

UNITARY PATENT AND UNIFIED PATENT COURT



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5	1. The patent-reform package
6	1.1 Legal basis
6	1.2 The legal instruments
6	1.2.1 The Regulation on the unitary patent (UPR)
8	1.2.2 The Regulation on the translation arrangements for the unitary patent (UPTR)
8	1.2.3 The Agreement on a Unified Patent Court (UPCA)
8	1.3 Entry into force and application of the provisions
9	2. The Unified Patent Court (UPC)
9	2.1 Organization
11	2.2 Competence
13	2.3 The judges of the UPC
13	2.3.1 Composition of the panels
14	2.3.2 Qualification and selection
14	2.4 Procedure
14	2.4.1 Language of proceedings
14	2.4.2 Rules of Procedure
15	2.4.3 Representation
15	2.5 Stages of the proceedings
15	2.5.1 First instance proceedings and timing
15	2.5.2 Appeal procedure – basic outline
16	2.6 Costs
18	3. Patentees
18	3.1 Cost benefits of the unitary patent
18	3.1.1 Renewal fees
18	3.1.2 Validation
19	3.1.3 The relevant comparison
20	3.2 National jurisdiction or Unified Patent Court
20	3.3 The bundle patent – opt-out and opt-in

The Agreement on a Unified Patent Court (UPCA) was signed on February 19, 2013. While the two EU Regulations which are part of the reform package in addition to the Agreement on a Unified Patent Court (UPCA) became effective upon promulgation in January 2013, the UPCA required the ratification by at least 13 member states, including France, Germany, Italy (originally: the United Kingdom). BREXIT was not the only stumbling block on the path to the Unitary Patent. After the German Act on the Ratification of the UPCA had first been rescinded by the German Federal Constitutional Court (FCC) in February 2020, the legislative process was re-initiated and this time, the FCC gave permission, dismissing two additional requests for a preliminary injunction. This paves the way for an exciting joint project on which the European Patent Community has been working for decades.



Upon Austria's ratification on January 18, 2022, the Protocol on the Provisional Application of the UPCA became effective on January 19, 2022, establishing the Unified Patent Court (UPC) as an international organization. During the current preparatory phase which will end in fall 2022, the judges are appointed and trained in particular. As soon as the preparations are concluded, Germany will deposit the instrument of ratification for the UPCA and start the countdown. During the sunrise period that will follow and last at least three months, patentees will have the possibility of withdrawing their European patents from the jurisdiction of the UPC by means of an opt out, before filing actions with the UPC becomes possible. This period will be followed by a further transitional period of at least seven years during which national courts and the UPC will have concurrent jurisdiction, before the UPC will have exclusive jurisdiction with

respect to the infringement and declaration of invalidity of European patents.

1. The patent-reform package

Various attempts to create a community patent, *i.e.* a patent of the Union which is self-contained in respect of grant and validity, have been made since the late fifties of the last century and turned out to be in vain. Over the decades, the main contested issues were a common court system and the language problem, which is always a delicate question in Europe, in the present context regarding the question into which languages the patent has to be translated.

One essential reason in favor of the present reform package was the decision to link the new EU title to the grant procedure before the EPO in the simplest manner possible and make it an option for applicants.

1. The patent-reform package



1.1 Legal basis

1.2 The legal instruments

1.2.1 The Regulation on the unitary patent (UPR)

1.1 Legal basis

The creation of the unitary patent required three legislative acts which constitute the patent-reform package, that is

- the Regulation on the unitary patent (hereinafter UPR),
- the Regulation on the language regime for the unitary patent (hereinafter UPTR),
- the Agreement on a Unified Patent Court (UPCA).¹

The two Regulations were published on December 31, 2012.² The UPCA was signed by 24 of the then 27 EU States on February 19, 2013.³

1.2 The legal instruments

The unitary patent is not granted by an EU authority but by the EPO. The EPO is the executive organ of the European Patent Organisation which is an independent international organisation.

The unitary patent system has been realized by three different legislative acts because there are different legislative competences for the different subjects.

1.2.1 The Regulation on the unitary patent (UPR)

The UPR governs in particular the creation, the validity and the effects of the unitary patent. Unitary patent protection is offered to the applicant as an option which is an alternative to the traditional and well established European bundle patent having the effect of a national patent in the designated Contracting States. This option can be chosen at the end of the grant proceedings. After publication of the mention of the grant, the proprietor has one month within which to decide whether they want to file a request for unitary effect. If such a request is not filed, the effect of the bundle patent persists.

The unitary patent shall have a unitary character. It can only be limited, transferred or revoked, or lapse, in respect of all the states in which it has taken effect.

