



Economic Impact of Alternative Locations for the Central Division of the Unified Patent Court

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1. Executive Summary

- 1.1 This report considers the economic impact on the UK of options for the location of the Central Division of the proposed Unified Patent Court (hereafter referred to as “the Central Division”). In particular, the impact on the UK of the Central Division’s location outside the UK (Paris or Munich) compared to a UK location (London).

Direct effects

- 1.2 The principal direct effect that we have examined – and quantify – arises from the legal and other advisory services work connected with patent litigation cases that are currently heard in national jurisdictions but would migrate to the Central Division when it is established. We believe it is reasonable to assume that the majority of this work is currently sourced – and hence the revenues accrue to – the country where the litigation is heard. In contrast, once the Central Division is established, a large part of the revenues associated with these cases will be captured by firms in the country in which the Central Division is located.
- 1.3 If the Central Division is located outside the UK, such as in Paris or Munich, there will be a significant loss of business to UK legal services firms and other IP advisory firms as cases currently heard in the UK would then be heard in either France or Germany. We have been able to use some “bottom up” estimates for current revenues collected from firms of IP solicitors, barristers and patent attorneys. Our best estimate is that these are currently in the range £150-200 million (with a point estimate of £166 million at 2011 prices). Relatively little of this work – perhaps £30 million – might be retained once the Central Division is established.
- 1.4 In contrast, if the Central Division is located in the UK, there will be a transfer of business to UK-based legal and other IP advisory businesses from cases that would be heard in London that were previously heard in another country. The evidence base here is relatively patchy and a number of assumptions have to be made about the Central Division’s caseload, the average cost to the parties of a case and the proportion of that work that will be sourced in the same country as the Central Division. For this reason we provide a range: the revenues accruing to the country hosting the Central Division – and hence the lost revenue to the UK if the Central Division is located overseas – are estimated to be £545-£1,936 million per year.

- 1.5 In addition, there would be the direct expenditure effects from the operation of the Central Division itself. The European Commission have suggested that the cost of the entire UPC system could be €45-60 million each year. Combining this with an earlier 2009 cost benefit analysis suggests that the cost of the Central Division could be €30-40 million – or £24-32 million at current exchange rates. Adding this yields an estimate of £569-1,968 million as the direct quantified loss to the UK economy from the Court being located outside the UK.

Indirect effects

- 1.6 The revenues accrued by UK firms – or spent by others such as court employees within the UK – will produce further economic benefits through their impact on the retail or service sector. One way of capturing the effects of these is through use of multipliers.
- 1.7 We have reviewed recent studies that use or produce multiplier estimates that may be relevant, in particular multiplier estimates for expenditure on professional or business services, which would seem to fit with the majority of the expenditure that we have quantified as a direct effect. There is considerable variation in these estimates and we therefore recommend use of a range to reflect the uncertainty that invariably accompanies these estimates. We propose a range of 1.2 to 1.5 for an output multiplier. In other words, £1 spent with UK legal services firms produces an overall benefit to UK output of £1.20 to £1.50.
- 1.8 On this basis, using the calculations set out above for direct effects, the total cost to the UK of a non-UK location for the Central Division would be £683-2,952 million. Note that, although we have presented estimates to the nearest £ million, the margins of error surrounding all these calculations are much larger. A number of assumptions have to be made to generate the calculations and each is subject in its own right to some uncertainty.

Longer term effects

- 1.9 The location of the Central Division would be expected to have more fundamental and longer term effects on the UK economy. These are more speculative and cannot readily be quantified. A critical issue will be what effect (if any) the location of the Central Division has on how its rules of procedure are operated in practice.

