

## Spains Unitary Patent Challenges Rejected

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The Court of Justice of the European Union (CJEU) has rejected both challenges by Spain to the unitary patent regulation and the Unified Patent Court (UPC).

The challenges were rejected in two judgements ([C-146/13](#) and [C-147/13](#)) that were handed down by the CJEU on 5 May 2015.

As expected and reported in our [earlier article](#), the CJEU followed the opinion of the Advocate General and rejected both of Spain's challenges to the regulation for administering the unitary patent system.

Spain challenged the legality of the regulation and argued that the regulation was contrary to Article 118 of the Treaty of the Foundation of the European Union which provides for the creation of European intellectual property rights that provide uniform protection throughout the European Union.

Spain argued that there was a risk that the regulation would lead to EU law not being followed correctly since the regulation was not subject to judicial review.

The CJEU rejected Spain's arguments and commented that the regulation does not delimit the conditions for granting European patents or incorporate the conditions into EU law.

Spain challenged the translation requirements set out in the regulations. In particular, the requirement for patent disputes to be administered in English, French or German, but not in Spanish. Spain also claimed that the regulation discriminates against individuals whose language is not English, French or German. The CJEU rejected Spain's challenge and argued that the translation requirements set out in the regulations are necessary to ensure a cost-effective system for patent proprietors. The rejection of Spain's challenges clears the way for the unitary patent and the UPC to take effect once the necessary countries have ratified the agreement. At the present time, we understand that this is not likely to be until late 2016 or early 2017.

We will keep you updated on the progress of the unitary patent and the UPC as the system is implemented.