

Preparatory Committee hopes Unified Patent Court to open its doors in 2018

Kluwer Patent Blog

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It is difficult to predict a new timeline for the start of the Unified Patent Court, due to the case pending in the German Federal Constitutional Court. In the meantime, the UPC Preparatory Committee is using the additional time available to prepare the functionality of the Court.

Chairman Alexander Ramsay has written this in a message on the website of the Preparatory Committee: **Summing up and Looking Forward to 2018.**



In his message, Ramsay explains that parts of the preparatory work for the UPC can only be concluded in the final phase of the project known as 'provisional application' and why this period is important.

'The Agreement on the Unified Patent Court (UPCA) doesn't include a provision enabling the Court to have a pilot phase during which the organisation as such is

established but the Court is not yet operational. To remedy this situation the Signatory States agreed the Protocol to the Agreement on a Unified Patent court on provisional application. The protocol means that the State Parties agree to apply the institutional, organisational and financial parts of the UPCA provisionally before the UPCA enters into force.

Once the Protocol enters into force the organisation as such will therefore be created and acquire legal personality. The Administrative Committee, the Budget Committee and the Advisory Committee will be established at the start of provisional application and will then take over the responsibility of the preparations from the Preparatory Committee.

During the provisional application phase the organisation will be able to conclude necessary agreements with third parties and formalise all the preparatory work done by the Preparatory Committee. One hugely important area that cannot be conducted before the provisional application phase is the completion of the recruitment of the judges. Once the judges are appointed the two Presidents can be elected, the Presidium can be set up and the Registrar and the Deputy Registrar can be appointed.'

In September, the UPC Preparatory Committee announced it was 'very close to the 13 required ratifications of the Protocol on Provisional Application' and it expects that operations of the UPC will begin with close to 20 contracting states.

According to Ramsay's message the period of provisional application needs to be between six and eight months long. 'Looking ahead to 2018 I am hopeful the New Year will bring closure to our endeavours and the Unified Patent Court will become a reality providing benefit of growth and European competitiveness.'

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