

# **Agreement on a Unified Patent Court**

## **Contents**

### **PART I – GENERAL AND INSTITUTIONAL PROVISIONS**

#### **Chapter I – General Provisions**

Article 1 – Unified Patent Court	7
Article 2 – Definitions	7
Article 3 – Scope of application	9
Article 4 – Legal status	10
Article 5 – Liability	10

#### **Chapter II – Institutional Provisions**

Article 6 – The Court	11
Article 7 – The Court of First Instance	12
Article 8 – Composition of the panels of the Court of First Instance	13
Article 9 – The Court of Appeal	15
Article 10 – The Registry	16
Article 11 – Committees	17
Article 12 – The Administrative Committee	17
Article 13 – The Budget Committee	18
Article 14 – The Advisory Committee	19

#### **Chapter III – Judges of the Court**

Article 15 – Eligibility criteria for the appointment of judges	20
Article 16 – Appointment Procedure	21
Article 17 – Judicial independence and impartiality	22
Article 18 – Pool of Judges	23
Article 19 – Training framework	24

#### **Chapter IV – The Primacy of Union Law, Liability and Responsibility of the Contracting Member States**

Article 20 - Primary of and respect for Union law	25
Article 21 – Requests for preliminary rulings	25
Article 22 – Liability for damage by infringements of Union Law	26
Article 23 – Responsibility of the Contracting Member States	27
	28

#### **Chapter V – Sources of Law and Substantive Law**

Article 24 – Sources of law	
Article 25 – Right to prevent the direct use of the invention	30
Article 26 – Right to prevent the indirect use of the invention	31
Article 27 - Limitations of the effects of a patent	31

Article 28 – Right based on prior use of the invention	34
Article 29 – Exhaustion of the rights conferred by a European patent	35
Article 30 – Effects of supplementary protection certificates	35

## **Chapter VI – International Jurisdiction and Competence**

Article 31 – International jurisdiction	36
Article 32 – Competence of the Court	36
Article 33 – Competence of the divisions of the Court of first Instance	38
Article 34 – Territorial scope of decisions	42

## **Chapter VII – Patent Mediation and Arbitration**

Article 35 – Patent mediation arbitration centre	42
--	----

## **PART II – FINANCIAL PROVISIONS**

Article 36 – Budget of the Court	43
Article 37 – Financing of the Court	44
Article 38 – Financing of the training framework for judges	46
Article 39 - Financing of the Centre	47

## **PART III – ORGANISATION AND PROCEDURAL PROVISIONS**

### **Chapter I – General Provisions**

Article 40 – Statute	47
Article 41 – Rules of Procedure	48
Article 42 – Proportionality and fairness	49
Article 43 – Case management	49
Article 44 – Electronic procedures	50
Article 45 - Public proceedings	50
Article 46 – Legal capacity	50
Article 47 – Parties	51
Article 48 – Representation	52

### **Chapter II – Language of Proceedings**

Article 49 – Language of proceedings at the Court of First Instance	53
Article 50 – Language of proceedings at the Court of Appeal	55
Article 51 – Other language arrangements	55

### **Chapter III – Proceedings before the Court**

Article 52 – Written, interim and oral procedures	57
Article 53 – Means of evidence	58
Article 54 – Burden of proof	59
Article 55 – Reversal of burden of proof	59

## **Chapter IV – Powers of the Court**

Article 56 – The general powers of the Court	60
Article 57 – Court experts	61
Article 58 – Protection of confidential information	62
Article 59 – Order to procedure evidence	62
Article 60 – Order to preserve evidence and to inspect premises	63
Article 61 – Freezing orders	65
Article 62 – Provisional and protective measures	66
Article 63 – Permanent injunctions	67
Article 64 – Corrective measures in infringement proceedings	68
Article 65 – Decision on the validity of a patent	69
Article 66 – Powers of the Court concerning decisions of the European Patent Office	70
Article 67 – Power to order the communication of information	71
Article 68 – Award of damages	72
Article 69 – Legal costs	73
Article 70 – Court fees	74
Article 71 – Legal aid	75
Article 72 – Period of limitation	75

