

Kluwer Patent Blog

UPDATE: FCC ruling in UPCA case expected ‘within the next few months’

Kluwer Patent blogger · Wednesday, February 19th, 2020

The Federal Constitutional Court (FCC) in Germany expects a ruling in case 2 BvR 739/17, concerning the complaint against German ratification of the Unified Patent Court Agreement ‘within the next few months’. An FCC spokesman has declared this in reaction to a query of this blog. Earlier this week, the FCC published the [list of cases](#) it intends to decide in 2020.



One of the cases is the constitutional complaint filed in March 2017 against UPCA ratification, which is crucial for the chances of survival of the Unitary Patent system. As with other cases, it was on the FCC’s list in 2018 and 2019 as well. Last November, the rapporteur in the case, Justice Huber of the Second Senate said in an interview with [Managing IP](#) a decision would possibly be issued as soon as the first quarter of 2020

Huber added that the time frame will depend on the time it takes for him and other judges at the FCC to deliberate on the case. “It is quite a detailed process that we follow because we have to look at every detail of how we formulate and word the [ruling],” he said according to the November interview of [Managing IP](#). “But it is likely that we will get along with it.”

Among the other cases on Justice Huber’s list for this year is the EPO case, which are in fact four constitutional appeals – 2 BvR 2480/10, 2 BvR 421/13, 2 BvR 786/15, 2 BvR 756/16 – regarding infringement of Art. 2(1), Art. 19(4), Art. 20(3), Art. 24(1), and Art. 103(1) of the Basic Law “on the grounds of insufficient legal protection at the European Patent Office against decisions by the Boards of Appeal”.

The UPC and EPO cases are fifth and third on the list respectively, but as [Bristows](#) reported they are not necessarily decided in the order listed.

THIS POST WAS UPDATED ON 21 FEBRUARY 2020 WITH NEW INFORMATION FROM THE FCC

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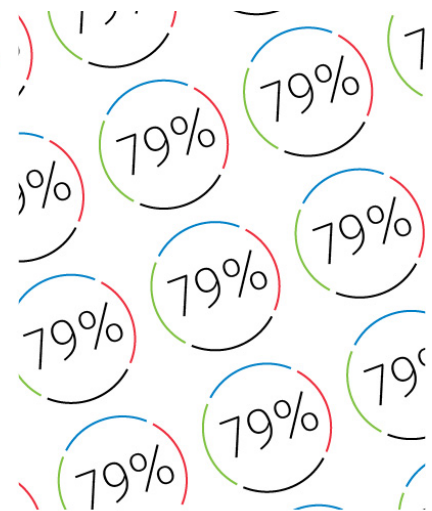
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