- 1.10 Key areas of concern that have arisen include whether the location of the Central Division would have any impact on the extent to which bifurcation of cases (as in Germany) took place, with the concern that this might lead to more injunctions being granted without the validity of the relevant patents having been tested in court and thus to the migration of manufacturing and distribution centres out of Europe, including the UK.
- 1.11 Another source of concern would be if location of the Central Division outside the UK – especially if in Munich and thus co-located with the EPO – led in the medium to long term to a migration of IP expertise overseas and a dilution of UK-based IP advisory capacity. UK based firms may have less expertise easily available. The loss of the Central Division may also dampen London’s aspiration to be the European centre for commercial litigation and arbitration, with unquantifiable impacts on the UK’s internationally successful legal and professional services industries. This is particularly the case as the new court is different in kind to other courts in Europe as for the first time it will provide a forum for private parties to settle disputes in Europe on a trans-national basis. As such it may be a model for future initiatives to develop trans-national dispute resolution in the EU.
- 1.12 The benefits to the UK of the Central Division being located in London are likely to increase over time. This is because of growth over a sustained period of time in patent filing and patent litigation. Hence both the direct and indirect effects are likely to increase over time both in real terms and quite possibly as a share of UK output.

2. Introduction

- 2.1 This report has been prepared by FTI Consulting LLP (“FTI Consulting”) for the Intellectual Property Lawyers Association (IPLA), the Law Society and the City of London Law Society. We have been asked to advise on the economic impact on the UK of alternative locations currently being considered for the location of the Central Division of the Unified Patent Court, in particular, the advantages to the UK of having the Central Division located in London. The immediate purpose of the economic assessment is to enable the President of the Law Society to respond to a request for advice from the Ministry of Justice. More broadly, however, the purpose of this work is to inform the UK Government’s negotiating position regarding the location of the Central Division in the run-up to a decision being taken about its location. Hence the results will be of interest to a broader range of Departments within the UK Government including BIS, HM Treasury, No. 10, the Cabinet Office and the Foreign Office. We anticipate the findings of this report will also be of interest to a broader set of stakeholders in the debate about the future of European IP legislation including MEPs, IP lawyers and patent attorneys, companies who may be involved in IP litigation or enforcement, companies involved in supporting activities and the media.

Background

- 2.2 Europe is close to agreeing a new framework for IP rights with respect to patents, namely the creation of a Unitary Patent under the Enhanced Co-operation Procedure (with associated Language Regulation) and a Treaty Agreement to create a Unified Patent Court (UPC). At present, these arrangements will cover all EU Member States with the exception of Spain and Italy.¹
- 2.3 One of the residual issues awaiting political agreement is the location of the various institutions associated with the UPC. The UPC will create three new institutions:

¹ Italy has recently indicated that it too may join the Court system, though not the Unitary Patent.

- A First Instance Division that will act as the court of first instance for hearing Europe-wide litigation comprising national and regional divisions and, most importantly, a Central Division which will hear applications for declarations of non-infringement, revocation actions and revocation counterclaims effectively transferred to it from national and regional divisions;
 - A Court of Appeal and Registry; and
 - An arbitration centre.
- 2.4 We understand that political agreement has been reached (at least provisionally) on the location of the Court of Appeal and the arbitration centre (Luxembourg and Ljubljana/Lisbon respectively). However, the location of the Central Division has still to be agreed. We understand that three locations are currently the leading candidates: London, Paris and Munich (or another German city).

Framework of analysis

- 2.5 This economic assessment considers the relative costs and benefits to the UK economy of three options for the location of the Central Division of the Unified Patent Court (hereafter referred to for convenience as “the Central Division”) – London, Paris and Munich. .
- 2.6 The economic effects of a Paris or Munich location, compared to London, can be divided into three categories:
- Direct effects – In particular, the net loss of business (revenue) to the UK legal services industry that would be associated with the Central Division’s cases not being held in London. There might also be associated costs for UK clients (in terms of travel and other time) and possibly for other supporting services arising from a non-UK location. There would also be some direct impact due to the loss of expenditure and employment generated by the Central Division itself.
 - Indirect effects – These direct business costs would then have knock-on costs through multiplier effects.

