



*EPLIT – c/o Multiburo Paris Chatelet 52,  
Boulevard Sébastopol, F- 75 003 Paris*

**To Mr Peter Žiga**

Minister of the Slovak Republic  
Mierová, SK – 827 15 Bratislava

14 September 2016

**Re: The future of the Unified Patent Court after the Brexit referendum**

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Dear Mr Žiga,

### **Summary**

EPLIT is of the view that the creation of the Unified Patent Court (UPC) is in the interests of inventors and businesses. Being able to enforce a patent covering a large number of countries before a single court reduces the costs of doing business and increases certainty for both claimants and defendants. This does not change if the UK leaves the EU. For these reasons, EPLIT would like to encourage the governments of the EU Member States to take the necessary steps to ratify the UPC Agreement and allow the UPC to become operational as soon as possible.

### **EPLIT**

EPLIT was founded in 2013 in view of the fact that the UPC Agreement provides for representation of parties by European Patent Attorneys having an appropriate qualification in patent litigation. It is one of the main objectives of our association to promote the participation of European Patent Attorneys in proceedings before the UPC. Most of EPLIT's members are European Patent Attorneys. However, other practitioners who are qualified to participate in proceedings before the UPC pursuant to Article 48(1) or (4), such as lawyers, can join as associate members.

### **The Unitary Patent Package**

With the adoption of the Unitary Patent Package (UPP), which includes the Unitary Patent and the Unified Patent Court, the patent system in Europe will experience its most profound change since the advent of the European Patent Convention in 1973. Where the European Patent Convention harmonized the procedure for the grant of patents in, by now, 38 contracting states, the UPP will significantly reduce the costs of maintaining and enforcing patents in the territory of the EU. This will enhance the competitiveness of the EU as a whole.

*EPLIT – European Patent Litigators Association, c/o Multiburo Paris Chatelet 52,  
Boulevard Sébastopol, F-75 003 Paris – [www.eplit.eu](http://www.eplit.eu) – [info@eplit.eu](mailto:info@eplit.eu)*



Until the results of the UK referendum on membership of the EU were announced on 24th June 2016, the prognosis was that the Unitary Patent Package would enter into force in the course of 2017. Of the thirteen ratifications of the UPC Agreement necessary for the system to come into effect, currently only the ratifications of Germany and the UK are still missing.

The result of the UK referendum has made the future of the UPP uncertain. Article 89 of the UPC Agreement requires that, for the UPP to come into force, the UK, as one of the three countries where the highest number of European patents are in effect, ratifies the UPC Agreement. If the UK does not ratify the UPC, this will likely require a renegotiation of the UPC Agreement and lead to a significant delay of the whole UPP project, if only because without a UK ratification the system can only enter into force after the UK has formally left the EU. In EPLIT's opinion, such a delay will be to the detriment of inventors and businesses both in the UK and in the other EU Member States.

A ratification of the UPC Agreement by Germany and the UK will mean that the system can enter into force without much delay. Should the UK decide to leave the EU after ratification, the UK may be able to continue to participate in the UPC and EPLIT certainly hopes it will. EPLIT is also of the view that the system is much more attractive if the UK continues to participate in it. However, even if this were legally or politically not possible, EPLIT still believes that all users of the European patent system will be better off if the UK ratifies the UPC Agreement in the near future so that this important development of the patent system in Europe will not have been jeopardized.

If you have any questions, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in black ink, appearing to be "K. Bijvank", written over a white background.

on behalf of EPLIT  
Koen Bijvank, President

Copy sent to all relevant ministers: see list attached

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