

UPC

Current Developments and first Decisions

presented at

The 28th Annual Advanced Patent Law Institute

UT LAW

CLE

THE UNIVERSITY OF TEXAS SCHOOL OF LAW

Austin, 3 November 2023

Philipp Rastemborski, LL.M. (Edinburgh)

27.10.2023 | 1

Eisenführ Speiser

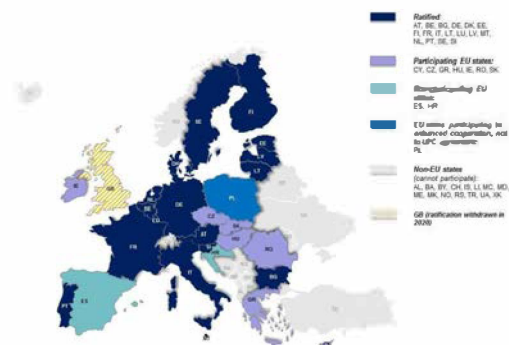
1

The Unified Patent Court – finally live

- On June 1st, system started in 17 EU Member States
- 7 signatory states (incl. IRL) likely to join later

Art. 34 UPCA

One single action will provide for an enforceable decision across the UPC states where EP has effect



27.10.2023 | 2

Eisenführ Speiser

2

Court Structure

Court of Appeal

3 Legally Qualified Judges (LQJ) , 2 Technically Qualified Judges (TQJ)

President: Judge Klaus Grabinski (former judge at German Supreme Court)

Court of First Instance

Local / Regional Divisions

Infringement | Counter-claim for revocation

GER (4 LDs), FR, NL, IT, BEL, FI, AUT, DEN, PT, SI, Nordic-Baltic RD



Central Division

Revocation action | DJ Non-Infringement
Cases transferred from LD (except.)

Paris, Munich, Milan

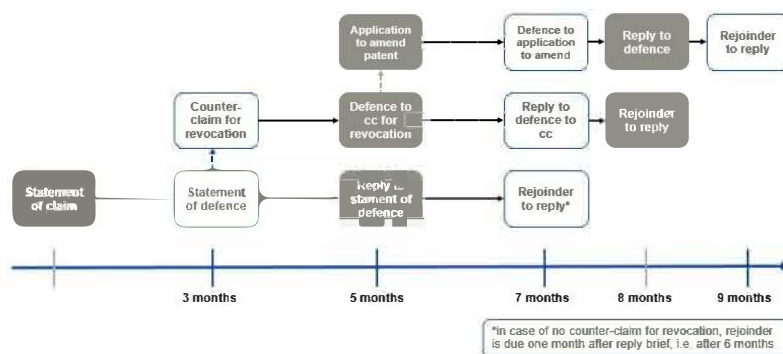


27.10.2023 | 3

Eisenführ Speiser

3

UPC – EU „rocket docket“



Deadlines extendable only upon *reasoned* request (RoP 9.3)
Late-filed submissions and facts may be disregarded (RoP 9.2)

27.10.2023 | 4

Eisenführ Speiser

4

Comparison of proceedings across primary jurisdictions

	UPC	GER	NL	US ITC	US District	UK	CN
Front loaded, written proc.	✓	✓	✓	No	No	No	✓
Short deadlines	✓	✓	✓	✓	No	No	✓
Discovery	No	No	No	✓ ✓	✓	No	No
oral argument	limited	limited	limited	✓	✓	✓	limited
Bi-furcation	limited	✓	No	No	No	No	✓
Permanent Injunctions	✓	✓	✓	✓	Very limited	✓	✓
Award of Damages	✓	limited	✓	No	high awards	moderate awards	Very limited
Costs recoverable	✓	limited	✓	No	No	✓	Very limited

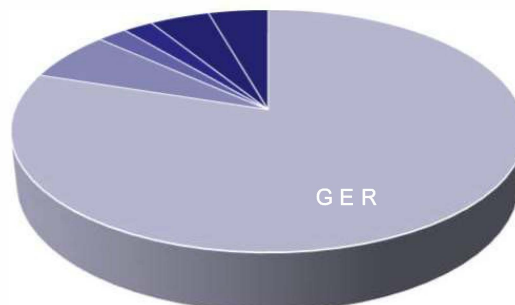
27.10.2023 | 5

Eisenführ Speiser

5

Head start for German Local Divisions

■ Allocation of infringement cases to Local / Regional Divisions



■ GER LDs ■ IT LD ■ FR LD ■ NL LD ■ Nordic RD ■ FIN LD

[status October 2023 / stand-alone revocation actions not considered]

27.10.2023 | 6

Eisenführ Speiser

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: UPC Current Developments and First Decisions

Also available as part of the eCourse

[2023 Advanced Patent Law \(Austin\) eConference](#)

First appeared as part of the conference materials for the
28th Annual Advanced Patent Law Institute session

"Implications of the EU Unified Patents and the EU Unified Patent Court"