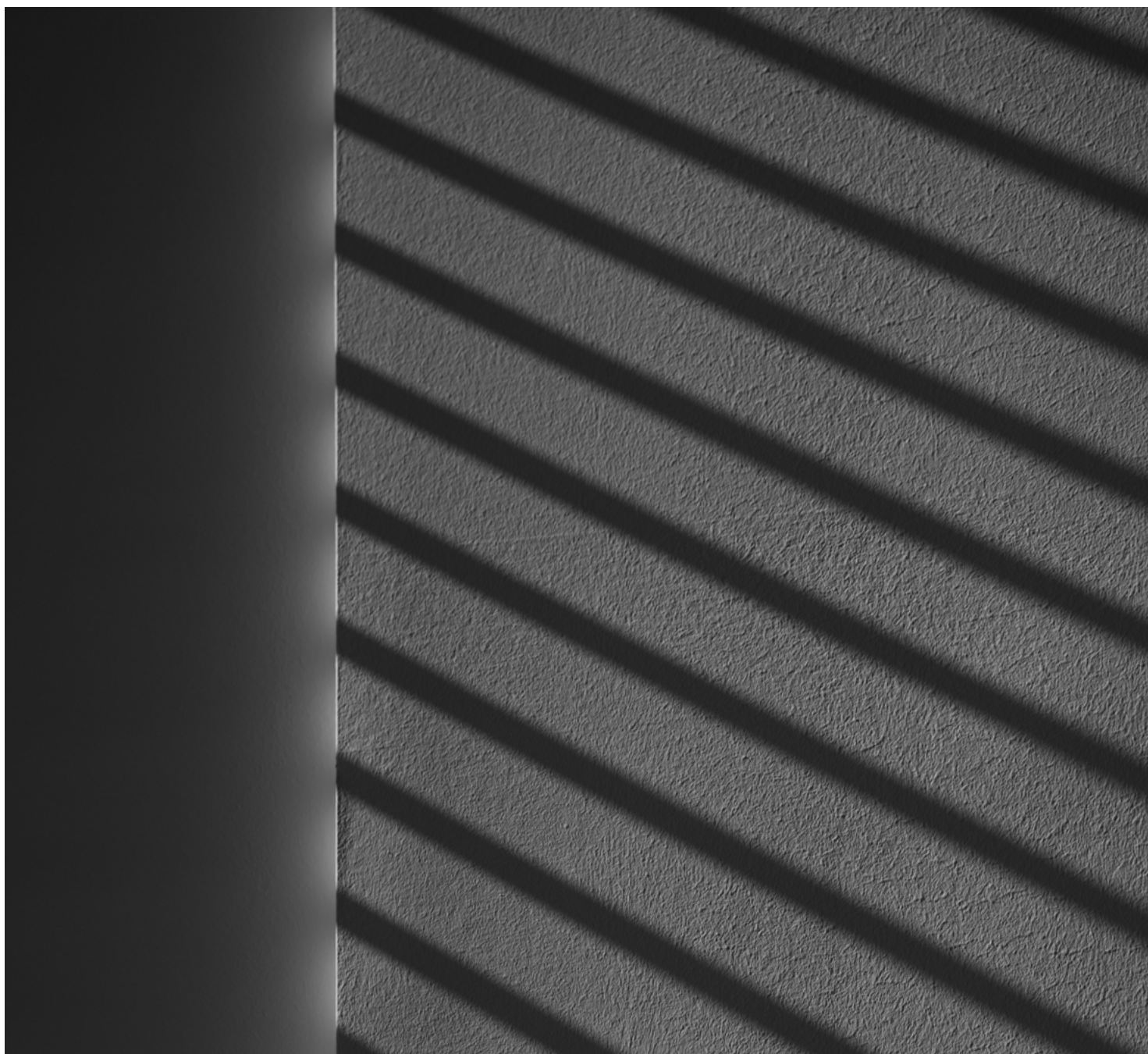
Notwithstanding the unitary character of the unitary patent, it may be licensed in respect of the whole or part of the states in which it has taken effect.

In order to maintain the unitary patent, renewal fees have to be paid to the EPO. The amounts are fixed by a Select Committee of the Administrative Council of the EPO in which the states participating in the enhanced cooperation are represented.

¹ OJ EPO 2013, 287.

² Regulation (EU) No 1257/2012 of the European Parliament and the Council of December 17, 2012 implementing enhanced in the area of the creation of unitary patent protection and Council Regulation (EU) No 1260/2012 of December 17, 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements, OJ EU L 361 of December 31, 2012, p. 1 and p. 89.

³ Out of the 26 countries participating in the enhanced cooperation for the time being, Poland has not signed so far. Spain is not participating in the enhanced cooperation. Italy signed the Agreement, although it decided to participate in the enhanced cooperation only later on.





1.2.2 The Regulation on the translation arrangements for the unitary patent (UPTR)

1.2.3 The Agreement on a Unified Patent Court (UPCA)

1.3 Entry into force and application of the provisions

On the one hand the UPR stipulates that the unitary patent shall provide uniform protection and shall have equal effect in its whole territory, on the other hand the Regulation refers to national law in respect of the acts against which the patent provides protection. However, this »national« law is the law laid down in Article 25 et seqq. UPCA which is again common to the participating states. As a supplement, the UPR confirms the principle of Unionwide exhaustion as developed by the CJEU. This means that the patentee cannot take action against the circulation of goods within the participating Member States which have been placed on the market in the Union by them or with their consent.

The UPR stipulates in detail which administrative tasks are entrusted to the EPO. Among those are in particular administering the requests for unitary effect, keeping a Register for unitary patent protection as part of the European Patent Register and the collecting and distribution of renewal fees.

