclusive jurisdiction rule applying to
   11.03–11.13
forum delicti rule applying to
domicile of defendant in the
EU/EFTA 9.04–9.73
domicile of defendant outside the
EU/EFTA 9.74
jurisdiction framework governing
domicile of defendant in the EFTA
   2.05–2.06
domicile of defendant in the EU 2.04
domicile of defendant outside the
EU/EFTA 2.07
multiple defendants’ rule applying to
   8.03–8.30
domicile of defendant in the
EU/EFTA 8.04–8.29
domicile of defendant outside the
EU/EFTA 8.30
plaintiff’s domicile rule applying to
domicile of defendant in the
EU/EFTA 7.04
domicile of defendant outside the
EU/EFTA 7.05
where advantageous to the plaintiff 12.03
national IP right/European unitary IP right
comparison
available fora 12.05
central division rule 10.02
defendant’s domicile rule 5.02
establishment rule 6.02
exclusive jurisdiction rule 11.02
forum delicti rule 9.02
genrally 1.02, 1.08
international jurisdiction rules 3.02
jurisdiction framework 2.02
multiple defendants’ rule 8.02
plaintiff’s domicile rule 7.02
negative declaration 1.05
non-infringement actions 5.36–5.54
allowing 1.31
applying to a European unitary IP
   right
   in the AUPC 5.53, 8.58, 9.130
   in the CDR 5.27, 6.39, 7.21, 8.40,
   9.104
   in the CPVR 5.34, 6.46, 7.27, 8.44,
   9.113
   in the EUTMR 5.21–5.22, 6.34,
   7.15–7.16, 8.36, 9.94–9.95
applying to a national IP right
defendant’s domicile rule 5.12
establishment rule 6.16
exclusive jurisdiction rule 11.13
forum delicti rule 9.65–9.70
multiple defendants’ rule 8.28
in the AUPC
defendant’s domicile rule 5.53
establishment rule 6.55
exclusive jurisdiction rule 11.27
forum delicti rule 9.130
multiple defendants’ rule 8.58
in the CDR
defendant’s domicile rule 5.27
establishment rule 6.39
exclusive jurisdiction rule 11.21
forum delicti rule 9.104
multiple defendants’ rule 8.40
plaintiff’s domicile rule 7.21
central division rule 10.06, 10.12
in the CPVR
defendant’s domicile rule 5.34
establishment rule 6.46
exclusive jurisdiction rule 11.24
forum delicti rule 9.113
multiple defendants’ rule 8.44
plaintiff’s domicile rule 7.27
declaration of non-infringement 1.05
defendant’s domicile rule
   in the AUPC 5.53
   in the CDR 5.27
   in the CPVR 5.34
   in the EU/EFTA 5.12
   in the EUTMR 5.21–5.22

294
defining 1.13
establishment rule
in the AUPC 6.55
in the CPVR 6.46
in the EU/EFTA 6.16
in the EUTMR 6.34
in the EU/EFTA, national IP right 5.12, 6.16, 8.28, 9.65–9.70
in the EUTMR
defendant’s domicile rule 5.21–5.22
exclusive jurisdiction rule 6.34
forum delicti rule 9.94–9.95
multiple defendants’ rule 8.36
plaintiff’s domicile rule 7.15–7.16
exclusive jurisdiction rule 11.13
Folien Fischer judgment
facts and reasoning 9.66–9.67
impact 9.70
interpretation 9.68–9.69
forum delicti rule
in the AUPC 9.130
in the CDR 9.98–9.103, 9.104
in the CPVR 9.113
in the EU/EFTA 9.65–9.70
in the EUTMR 9.94–9.95
international jurisdiction rules 3.04
choice by plaintiff 3.32
Community Design Regulation (CDR) 3.15
Community Plant Variety Regulation (CPVR) 3.20–3.23
European Union Trademark Regulation (EUTMR) 3.11
Unitary Patent (UP) 3.28
and invalidity 1.29
invalidity raised in
in the CDR 11.21
in the CPVR 11.24
in the EUTMR 11.18
multiple defendants’ rule
in the AUPC 8.58
in the CDR 8.40
in the CPVR 8.44
in the EU/EFTA 8.28
in the EUTMR 8.36
plaintiff’s domicile rule
in the CDR 7.21
in the CPVR 7.27
in the EUTMR 7.15–7.16
patent, unitary see Unitary Patent (UP)
patents
see also Unified Patent Court (UPC); Unitary Patent (UP)
defendant’s domicile rule 5.65–5.68
establishment rule 6.67–6.70
European vs purely national 8.16
exclusive jurisdiction rule 11.38–11.41
forum delicti rule 9.142–9.145
international jurisdiction rules 3.37–3.38
invalidity actions 1.14
multiple defendants’ rule 8.16, 8.64
plaintiff’s domicile rule 7.41–7.42
PDO see Protected Designation of Origin (PDO)
perpetuatio fori principle 11.08, 11.11
PGI see Protected Geographical Indication (PGI)
place of action and place(s) of effect
9.32–9.34
see also forum delicti rule
place(s) of effect subject to connecting factors 9.35–9.37
plaintiff’s domicile rule
application of relevant Agreement or Regulation 7.17
in the CDR
infringement actions 7.19–7.20
invalidity actions 7.22
non-infringement actions 7.21
in the CPVR
infringement actions 7.24–7.26
invalidity actions 7.28
non-infringement actions 7.27
designs 7.36
domicile outside the EU/EFTA 7.05
European unitary IP right, applying to 7.06–7.29
in the CDR 7.18–7.22
in the CPVR 7.23–7.28
in the EUTMR 7.07–7.17
infringement actions 7.08–7.14
INDEX

