

Kluwer Patent Blog

Unified Patent Court will start operating within a year

Kluwer Patent blogger · Wednesday, August 18th, 2021

The Unified Patent Court will open its doors for cases around mid-2022. That is the expectation of the UPC Preparatory Committee, which has published a time plan for the Provisional Application Period (PAP) and start of the UPC today. According to the plan, the PAP will have to be approximately eight months “to conclude all the work that needs to be done”.



The publication is a reaction to the [entry into force last Friday of ratification legislation](#) in Germany for the Unified Patent Court Agreement, following the dismissal of requests for interim injunctions against this legislation by the German Constitutional Court in July. This opened the road to the start of the UPC and Unitary Patent system, in which Germany has a central role.

On its [website](#), the UPC Preparatory Committee wrote:

“After the Order dated 23 June 2021 of the German Federal Constitutional Court (FCC), the way is cleared for Germany to participate in the Agreement on a Unified Patent Court (UPCA) and the Protocol on the Provisional Application of the UPCA (the PAP-Protocol).

The first step, before the full entry into force of the UPCA will be Germany’s ratification of the PAP-Protocol. This can now take place imminently, given that the German Federal President has signed the ratification bill on 7 August 2021, and it has been promulgated on 12 August 2021. It should however be kept in mind that the German ratification is not sufficient since the consent of two further participating Member States is required for the PAP-Protocol to enter into force and mark the start of the provisional application period – the PAP. These additional ratifications are expected to take place in a timely manner during autumn of this year.

The PAP is the final phase of the Unified Patent Court’s set-up. When the PAP-Protocol enters into force, the legal capacity and organizational capability of the UPC will be established and the last part of the preparatory works can be completed. During the PAP, the governing bodies of the Court will be assembled and all the secondary legislation prepared by the Preparatory Committee will be adopted. The budget and the IT systems will also be finalised. A crucial exercise during this period will be the finalisation of the recruitment of the judges of the Court. The Preparatory Committee foresees that approximately eight months will be required to conclude all the work that needs to be done during the PAP.

As soon as the preparatory work has progressed sufficiently and the participating Member States

are confident that the UPC can start in an orderly manner, the last outstanding instrument of ratification of the UPCA itself will be deposited by Germany. The UPCA will then enter into force on the first day of the fourth month following the deposit of this instrument. Once the UPCA enters into force, the UPC will start its work and be available to the users of the European patent system.

At this point in time, it is estimated that the UPC will start operations around mid-2022.”

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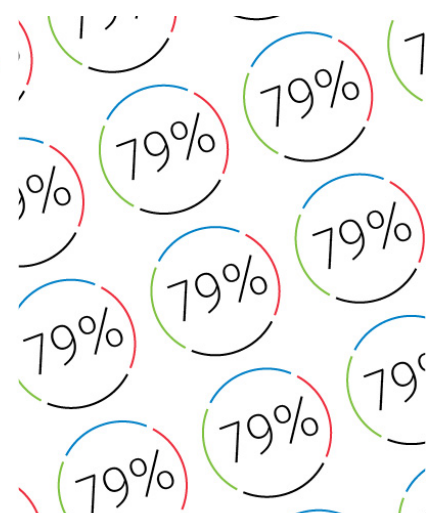
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