- Longer term effects – These are the longer term and more speculative effects. They include such issues as the effect of the location of the Central Division on the overall volume of patent litigation and the way that it is managed in the European patent system and the impact on the processes and outcome of litigation. There are also effects to consider such as the impact of a non-UK location on the UK’s wider IP services community and its ability to serve UK-based companies as well as any effect on the City of London’s aim to become the leading European centre for commercial litigation. A key issue here will be the question of whether the location of the Central Division affects the practical application of its rules of procedure.

2.7 Where possible, we quantify the direct and indirect effects in terms of impact on output. As expected it has not proved possible to quantify the longer term effects and we provide a narrative account, albeit informed by evidence (where available).

Sources of information

2.8 The principal sources of information relied upon in this report are:

- Various briefing papers and submissions prepared by stakeholders in the IP policy community and made available via members of the IPLA;
- A cost benefit analysis of the creation of a unified and integrated European patent litigation system prepared in 2009 for the European Commission by Prof. Dietmar Harhoff (the “Dietmar Harhoff CBA”)²;
- Estimates of potential loss of fee income collected from members of the IP legal community (firms of solicitors, barristers, patent attorneys);
- Economic impact studies that shed light on indirect effects and multipliers (reviewed in Section 4).

Structure of the report

2.9 The remainder of this report is structured as follows:

² Prof. Dietmar Harhoff, “Economic Cost-Benefit Analysis of a Unified and Integrated European Patent Litigation System”, Report to European Commission, February 2009.

- In Section 3, we set out our estimates of the direct effects of alternative locations of the Central Division;
- In Section 4, we set out our conclusions on the size of the indirect or multiplier effects arising from these direct effects; and finally
- In Section 5, we set out a narrative account of some of the longer term effects we expect to arise from the Central Division being located outside the UK.

3. Direct effects

- 3.1 The starting point for the economic analysis is the analysis of direct effects, namely those economic impacts directly associated with the work of the Central Division. The baseline in this assessment is the Central Division being based in London, so estimates of cost and benefit are net of that position.
- 3.2 Note that this baseline is not the same as the current status quo. Not all of the cases currently dealt with by the court system in the UK will go to the new Central Division even if it were to be located in London. Similarly, there will be cases currently being heard by national courts in other EU Member States that would be heard by the new Central Division.
- 3.3 The European Commission have been quoted recently saying that they expect some 1,500-2,000 cases to be dealt with in steady state each year by the UPC system.³ This is considerably more than the estimate of 1,000 cases in the Harhoff CBA. But even the revised figures may still be subject to considerable margins of error. In particular, the demand for the UPC is likely to depend on factors such as its rules and procedures and the perceived cost and difficulty of pursuing – or defending – patent infringement action through this route. Importantly it is likely that overall the volume of business will increase in Europe as a whole as the ability to obtain effective relief in a large market attracts patentee litigants and as potential defendants see the opportunity to strike out patents centrally or seek pan-European declarations of non-infringement.
- 3.4 The principal economic effect likely to depend on the location of the Central Division is the volume of business associated with its legal proceedings. The Central Division is likely to generate substantial volumes of business for legal services and associated advisory service companies and we believe that the majority of those revenues will accrue to firms based in the country hosting the Central Division. In other words, “the winner takes most” of these revenues which, as set out below, are uncertain but likely to be very substantial.

³ Minutes of Technical Session on the Draft Agreement on the Unified Patent Court, Warsaw, October 2011.

