

28 November 2016

UK signals a green light for the ratification of the Unified Patent Court Agreement. The UPC should enter into force with the UK on board, meaning that decisions of the Unified Patent Court would also apply to the UK and the Unitary Patent would cover the UK territory.

At the last Competitiveness Council of 28 November, the UK Minister of State for Intellectual Property, Baroness Neville-Rolfe, stated that the UK government will ratify the Unified Patent Court Agreement.

This means that the UPC Agreement could enter into force before the UK effectively leaves the European Union, following the result of the referendum of June 23, 2016. There are namely already now the required number of countries having ratified the Agreement, so that ratification by the UK and Germany are the last prerequisite for the entry into force.

This statement of the British government ends the uncertainty period which had been the result of the referendum of June 23.

The preparations for entry into force of the UPC will now be resumed (appointment of judges, IT court management system, choice of locations for local and central divisions etc...).

Assuming that ratification by the UK and Germany could be performed in the first quarter of 2017, an effective entry into force of the UPC Agreement could be expected before the end of 2017. At the same time, Unitary Patents could be granted by the European Patent Office, covering all Contracting Member States of the UPC Agreement, including France, Germany, Italy and the UK.

An effective Brexit requires the triggering of Article 50 of the EU Treaty. Negotiations between the UK and the EU may last at least two years after the triggering of Article 50. During this time period it will be necessary to find appropriate ways of amending the UPC Agreement in such a way that the UK will have the possibility of continuing to participate even after leaving the European Union.

Contact us:

For any question you may have in connection with the opt-out procedure, please do not hesitate to contact our team.



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