

# Kluwer Patent Blog

## The Preparatory Committee on the opinion on the Spanish challenge of the Unified Patent Court: ‘It couldn’t be much better’

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The Preparatory Committee of the Unified Patent Court (UPC) is very satisfied with the opinion of the Advocate General (AG) of the European Court of Justice (CJEU) on the Spanish challenge. As chairman Paul van Beukering commented to Kluwer IP Law, ‘It couldn’t be much better than this.’

According to Van Beukering, the recent opinion of AG Yves Bot, who on Tuesday 18 November proposed that the CJEU should dismiss Spain’s actions (cases C-146/13 and C-147/13), is in line with the argumentation that had been put forward by Member States of the UPC Agreement. ‘Of course, we will have to wait for the decision of the CJEU itself, but this is a very promising step.’ The court’s decision is expected somewhere in 2015.

The opinion is also a boost for the activities of the Preparatory Committee, says Van Beukering: ‘It means we can unabatedly continue our work to implement the UPC Agreement.’

Moreover, he points out a remarkable clause in the AG’s opinion (C-146/13, 180), which calls on participating countries to ratify the UPC Agreement as soon as possible. ‘The principle of sincere cooperation requires the participating Member States to take all appropriate measures to implement enhanced cooperation, including ratification of the Agreement on a Unified Patent Court, as such ratification is necessary for its implementation. By refraining from ratifying the Agreement on a Unified Patent Court, the participating Member States would infringe the principle of sincere cooperation in that they would be jeopardising the attainment of the Union’s harmonisation and uniform protection objectives.’

The Preparatory Committee has never delayed or postponed its activities, due to concerns the UPC Agreement would be rejected by the CJEU, Van Beukering said. He hopes that Spain will join the UPC Agreement at some point, but that will be up to the Spanish government.

At Van Beukering’s office, the opinion was not celebrated with cake, ‘but certainly we were all in a very good mood yesterday.’

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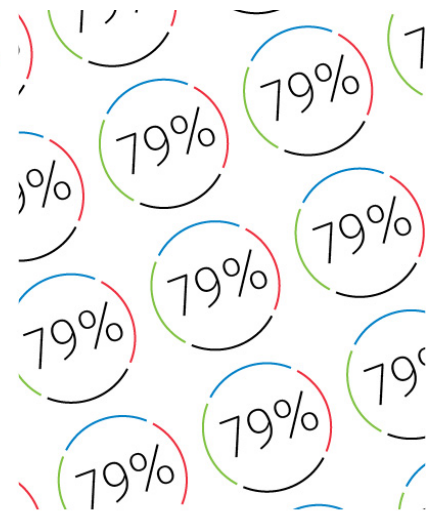
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