

# Kluwer Patent Blog

## Preparations for the Unified Patent Court concluded by mid-2016. No fee for opting out?

Kluwer Patent blogger · Thursday, February 4th, 2016

We are ready, are you? The ‘last steps’ towards the introduction of the Unitary Patent (UP) system were a recurring theme on the first day of the [Unitary Patent Package Conference](#) in Amsterdam. A lot of experts and specialists who are closely involved in the creation of the UP and the Unified Patent Court (UPC) were present at the meeting. But many newcomers as well, realizing it is about time to learn more about the Unitary Patent and what it means for their companies.

Things are developing fast now. Alexander Ramsey, chairman of the UPC Preparatory Committee explained the committee wants to finish preparations for the UPC by mid 2016. The main pending topics are the Protocol on Privileges and Immunities, fine-tuning of the IT system, corporate functions and facilities, and crucial issues such as a decision on the UPC fees and recoverable costs, the recruitment and training of judges and arrangements regarding their salaries and pensions, among others.

Decisions on the court fees and the Protocol on Privileges and Immunities are expected at the Preparatory Committee’s meeting of 24 and 25 February 2016. The recruitment of judges will start soon after.

According to Ramsey it will mainly depend on the political will of member states when the new system can start functioning. A Protocol on the Provisional Application of the UPC Agreement (UPCA) enters into force as soon as 13 member states, including France, Germany and the UK, have at least parliamentary approval to ratify the UPC. This is different from the UPC Agreement, which states that only the formal deposit of the 13<sup>th</sup> instrument of ratification at the Council of the EU can trigger the start of the UPCA itself. Probably Germany or the UK will postpone this formal deposit, in order to create a six month period to ensure a smooth start of the UPC. ‘If the member states can match our tempo, the Provisional Application could start in the fall of 2016. Then it is reasonable to assume that the court could start its operations early 2017’, Ramsey said.

Several speakers at the conference pointed out that the procedure for opting out patents of the jurisdiction of the UPC, before the court starts its work, will be very simple and take 15 seconds or a minute at most. This should cost much less than the 80 euro per patent as has been proposed, Bas Pinckaers, head of the patent department of Van Doorne said. Kevin Mooney, chairman of the Drafting Committee for the UPC Rules of Procedure, has ‘sincere hope’ that there will be no fee at all. According to Alexander Ramsay this is one of the options that is being considered, but a decision will be made later this month.

There was some discussion as well about the nomination of judges. Several people were concerned political and geographical criteria, rather than the expertise and experience of the judges would be important.

This is certainly a factor in one case: Alexander Ramsey explained that during the negotiations on the UP system it was agreed that the first president of the Court of First Instance would be French. The president of the Court of Appeal, the highest position in the UPC, will be chosen by and from among the first full-time judges. Initially, some 50 legally qualified judges will be appointed, most of them however as part-time judges. The number of technically qualified judges will probably even be lower.

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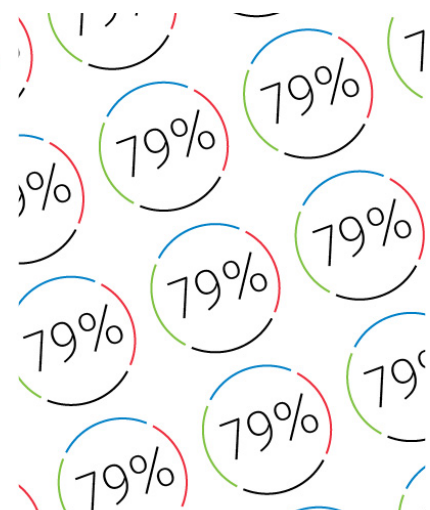
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This entry was posted on Thursday, February 4th, 2016 at 9:02 pm and is filed under [European Union, Unitary Patent, UPC](#)

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