invalidity actions 7.17, 7.22, 7.28
non-infringement actions 7.15–7.16, 7.21, 7.27
in the EUTMR
infringement actions 7.08–7.14
invalidity actions 7.17
non-infringement actions 7.15–7.16
and forum delicti rule 9.32, 9.33, 9.38, 9.41, 9.127
national IP right, applying to 7.03–7.05
patents 7.41–7.42
plant variety cases 7.37–7.40
trademarks 7.31–7.35
plant variety cases
see also Community Plant Variety Regulation (CPVR)
CPV protection not combined with protection of 1.09
defendant’s domicile rule 5.61–5.64
establishment rule 6.63–6.66
exclusive jurisdiction rule 11.34–11.37
forum delicti rule 9.138–9.141
international jurisdiction rules 3.35–3.36
invalidity actions 1.14
multiple defendants’ rule 8.63
plaintiff’s domicile rule 7.37–7.40
‘pollution,’ avoiding 4.07, 9.25–9.28
predictability principle 4.08–4.09, 9.15–9.17
principles
of effective enforcement of IP rights 4.03–4.06
of IP law 4.19
of private international law 4.07–4.18
private international law, principles
forum shopping, avoiding 4.15–4.16
predictability 4.08–4.09
proximity 4.10–4.14
Protected Designation of Origin (PDO) 1.35, 1.07
Protected Geographical Indication (PGI) 1.35, 1.07
proximity principle 4.10–4.14, 9.10, 9.18–9.20
recognition and enforcement 1.44
Registered Community Design (RCD) 2.33, 2.13
Rome II (Regulation on the Law Applicable to Non-Contractual Obligations)
applicable law 1.42
defendant’s domicile rule 5.46
forum delicti rule 9.19
Rules of Procedure of the Unified Patent Court (ROP)
and defendant’s domicile rule 5.43, 5.47, 5.48
and establishment rule 6.53
and exclusive jurisdiction rule 11.26
and forum delicti rule 5.42, 9.124
Speciality Guaranteed right (SPG) 1.35, 1.07
substantive intellectual property law 1.43
territoriality
forum delicti rule 9.33, 9.41, 9.45, 9.46
jurisdiction 1.26
principles of IP law 4.19
trademarks
see also European Union Trademark (EUTM); European Union Trademark Regulation (EUTMR)
defendant’s domicile rule 5.56–5.59
establishment rule 6.58–6.61
exclusive jurisdiction rule 11.29–11.32
international jurisdiction rules 3.32–3.33
invalidity actions 1.14
multiple defendants’ rule 8.13, 8.61
plaintiff’s domicile rule 7.31–7.35
registered and unregistered 8.13
unenforceable 9.52
unregistered 9.62
TRIPS Agreement (Trade Related Aspects of Intellectual Property Rights)
forum delicti rule 9.54
multiple defendants’ rule 8.15, 8.16
principles of IP law 4.19
Unified Patent Court (UPC) 1.19, 1.40, 2.69

296

Torsten B. Larsen - 9781786437518
Downloaded from Elgar Online at 02/02/2019 09:42:25PM
via free access
competence 2.56, 2.69, 8.48, 9.118
defendant's domicile rule 5.43, 5.50, 5.51
defendan’s domicile rule 9.118, 9.120, 9.121,
forum delicti 9.118, 9.120, 9.121, 9.124
jurisdiction framework 2.60, 2.63, 2.64, 2.65, 2.66, 2.67, 2.68, 2.69
multiple defendants’ rule 8.48, 8.52
seat 2.58
as supranational court 2.63, 5.42, 9.118
Unrole for the Protection of New Varieties
of Plants (UPOV) 9.41
unitary character principle 11.23
unitary European IP right see European
unitary IP right, governing
Unitary Patent Regulation (UPR) 1.09, 1.07
Unitary Patent (UP) 2.56–2.74
see also Agreement on a Unified Patent
Court (AUPC)
international jurisdiction rules applying to
a European unitary IP right 3.26–3.30
jurisdiction framework governing a
European unitary IP right
domicile of defendant in the EFTA 2.68
domicile of defendant in the EU 2.67
domicile of defendant outside the
EU/EFTA 2.69–2.74
Unregistered Community Design (UCD) 1.04
UPC see Unified Patent Court (UPC)
weaker party, no protection of 9.48–9.50
Wintersteiger judgment
facts and reasoning 9.08–9.11
impact 9.51–9.64
industrial property rights 9.07
interpretation 9.12–9.50
narrow 9.29–9.31
principles
forum shopping, avoiding 9.21–9.24
narrow interpretation 9.29–9.31
no protection of the weaker party 9.48–9.50
place of action and place(s) of effect
9.32–9.34
place(s) of effect subject to connecting
factors 9.35–9.37
‘pollution,’ avoiding 9.25–9.28
predictability 9.15–9.17
proximity 9.18–9.20
unlimited full jurisdiction and limited
forum jurisdiction 9.38–9.47