1.2.2 The Regulation on the translation arrangements for the unitary patent (UPTR)

The reform package does not entail any changes for the grant procedure: The European patent application may be filed in any language; however, one version in one of the official languages English, French, or German has to be filed at any rate. Additionally, the claims must be filed in all three official languages.

In case of an infringement dispute, the patentee has to provide the alleged infringer at their request and choice a full translation of the unitary patent in the language of the state of the alleged infringement or the state of the alleged infringer's domicile. In addition, the competent court may require a full translation in the language used in the proceedings before that court.

1.2.3 The Agreement on a Unified Patent Court (UPCA)

The UPCA establishes the Unified Patent Court as a common court for the Member States to the Agreement comprising two instances. The Member States confer on the Court the exclusive competence for actions for the infringement and for the declaration of invalidity of a European patent (see item 2 for details).

1.3 Entry into force and application of the provisions

Both regulations, UPR and UPTR, entered into force on January 20, 2013.

The UPCA will become effective on the first day of the fourth months after Germany deposited the instrument of ratification. The ratification by Germany - one of the three Member States with most European patents - is an imperative requirement of the UPCA to become effective (Italy replaced the United Kingdom after BREXIT). The other requirements, particularly the ratification by at least thirteen Member States, have already been met.

Even after entry into force of the UPCA, the unitary effect of a unitary patent will be restricted to those Member States in which the Unified Patent Court has acquired jurisdiction at the date of registration of the unitary effect of the respective European patent.

This means that there will be no unitary effect for states participating in the enhanced cooperation which have not yet ratified the UPCA after its entry into force. It cannot be assumed that all signatory states will ratify the UPCA at the same time. Thus, the patent-reform package will become applicable step-by-step, depending on the state of ratification of the UPCA, and at the outset only for the 17 states if Germany is the next state to ratify.

2. The Unified Patent Court (UPC)

2.1 Organization

The Court of First Instance comprises three types of divisions:

- the central division,
- local divisions set up upon request of a Member State, and
- regional divisions set up upon request of two or more Member States

The central division will be located in Paris (France) and have a section in Munich (Germany). After London (UK) was eliminated as a

potential location for another section because of BREXIT, the Italian government suggested Milan as a replacement. The competence within the central division will be distributed based on the main sections of the International Patent Classification; for instance, the section in Munich will be competent to hear cases regarding section F (mechanical engineering, lighting, heating, weapons, blasting).

It is up to the signatory states to decide in which states local and regional divisions will be set up. Not all states have finally made up their mind.⁴

Currently (updated in March 2022), Austria, Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands, and Portugal have each declared their willingness to set up local divisions. In Germany, there will be four local divisions, one each in Dusseldorf, Hamburg, Mannheim and Munich. Sweden, Estonia, Latvia and Lithuania have concluded an agreement on the creation of a Nordic-Baltic division having its seat in Stockholm. Further local and regional divisions may be set up.

The seat of the Court of Appeal is Luxembourg. A third instance dealing only with questions of law is not foreseen. Contested questions of the interpretation of EU law have to be clarified by preliminary rulings of the European Court of Justice.

2. The Unified Patent Court (UPC)

2.1 Organization

⁴ An overview of confirmed court locations that is continuously updated is available at <https://www.unified-patent-court.org/locations>.



2.2 Competence

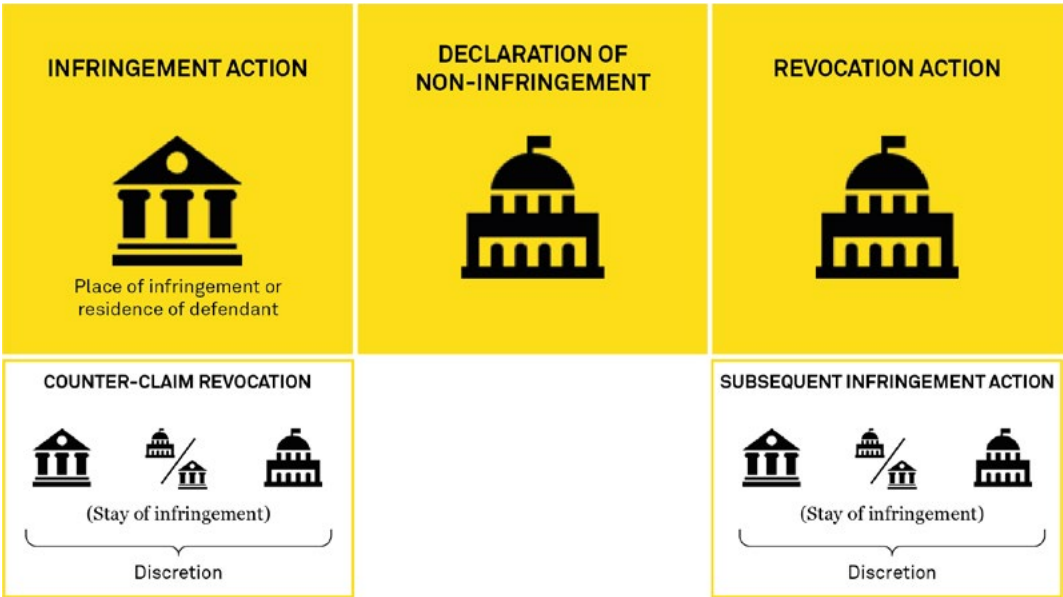
The UPC has jurisdiction over infringement cases and the question of validity regarding European patents, i.e., unitary patents and “classic” bundle patents.