Business revenues currently earned by UK legal services firms

- 3.5 Last November, members of the IPLA were asked to submit estimates of the fee revenues earned from patent litigation to Prof Sir Robin Jacob (arguably the UK's leading patent specialist and a retired Court of Appeal judge) on a confidential basis. Robin Jacob received replies from approximately 40 of the IPLA's 70 members. The total fees estimate from the law firms submitting returns was £109 million (excluding VAT). We assume these estimates to have been expressed in 2011 prices.
- 3.6 An estimate needs to be added to this for the firms that did not respond to the enquiry. A plausible maximum estimate for the entire IPLA membership might be an additional £81 million, which effectively assumes non-responding firms have the same average business from this source as responding firms. However, we have since cross-checked responding firms against IPLA membership and shared the results with Robin Jacob. This confirmed his initial impression that most of the firms with large amounts of IP business had in fact responded. Hence a much lower estimate would be appropriate. We propose using a figure that is a third of this potential maximum, which would add £27 million to the initial estimate, taking the total to £136 million.
- 3.7 In addition to this, Robin Jacob collected information from the four main Barristers' Chambers dealing with patent cases. This produced an estimate of £20 million of additional revenue.
- 3.8 There were items excluded from this enquiry that might also be relevant, such as payments to patent attorneys, payments to expert witnesses etc. From our discussions so far, the indications are that these costs might be relatively small in comparison with the direct fee income. For example, not all expert witnesses engaged for UK cases would be from the UK.
- 3.9 CIPA have suggested that a "guesstimate" of litigation costs of Patent Attorneys might be £10 million. Precise information is not possible as fee information is not typically recorded to isolate this information.
- 3.10 This produced a total fee income of £166 million.⁴ It is likely that much of this work will transfer to the Central Division once it is established and the revenue benefits from that work will then accrue to whichever country hosts the Central Division (discussed and captured in the fees estimates discussed below). We think it likely that a relatively small proportion of this work will continue in the UK outside the Central Division, perhaps £30 million. Hence location of the Central Division outside the UK leads to a substantial reduction on current business volumes.

⁴ Calculated as $136 + 20 + 10 = 166$

Potential business revenues for UK legal services firms arising from litigation currently taking place outside the UK

- 3.11 The estimates discussed in the previous section cover the fees and other such expenses earned by the UK IP community from patent litigation currently heard in the UK. However, in estimating the volume of business which would be attracted to the Central Division, one has to consider the total volume of patent litigation heard in Europe and which is likely to pass through the UPC system as a whole.
- 3.12 If the Central Division were to be based in London, it is plausible that a major proportion of the legal work would transfer to UK-based firms (and/or their London offices) or that in some cases overseas firms would set up London offices to preserve their business. These opportunities are lost if the Court is in Paris or Munich.
- 3.13 The amount of legal and other advisory fees generated by the Central Division will depend upon a number of factors and how they combine:

- The number of cases likely to be heard by the Central Division, which will be a proportion of the 1,500-2,000 cases expected to go through the UPC.
- The extent to which cases covering the same subject matter are duplicative, and where, under the new system, a single case would replace two or more cases fought in (for example) the UK and Germany.
- The number of new cases generated by reason of the availability of pan-European injunctions and damages. As to this it is reasonable to suppose that many cases are presently uneconomic to fight in any individual European jurisdiction but would become economic - and would at least exceed the number of cases consolidated.
- The fact that the UPC system envisages multiple cases on the same subject matter, that is that individual cases will routinely be bifurcated into two cases; additional cases may be brought for declarations of non-infringement if a design-around needs to be cleared as a non-infringing alternative.
- The average cost (in terms of legal fees) of these cases relative to those currently heard in the UK. We have heard anecdotal evidence that, even in “low cost” jurisdictions, the current litigation costs of a complex case involving both validity and infringement with appeals being routine, can exceed €500,000 per side, plus Court fees. In cases where the entire European market is at stake, it seems inevitable that cases will assume a far greater degree of importance than a single piece of national litigation, such that parties will be prepared to spend more to defend their position. It is notable that in the US (a market of comparable size to the 25 participating EU states) patent litigation costs are regularly in the range of \$5-10 million per side. This reflects how much parties are prepared to spend on defending or entering into a market of this size.
- The extent to which the cases which reach the Central Division are more or less hard fought and/or complex than the average case.
- The extent to which UK based legal services and IP advisory firms are already active in pursuing – and defending – patent litigation conducted in overseas courts.

3.14 It is a matter of judgement how these factors combine. Starting, however, from a total caseload of 1,500-2,000, it is reasonable to suppose that one half of these will involve procedures in the Central Division, since that Court will be the recipient (on an exclusive basis) of all revocation actions and declarations of non-infringement and revocation counterclaims bifurcated out of local and regional divisions. A plausible estimate is 750-1,000 actions per annum.

