

Order of the President of the Court of Appeal of the Unified Patent Court issued on 16 July 2026

HEADNOTES:

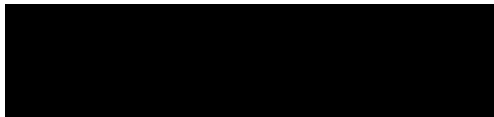
- An application to obtain confirmation of the Applicant's registration on the list of entitled representatives under Art. 48(3) UPC Agreement is admissible in accordance with Rules 13 et seq. and Rules 17 et seq. EPLC Rules
- Such an application requires clear and convincing evidence that a respective application has been filed in the Court Management System (CMS) of the UPC, as it is and has been mandatory that all such applications be filed in the CMS, unless the CMS has ceased to function, Rule 4 UPC Rules of Procedure (RoP).
- In that regard it is for the Applicant to submit all evidence available to him that he filed an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement.
- And, as only the Registrar has access to the CMS, it is for the Registrar to carry out a search in the CMS to ascertain whether an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement was filed by the Applicant.

KEYNOTE:

- EPLC Rules

APPLICANT:

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DATE OF LODGING OF THE PETITION FOR REVIEW:

- 26 February 2026

DATE OF THE ORDER OF THE REGISTRAR TO BE REVIEWED:

- 26 January 2026

DATE OF THE DECISION DENYING RELIEF OF THE REGISTRAR:

- 24 March 2026

SUMMARY OF FACTS:

1. On 6 November 2025, the Applicant applied for registration as a representative before the Unified Patent Court. The Registry identified deficiencies of the application. In his response, the Applicant invoked that, based on an earlier application, he was already registered as a UPC representative in the previous Case Management System (CMS) and that the new application was meant only to grant him access to the new CMS and confirmation of his registration as a representative before the UPC.
2. As no prior registration or application to be registered as a representative could be found, the Registrar rejected the application on 26 January 2026.
3. In his petition for review of 26 February 2026, the Applicant states that

- his earlier application had been based on Rule 12(1)(a)(ix) EPLC Rules, proof had been added according to Rule 14(2) EPLC Rules, his submission had been properly completed and should have been duly received and examined by the Registrar, especially as the CMS indicated no errors at the time of filing,
 - had any deficiencies regarding his application been identified, he should have been formally notified and given the opportunity to remedy them in accordance with the procedural rules,
 - he contacted the UPC in May 2023, to establish how to register as a UPC representative, how to lodge the Certificate/other qualification with the Registrar,
 - it was difficult to access the CMS system. Initially, it was unclear which authentication system and qualifications were required, causing delays in the application for entry on the list of representatives. Subsequently, technical issues arose, including inability to retrieve documents, open registry attachments, or access the CMS after password changes and app installation. Access remains blocked, as the system does not accept the Applicant's authentication credentials,
 - the difficulties described, together with earlier reported issues, raise concerns about the reliability and accessibility of the CMS system, which is required under the EPLC. These problems have been communicated to the Registry but remain unresolved, and no alternative guidance has been provided.
4. On 24 March 2026, the Registrar decided to not rectify his decision of 26 January 2026 and forwarded the matter to the President of the Court of Appeal according to Rule 19.2 EPCLC Rules.
5. In his decision the Registrar states that
- the Applicant was in contact with the Court's Service Desk team in 2023 regarding an application for registration as a representative and received guidance on the procedure, but it has been confirmed that no record exists of any application to be registered as a representative filed by the Applicant in the CMS prior to the one filed on 6 November 2025,
 - all individuals duly registered as representatives prior to the transition to the new CMS received a system-generated document confirming their registration as representatives but the Applicant has not submitted any such proof of being registered as a representative,
 - it is, and has been, mandatory that all requests for registration be submitted through the CMS. Filing by any other means is not permitted, except under limited circumstances in which the CMS has ceased to function and no such exceptional circumstances have been demonstrated by the Applicant,
 - a substantial number of other applicants submitted their applications to the CMS within the prescribed deadline, so that the Applicant's argument concerning the unreliability and inaccessibility of the CMS system is irrelevant for the present examination.

REASONS FOR THE ORDER:

1. The Petition for Review is admissible, as it was filed within the 1-month period of Rule 18 EPLC Rules, but unfounded.
2. As clarified by the Applicant and also rightly noted by the Registrar in his decisions of 3 December 2025 and 24 March 2026, the application is not aimed at obtaining new registration of the Applicant on the list

of entitled representatives under Art. 48(3) UPC Agreement but at obtaining confirmation of his registration on the list.

3. Such an application and a respective review are not explicitly provided for in Rules 13 et seq. and Rules 17 et seq. EPLC Rules. However, these Rules should be applied to an application, as filed by the Applicant, *mutatis mutandis*, as there is a gap in the EPLC Rules in this respect and applicants, in the same situation like the Applicant in the case-at-hand, have a legitimate interest in seeking a clarification on whether he is registered on the list of entitled representatives under Art. 48(3) UPC Agreement which would have been a reason for the Administrative Committee to fill the gap with an appropriate amendment of the EPLC Rules.
4. An application to obtain confirmation of the Applicant's registration on the list of entitled representatives under Art. 48(3) UPC Agreement requires clear and convincing evidence that a respective application has been filed in the Court Management System (CMS) of the UPC, as it is and has been mandatory that all such applications be filed in the CMS, unless the CMS has ceased to function, Rule 4 UPC Rules of Procedure (RoP).
5. In that regard it is for the Applicant to submit all evidence available to him that he filed an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement.
6. And, as only the Registrar has access to the CMS, it is for the Registrar to carry out a search in the CMS to ascertain whether an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement was filed by the Applicant.
7. In the case-at-hand, the Applicant submitted email correspondence with the UPC Service Desk (UPC Ticketing System) in 2023 about how to file an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement. It also appears from this correspondence that the Applicant was given respective information by UPC Service Desk. However, the Applicant did not submit any evidence that he had filed thereafter (or any other time) the application in the CMS.
8. As noted by the Registrar in his decision of 24 March 2026, all individuals duly registered as representatives at the time received a system-generated document confirming their registration as representatives. However, Applicant has not submitted any such evidence of being registered as a representative.
9. Furthermore, the Registrar confirms that Applicant does not appear on the list or registered representatives and that no record exists of any application for registration on the list of entitled representatives filed by the Applicant in the CMS prior to his application for confirmation.
10. Against this background, it cannot be considered clearly and convincingly proven that the Applicant filed an application for registration on the list of entitled representatives under Art. 48(3) UPC Agreement any time before his application for confirmation.

ORDER:

The petition for review of the Registrar's decision of 26 January 2026 is rejected.

This decision was issued on 16 July 2026.

KLAUS STEFAN
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Grabinski

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Dr Klaus Grabinski
President of the UPC Court of Appeal