

## The Unitary Patent and the Unified Patent Court

Wouter Pors, partner, Netherlands.

There's this great new development: it's the Unitary Patent and the Unified Patent Court. It's I think the biggest development in patent law in Europe in 40 years.

Until now you had a centralised application system for patents, but once granted you had to enforce through initial courts in all countries that you wanted to go. Now that's all going to change, because 24 countries have joined in a co-operation where they will have just one single patent and one single court system to enforce that patent. It's a highly complicated system because it's one court, but it will be in at least 15 different cities. It will operate in a large number of languages; hopefully many locations will do litigation in English.

We've been involved in the whole development of the system. We've been assisting the governments who are working on this. It's creating new challenges for clients, because they have to adapt to that system. They will have to be prepared to go to all these cities where they might need to litigate, and it's something that Bird & Bird is interested in, because we are already in all those countries where the court will be. And we have the experience in those courts that currently are there. There will be judges who move over from the national courts to the new system. So we will be in front of judges that we already know, we know what their thinking is, we know how they approach patent law, and therefore we are a firm that is very well positioned to do this kind of litigation.

The system is going to go live probably early 2015, but companies need to prepare right now. What you need to do is **review your patent portfolio**, because initially there will be a seven year period when you have choice between national courts and the new Unified Patent Court. That would mean that you want to have patents that are suitable before litigation in national courts and, on the other hand, patents that are specifically suitable for litigation in the new system.

Another thing is that you need to **review licence agreements**, because exclusive licensees will have new rights granted under the agreement, and you will not have taken those in to account when you draft your current licence agreement. That's all work that needs to be done now before the system goes live.

And once the system goes live you need to be prepared to defend yourself, for instance, in this new court.

You will only have three months to file a defence, and that may be in any language that the current division where the litigation is going to be will use. So that already also requires quite a lot of preparation.

At Bird & Bird we've hosted a large number of events ourselves where we invited clients to inform them about the systems and about all the details. Those range from short meetings of one hour to full day meetings. In addition to that we've spoken at conferences of organisations all around Europe. We can give the strategic advice that clients need for this new system.

**END**

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