

Is Poland still enthusiastic about UPC?

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Krystyna Szczepanowska-Kozłowska (Allen & Overy)

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The Polish government's enthusiasm for the EU patent package has seriously dwindled of late. It appears to have taken several steps back with respect to the implementation of a unified patent protection regime across Europe as a result of the heavy criticism of the EU patent reform at home. In particular, the UPC is still shrouded in confusion.

There is no doubt that, as a part of its presidency of the EU, Poland put a great deal of effort into EU unitary patent rules. In December 2012, under the Danish presidency, the European Parliament finally approved the long-awaited EU unitary patent rules. In this case, the Polish government - in a manner consistent with its previous view on the EU patent package - once again showed its broadly positive approach to the unitary patent package at the end of 2012.

Polish government representatives pointed out several times that the new patent protection regime would be much cheaper and the enforcement system would also be more effective. As a result, individuals, research institutions and commercial entities could benefit greatly from the new patent regime by protecting their inventions in a more efficient way.

However, it seems that within the last couple of weeks Poland has dramatically changed its view regarding the potential outcome of the patent reform package. This is due to the fact that many interest groups have criticized the proposed regulations and have directly called on the government to withdraw its support for the UPC. This initiative was officially taken up by members of the Polish Chamber of Patent Attorneys. However, it also has the support of employers' associations, entrepreneurs' associations, and politicians, including members of the Polish Parliamentary Commission on Innovation and New Technologies.

Opponents of the UPC claim that the new patent regime favours high-tech and technologically-advanced companies and nations. By joining the UPC, the number of valid patents that are written only in English, German or French would significantly increase in Poland. Therefore, Polish entrepreneurs would be responsible for translating them in order to verify whether or not they are committing any infringement. Additionally, the opponents of the new patent system claim that a Polish entity sued for alleged patent infringement would have to defend itself in a court located outside Poland, with evidence and proceedings being conducted in a foreign language.

Furthermore, Deloitte has recently published a report which concludes that due to the implementation of the UPC, the Polish economy would lose around EUR 19 billion, whereas remaining outside the UPC would result in a EUR 12 billion loss. Thus, according to the report, ratifying the UPC agreement would have a negative impact on the Polish economy as a whole. Many opponents of the UPC are using the main findings of this report as a strategic weapon against the UPC.

As a result of the initiatives mentioned above, the Minister of Economy (who was appointed in December 2012) has recently warned that due to significant differences between high-tech, innovative industries and the stage of development of the Polish economy, many uncertainties may arise during a parliamentary debate on the ratification of the UPC agreement. Thus, the question arises as to whether or not Poland will once again become more enthusiastic about the patent reform package as it was during its EU presidency.