

## Big three states fight to host patent court

Sign-off cancelled as Germany, France and UK block agreement

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- The unitary patent agreement has been delayed yet again by a fight between France, Germany and the UK, who all want to host the patent court's central division.

Despite agreement on the overall patent package, which has been under development for 30-odd years, the unitary patent cannot be signed off until all countries agree on a location for the court. The agreement's signing ceremony, scheduled to take place in Warsaw on 22 December, was cancelled.

The patent court's central division will only house a handful of civil servants, as the court's main operations would be handled by its national divisions in each member state. But under the Polish presidency hosting the patent court became a matter of prestige to the three large contenders.

Mikolaj Dowgielewicz, the Polish minister for European and economic affairs, told the press on 16 December: "The most contentious issue has become who will have the seat of the court with a budget of a few million euros and a staff of 15 civil servants."

The Danish presidency, which began 1 January, has inherited the negotiations from the Poles. According to a Danish official involved, there is not very much the EU institutions can do to solve the crisis with the three most powerful member states in deadlock. "We need to handle this in the capital cities, and not in Brussels," he says. "We have six weeks to find out whether there is a real commitment from the national governments to move this forward."

The Danish presidency is hosting a Competitiveness Council of European research and economics ministers on 21 and 22 February, and hopes are high that an agreement can be found by then.

Meanwhile, patent lawyers have complained that the proposal has been rushed unnecessarily and that the patent court's numerous local divisions seem to safeguard national interests rather than competence. "The deficiencies...are so fundamental that the system is bound to fail," the European Patent Lawyers' Association said in response to the court proposal.

The Commission is trying to put pressure on member states to keep the patent negotiations alive. Internal market commissioner Michel Barnier called on the three heads of state to find an agreement. "These three European leaders demand EU action for their citizens in favour of growth—well, let's do it. Let's find an agreement," he urged.

Paris was put forward as a potential location for the patent court by the Polish presidency, a spokesman for the Council of Ministers told Research Europe. Jonathan Goldsmith, secretary general of the Council of Bars and Law Societies of Europe, wrote on his blog: "Munich apparently represents a liberal approach, while London is viewed as a literal applier of patent law. Paris is believed to be mid-way between the two."

Munich has hosted the European Patent Office since 1977. The EPO, which handles patent filings in 38 countries through a single procedure, would take on several tasks for the unitary patent, in particular collecting post-granting patent fees.

Germany's justice minister Sabine Leutheusser-Schnarrenberger said that the country was determined to fight for Munich as the court's future location. "Germany is clearly the strongest patent country in the EU, and Munich the patent capital of Europe," she said.

Speaking to the press on 9 December, EPO's president Benoît Battistelli, said: "The court should be located [somewhere with] a good professional environment, including international connections, and competent attorneys." All three cities meet these criteria, he says. "You need competent judges because the court's decisions will apply all over Europe."

The unitary patent consists of three elements: two EU regulations to create the patent and define its language regime, and an international agreement—outside the EU framework—to set up the unitary patent jurisdiction. The first two were approved by 25 countries and signed off by the European Parliament's legal affairs committee on 20 December.