Spain: outside of the UPC - but for how long?
Will the new Spanish Patent Act provide a sensible alternative?

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I. Introduction

Spain: outside of the UPC - but for how long? Will the new Spanish Patent Act provide a sensible alternative?
II. For how long?

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III. The new Spanish Patent Act: an alternative?

10 key facts about the new Spanish Patent Act:

1. Granting procedure ➔ compulsory substantive examination ➔ stronger patents
2. Utility models available in all fields of technology (except processes, biological matter and pharmaceutical substances and compositions)
3. Introduction of “domestic priority”
4. Right to compensation for employees under certain circumstances, even in the case of non-patentable inventions
5. Separate regulation of “Bolar” and “Experimental Use” Exceptions
6. The compulsory licence regime has been aligned to TRIPS
7. The regulation of damages has been further aligned to Directive 2004/48/EC (“Enforcement Directive”)
8. Introduction of post-grant claim limitations
9. Introduction of “protective writs”
10. Specialization of a limited number of Commercial Courts in patent matters
To the Permanent Commission of the General Council of the Judiciary

Ms Marta Cervera Martinez, Chief Judge of the Barcelona Commercial Court nº 8 and representative of the Chief Judge for the Commercial Courts of Barcelona and coordinator of the Barcelona Commercial Court of First Instance

STATES AS FOLLOWS:

1. - Through a resolution dated 15 July 2014, the Permanent Commission of the General Council of the Judiciary approved the Protocol of the Statute of the Barcelona Commercial Court of First Instance. The undertakings established in such Statute include providing justice of a higher quality, and cases being resolved effectively and within a reasonable length of time.

2. - In developing such Statute, four sections were constituted, each consisting of the corresponding specialised judges and, elected internally, a coordinator for such section:

- **Patent and Industrial Design Section of the Barcelona Commercial Court of First Instance**, consisting of the specialist judges Mr Luis Rodriguez Vega (coordinator), Ms Yolanda Ríos López, and Mr Florencio Molina López, heads of Barcelona Commercial Courts nº 1, 4 and 5, respectively.

- **Intellectual Property and Trademark Section of the Barcelona Commercial Court of First Instance**, consisting of the specialist judges (coordinator), heads of Barcelona Commercial Courts nº , respectively.

- **Unfair Competition and Competition Defence Section of the Barcelona Commercial Court of First Instance**, consisting of the specialist judges (coordinator), heads of Barcelona Commercial Courts nº , respectively.

- **Section for Challenging Company Resolutions and Corporate Liability Actions of Directors of Commercial Companies of the Barcelona Commercial Court of First Instance**, consisting of the specialist judges (coordinator), heads of Barcelona Commercial Courts nº , respectively.

3. - On 2 to 5 March 2015, the city of Barcelona holds the Mobile World Congress (known by its abbreviation MWC: [http://www.mobiworldcongress.com/](http://www.mobiworldcongress.com/)) which is a yearly congress related to the field of mobile communication, and is the most important in its sector, on being the space holding the largest number of global presentations of advances and innovations in wireless and mobile communications (technology patents); new mobile application and, in general, the latest software (intellectual property rights); new designs for mobile devices and other computer and
III. The new Spanish Patent Act: an alternative?

- When?
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