Within the Court of First Instance, the local or regional division of the state of the alleged infringement and those of the state of the residence of the defendant are competent. If the defendant has no residence in any Member

State, the central division is also competent. The latter is also competent where there is no local or regional division for the state in which the infringement allegedly took place.

2.2 Competence

As a rule, only the central division is competent for actions for revocation and for declaration of non-infringement. A counterclaim for revocation may be raised before the division before which an infringement action is pending; this may be a local, a regional or the central division.



Having heard the parties, a local or regional division may

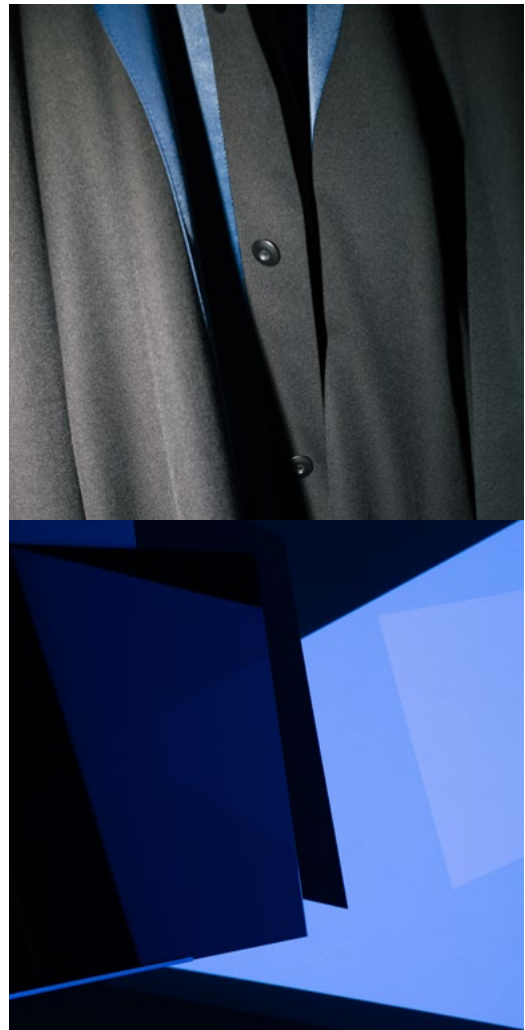
- proceed with both the action for infringement and with the counterclaim for revocation;
- refer the counterclaim for revocation to the central division with the possibility of staying the proceedings; or
- with the agreement of the parties, refer the whole case to the central division.

If the local or regional division proceeds with the revocation case itself, it is enlarged by a technically qualified judge.

In case an action for revocation is pending before the central division, a local or regional division remains competent for a subsequent infringement case. In parallel, also the central division is competent. After an action for declaration of non-infringement before the central division, an action for infringement can be brought before a local or regional division with the consequence that the proceedings before the central division shall be stayed.

If opposition or limitation proceedings are pending before the EPO, the Court may stay its proceedings, without being

obliged to do this. This means that – different from German law – opposition proceedings do not block the possibility of filing an action for revocation.



2.3 The judges

2.3.1 Composition of the panels

Any panels of the UPC shall have a multinational composition and shall be chaired by a legally qualified judge.

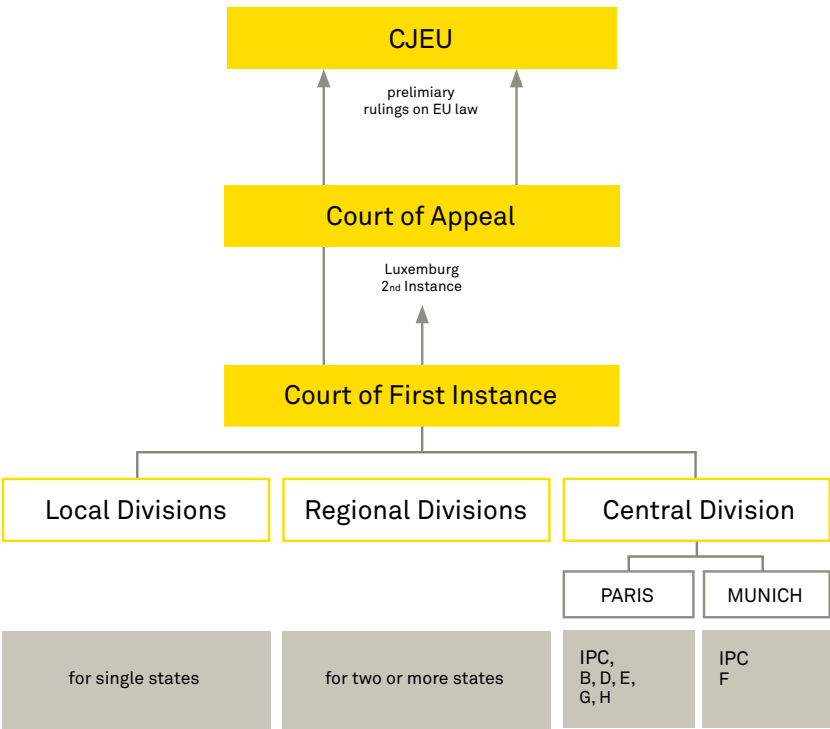
As a rule, the panels of the local and regional divisions sit in a composition of three legally qualified judges.

