

EPLIT

EUROPEAN PATENT LITIGATORS ASSOCIATION



*EPLIT – c/o Multiburo Paris Chatelet
52, Boulevard Sébastopol, F- 75 003 Paris*

<Name>

<address>

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22 May 2018

Re: Ratification of the Unified Patent Court Agreement

Dear Sirs,

Summary

EPLIT is highly pleased that currently sixteen Member States have ratified the Unified Patent Court Agreement (UPCA) and that the work required in preparation for the Unified Patent Court (UPC) to become fully operational has largely been completed. Once Germany ratifies the Agreement, the UPC can open its doors.

With this letter, EPLIT urges:

the governments of those Signatory States to the UPCA that have not ratified the Protocol on Provisional Application to do so as soon as possible in order to ensure a speedy entry into operation of the UPC and the unitary patent system;

the governments of those Signatory States to the UPCA that have not ratified the UPCA to do so; and

the governments of the Signatory States to find a solution such that the UK can remain part of the UPC system after leaving the EU in 2019.

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EPLIT, founded in 2013, is an association representing European Patent Attorneys appropriately qualified in litigation in order to represent parties before the UPC according to Article 48(2) UPCA. The main objectives of our association are to promote the participation and the qualification of European Patent Attorneys in proceedings before the UPC. EPLIT also has associate members representing practitioners who are qualified to participate in proceedings before the UPC pursuant to Article 48(1) or (4) UPCA.

The UPC

The creation of the UPC and the unitary patent system is the most profound change to the patent system in Europe since the advent of the European Patent Convention (EPC) in 1973. The harmonization of grant proceedings that award European-wide patent protection has been a great success, of which European businesses, both large and small, reap the fruits. The UPC and the unitary patent system will extend these benefits to post-grant proceedings, creating both a unitary right and the means for European-wide enforcement of patents in a single proceeding before a single court.

Unfortunately, the UPC and the unitary patent system are not yet operational due to the delay in ratification of the UPCA by the UK and Germany. In the UK the delay has been caused by the referendum on its membership of the EU and in Germany by the complaint filed against the UPCA with the German constitutional court. As the UK and Germany are both mandatory ratifying countries under Article 89 of the UPCA, the system cannot start without their ratifications.

EPLIT is very pleased that the UK has now ratified the UPCA and is optimistic that the complaint filed with the German constitutional court will ultimately not stand in the way of the new system.

EPLIT is of the view that the UPC and unitary patent system will give a great boost to the competitiveness of the European patent system, fostering innovation and growth in Europe. European enterprises will benefit from a simplified and more cost effective legal environment to protect their innovations. Being able to enforce a patent covering a large number of countries before a single court reduces the costs of doing business and increases certainty for both claimants and defendants. It is in the interest of all stakeholders, including the patent profession, for the system to go ahead.

EPLIT therefore urges the governments of the Signatory States to the UPCA to ratify

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both the Agreement and the Protocol on Provisional Application as soon as possible so that the system offers the broadest possible territorial scope from the start, once Germany ratifies both the Agreement and the Protocol.

Additionally, EPLIT urges the governments of the EU Member States and, in particular, of the Signatory States to the UPCA to find a solution that allows the UK to remain part of the UPC system after leaving the EU in 2019, thereby including a large market in the territorial coverage of the UPC and making it as attractive a venue for patent litigation as possible.

If you have any questions, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'K. Bijvank', written over a horizontal line.

on behalf of EPLIT
Koen Bijvank, President