

New Patent Courts throughout Spain

Kluwer Patent Blog
October 29, 2018

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Please refer to this post as: *Miquel Montañá, 'New Patent Courts throughout Spain', Kluwer Patent Blog, October 29 2018, <http://patentblog.kluweriplaw.com/2018/10/29/new-patent-courts-throughout-spain/>*

Back in 1993, the President of Section 15 of the Barcelona Court of Appeal, Justice José Ramón Ferrándiz (now retired from the Supreme Court), fostered the specialisation of the different Sections of that Court to various areas of private law. It was then decided that Section 15 would be the only competent Section to resolve appeals in commercial law and arbitration matters and, since then, all appeals in patent cases (when territorially competent) have been assigned to it.

This was a successful experiment (Section 15 is, still today, the most influential Spanish Court in patent law) and as a result, more and more specialised courts in all jurisdictions were created -to a large extent in the image and likeness of that Section 15 of the Barcelona Court of Appeal-. As far as patent courts are concerned, the Section 15 precedent was the seed for, first, the creation of the so-called "Commercial Courts" in 2004 and, then, the assignment of exclusive competence to deal with patent cases to some specific Commercial Courts of a few major cities of the country: Barcelona, Madrid and, later on, Valencia.

Now, the General Council of the Judiciary ("*Consejo General del Poder Judicial*") has decided to extend the exclusive jurisdiction to hear not only patent but also trademark and design cases to the Commercial Courts of Granada (Andalusia), Las Palmas (Canary Islands), A Coruña (Galicia) and Bilbao (Basque Country). According to the press release from the General Council of the Judiciary, the creation of additional specialised courts throughout the Spanish territory "*combines the principles of proximity and decentralisation of justice and, at the same time, creates deeper specialisation, in line with other EU legislation on intellectual property. The aim is to optimise the material and human resources, speed up processing times of judicial proceedings and unify the approach to particularly complex matters, in which it is advisable that the Judge be familiar with the specific legal concepts of this branch of law*".

Notwithstanding the good intentions that have inspired this decision, considering the relatively low number of patent cases in Spain, it is doubtful whether it will benefit the ultimate goal of court specialisation, which was the main driver behind assigning patent cases to a small number of Commercial Courts in the first place.