Six reasons to refuse the United Patent Litigation System (UPLS)

1. **Democracy**: this treaty creates a court system that won't be balanced by elected legislators, turning the European Parliament or National Parliaments legislators of second zone. The legislator won't be elected, and won't be able to counter decisions of such court. The UPLS creates an international patent court outside of the European Union legal system, to which the European Union would have to adhere. Furthermore, the European Parliament does not have the power to initiate new laws if it wants to counter decisions of such a court.
2. **Fundamental rights**: No appeal to a constitutional court will be possible, in case patent law conflicts w ith other laws, such as fundamental rights. The European Union does not have at the moment a Constitution to which European citizens and companies could appeal. An international patent court such as the one created by the UPLS won't allow appeal to upper constitutional courts, nor national constitutional courts. The recent interventions of the US Supreme Court against decisions of specialized patent courts (CAFC), notably to confront patent law with other pieces of law, shows that fundamental rights should have a place in the judicial system, and that patent law does not operate in a vacuum.
3. **Software patents**: centralisation of the court system, especially for validity, will validate software patents though the case law of a central patent court. Large software multinationals have asked in July 2005 for the rejection of the software patent directive in order to better push for a central patent instead. They are also lobbying governments not to reopen the discussions on this topic. Specialized patent judges, especially from Germany and UK, have already validated software patents in their respective countries. Software patents will be validated EU-wide without a debate in the European or National Parliaments. The idea to establish a single European patent court is a trap because the patent movement will ensure that only judges will get appointed who intend to rubberstamp EPO case law and thus software patents. As political control of the patent system continues to be weak, the patent movement will further control substantive rules and a political mandate over patent policy will vanish.
4. **Cost of Litigation**: Proponents of the UPLS argue that the cost of litigation will be lowered, thanks to the suppression of cases happening in parallel in multiple countries. This does not take into account that the majority of cases (90%) happens in a single Member State only, while only 10% of them happening in multiple countries. Installing such system would raise the cost for the majority of cases, which are national only. Even the unreliable cost figures for a simple case proposed by the EPO during the EPLA discussions (around 100K EUR, damages not included) are too high for many stakeholders. Furthermore, pan-european injunctions to stop products and pan-european damages are an incentive to litigate for patent trolls.
5. **Patent law outside of the EU**: With the UPLS, the European Union decides to outsource its patent law to international organisations, such as the EPO or the UPLS court. This is similar to the European Union outsourcing its defense policy to NATO, where decisions are controlled or blocked by foreign nations. Those international organisations won't follow any directives which applies to other EU institutions (ex: staff rules, access to documents, respect of languages, etc...).
6. **Alternative models exist**: Alternatives to the UPLS model exists, such as copying the model of the Community Trademark system. The Patent Establishment prefers to create its own court to better control it, and avoid any judicial review from non-patent courts.

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