

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

KEYNOTE:

- EPLC Rules

APPLICANT:

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DATE OF LODGING OF THE PETITION FOR REVIEW:

- 23 February 2026

DATE OF THE ORDER OF THE REGISTRAR TO BE REVIEWED:

- 26 January 2026

DATE OF THE DECISION DENYING RELIEF OF THE REGISTRAR:

- 20 March 2026

SUMMARY OF FACTS:

1. On 11 July 2025, the Applicant, who is a European Patent Attorney entitled to act as a professional representative before the European Patent Office (EPO), requested to be entered on the list of representatives before the Unified Patent Court (UPC), claiming that he fulfilled the requirements of Article 48(2) of the Agreement on a Unified Patent Court (UPCA). In support of his application, he submitted a copy of the CEIPI "Patent Litigation in Europe" diploma issued by the University of Strasbourg on 16 October 2019 and a confirmation of 25 March 2010 that he completed post-graduate studies "Podyplomowe Studium Prawa Własności Przemysłowej" at the University of Warsaw.
2. On 16 July 2025, the Registry invited the Applicant to correct deficiencies in his application, noting in particular the absence of a digitally signed application form and requesting justification for the late filing under Rule 12.1 EPLC Rules, given that the relevant transitional period had expired. The Applicant did not respond via the Case Management System (CMS). A subsequent reminder sent by email on 11 November 2025 likewise remained unanswered.
3. By decision of 26 January 2026, the Registrar rejected the application.
4. On 23 February 2026, the Applicant lodged a petition for review. He requests that the contested decision be set aside and that he be registered as a representative under Article 48(2) UPCA, relying on a subsequently completed electronically signed application. In the alternative, he seeks re-establishment of rights in respect of Rule 12.1 EPLC Rules.
5. In support of his petition for review, the Applicant submits, in essence, that:

- he possesses established and permanent professional qualifications, namely the CEIPI Patent Litigation in Europe diploma from the University of Strasbourg and a diploma from the University of Warsaw after completion of the course “Podyplomowe Studium Prawa Własności Przemysłowej”. These qualifications should not be disregarded because of procedural time limits;
 - he made diligent efforts to submit his application within the transitional period but was prevented from doing so due to technical incompatibilities between the CMS and his qualified electronic signature;
 - technical deficiencies of the submission process and the CMS notification system, resulted in him not receiving the Registry’s communications concerning deficiencies in his application;
 - refusal of registration would impose a disproportionate burden and infringe principles of legal certainty, legitimate expectations, proportionality, and the right to pursue a professional activity under EU law.
 - the failure to respond to the Registry’s communications was not due to negligence but to technical issues and missed notifications.
6. On 20 March 2026, the Registrar held that the petition for review is admissible but unfounded and forwarded it to the President of the Court of Appeal pursuant to Rule 19.2 EPLC Rules.

REASONS FOR THE ORDER:

7. The Petition for Review is admissible but unfounded.
8. Pursuant to Article 48(2) UPCA, parties may be represented by European Patent Attorneys who are entitled to act as professional representatives before the European Patent Office pursuant to Article 134 EPC and who have appropriate qualifications, such as a European Patent Litigation Certificate. In accordance with Rule 286.2 Rules of Procedure of the Unified Patent Court (hereinafter: Rules of Procedure), these requirements must be demonstrated by submitting the relevant certificates.
9. The Applicant is a European Patent Attorney who is entitled to act as a professional representative before the EPO, but has not submitted sufficient evidence that he has appropriate qualifications as required by Article 48(2) UPCA.
10. The CEIPI “Patent Litigation in Europe” diploma from Strasbourg University of 16 October 2019 and the diploma of 25 March 2010 from the Warsaw University after completion of the course “Podyplomowe Studium Prawa Własności Przemysłowej” prove that the Applicant has successfully completed the courses mentioned in Rule 12.1(a)(i) and (xiii) EPLC Rules until 31 December 2020, Rule 12.2 EPLC Rules. However, European Patent Attorneys who have successfully completed one or more of the courses listed in Rule 12.1(a) EPLC Rules shall only be deemed to have appropriate qualifications “during a period of one year from the entry into force of the UPC Agreement” which occurred on 1 June 2023, whereas Applicant submitted his request for recognition of his qualifications only on 11 July 2025, meaning only roughly one year after the time period mentioned had expired.
11. Rule 12.1 EPLC Rules does not set a time limit for submitting a request for registration, as confirmed by Rules 13 and 14 EPLC Rules, which means that a request submitted only after the period of one year from the entry into force of the UPC Agreement, is admissible.
12. However, Rule 12.1 EPLC Rules is relevant for deciding whether the two diplomas submitted by the Applicant shall be deemed as appropriate qualifications under Article 48(2) UPC Agreement. For the course completed by the Applicant and the certificates granted to him, this cannot be affirmed because this did not occur until one year after the UPC Agreement came into force.

