

Bifurcation and injunctions in the Rules of Procedure of the Unified Patent Court

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As the Unified Patent Court (UPC) Preparatory Committee prepares to finalise the draft of the UPC Rules of Procedures, the European Semiconductor Industry Association (ESIA) would like to express again its concerns regarding the anticipated negative impact if near EU-wide permanent injunctions and seizures would be issued on patents before validity was decided.

ESIA reiterates the recommendations included in the joint industry inputs to the consultation on the UPC Rules of procedure in October 2013 and in the 25 February 2014 open industry letter co-signed by ESIA. In particular, ESIA strongly recommends that enhanced guidance to the judiciary is incorporated to mitigate against harmful consequences related to the issues of bifurcation and injunctions when validity is raised, including more guidance on when to issue a stay of an infringement action and when to issue injunctions. ESIA notes again that, without this guidance, under the proposed UPC Rules of Procedures, there is the real risk that a court could order an injunction barring the importation and sale of goods even though the patent may ultimately be found invalid. The disruptive and detrimental impact of such an outcome on businesses, the public, and innovation cannot be overstated.

With the proposed guidance the negative consequences of bifurcation, such as increased costs for consumers and higher risks of litigation, could be avoided and operating companies could focus on innovation instead of litigation, for the benefits of consumers and society in general.

ABOUT ESIA

The European Semiconductor Industry Association (ESIA) is the voice of the Semiconductor Industry in Europe. Its mission is to represent and promote the common interests of the Europe based semiconductor industry towards the European Institutions and stakeholders in order to ensure a sustainable business environment and foster its global competitiveness. As a provider of key enabling technologies the industry creates innovative solutions for industrial development, contributing to economic growth and responding to major societal challenges. Being ranked as the most R&D intensive sector by the European Commission, the European Semi-conductor ecosystem supports approx. 200.000 jobs directly and up to 1.000.000 induced jobs in systems, applications and services in Europe. Overall, micro- and nano-electronics enable the generation of at least 10% of GDP in Europe and the world.

ESIA is an Industry Association of:

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