

Kluwer Patent Blog

Munich and Paris will divide competencies London seat Unified Patent Court, no Milan (yet?)

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The Unified Patent Court has formally announced that, for the time being, competencies which were originally assigned to the London seat of the UPC central division, will be divided between Munich and Paris. Remarkably, there is no mention of Milan as third seat of the central division.

Only two months ago, a [spokesperson for the German Ministry of Justice](#) declared that trilateral talks about redistribution of the competencies between Paris, Munich and Milan were being held and that a decision was expected shortly.



As the UPC writes today: ‘In its meeting of 8 May 2023, the Presidium of the Unified Patent Court decided that, as from 1 June 2023, actions pending before the central division related to patents in IPC section (A) shall be assigned to the seat in Paris while actions related to patents in IPC section (C) shall be assigned to the section in Munich.

The wording of Article 7(2) of the UPC Agreement provides that actions pending before the central division related to these two IPC sections shall be assigned to a section to be located in London. However, after the United Kingdom withdrew its ratification of the Agreement on a Unified Patent Court on 20 July 2020, the Preparatory Committee interpreted Article 7(2) of the UPCA and Annex II thereof, with regard to the allocation of cases to a section of the Central Division in London as having no effect and that the competence for these cases can be dealt with provisionally until a final decision is taken on the creation of another section of the central division. Having also taken into consideration that the Administrative Committee has not yet reached such a final decision and the Agreement will enter into force on 1 June 2023, the Presidium has exercised its managerial power under Article 15(3) of the Statute of the Unified Patent Court in the aforementioned sense.’

Apparently the negotiations over the third seat of the central division have turned out to be more

difficult than expected. Since March, various sources have reported that there was an agreement that Milan could replace London, but only if it was willing to leave a considerable share of the London competencies to Munich and Paris. Munich claimed the chemistry and metallurgy cases and Paris wanted jurisdiction over pharmaceutical patents with SPCs – at least 90% of the drugs that have been successful on the market.

In Italy however, restricting the competencies of a Milan central division seat was called **unacceptable**. Industry and legal representatives sent an **open letter** to MP Giancarlo Giorgetti, the Italian minister of economy and finance, about the issue. And late April, Minister of justice Carlo Nordio said Italy would not give in. According to a **sib.it report**, he declared that the resistance ‘against transferring to Milan all the competencies originally assigned to London is strong (...)’, but ‘that he and his team intend to stand their ground just as vigorously.’

The UPC’s announcement of today clearly shows that it has been impossible so far to find a solution which is acceptable to all parties. So for now actions related to patents in the ‘London’ IPC sections (A – human necessities) and (C – chemistry and metallurgy) will go to Paris and Munich, respectively.

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