- 3.15 It is also reasonable to assume that the more complex and commercially important cases will be heard in the Central Division, such that the fees spent per side will be more in line with present UK costs than the lower-cost jurisdictions. An estimate of €750,000-1.5 million per side seems plausible for these large cases, even if smaller disputes handled entirely by regional divisions may be considerably cheaper.⁵ (This is, as noted above, substantially less than parties are prepared to spend on US litigation involving a market of comparable size.) It is also plausible that the majority of business will be conducted by advisers based in the country where the Central Division is located. This might reasonably be between 60% and 80% of business. Multiplying these factors, the potential business loss of a non UK location for the Court is between £545 million and £1.936 billion per annum.⁶

Direct revenues and employment associated with the location of the Central Division

- 3.16 There will be direct employment and expenditure effects associated with the location of the Central Division. As well as the judiciary, it will employ people in a range of administrative and supporting functions. Even if the majority of its cases are heard in English, large numbers of highly skilled shorthand writers, translators and interpreters will be required. The Central Division will in addition award contracts for ancillary functions such as cleaning. This will be a source of economic benefit for the host country: it will generate additional employment and revenue.
- 3.17 There is still uncertainty about the cost and size of the Central Division. In part this will depend on the number of cases it handles – which will in turn depend on its perceived cost and efficiency to litigants – as well as on its functions and procedures. For example, UK higher courts are generally administratively lean organisations that employ relatively small numbers of staff. In contrast, some continental European judicial structures are far larger in terms of employment and cost. One extreme example is the European Court of Justice in Luxembourg which employs approximately 2,000 staff in total. In part, this range reflects different conceptions of the role of the court as part of a broader process of litigation.

⁵ Equivalent to £605,000 - £1.21 million at current exchange rates.

⁶ Calculated as 750 actions X £605,000 X 2 parties X 60% = £545 million and 1,000 actions X £1,210,000 X 2 parties X 80% = £1,936 million

- 3.18 The European Commission have estimated a steady state cost for the Unified Patent Court of €45-60 million.⁷ This includes national and regional divisions as well as the central institutions. The Dietmar Harhoff CBA estimated the costs of the Central Division and the court of appeal to be €27.5 million. An estimate subtracting out this proportion would be €21 million.⁸ The Harhoff CBA, however, was based on an expected caseload of 940, and the latest thinking is that the court will see substantially greater volumes of business (1,500-2,000 cases per year). This suggests that €30-40 million might be a plausible range for the cost of the Central Division.
- 3.19 This equates to £24-32 million at current exchange rates. The current proposal is that the UPC will be self-financing with its costs covered by court fees. Whether this acts as a brake on potential costs is likely to depend on the governance structures of the UPC and the extent to which the interests of users – who are likely to want to keep fees down – are reflected in decisions about its administrative structures and processes.

Costs to UK legal services firms of a location outside the UK

- 3.20 If the Central Division went to Paris or Munich, UK-based law firms without a presence in those countries may decide that they need to open an office there – if they do not already have one – in order to retain business. Securing premises and a basic support staff is potentially a sizeable additional expenditure, although some aspects will be one off rather than recurring costs.

Summary of direct costs

- 3.21 We summarise the various direct costs in the table below.

Category of direct cost	£ million p.a.
A) Business revenues earned by country hosting the Central Division	545-1,936
B) Direct revenues and benefits from the location of the Central Division	24-32
C) Potential additional costs (UK firms opening offices outside London etc.)	Unquantified
Total	569-1,968

⁷ Minutes of Technical Session on the Draft Agreement on the Unified Patent Court, Warsaw, October 2011.

⁸ The CBA separately identifies the cost of the judiciary at the appeal stage (€3.75 million). For the residual costs, the CBA assumes a 25% appeal rate and we therefore subtract 20% from the costs of other staff salaries and facilities, IT etc.