13. Neither the EPLC Rules themselves nor the application of said rules by the Registrar of the UPC conflict with the principles of legal certainty, equality, proportionality and the right to pursue a professional activity. The ratio underlying Article 48(2) UPCA and the EPLC Rules is to ensure qualified representation of the parties by a European Patent Attorney before the Unified Patent Court. It is the decision of the Contracting UPC Member States that only European Patent Attorneys shall be registered on the list of entitled representatives under Art. 48(3) UPC Agreement who have proven appropriate qualifications to conduct patent litigation before the Unified Patent Court by having acquired a European Litigation Certificate or another appropriate qualification as defined in Rules 11 seq. EPLC Rules. The principles of legal certainty, equality, proportionality and the right to pursue a professional activity do not require the UPC Contracting Member States to provide exceptions from the general rule of completing an accredited course. In this context, the decision of the UPC Contracting Member States to allow registration based on non-EPLC-accredited courses that have been completed or granted until 31 December 2020 only for a limited period of time and only for a specified list of courses is, in itself, not objectionable.
14. Furthermore, it should be noted that the Applicant can demonstrate the required qualification at any time by either obtaining a European Patent Litigation Certificate or a legal diploma under Rule 11 EPLC Rules. Upon fulfilling these conditions, the Applicant may then be entered into the list of representatives before the Unified Patent Court.
15. The Applicant's submission that the failure to request registration before the expiry of the transitional period under Rule 12.1 EPLC Rules was not due to a lack of diligence but going back to technical challenges of the CMS, does not justify granting the registration by way of re-establishment of rights. Under the Rules of Procedure, a party which has failed to observe a time-limit may, under the conditions laid down in Rule 320 Rules of Procedure, request a re-establishment of rights. However, the EPLC Rules do neither include a rule on the re-establishment of right nor do they refer to Rule 320 Rules of Procedure.
16. Even if the Rule 320 Rules of Procedure would be applicable, it were already doubtful whether the "period of one year from the entry into force" of the UPC Agreement laid down in Rule 12.1 EPLC Rules is a deadline that could be subject to a re-establishment of right since the wording refers to the fact that certain courses and certificates "shall ... be deemed as appropriate" which implies that this is not a procedural deadline but a material provision.
17. If the principles on re-establishment of rights are applied in the period of Rule 12.1 EPLC Rules in the present case, the respective requirements are not met. A re-establishment of right requires that a deadline was missed "despite all due care having been taken". In case of the proper registration as a representative at the UPC it is not sufficient to refrain from filing such a request based on the allegation that there have been "unforeseen obstacles". In such a case it is up to the person seeking to register to submit which specific efforts have been made to overcome the specific obstacles. Applicant's general submission that he made "several attempts to access the and complete the registration" is therefore not sufficient to justify any re-establishment of rights.
18. Furthermore, the requirements for such re-establishment of rights are also not met in the case at hand, as the Applicant would be required to file such an application no later than six months after the expiry of the missed deadline.
19. In view of the above, the petition for review of the Registrar's decision is unsuccessful.

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
MARTIN
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Digitally signed by KLAUS
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Dr Klaus Grabinski
President of the UPC Court of Appeal