

JULY 2020 – THE UNITARY PATENT SHALL NOT COVER THE UK

The UK has decided not to participate to the Unified Patent Court (UPC) This has severe consequences for the Unitary patent

Since the UK decision to leave the European Union was confirmed, possible extensions of protection in the UK for the Unitary patent have been proposed, on the basis of some provisions of the European patent convention. This, however, would only have been possible if the UK would have accepted the Unified patent court, which is the only court having jurisdiction on validity and infringement of the Unitary patent.

On 20 July 2020, the UK confirmed it did not wish anymore to participate in a court that applies EU law and is bound by the CJEU.

This appears to definitively bar any possible protection in UK by the Unitary patent.

Of course, the European patent shall continue to cover the UK territory, but the advantages of the Unitary patent (a European patent « with unitary effects ») have seriously diminished.

In addition, the amounts of the renewal fees for the Unitary patent will have to be revised. They had namely been established on the basis that the UK would be part of the Unitary patent.

In conclusion:

The UK withdrawal will most probably entail a further delay for the entry into force of the UPC Agreement. This will automatically lead to a corresponding delay for the entry into force of the Unitary patent.

In addition, absence of the UK renders the Unitary patent, which already fails to cover Spain, much less attractive than expected.



Contact us:

For any question you may have, please do not hesitate to contact our team.



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