

# Kluwer Patent Blog

## Irish referendum on Unitary Patent system in 2023 or 2024

Kluwer Patent blogger · Wednesday, June 29th, 2022

The government of Ireland has reaffirmed that the country will participate in the Unitary Patent system. A referendum will be held next year or in 2024. The Irish Department of Enterprise, Trade and Employment announced this in a report on its website yesterday.



The Tánaiste [the Irish vice-premier, Leo Varadkar] said: “A single Unitary Patent and Unified Patent Court is good for business and for SMEs. It will save money and time and give all parties more certainty. We will consider the other referenda we have coming up and see how best to fit this one in. It won’t be a standalone referendum, so it won’t be held this year anyway but could be next year or concurrent with the

Local and European Elections in 2024. It’s important to prepare. I’m conscious that it will need a good public information campaign to explain its significance and that takes time, resources and planning.”

Ireland has been a signatory to the Unified Patent Court Agreement since 2013, but it is one of the few member states where a referendum is required before it can fully participate in the Unitary Patent project. Such referendum [should have been held years ago](#), but was put on hold because of the Brexit vote and the constitutional complaints against the UPCA in Germany, which have delayed the start of the system by years.

### Pressure

Since it became clear that all hurdles were out of the way, and particularly since the [entry into force of the period of provisional application of the UPCA](#) on 19 January 2022, lobby groups have pressured the Irish government to take action.

Following publication of the European Patent Office (EPO)’s Patent Index in April, [Ibec, a group that represents Irish business](#), wrote: “The EPO Patent Index 2022 confirms that Europe is quickly becoming a global hub of IP activity. Demand for European patents is at record levels, and this is ahead of the commencement of the new unified patent system (including the Unitary Patent and the Unified Patent Court) in Europe. This will create a simpler and more efficient mechanism for obtaining and enforcing patents in Europe. It is truly pan-European, and it provides a degree of levelling up for smaller countries, allowing those with ambition to seize on the opportunities it

presents. Competitor countries are already in the new patent system, so Ireland could fall further behind.

Ireland is uniquely positioned to establish itself on the international stage as a patent enforcement hotspot. Doing so would yield very substantial gains for the wider Irish economy. The urgency for Ireland to set out its timetable for its ratification of the Unified Patent Court Agreement has never been greater. It is on course to start later this year. Other countries are already positioning themselves as hubs for end-to-end IP activities, including enforcement. We must not miss out.”

### **Common law country**

Last November, Irish law firm [Matheson elaborated on the important role](#) Ireland can play in the UP system now that the United Kingdom is no longer a member state: ‘Ireland’s position as an English-speaking, common law country may weigh heavily in its favour should the Irish Government decide to make a bid to host the life sciences section of the Central Division. Cases before the Central Division must be conducted in the language in which the patent concerned was granted, and 55-60% of patent specifications filed at the European Patent Office are written in English.

Additionally, Ireland’s common law status could act as a bridge to important third-country common law systems such as the United States and Australia. According to IBEC, securing a Dublin seat of the Central Division would increase Ireland’s GDP and national income, adding €314 million and €1.25 billion to the Irish economy annually. Irish-based firms in the chemical, pharmaceutical, medical technology and life science sectors could grow by a further 1% and 4% per annum.

This opportunity is also significant for Ireland to retain its reputation as a key global hub for life sciences (nine of the top ten pharmaceutical companies are located here), and attract major RD&I investment associated with increased patenting activities by Irish-based firms in the life sciences sector. However, in order to avail of these benefits, Ireland must proceed with ratifying the UPC Agreement without delay and actively campaign to secure the life sciences Central Division seat.’

### **Germany**

Apparently, the Irish government is now seriously looking at options to join the Unitary Patent system as soon as possible. If the Irish people support ratification, a local Irish division will be established in Dublin. And as long as there is no clarity about the controversial relocation of the life sciences section of the central division, which was originally planned for London, who knows what is possible in this respect.

It is clear however that the Irish will be too late to join the 17 member states who will be part of the UP system from the very start. Germany is expected to deposit its instrument of ratification of the UPCA in the upcoming months, perhaps as soon as in July, triggering the entry into force of the UPCA – which means the court will open its doors – on the [first day of the fourth month after this deposit](#). The German deposit will also mark the start of the sunrise period during which it will be possible to opt out existing European patents from the jurisdiction of the Court.

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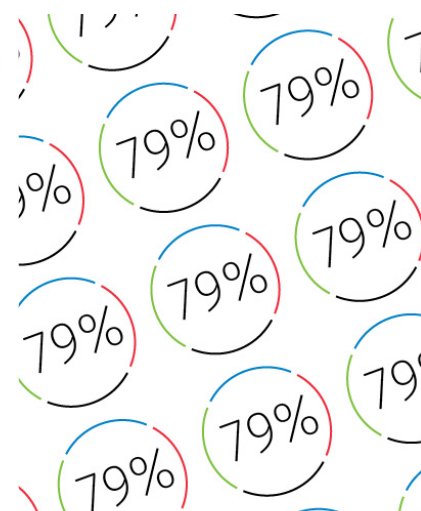
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This entry was posted on Wednesday, June 29th, 2022 at 10:01 am and is filed under [European Union](#), [Ireland](#), [Unitary Patent](#), [UPC](#)

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