

Von: Jerome.Debrulle@ [REDACTED]
Gesendet: Montag, 22. Oktober 2018 18:00
An: Liz Coleman
Cc: alexander.ramsay@ [REDACTED]; Eileen Tottle; Karcher, Johannes;
 Max Emery
Betreff: RE: UPC timing and U.K. legislation

Dear Liz,

I have seen your email and I see your concern. I know that Johannes is on holiday until next week. I do not want to answer on his behalf. But from my point of view it is not more possible to have an entry into force of the UPCA, which means simultaneously an entry into application of the EU Regulation 1257/2012, and thus the registration of the first unitary effects before the 30 of March 2019.

Indeed even if the German Constitutional Court rejects the complaint before the end of October 2018 which would be a very positive development, it would be required firstly, before the full entry into force of the UPC Agreement, that the Protocol on the Provisional Application of the UPC enters into force and that during this period of provisional application all preparatory measures are taken by the different bodies of the UPC. We know that the period of provisional application shall last at least 6 months and very likely 8 months. In the best case scenario in which the provisional application could start on the 1st November 2018, it would be impossible to have the registration of the first unitary effects before the 30 March 2019. They would only be registered at the earliest on the 1st May 2019.

Maybe Alexander and Johannes can also share their thoughts on this assessment.

Best regards,

Jérôme

De : Liz Coleman <[REDACTED]>
 A: "karcher-jo@ [REDACTED]" <[REDACTED]>
 Cc: "Jerome.Debrulle@ [REDACTED]" <[REDACTED]>, "alexander.ramsay@ [REDACTED]" <[REDACTED]>, Max Emery <[REDACTED]>, Eileen Tottle <[REDACTED]>
 Date : 22/10/2018 10:21
 Objet : UPC timing and U.K. legislation

Dear Johannes

As you may be aware, the U K is preparing for any "no deal" exit scenario even while we continue to work towards agreement with the EU.

For the unitary patent in particular this means we have to prepare legislation to convert any unitary patents which exist on the date of exit, 29 March 2019 in the case of a "no deal" scenario, back into classical EUROPEAN patents with effect for the U.K. I assume the EU/participating states will continue to treat the unitary patent as covering the remaining states involved in such a case.

The question then arises whether we expect that Germany will ratify the UPCA in time for unitary patents to come into existence before that date. That would require Germany's ratification to be deposited before 1 December for the UPCA to come into operation on 1 March.

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 Developed in: 9516-31 489/2018

If we know now that this timescale is not feasible, then I don't need to spend lawyers' and Parliamentary time in preparing and passing the necessary legislation, which process would have to begin formally next month. So any assurances you can give us in that regard would be helpful.

Many thanks for your assistance.

Regards

Liz

Liz Coleman

Sent from my iPhone

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z.d.A. 11.12.18 P.A.

Von: Kärcher, Johannes
Gesendet: Freitag, 2. November 2018 12:05
An: 'Liz Coleman'
Cc: Jerome.Debrulle@ [REDACTED]; Alexander Ramsay
 ([REDACTED])
Betreff: AW: UPC timing and U.K. legislation
Anlagen: RE: UPC timing and U.K. legislation

Dear Liz,

Jérôme's reasoning would also seem to me to be pertinent.

Kind regards

Johannes

-----Ursprüngliche Nachricht-----

Von: Liz Coleman [mailto:[REDACTED]]
Gesendet: Donnerstag, 1. November 2018 13:38
An: Kärcher, Johannes
Cc: Max Emery; Eileen Tottle
Betreff: RE: UPC timing and U.K. legislation

Dear Johannes

I think you were away when I sent this, but I hope you have returned safely. Sorry to press you but can you give me any response to my question below as the timing is now rather urgent. If you agree with Jerome's analysis then let me know.

Many thanks

Liz

Liz Coleman | Divisional Director | Intellectual Property Office | Newport NP10 8QQ | +44(0)1633 [REDACTED]

-----Original Message-----

From: Liz Coleman
Sent: 22 October 2018 09:21
To: karcher-jo@[REDACTED]
Cc: Jerome.Debrulle@[REDACTED]; alexander.ramsay@[REDACTED]; Max Emery
 <[REDACTED]>; Eileen Tottle <[REDACTED]>
Subject: UPC timing and U.K. legislation

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Zu: 9516-31¹ 489/2018

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Regards

Liz

Liz Coleman

Sent from my iPhone

Pöbstelle

22.10.18

Von: Pakuscher, Irene
Gesendet: Dienstag, 23. Oktober 2018 15:57
An: Poststelle; GG ALIII; GG UALIII B
Cc: Karcher, Johannes; Heimen, Michael; Schuster, Klaus
Betreff: WG: UPC timing and U.K. legislation - Hier: Einschätzung von BE

IIIB4/PG EPG (i.V.)

- I. Poststelle mdB Ausdruck der nachfolgenden email
- II. GG per email
- III. vorab per email
Herrn UAL III B
mdBK der nachfolgenden email

Herrn Heimen
Herrn Schuster
mdBK der nachfolgenden email
- IV. WV in IIIB4
- V. zum Vorgang (email von Liz Coleman)

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Irene Pakuscher

Irene Pakuscher

-----Ursprüngliche Nachricht-----

Von: Karcher, Johannes
Gesendet: Montag, 22. Oktober 2018 18:00
An: Pakuscher, Irene
Betreff: WG: UPC timing and U.K. legislation

Von: Jerome.Debrulle@
Gesendet: Montag, 22. Oktober 2018 18:00:22 (UTC+01:00) Amsterdam, Berlin, Bern, Rom, Stockholm, Wien
An: Liz Coleman
Cc: alexander.ramsay@; Eileen Tottle; Karcher, Johannes; Max Emery
Betreff: RE: UPC timing and U.K. legislation

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2018 9516 - 31 489 / 2018

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Kärcher, Johannes

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