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The UK to Ratify the Unified Patent Court Agreement

The UK government announced on November 28, 2016 that it will proceed to ratify the Unified Patent Court Agreement (UPCA). The announcement comes after months of uncertainty over the future of the UPCA following the UK's vote in June to exit the EU (Brexit). The purpose of the UPCA is to establish a single unified court (Unified Patent Court) with exclusive jurisdiction over patent enforcement and validity actions in all contracting states. The UK plays a key role in the current form of the UPCA. For the UPCA to come into effect, 13 states of the EU (including the UK, Germany, and France) must ratify the UPC Agreement. So far, eleven states have ratified, including France, Germany, the UK, and several other EU states were expected to ratify in the spring of 2016 before the Brexit vote threw the feasibility of the UPCA in question. The UK is also designated to be the seat of the Life Science/Chemistry branch of the central division of the Unified Patent Court. The UK's ratification of the current agreement will pave the way for the UPCA to proceed with minimal delays.

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However, questions remain about the UK's post-Brexit role in the UPC. In its current form, the UPCA restricts participation to member states of the EU. The Court of Justice of the European Union (CJEU) previously issued a decision ruling against participation by non-EU members in an earlier draft of the agreement. However, the decision was opaque in its reasoning, and it remains unclear whether the CJEU would relax the membership requirement to allow participation by the UK post-Brexit, or whether the UK will be able to negotiate around this requirement. Moreover, in its current form, the UPCA elevates EU patent law over national (UK) patent law, an aspect that is likely to be a sore point during negotiations. In announcing the decision, UK Minister of State for Intellectual Property, Baroness Neville Rolfe, noted that "the decision to proceed with ratification should not be seen as pre-empting the UK's objectives or position in the forthcoming negotiations with the EU."

Following the announcement, the UK will continue working with the Preparatory Committee for ratification over the coming months. A link to the decision can be found [here](#).

Please see our [FAQ](#) for additional information.