3.22 We would emphasise the considerable margins of uncertainty surrounding these calculations. In the interests of clarity we have provided point estimates for most of the calculations but this should not be taken to obscure the underlying uncertainties.

4. Indirect effects

- 4.1 The previous section highlighted potential revenue and expenditure losses arising from a location of the Central Division outside the UK. In particular, that the direct costs – principally revenues that might be earned by the UK IP legal services and community with a UK location- would be considerable, with a range of £569-1,968 million.
- 4.2 The revenues accrued by UK legal services firms will in turn be spent directly on goods and services – in many cases sourced in the UK – or will be distributed to employees through salaries and owners through dividends or, in the case of partnerships, directly. The recipients will in turn spend that money in the UK, which will generate further output and employment.
- 4.3 These indirect effects are typically quantified through use of appropriate expenditure or income multipliers – essentially a “mark up” on the original expenditure to allow for these indirect effects.
- 4.4 Studies that aim to estimate these effects can proceed through direct estimation, for example using surveys to trace through the expenditure effects, or from use of input-output tables to estimate inter-sectoral linkages. In the time available for this study, we restrict ourselves to reviewing multiplier estimates used in previous studies that appear to be relevant – in order to identify the broad order of magnitude for an appropriate multiplier.

Potentially relevant estimates

- 4.5 The majority of the potential cost from locating the Central Division outside the UK arises from a loss of expenditure on legal (and associated professional and advisory services). In addition, there will be some expenditure, for example, arising from the employment of Central Division staff in London that will be spent on a broad basket of goods and services. Some items of expenditure – like the travel and expenses of witnesses and parties, for example – might be closer in nature for these purposes to tourism-related expenditure.
- 4.6 We would highlight the following studies as providing potentially informative results:
- A 2011 study conducted by SQW for Visa Europe on the expenditure impact of the 2012 London Olympics and Paralympics contains a table of suggested output multipliers for various categories of expenditure.⁹ These are in the range 1.24 to 1.7 depending on category of expenditure (meaning that £1 of additional expenditure generated £1.24-1.70 of additional output). Expenditure on “services” and “insurance” were at the bottom of this range (1.24) whereas “food and drink” and “hotels” were associated with higher multipliers (1.70 and 1.54 respectively).
 - A 2011 study by Oxford Economics of a London based professional services sector (maritime business services) suggested that the indirect effect on GDP of the sector was 1.16 times its direct effect in terms of employment and output produced.¹⁰
 - The ONS estimated in 2010 that the output to spending multiplier for the tourism related sector was 2.1.¹¹
 - A study by Think London on the economic impact of inward investment on the London economy came up with smaller estimates of multipliers, with one of 1.18 on GVA.¹²

⁹ “A Golden Opportunity: London 2012 Olympic and Paralympic Games Expenditure and Economic Impact”, Report by SQW for Visa Europe, 2011.

¹⁰ “The economic impact of the maritime business services sector”, Oxford Economics, May 2011.

¹¹ ONS, Economic and Labour Market Review, August 2010.

¹² “The economic impact of inward investment on the London economy”, Think London, 2008.

- 4.7 There is clearly a wide divergence of estimates here. In part this will reflect differences in the nature of the expenditure being analysed – for example, the profits from foreign direct investment in the UK will typically accrue to overseas shareholders and hence will not be spent in the UK. It will also reflect differences in the macroeconomic assumptions used to construct these multipliers – in particular, the extent to which additional demand is assumed to lead to extra output and employment as against simply bidding up prices and wages.
- 4.8 We therefore advocate a degree of conservatism in the choice of multiplier and a range to reflect the uncertainty over the size and persistence of these second round effects. The range we propose is 1.2 to 1.5 for an output multiplier. In other words, a direct revenue loss of £1 to UK legal services firms produces a net loss to the UK of £1.20 to £1.50. On this basis, and taking the estimates of direct effects from Section 3, produces a total cost to the UK – direct and indirect effect – of £683-2,952 million.¹³

¹³ The edges of this range calculated as £569m*1.2 to £1,968m*1.5.