Upon request of a party, any panel of a local

or regional division requests the allocation of a technically qualified judge. It may make such a request of its own motion. The central division sits in a composition of two legally qualified judges of different nationality and a technically qualified judge.

The Court of Appeal sits in a composition of three legally qualified and two technically qualified judges. The judges may be full-time or part-time judges. The latter will be particularly significant for the setting-up period.

2.3 The judges
2.3.1 Composition of the panels



2.3.2 Qualification and selection

2.4 Procedure

2.4.1 Language of proceedings

2.4.2 Rules of Procedure

2.3.2 Qualification and selection

The Administrative Committee foreseen in the UPCA decides on the appointment of the judges. It takes its decisions on the basis of a list of candidates established by an Advisory Committee comprising patent judges and practitioners experienced in patent law and patent litigation.

In respect of the eligibility criteria, the UPCA sets a high yardstick.

Judges shall ensure the highest standards of competence and shall have proven experience in the field of patent litigation. However, the necessary experience may be acquired by training foreseen in the Statute. In accordance with Article 19 UPCA, a training centre has been set up for this purpose at Budapest. As usual in EU institutions, the principle of geographical distribution is a very important selection criterion.

2.4 Procedure

2.4.1 Language of proceedings

As a rule, the language of proceedings before a local or regional division is the official language of the state hosting the division. The respective state may allow the use of addition-

al languages. The majority of states will allow the use of English as an additional language. This takes into account that two thirds of the European patents are granted in English. With the agreement of the division, the parties may choose the language of the granted patent. If the Court disagrees, the parties may request that the case be referred to the central division. The language of the proceedings before the central division is the language of the granted patent.

Before the Court of Appeal, the language of the proceedings remains the same as in first instance proceedings, unless the parties agree on the use of the language of the granted patent.

The Agreement allows for some flexibility if other language arrangements appear to be appropriate in particular situations.

2.4.2 Rules of Procedure

It is the task of the Administrative Committee to adopt the Rules of Procedure of the UPC on the basis of a broad consultation with the stakeholders. The 18th and final draft⁵ which has taken the results of a public consultation into account comprises some 382 Rules. *Inter alia*, they are dealing with the different types of actions, the different stages of the proceedings, the role of the judge rapporteur, the case management by the judge rapporteur and the chairman, the means of evidence, the conduct of oral proceedings, provisional measures, appeals and fees.

⁵ <https://www.unified-patent-court.org/sites/default/files/UPC-Rules-of-Procedure.pdf>, last modified version: March 15, 2017



2.4.3 Representation

In proceedings before the UPC, parties have to be represented by a lawyer. Representation may be undertaken by lawyers entitled to act before a court of a Member State or by European Patent Attorneys having appropriate qualifications such as a European Patent Litigation Certificate.

2.5 Stages of the proceedings

2.5.1 First instance proceedings and timing

Proceedings before the Court of First Instance consist of several stages. As a rule, the final oral hearing should take place within one year.

The first stage consists of written proceedings in which normally two briefs from each side are exchanged within a rather strict timetable. The pleadings are to be submitted in electronic form, unless this is not possible for any reason. The written proceedings should normally not exceed eight to nine months. This stage is conducted by the judge rapporteur.

The second stage is the interim procedure, also conducted by the judge rapporteur. It intends to comprehensively prepare the case for the oral hearing and to clarify the position of the parties in respect of the contested relevant main issues.

To this end, the judge rapporteur may hold an interim conference which may take place as a telephone or video conference. This stage should be finished within three months.

As the next step, the judge rapporteur summons the parties to the oral hearing and informs the presiding judge of the closure of the interim procedure. From this point in time, the presiding judge takes over the management of the case. The oral hearing takes place before the panel and should be completed within one day. The decision on the merits of the case should be given as soon as possible after the oral hearing; in exceptional cases it may be pronounced immediately after the oral hearing. The written and reasoned decision on the merits should be issued within six weeks from the oral hearing.

2.5.2 Appeal procedure – basic outline

All final decisions and orders of the Court of First Instance are subject to appeal. Any party may appeal if it is adversely affected, *i.e.* if its requests turned out to be unsuccessful. The statement of appeal against a final decision has to be filed within two months and the statement of grounds of appeal within four months of its notification. The appeal may be based on points of law and points of fact. New facts and evidence may only be introduced where the submission thereof could not reasonably have been expected during first instance proceedings. An appeal has no suspensive effect unless the Court of Appeal decides

2.4.3 Representation

2.5 Stages of the proceedings

2.5.1 First instance proceedings and timing

2.5.2 Appeal procedure - basic outline

2.6 Costs

otherwise on a party's request. In principle, the conduct of appeal proceedings is similar to first instance proceedings. Also in second instance the judge rapporteur prepares the case for the oral hearing. At the end of the proceedings, the Court of Appeal takes a decision on the merits of the case. In exceptional cases, the Court may refer the case back to the Court of First Instance.

