
Kluwer Patent Blog

UPC: The John Doe of Patent Law

Matthieu Dhenne (Ipsilon) · Thursday, December 16th, 2021

The Unified Patent Jurisdiction is coming! It is announced that the system will be operational by 2022. Great! But no information on its implementation, European governments seem to be barely aware of it, ignoring the issue (not really “European” by the way)... What is the problem?

Example 1: who are the candidate judges? No public list, I even heard that the French government doesn't have it. So it's interesting to do polls with JUVE (good initiative), but it would be better to know the “official” candidates.

Example 2: who will take over the Presidency of the Jurisdiction? A political question, of course, but one whose importance cannot be denied, and everyone knows it. Will it be a co-opted international civil servant or a real magistrate? In any case (sorry, but this is also important), of what nationality should this future Judge be? No answer there either.

Example 3: what about the central division for the UK? Then one could imagine locating everything in Paris, as the EPO center is in Germany. This would be a more efficient system and, without any chauvinism, a nice “showcase” for the future court, especially since the French courts are efficient in patent law and the international chamber set up by the Paris Court of Appeal is a good omen for an international court. Now, some will accuse (insult) me here, because I am French, but, after all, why should I not be in favour of an efficient system? Everyone sees no harm in it. That being said, here too, there are discussions in the corridors (which is the primary meaning of the term “lobbies”), no information, and new candidates are even being considered to take in bits of the English division. Can we then talk about efficiency? I doubt it. But, having said that, the reader has understood that little information is available, at least to my knowledge.

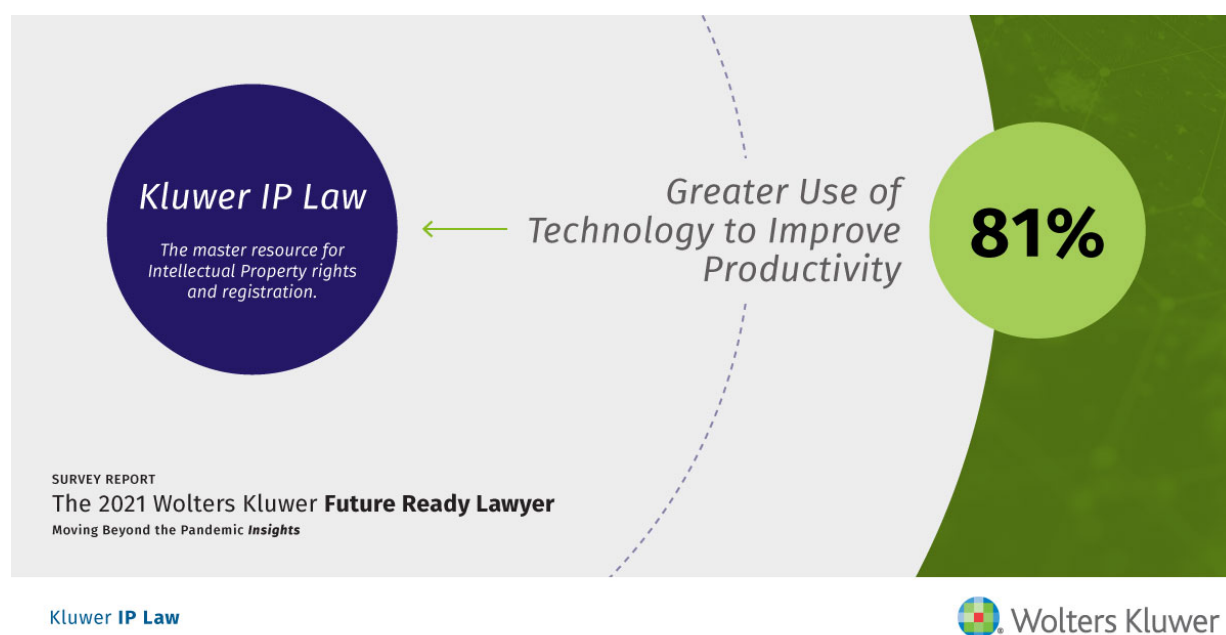
We are, according to some, a few months away from a revolution for the European patent system and I have the feeling, perhaps very personal, that I am swimming in the fog with many of my peers (and the governors). Perhaps it is time to bring this debate into the public arena? Otherwise the legitimacy and therefore the success of the future jurisdiction will suffer.

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