5. Longer term effects

- 5.1 These are the most speculative but arguably the most important effects. The critical issue is the extent to which the location of the Central Division will affect its evolution over time in terms of ways of working, its practical interpretation of its rules of procedure and how it is perceived (and used) by inventors, potential litigants and other actors.
- 5.2 Issues that have arisen from meetings, interviews, desk research of various policy submissions and the recent European Scrutiny Committee hearings include:

- Bifurcation – There is considerable concern about the consequences if cases before the UPC are bifurcated (as in Germany). As bifurcation can result in an injunction being granted across the whole of Europe on a patent which is subsequently found to be invalid, there is a significant risk that businesses will choose, where practicable, to locate manufacturing and distribution facilities outside the scope of the UPC. In some cases this will mean economic activity being lost to the UK. Location of the Central Division in the UK is thought more likely to lead to prompt decisions on validity thus reducing the likelihood of bifurcation.
- Degree of challenge in the legal process – Concern has been expressed by UK practitioners that a system geared along continental lines allows less challenge, e.g. in terms of the credence given to the testimony of expert witnesses and their role in the decision-making process relative to the judiciary.

5.3 A particular concern has arisen about the effect of a Munich location for the Central Division, where it would be co-located with the EPO. This might well lead to a shift in gravity among patent attorneys, for example, to move away from current national centres of expertise, including London, towards Munich. If the vast majority of patents in Europe are granted by the Munich based EPO and much patent litigation takes place there or in another German city, Germany will become the overwhelming centre of patent activity in Europe. This is likely to attract not only firms of patent agents/attorneys but also the European patent/IP departments of multinational companies. There would then be a dilution of IP expertise in the UK and UK companies would either have to source more of their advice from Munich-based advisors – at a cost in terms of fees and/or travel expenses – or risk receiving lower quality or less specialised advice from the more limited pool of expertise. The loss to the UK economy of this effect may be considerable. The UK currently has one of the most successful and respected patent attorney professions in Europe, with approximately 2,000 qualified patent attorneys and a total membership of CIPA (the Chartered Institute of Patent Attorneys) of approximately 3,300.

5.4 It is not possible to reach a firm view at this stage about how the location of the Central Division might affect how it implements in practice its rules of procedure. This will depend in part on the extent to which these have been agreed before the Central Division comes into operation. However, given the UK's current efficiency in dealing more quickly than any other EU jurisdiction with disputes, the location of the Central Division in the UK is more likely to result in corresponding speed.

Longer term benefits to UK and European companies

- 5.5 The purpose of setting up the UPC and associated Patent litigation system is to reduce the costs of litigation and to ensure that the patent system works more effectively. The Harhoff CBA estimates the annual benefit to the parties throughout the EU from reduced duplication of cases – having the case heard at the UPC rather than in a variety of jurisdictions – to be €262 million by 2013. This is likely to be an underestimate of the potential benefits if the Central Division also leads to outcomes such as a reduction in the number of cases where alternative jurisdictions reach different conclusions or to an improvement in the perceived quality of the litigation. It should also mean that some patent owning companies for which piecemeal enforcement cannot be justified on economic grounds will consider it worthwhile to enforce their patent rights over the entirety of the EU.

Growth of costs and benefits over time

- 5.6 The benefits to the UK of the Central Division being located in London are likely to increase over time. This is because of the growth over a sustained period of time both in patent filing and in patent litigation. Hence the direct effects quantified in Section 3 – and the associated indirect effects discussed in Section 4 - are likely to increase over time in real terms and quite possibly faster than the growth of UK output. It is worth noting that the EPO, which started in Munich in 1978 as a relatively small institution, now employs 10,000 people (with four times more German national employees than UK national employees) and contributes some €4 billion a year to the Bavarian economy.¹⁴

¹⁴ Source: statement by President of the EPO, Benoit Battistelli, Brussels, December 2011.

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