According to the Rules of Procedure, certain procedural orders are always subject to appeal, others only if the Court of First Instance grants leave. If a request to grant leave is refused, a request for a discretionary review to the Court of Appeal is available.

2.6 Costs

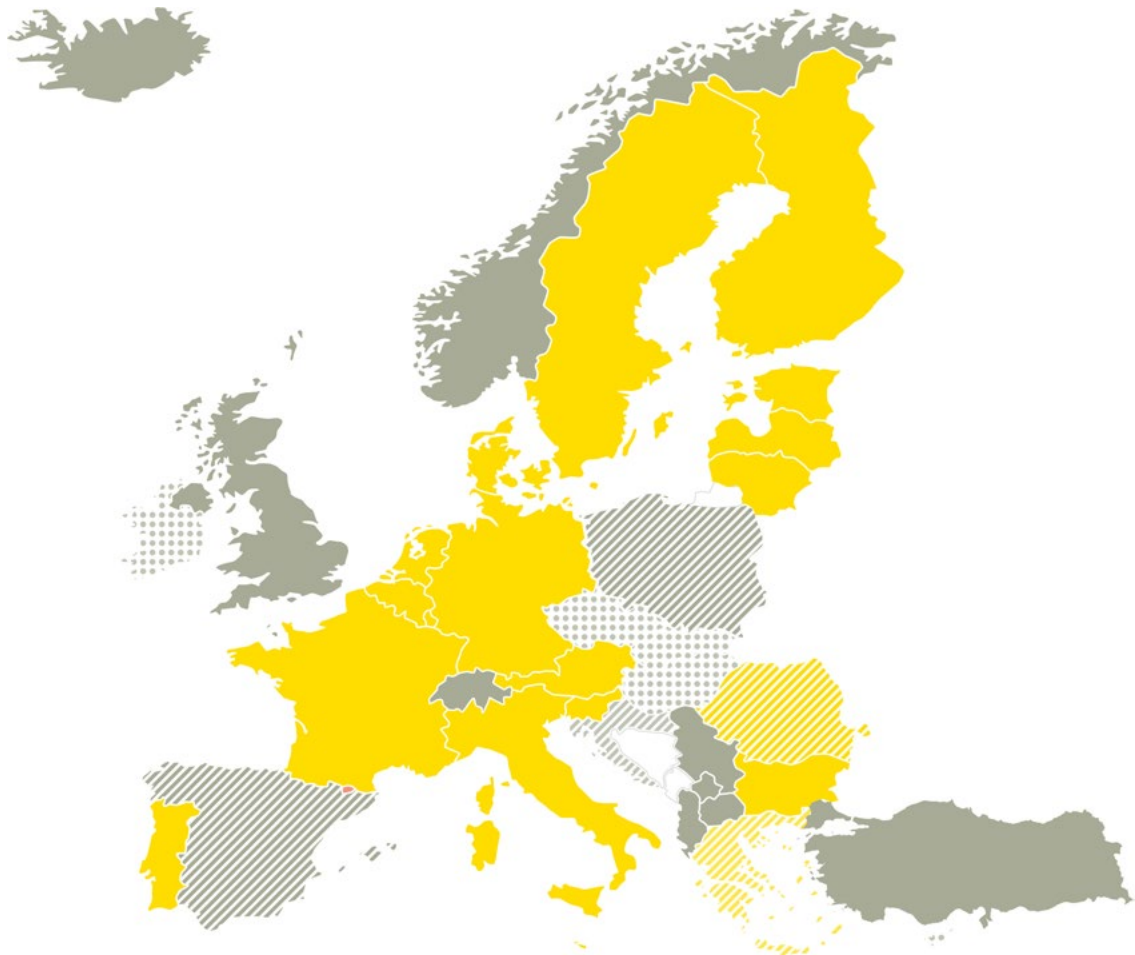
In proceedings before the UPC, court fees have to be paid. These fees are comprised of a fixed fee and a value-based fee. The fixed fee for the infringement action, the action for declaration of non-infringement and some other actions and applications is EUR 11,000. It is supplemented by the value based fee which starts at EUR 2,500 for the value of action above EUR 500,000 and has its maximum amount of EUR 325,000 for the value of action above EUR 50,000,000. For interim relief, including applications for an interim injunction, there is a fixed fee of EUR 11,000. The fixed fee for the revocation action is EUR 20,000, for the counterclaim

for revocation it is EUR 11,000. In addition, the value based fee has to be paid, for the counterclaim for revocation only up to the ceiling of EUR 20,000. The amount for the appeal fee is for most cases EUR 11,000, plus the value based fee.

In accordance with Article 69 (1) UPCA, the losing party has to pay "reasonable and proportionate costs and other expenses incurred by the successful party, unless equity requires otherwise". At the request of the winning party, the Court renders a cost decision. Different from the court fees, costs for parties' own expenses and attorney's fees are not calculated on the basis of the value of the action. The main part will be the bill of the successful party's attorneys, in patent litigation usually based on hourly rates.

