

Early UK elections, delay for the Unitary Patent system?

Kluwer Patent Blog

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UK prime minister Theresa May's decision to call early general elections for 8 June 2017 could spell trouble for the Unitary Patent system, as it may delay the UK's ratification of the Unified Patent Court Agreement.



Nobody said the creation of a new patent system covering all EU member states was going to be easy. After last year's Brexit vote, another potential stumbling block for the start of the system, now scheduled for December 2017, has appeared in the UK. Parliament - both Houses of Westminster and the Scottish Parliament - was expected to pass two Statutory Instruments (SIs) by the end of May, thereby completing its share of the ratification procedure of the Unified Patent Court Agreement in the UK. But it is very uncertain this is still possible after the decision of British prime minister Theresa May to call for early elections in a bid to strengthen her Brexit plans.

Parliament is dissolved 25 working days before a general election, in this case on Wednesday 3 May 2017. It means that less than two weeks are left for the SIs to pass through Parliament. According to several observers, this means the ratification will be delayed indeed. In [an article in the Law Gazette](#), Robert Burrows, partner at Bristows, says a start date of early 2018 for the Unitary Patent

system could be a more realistic possibility.

In the same article, Luke McDonagh of the Law School at City University London is more pessimistic: 'It is clear there will be a delay now. Everything is likely to cease pending the election. The decision to ratify may even be up in the air.'

And Mark Richardson of the [IP Copy blog](#) writes: 'UK ratification may not occur until July and possibly the Autumn. With a 6 month period of provisional application before the UPC opens this could mean that the opening of the Unitary Patent system is delayed until February 2018 or maybe even Spring 2018. Such a start date is within a year of the UK's expected exit from the EU which then begs the question whether the UK will even want to continue when the precise mechanism by which we can participate in the Unitary Patent system post-Brexit is unknown.'

It is speculation, Richardson admits himself. Kluwer IP Law was informed that by the middle of next week, more clarity is expected about possible delays for the Unitary Patent project.

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