

Unitary Patent

What is the Unitary Patent?

The Unitary Patent is a new way for innovators and companies to protect their inventions in the EU. Currently, European patents are granted centrally by the European Patent Office (EPO) but result in a bundle of national patents which must be enforced on a country-by-country basis. In contrast, the Unitary Patent is automatically valid in all participating EU member states - it is a European Patent with Unitary Effect. 24 EU Member States are participating in this enhanced cooperation, although it is expected that initially only 17 of them will be part of the system. All disputes concerning validity of and infringement in the new Unitary Patents will be dealt with by a new court, the Unified Patent Court (UPC).

Why the Unitary Patent?

The aim of the reform is to simplify the existing system and create a cost-effective route to patent protection and dispute settlement. The existing system will still be available as an option, however, and the new landscape opens up for new strategies of combining the different routes to patent protection in Europe.

What are the benefits of the Unitary Patent?

- One patent application filing
- No validations needed
- Only one renewal fee
- Greater geographical patent protection coverage
- Patent litigation in the Unified Patent Court
- EPO pre-grant prosecution

What will happen to traditional European Patent and Applications?

All traditional European patents and applications will also come under the UPC by default. During a transitional period of at least seven years, however, it will be possible to withdraw traditional European patents and applications from the court by filing a request to opt out. If a request to opt out is not filed, the initiator of a dispute may choose between national courts and the UPC. Whether or not to opt out existing European rights from the UPC is one of the first strategy considerations as the new system becomes operational.

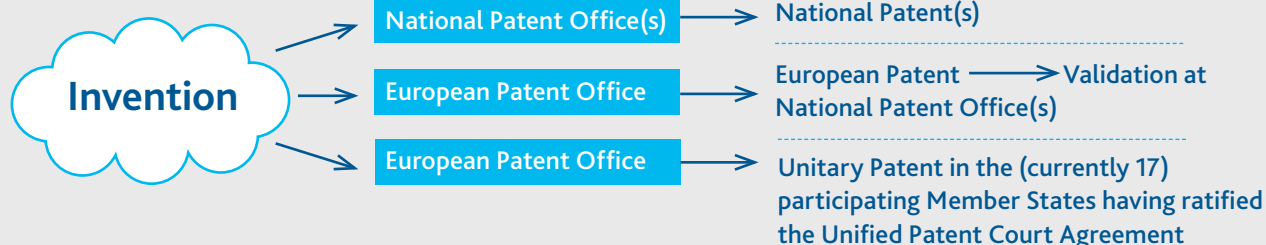
What is the Unified Patent Court?

A Unified Patent Court System will be established according to an international agreement signed by 24 EU states. Entry into force expected in late 2022 or early 2023.

While waiting for the new system several of AWA's European patent attorneys have already completed or are in the process of completing the education allowing us to hold a UPC litigation certificate.

What are the benefits of the Unified Patent Court?

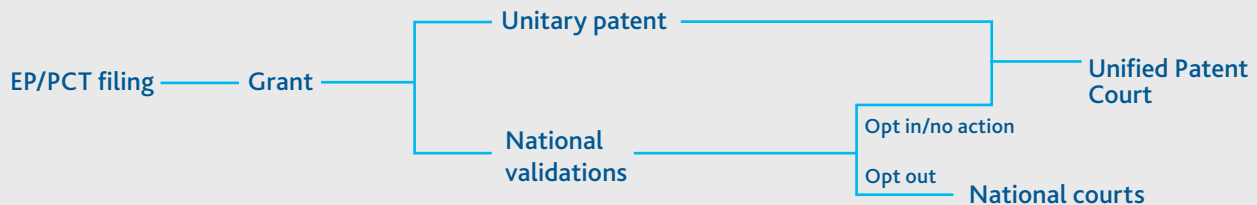
- One court decision covering all Member States
- Exclusive competence for Unitary Patents, Classic European Patents (Validations) and Supplementary Protection Certificates (SPCs)
- Competent to decide on infringement, validity, declarations on non-infringements, protective measures and preliminary injunctions
- Opt-out: A back door for owners of classic European Patents and SPCs to keep in national jurisdictions and not UPC. No official fees for opting out
- Quick procedure: Defendant has three months only to present a complete case



When does the system start?

The start date for the availability of Unitary Patents and the Unified Patent Court is dependent on an ongoing ratification process in the different EU member states. The provisional protocol to allow for important preparations such as hiring judges, entered into force in

January 2022. Following the finalization of the majority of the preparations, Germany is expected to deposit its ratification instruments for the Unified Patent Court Agreement. The Unitary Patent system will enter into force on the first day of the fourth month thereafter. It is expected that this will be no earlier than September 2022 and no later than the first months of 2023.



Key Contacts



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Sidsel leads AWA's Copenhagen office and advises clients primarily engaged in the chemical and chemical engineering fields. In addition to strategically assisting clients with patent procurement including drafting and prosecution, Sidsel regularly provides litigation support in complex infringement cases before the courts in Denmark and internationally.

She obtained the Centre for International Intellectual Property Studies diploma in European patent litigation in 2010. Sidsel is a member of the Disciplinary Committee under the Association of Danish Intellectual Property Attorneys and co-chair of the Women in IP International Committee under the American Intellectual Property Law Association (AIPLA).



Niklas Mattsson

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Niklas specialises in life sciences, with extensive experience in drafting and prosecuting patents and providing IP-related business advice. Niklas conducts infringement, validity and freedom-to-operate analyses and also has expertise in Supplementary Protection Certificates (SPCs) in the EU.

Niklas works as a technical expert during litigation cases before Swedish courts, handles EPO oral proceedings and has been an expert witness on European patent law in US patent litigation. He has been the Swedish representative in epi's Biotech Committee since 2011 and a member of AIPPI's Standing Committee on Pharma and Biotechnology since 2016.

Working with AWA

- Your trusted IP partner for over 120 years
- Consistently awarded by leading industry publications
- Commercial and business-minded attorneys that are committed to delivering exceptional quality and tailored services for a broad range of clients from high-growth start-ups to global multinational corporations
- Long-term relationships with our clients and partners as well as an extensive network of agents and qualified preferred partners
- Proactive and responsive across multiple time zones with advice and recommendations based on years of experience that will help you to make informed decisions
- International service delivery with in-depth local knowledge

