



Update

Intellectual Property

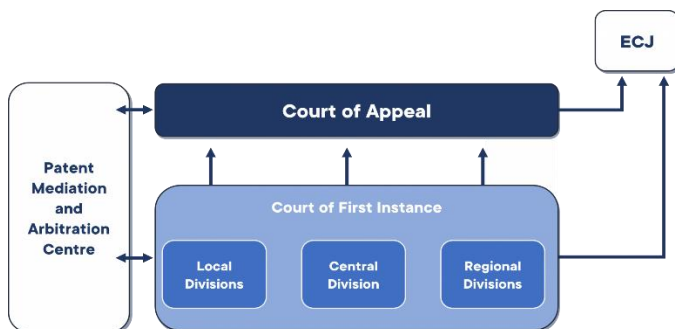
Structure and jurisdiction of the Unified Patent Court

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The Unified Patent Court (“UPC”) will have exclusive jurisdiction in all proceedings regarding European patents with unitary effect, and will also have non-exclusive jurisdiction in proceedings regarding European patents without unitary effect, unless the patent holder has opted out of the UPC^[1].

The UPC will have a decentralised structure, comprising various divisions and sections located in the various member-states:

- The Court of First Instance, which has local and regional divisions, in addition to a central division;
- The Court of Appeal, where appeals against decisions of the Court of First Instance will be decided;
- The Patent Mediation and Arbitration Centre, with offices in Ljubljana and Lisbon, which will provide facilities for mediation and arbitration of disputes;
- The European Court of Justice (ECJ), to which references for preliminary rulings, and regarding the interpretation of European Union Law will be made, in the same way as national courts currently make references to the ECJ.



Court of First Instance

There will be several local divisions, in the various contracting member-states, and regional divisions, each covering several member-states, and a central division.

According to the Agreement on a Unified Patent Court (“UPCA”), the Court will have judges, who are legally qualified, and judges, who are technically qualified. Judges must be nationals of a contracting member-state, have the highest standards of competence, have proven experience in the field of patent litigation, and be fluent in, at least, one of the official languages of the European Patent Office.

Distribution of competences

The jurisdiction of the various divisions will be distributed according to the type of proceedings and the claim made. There must always be a connection between the dispute and the member-state where the proceedings must be brought. The central division will have jurisdiction when there is no competent local, or regional, division.

Central Division

The jurisdiction of the central division will be allocated between the London, Paris, and Munich sections, according to the sector of the patent at issue. The London section previously planned will be replaced by a new location, because of the Brexit. It is likely that cases that fall within the jurisdiction of the London section will be distributed between Munich and Paris, temporarily, until a new location is decided.

Court of Appeal

The parties that are unsuccessful, in whole or in part, in proceedings before the Court of First Instance, may appeal before the Court of Appeal, and all appeals may involve both matters of law, and matters of fact.

When the appeal is successful, the Court of Appeal will overrule the decision of the Court of First Instance and give a final decision. In exceptional cases, the Court of Appeal may refer the case back to the Court of First Instance, for a decision.

The Patent Mediation and Arbitration Centre

The Patent Mediation and Arbitration Centre will have offices in Ljubljana and Lisbon and will provide facilities for mediation and arbitration of disputes within the scope of the UPCA. Agreements reached in this centre will be enforceable in all the contracting member-states.

However, a patent may not be revoked, or limited, in mediation, or arbitration proceedings.

Court of Justice of the European Union

The relationship between the UPC and the ECJ is similar to that which currently exists between national Courts and the ECJ. The ECJ has jurisdiction to make preliminary rulings, and to decide issues regarding the interpretation of European Union law.

[1] For more information regarding the *Opt-out*, check the Update "**The European Patent with Unitary Effect**".