

Kluwer Patent Blog

US Supreme Court ruling has potential to attract litigation to Europe's Unified Patent Court

Kluwer Patent blogger · Tuesday, May 23rd, 2017

By Annsley Merelle Ward

On 22 May 2107, the [US Supreme Court](#) unanimously put limits on where patentees can commence patent infringement proceedings in the US. In the case, TC Heartland challenged Kraft Heinz's decision to commence patent infringement proceedings against it in Delaware, arguing that the case should be transferred to its home court in Indiana.

In overturning last year's decision from the US Court of Appeals for the Federal Circuit, the Court held that patent infringement suits can only be filed in courts located in the jurisdiction where the defendant is incorporated or where it has committed acts of infringement and has a regular and established place of business.

The practical effect of the Supreme Court's decision in *Heartland v Kraft Foods* will be to restrict a patentee's choice to bring cases in patentee-friendly jurisdictions where findings of infringement and damages awards are higher than in other venues, namely the Eastern District of Texas.

By comparison, Article 33 of the UPC Agreement gives a patentee four options as to where to bring infringement proceedings:

- the local/regional division **where the actual or threatened infringement has occurred** or may occur; or
- the local/regional division **where the defendant** or one of the defendants **has its residence or principal place of business**; or
- the local/regional division, in the absence of a residence or principal place of business, the defendant's **place of business**; or
- the **relevant Central Division**, in cases where the defendant's residence, principal place of business or place of business is located outside the Contracting Member States or there is no local or regional division in the relevant Contracting Member State applying the above rules.

With patentees retaining significant control as to where to commence patent infringement cases, the UPC may become an attractive forum for patentees facing increasing restrictions in the US.

Annsley Merelle Ward is associate at Bristows and co-chair of AIPPI's Standing Committee on

UPC and Unitary Patent.

This article was [originally published](#) on the website of Bristows.

For regular updates on the Unitary Patent and the Unified Patent Court, subscribe to this [blog](#) and the free [Kluwer IP Law Newsletter](#).

To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please [subscribe here](#).

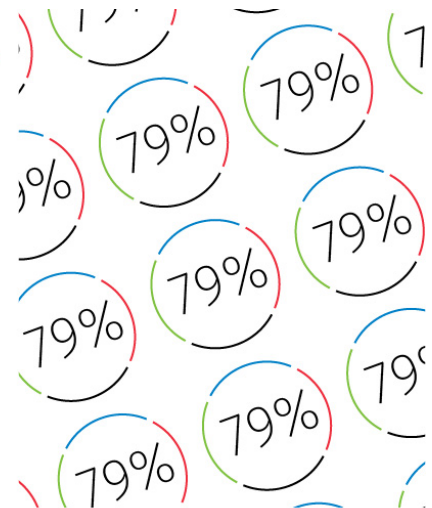
Kluwer IP Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how [Kluwer IP Law](#) can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.
The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change

This entry was posted on Tuesday, May 23rd, 2017 at 12:23 pm and is filed under [European Union](#), [Unitary Patent](#), [United States of America](#), [UPC](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.