

Unitary Patent and Unified Patent Court take a step forward

On 26 April 2018, the United Kingdom ratified the Unified Patent Court Agreement. This brings the opening of the new court and the availability of Unitary European Patents one step closer.



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Some commentators had thought that the UK's decision to leave the EU, which will not happen until 29 March 2019 at the earliest, would throw the whole project into doubt, or at least seriously delay it because the relevant Agreement needed ratification by the UK, France and Germany and ten other European countries in order to come into effect. However, the UK Government has consistently

maintained its strong support for the UK's involvement in the UPC project and, despite a delay in UK ratification caused by an unexpected General Election, the UK remains committed to the UPC project as evidenced by the ratification, which took place on 26 April 2018.

The only remaining step which needs to be taken is Germany's ratification, which is currently blocked by a complaint before that country's Constitutional Court. That court's activities are frustratingly opaque, but it is possible that the complaint will be dismissed soon, and Germany would then be able to swiftly ratify. The earliest the new system could start, taking into account the period for the Court to be established, judges appointed and the IT system finalised, is likely to be the New Year of 2019.

The Court's central division will have its seat in Paris, with all pharmaceutical and life science cases being heard in London.

Whilst the delay in bringing this new system into effect is frustrating, it has

given other European countries time to carry out their own ratifications and so the new system will involve the participation of at least seventeen countries – Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Portugal, Sweden and the United Kingdom – from the outset

It is still, of course, possible that Germany is unable to ratify the UPC Agreement in its present form, but it is fair to say that the UK's ratification brings Unitary Patents one step closer.

We shall of course keep you updated as and when we have further news to report. If you have any questions in the meantime, please get in touch with your usual Abel & Imray contact, or e-mail: ai@abelimray.com

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