

## Unitary Patent Court (UPC) Agreement

The Agreement on the Unified Patent Court (UPC) signed by 25 Member States of the European Union (EU) on February 19, 2013 provides for creating a specialized patent court with exclusive jurisdiction for litigation relating to European patents and European patents with unitary effect. It will need to be ratified by at least 13 Member States, including France, Germany and the United Kingdom to enter into force.

The Agreement on the UPC and its proposed Rules of Procedure provide for a protection of confidentiality of communications between clients and their patent advisors. While Article 53 UPC Agreement provides for “discovery” proceedings with regard to requests for information, production of documents and inspection, Article 48 UPC Agreement states that the communication with representatives of clients, namely lawyers or European Patent Attorneys (see Article 134 EPC), are privileged. Rules 287 and 288 of the Preliminary Rules of Procedure for the UPC in its version of May 31, 2013 provide for an attorney–client and a litigation privilege for communications between a client and a lawyer and a client and a patent attorney in a professional capacity to advice on patent matters (15<sup>th</sup> draft of May 31, 2013 Preliminary set of provisions for the Rules of Procedure (“Rules”) of the Unified Patent Court, Document - Ref. Ares(2013)2443291 - 21/06/2013).