The Unitary Patent and the Unified Patent Court: what companies need to know

The Unified Patent Court (UPC) Part 4

cont'a

The Unified Patent Court:

an opportunity to enforce patents all across the FU

A single court system

- Patentees: can seek central injunction (including PI).
- Competitors: can seek central revocation.
- Effect: in 24 countries (currently 17).
- Costs: Court fees, then only one set of legal costs.
- Judges: Specialist judges (legally and technically).

"Superfast" proceedings

- Timing: decision expected within 12 months (initial target).
- Principle: written procedure and one-day hearing.
- Strictly supervised: two briefs by party within a short timeframe.
- Front-loaded: requests, evidence and arguments to be filed in the first brief (if not, they can be disregarded).
- Flexible: possibility to file auxiliary requests.

UPC structure

Jurisdiction inside the UPC **Court of First Instance Court of First Instance** Patent Mediation Central Local Regional local/regional divisions Central division and division divisions divisions Arbitration Registry Want to know more? Center Paris seat: France: Nordic-Baltic Marianne Schaffner Ljubljana & Electrical Paris states: Partner, Paris engineering Stockholm Lisbon Attorney-at-law **Court of Appeal** Germany: Head of European Patent Litigation +33 (0)6 09 98 20 67 Munich branch: Munich Luxembourg mschaffner@reedsmith.com Mechanical Mannheim Dusseldorf engineering Hamburg Other branch: Chemistry Netherlands: CJEU & biology The Haque Only on EU law issues ReedSmith Technically qualified judge Legally qualified judge Key: EP: European | PI: Preliminary Injunction | reedsmith.com Optional technically qualified judge Driving progress Local legally gualified judge UP: Unitary Patent | UPC: Unified Patent Court through partnership

Actions available before the UPC Action for infringement (or threat).

- · Declaration of non-infringement.
- Action for injunction and provisional/protective measures
- Action for revocation, and counterclaim for revocation.

Concurrent jurisdiction of the UPC and national courts

- The UPC will have exclusive jurisdiction over UP and classic EP patent only after the transitional period.
- During the transitional period, actions based on a classic EP patent can be brought either before the UPC or before national courts, but an action brought before a national court could lock the classic EP patent outside the UPC (and vice versa).
- · During the transitional period, the patentee can lock the classic EP patent outside the UPC by opting out.
- Rules to determine which branch of the central division and the national/regional divisions will have jurisdiction.