There are two limits: First, the costs must be reasonable and proportionate, and second, Article 69 (1) UPCA in conjunction with table for recoverable costs provides for a ceiling for the costs to be paid by the losing party for each instance of the Court proceedings. The scale starts at recoverable costs up to EUR 38,000 for the value of action up to EUR 250,000 and ends at recoverable costs up to EUR 2,000,000 for the value of action above EUR 50,000,000.

This means that the litigation cost risk in the UPC system will be much higher than before most European national courts in national litigation.



- already ratified AT, BE, BG, DE, DK, EE, FI, FR, IT, LT, LU, LV, MT, NL, PT, SE, SI
- in the process of ratifying GR, RO
- decided not to ratify/ outside enhanced cooperation ES, PL, HR
- no steps for ratifying CY, CZ, HU, IE, SK
- EPO member states outside EU

3. Patentees

3.1 Cost benefits of the unitary patent

3.1.1 Renewal fees

3.1.2 Validation

3. Patentees

3.1 Cost benefits of the unitary patent

For the sake of clarity, it has to be noted in advance that the European bundle patent will remain effective even if a request for unitary effect has been filed for

- the Contracting States of the EPC which are not EU Member States,
- the EU Member States which are not participating in the enhanced cooperation, and
- the participating Member States in which the UPCA has not yet entered into force.

For all three groups of states, only the traditional bundle patent remains applicable. Thus, no cost benefits can arise for these states. Switzerland and Spain, as well as the UK, belong to the first and second group. The potential benefits for the third group are determined by the successive ratifications of the UPCA.

3.1.1 Renewal fees

It is apparent that the unitary patent will significantly simplify the payment of annuities. Presently, all Contracting States of the EPC require the annual payment of renewal fees. A plurality of formal requirements is applicable. Such requirements differ from country

to country, (may) change on a regular basis and pertain to types of payment, accounts or amounts of fees or specific rules of representation for payments, for example. In contrast, a single renewal fee is payable to the EPO for the unitary patent.

The calculation of future renewal fees is based on the »True Top 4« model.⁶ It is based on the principle that the renewal fees for the unitary patent should correspond to the total sum of renewal fees currently paid for the four most frequently validated countries (DE, FR, NL, UK). So far, the Brexit has not yet been considered as a reason for recalculating the renewal fees. The amounts start at EUR 35 for the 2nd year, exceed the threshold of EUR 1,000 after the 9th year and end at EUR 4,855 for the 20th year. Over the whole term they sum up to EUR 35,555. For the first ten years the total is EUR 4,685.

3.1.2 Validation

As compared to a traditional bundle patent, costs of validation may be eliminated with the unitary patent. Such costs are comprised of the costs of translation, costs of the required representation by a national representative, and fees for the filing with the national Office.

Pursuant to Article 6 UPTR, a full translation of the granted patent has to be filed with the EPO during the transitional period of at least six and no more than 12 years (see item 1.3.2).

⁶ For the amounts in detail, see the schedule of renewal fees in Art. 2 RFees for Unitary Patent Protection, OJ EPO 2016, A 40



3.1.3 The relevant comparison

Thus, the patentee has to ask themselves two questions: in which countries can I achieve savings and for which countries do I need protection.

In this respect the fact that 50% of granted European patents are only validated in up to three EU Member States needs to be considered first. First of all, these will be the countries with the highest number of existing granted patents, that is Germany, France and the United Kingdom. No translation is required for these countries pursuant to the London Agreement. However, for a unitary patent a translation has to be filed during the transitional period in all cases, as mentioned above. Thus, for patents validated in these countries, the unitary patent actually leads to an increase of the translation costs.

What also needs to be taken into account is the fact that the United Kingdom will be excluded from the Unitary Patent because of BREXIT. Applicants that seek protection there will have to pay for the costs of validation and the renewal fees. They amount to GBP 720 for the fifth through tenth year, to GBP 2;050 for the fifth through 15th year and to GBP 6,640 for the fifth year through the expiry of the patent. This means that BREXIT considerably minimizes the advantages of the Unitary Patent in terms of renewal fees.

In contrast, about 1,000 patents are annually validated in all EU Member States, with esti-

mated validation costs exceeding EUR 32,000.

It is obvious that a proprietor who needs such a broad territorial protection will achieve great cost benefits with the unitary patent. This applies even at the outset, when the patent-reform package will only be applicable in 17 Member States at the outset.

Thus, while the cost assessment is rather clear for about half the granted European patents, the circumstances of the individual case have to be examined for the majority of the remaining ones, *i.e.* the individual interest in broad protection, the present requirements of translation in consideration of the London Agreement and the status of ratification of the UPCA.

For the renewal fees too, it has to be taken into account that the European patent has been validated in some 50 % of the cases only in up to three countries, whereas the proprietor of the unitary patent has to pay the equivalent for four countries. In this respect, the question arises whether the users of the European patent system attribute an added value to the unitary patent and whether they are willing to pay more for it (see item 5).

Finally, the proprietor's obligation to pay the full single renewal fee for the whole life of the unitary patent has to be taken into account, whereas the bundle patent allows decreasing the financial burden during the term of the patent by allowing it to lapse in individual designated states.

