An important step towards the establishment of the Unified Patent Court

November 30th, 2016

On November 28th, the UK signalled a green light to the implementation of the Unified Patent Court Agreement (“UPCA”). Confirmation that the UK will now ratify means that preparations for this new international court, and for introduction of the Unitary Patent, can begin to move forward again.

Bearing in mind the significant number of patents which designate the UK and the contributions that UK judges and practitioners have made to the development of the UPC system, it is welcome news that the UK will remain in the UPCA despite the outcome of the referendum in June. A number of legal analyses published over recent months have confirmed that there is legal basis for the UK to continue its membership following an exit from the European Union, permitting momentum in the ratification process of the UPCA to be resumed.

It is now hoped that the UK and Germany and all the other signatory states will conclude the ratification process as soon as possible, without unnecessary delay, but most importantly without compromising legal certainty. In doing so, all measures should be taken to ensure that UK will be able to remain part of the UPCA following the envisaged exit from the European Union. This is critical to providing businesses with certainty about the new system as they return to planning for its introduction. At the same time, consideration could be given to establishing a legal framework which would also allow other EPC states which are not EU members to join the system under alike conditions in due course.

The Board of EPLAW