

Summing up and Looking Forward to 2018

21 December 2017

Yet another year of preparation has come to an end and to sum up 2017 and plan ahead for 2018.

When the Preparatory Committee started 2017 we made assessment, based on all information available at the time likely that we would enter into provisional application before summer. It subsequently became clear that the German ratification would be delayed due to a case pending in the Federal Constitutional Court. This means it is difficult to put a new timeline.

We are following the situation and in the meantime using additional time available to prepare the functionality of the Court. Some parts of the preparatory work can only be concluded now. We have entered the final phase of the project known as 'provisional application'. I am taking this opportunity to highlight the importance of this final phase and what it means.

What is Provisional Application?

The Agreement on the Unified Patent Court (UPCA) does not include a provision enabling the Court to have a pilot phase in which the organisation as such is established but the Court is not yet operational. To remedy this situation the Signatory States have agreed the Protocol to the Agreement on a Unified Patent Court for provisional application. The protocol means that the States agree to apply the institutional, organisational and financial provisions of the UPCA provisionally before the UPCA enters into force.

Once the Protocol enters into force the organisation as such will therefore be created and acquire legal personality. The Administrative Committee, the Budget Committee and the Advisory Committee will be established at the start of provisional application and will then take over the responsibility of the preparatory work from the Preparatory Committee.

During the provisional application phase the organisation will be able to conclude necessary agreements with third parties and formalise all the preparatory work done by the Preparatory Committee. One hugely important area that cannot be conducted before the provisional application phase is the completion of the recruitment of the judges. Once the judges are appointed the two Presidents can be elected, the Presidium can be set up and the Registrar and the Deputy Registrar can be appointed.

The Preparatory Committee has assessed that the provisional application phase needs to be a period of between six to eight months in order to have time to put everything in place and prepare for the Court to be operational.

Looking ahead to 2018 I am hopeful the New Year will bring closure to our endeavours and the Unified Patent Court will become a reality providing benefit of growth and European competitiveness.

Until then I, on behalf of my Preparatory Committee colleagues, am grateful for the overwhelming continued support of stakeholders, users, and partners who work tirelessly in the face of many challenges to achieve the vision.

With festive good wishes

Alexander Ramsay

Chair of the Preparatory Committee

Recruitment

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