German Decision Puts Unified Patent Court Agreement at Risk

Germany’s constitutional court has ruled that the nation's ratification of a long-planned Unified Patent Court (UPC), which would create a single legislature for the whole of Europe to decide on patents, was unconstitutional. In its reasoning, the Senate stated that, in order to safeguard their right to influence the process of European integration by democratic means, this, in principle, also entails the right of citizens that sovereign powers be conferred only in the ways provided for by the Basic Law. An act of approval to an international treaty that has been adopted in violation thereof cannot provide democratic legitimation for the exercise of public authority by the EU or any other international institution supplementary to or otherwise closely tied to the EU.

The UPC Agreement was signed in February 2013, and had to be ratified by 13 EU member states, including the three largest patenting countries. It would set up a single court, with branches across Europe, to hear disputes on the validity and infringement of European patents.

Germany’s ratification would have brought the UPC into effect, but the president suspended ratification pending the Court’s decision. Separately, the UK recently said that it will not take part in the UPC after Brexit.

For more, see

Article on IPWatchdog.com

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Official Press Release by the German Federal Constitutional Court

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