3.1.3 The relevant comparison

3.2 National jurisdiction or Unified Patent Court

3.3 The bundle patent – opt-out and opt-in

3.2 National jurisdiction or Unified Patent Court

For the patentee, the route to the UPC has the advantage that they can enforce the unitary patent and the European bundle patent in one single procedure with effect in all states for which the UPCA has entered into force. While this increases the economic impact of the patent, it implies at the same time the indispensable risk that the patent may be invalidated in one single procedure for its whole territory, be it in isolated revocation proceedings, be it in infringement proceedings in which a counterclaim for revocation has been raised (“all eggs in one basket”).

Establishing local and regional divisions serves the purpose of integrating existing systems. This is particularly true for France, Germany, and the Netherlands, where experienced patent judges work and these resources are especially used by the provision in the UPCA according to which local divisions in a country with more than 50 patent cases per year sit in a composition with two judges from this country and one judge from another country.

To a large extent, it is within the control of the patentee before which local division litigation takes place. They generally have the choice between the residence of the defendant and the place of infringement.

The plaintiff, however, can hardly expect judges coming from their national jurisdiction with which they are familiar to attend the central division. At the central division, the principle of geographical

distribution of staff will have a significant effect. While judges from countries with experienced national patent courts will mainly work in local and regional divisions, the central division will primarily be comprised of judges from other countries. This may have the consequence that more judges from other countries will sit in the central division.

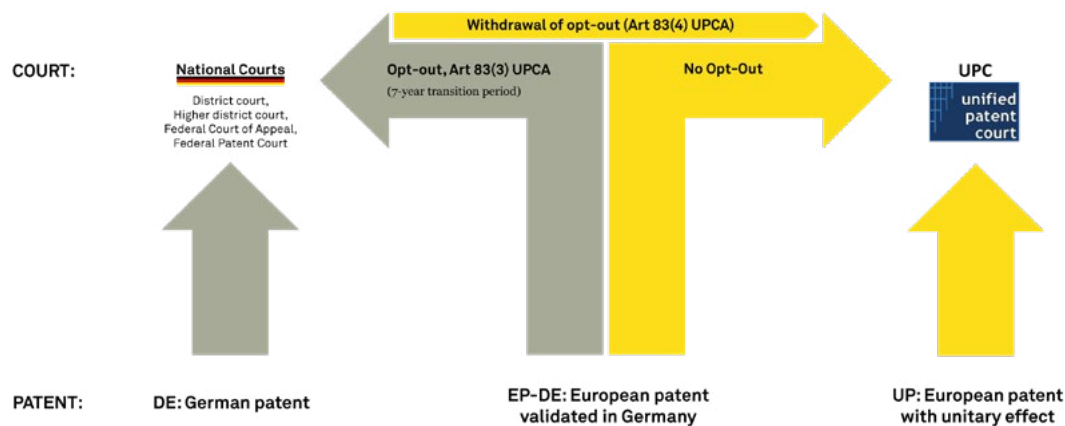
3.3 The bundle patent – opt-out and opt-in

A transitional arrangement which only applies to bundle patents and not to unitary patents is intended to increase acceptance by the users. During the transitional period, there is a concurring jurisdiction of the national courts. In addition, the applicant or patent proprietor may exclude the exclusive jurisdiction of the UPC up to one month before the end of a transitional period (opt-out).

Attention has to be drawn to the fact that the jurisdiction of the UPC is not limited to European bundle patents granted after the entry into force of the UPCA. Rather, it also comprises patents granted before and valid for the States in which UPCA has become effective.

Thus, at the entry into force of the UPCA, the patentee has to check their whole portfolio of European patents as to whether they want to exclude the jurisdiction of the UPC. No fee is payable for the opt-out.

An opt-out declaration can be submitted within a transitional period of seven years which can be extended up to 14 years.



Both, opt-out and opt-in (i.e. withdrawing the opt-out), are subject to the requirement that no action has been filed yet at the court which had jurisdiction until the relevant declaration. Accordingly, a patent proprietor may file a declaration of opt-out for the time being, assuming that they can withdraw this declaration if they eventually come to the conclusion that they want to make use of the advantages resulting from the enforcement of the patent before the UPC with effect to all UPCA states. However, an alleged infringer may file an action for revocation or for declaration of non-infringement at a national court before the proprietor declares an opt-in.

Patentees considering the unitary patent not attractive (yet) in respect of the renewal fees and the obligatory translation have to consider how to react to the jurisdiction of the UPC for bundle patents. A further possibility in addition to opt-out is escaping the UPC by filing national applications. In this context, a remarkable increase of German patent applications filed in recent years by Japa-

nese and US applicants may be noted. This may be interpreted as an indication of a renaissance of the national patent systems. However, it has to be taken into account that a definite decision between the alternatives of a national patent and the national court on the one hand and a European patent and the UPC on the other hand is not necessary before the transitional period has lapsed and an opt-out is no longer possible.

Patentees choosing the unitary patent with the obligatory exclusive jurisdiction of the UPC who don't want to lose access to national courts may consider filing utility models in Germany. They offer cost-efficient protection which can be obtained quickly, within a few weeks from filing at present. However, utility models are only available for products, not for processes. In the field of biotechnology, utility models are expressly excluded. The shorter term of utility models is of different relevance, depending on the different life cycles of products in different technical fields.



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