## **Chapter V - Appeals**

Article 73 – Appeal	76
Article 74 – Effects of an appeal	77
Article 75 – Decision on appeal and referral back	78

## **Chapter VI – Decisions**

Article 76 – Basis for decisions and right to be heard	78
Article 77 – Formal requirements	79
Article 78 – Decisions of the Court and dissenting opinions	79
Article 79 – Settlement	80
Article 80 – Publication of decisions	80
Article 81 – Rehearing	81
Article 82 – Enforcement of decisions and orders	82

## **Part IV – TRANSITIONAL PROVISIONS**

Article 83 – Transitional regime	83
----------------------------------	----

## **Part V – FINAL PROVISIONS**

Article 84 – Signature, ratification and accession	85
Article 85 – Functions of the depositary	86
Article 86 – Duration of the Agreement	86
Article 87 – Revision	87
Article 88 – Languages of the Agreement	88
Article 89 - Entry into force	88

## **ANNEX 1**

### **STATUTE OF THE UNIFIED PATENT COURT**

Article 1 – Scope of the Statute A1-1

#### **Chapter I - Judges**

Article 2 – Eligibility of judges A1-1  
Article 3 – Appointment of judges A1-2  
Article 4 – Judges’ term of office A1-3  
Article 5 – Appointment of the members of the Advisory Committee A1-4  
Article 6 – Oath A1-4  
Article 7 – Impartiality A1-5  
Article 8 – Immunity of judges A1-6  
Article 9 – End of duties A1-7  
Article 10 – Removal from office A1-8  
Article 11 – Training A1-9  
Article 12 – Remuneration A1-10

#### **Chapter II – Organisational Provisions**

##### **Section 1 – Common Provisions**

Article 13 – President of the Court of Appeal A1-11  
Article 14 – President of the Court of First Instance A1-12  
Article 15 – Presidium A1-12  
Article 16 – Staff A1-14  
Article 17 – Judicial vacations A1-14

##### **Section 2 – The Court of First Instance**

Article 18 – Setting up and discontinuance of a local or regional division A1-15  
Article 19 – Panels A1-16  
Article 20 – Pool of Judges A1-17

##### **Section 3 – The Court of Appeal**

Article 21 – Panels A1-18

##### **Section 4 – The Registry**

Article 22 – Appointment and removal from office of the Registrar A1-19  
Article 23 – Duties of the Registrar A1-20  
Article 24 – Keeping of the register A1-21  
Article 25 – Sub-registries and Deputy-Registrar A1-22

### **Chapter III – Financial Provisions**

Article 26 – Budget	A1-23
Article 27 – Authorisation for expenditure	A1-24
Article 28 – Appropriations for unforeseeable expenditure	A1-24
Article 29 – Accounting period	A1-25
Article 30 – Preparation of the budget	A1-25
Article 31 – Provisional budget	A1-25
Article 32 – Auditing of accounts	A1-26
Article 33 – Financial Regulations	A1-27

### **Chapter IV – Procedural Provisions**

Article 34 – Secrecy of deliberations	A1-28
Article 35 – Decisions	A1-28
Article 36 – Dissenting opinions	A1-29
Article 37 – Decision by default	A1-30
Article 38 – Questions referred to the Court of Justice of the European Union	A1-31

### **ANNEX II**

Distribution of cases within the central division

LONDON Section	PARIS Seat	MUNICH Section
	President's Office	
(A) Human necessities	(B) Performing operations, transporting	(F) Mechanical engineering, lighting, heating, weapons, blasting
(C) Chemistry, metallurgy	(D) Textiles, paper	
	(E) Fixed constructions	
	(G) Physics	
	(H) Electricity	