

Kluwer Patent Blog

EPO president hopes UK will remain in Unitary Patent system

Kluwer Patent blogger · Wednesday, July 13th, 2016

President Benoit Battistelli of the European Patent Office hopes the United Kingdom will stay in the Unitary Patent system despite the Brexit vote of 23 June 2016. He has written this in a [blogpost](#) on the [EPO website](#).

Battistelli stresses ‘it is entirely up to the UK authorities to determine whether they want to participate in the Unified Patent Court and in the Unitary Patent or not’. But he thinks ‘it would be regrettable to leave out a major patent country such as the UK, a country that can help to shape the future of the system in a business and user-friendly approach’.



According to Battistelli ‘in the best case scenario, the UK could go ahead as soon as possible with the ratification of the UPC Agreement. This would allow the UK afterwards, in its EU exit negotiations, to obtain its continuous participation both in the Unified Patent Court and the Unitary Patent. With the UK having brought the system into operation by ratification and having participated in the system from the beginning, it is

possible that Member States may allow the continued participation of the UK, even after the ‘Brexit’ takes effect.’

Still, the Unitary Patent system could survive without the UK, Battistelli writes: ‘There seems to be a clear feeling in the international user community that the system would remain sufficiently attractive for many.’

Although there seems to be a lot of support for keeping the United Kingdom in the Unitary Patent system, UK leaders have been less outspoken about the role of the post-Brexit United Kingdom in the system, which started as an EU project

In the [July Edition of IP Connect](#), Chief Executive John Alty of the UK’s IPO, writes the discussion on this issue has yet to start: ‘On the international stage, we will continue to play a lead role in international IP negotiations and work constructively with our many partners around the world to ensure that inventors, creators, and consumers get the best deal they can. In the coming

weeks and months, our IP Minister will be holding a number of meetings with rights holders and business and the wider IP community to hear thoughts and concerns about the future. We have a new Prime Minister and we will be working hard, in consultation with all of you, to ensure that IP issues are well prepared for the wider decisions which will no doubt then be taken.'

And in a [speech late June](#), Baroness Neville-Rolfe, UK minister for Intellectual Property, said: 'I know that many of you will be particularly concerned about the potential implications of the Referendum result for the Unitary Patent and the Unified Patent Court. Again, I am afraid that there is not much I can say at this stage. As you will know, we will have a new Prime Minister in early September who will need to take key decisions on our overall approach to negotiations on trade with the EU. We will be using the period before September to prepare for the key decisions, and I have no doubt that our position on the Unitary Patent and Court will feature in these discussions.'

At the time of the speech, Neville-Rolfe couldn't know prime minister David Cameron would be succeeded by Theresa May as soon as today. It remains to be seen whether this means the fate of the Unitary Patent project and the UK in it will be known sooner as well.

For the UK's Chartered Institute of Patent Attorneys (CIPA), it is clear what should happen. As the CIPA explains in the [faq](#) on its dedicated Brexit page: 'Legal mechanisms have been proposed which would enable the UK still to participate in the Unitary Patent and the associated Unified Patent Court, even after Brexit. There would be clear benefits both to the UK and to the unitary system as a whole, but it would require political will on all sides to amend the current legal arrangements.'

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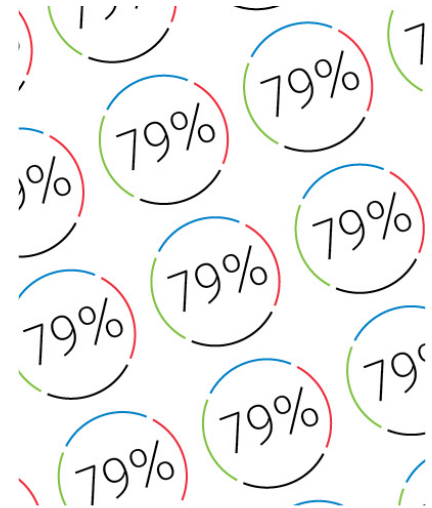
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