

Patent Judges in Barcelona, Madrid and Valencia only

Kluwer Patent Blog
March 6, 2017

Miquel Montañá (Clifford Chance)

Please refer to this post as: Miquel Montañá, 'Patent Judges in Barcelona, Madrid and Valencia only', Kluwer Patent Blog, March 6, 2017, <http://patentblog.kluweriplaw.com/2017/03/06/patent-judges-in-barcelona-madrid-and-valencia-only/>

One of the objectives of the new Patents Act that is to come into force on 1 April 2017 is to prompt a higher level of specialization of judges dealing with patent cases. In particular, article 118 assigns jurisdiction to hear patent cases to a sub-group of Courts within the general group of "Commercial Courts" to which the General Council for the Judiciary ("Consejo General del Poder Judicial") decides to attribute exclusive competence for patent matters.

On 21 February 2017, the Spanish Official Gazette ("Boletín Oficial del Estado") published the resolution of 2 February 2017 of such General Council for the Judiciary whereby this competence has been decided. A welcome collateral "damage" of this trend towards specialization is that it has been extended to other areas, such as trademark and design matters. So as of 1 April 2017, the new distribution of competences will be as follows:

In Catalonia, Commercial Courts numbers 1, 4 and 5 of Barcelona will have exclusive jurisdiction for patents and designs. Commercial Courts numbers 2, 6, 8 and 9 will have exclusive jurisdiction for trademarks.

In Madrid, Commercial Courts numbers 6, 7, 8, 9, 10 and 11 will have exclusive jurisdiction for patents, designs and trademarks.

In Valencia, Commercial Court number 2 will have exclusive jurisdiction for patents. Commercial Courts numbers 1 and 3 will have exclusive jurisdiction for designs and trademarks.

All in all, this specialization is a tribute to Justice José Ramón Ferrándiz, now retired from the Supreme Court, who back in 1993, when he was the president of Section 15 of the Court of Appeal of Barcelona, fostered the specialization of the different sections of that Court of Appeal. The seminal example of Section 15 has since then inspired the subsequent reforms that led to the creation of "Commercial Courts" in 2004 and, more recently, to the "specialization within the specialization" sparked by article 118 of the new Patents Act.