



CHINA

UNITARY PATENT PACKAGE

Simplified and broader patent protection at a
lower cost

European Patent Office

© EPO June 2022

epo.org/unitary

www.ipkey.eu



Funded by the European Union
受欧盟资助



Directed by the European Commission, IP Key is implemented by the European Union Intellectual Property Office (EUIPO).

IP Key由欧盟委员会指导，欧盟知识产权局（EUIPO）实施。

Copyright Notice & Disclaimer of liability: This material has been produced, translated and/or adapted by the European Union Intellectual Property Office ("EUIPO"), within the framework of the IP Key CHINA Programme, with the support of the European Patent Office ("EPO"). The EPO does not guarantee that it is free from errors or omissions and disclaims any liability concerning its reliability or its use/inability to be used and possible related damage(s), loss of data, profits or revenues. For reference purposes, the original version may be available at: www.epo.org

CONTENTS

| | |
|---|------------------------------|
| THE UNITARY PATENT SYSTEM | 3 |
| FROM A BUNDLE OF NATIONAL PATENTS | 3 |
| ...TO A SINGLE UNITARY RIGHT | 4 |
| HOW WILL IT WORK? | 4 |
| HOW TO OBTAIN IT?..... | 5 |
| WHAT WILL IT COST?..... | 5 |
| WHAT ABOUT THE GEOGRAPHICAL COVERAGE? | 6 |
| A SINGLE COURT FOR PATENTS IN EUROPE..... | 7 |
| WHEN WILL THE NEW SYSTEM START?..... | ERROR! BOOKMARK NOT DEFINED. |

The Unitary Patent System

The Unitary Patent will supplement and strengthen the existing centralised European patent granting system. Together with the Unified Patent Court, it will provide users with a cost-effective option for patent protection and dispute settlement across Europe and stimulate research, development and investment in innovation.

European patents are potent assets, enabling innovative companies to attract investment, make profitable licensing deals, protect their market share and expand their business. However, validating, maintaining and enforcing European patents can be costly and complex. The new Unitary Patent system will not only make it simpler and cheaper to protect inventions throughout Europe effectively but also introduce a less complex, centralised dispute settlement system offering greater legal certainty.

From a bundle of national patents...

Since the 1970s, the European Patent Office (EPO) has provided a single centralised process for granting patents in Europe. Patent applications, filed in English, French or German, are extensively searched and legally examined to ensure that the resulting patents are of the best possible quality. After this centralised grant procedure, the patent proprietor can obtain patent protection in up to 44 countries. However, the granted European patent is not a unitary right but instead a bundle of national patents, meaning it has to be validated and maintained individually in each country in which it is to take effect – a process that can be cumbersome and expensive.

The granted European patent is not a unitary right but instead a bundle of national patents, meaning it has to be validated and maintained individually in each country – a process that can be cumbersome and expensive.

... to a single unitary right

The Unitary Patent system will eliminate these shortcomings for the participating EU Member States: the **new European patent with unitary effect** will offer a simplified route to uniform and broad territorial patent protection, significantly reduce red tape and bring down costs. The centralised pre-grant procedure of the European patent will be supplemented by a centralised post-grant procedure: instead of validating their European patent in several states individually, proprietors will be able to obtain a Unitary Patent by filing a single request with the EPO, which will act as a one-stop shop also responsible for centrally administering the Unitary Patent and the related fee payments.

The new European patent with unitary effect will offer a simplified route to uniform and broad territorial patent protection, significantly reduce red tape and bring down costs.

How will it work?

The Unitary Patent will complement the existing European patent system rather than replacing it. Innovative businesses from all over the world will be free to choose whether to take the national route of validating their European patent in one or more EU Member States or opt for Unitary Patent protection. Or they can combine the new system with the existing one and so have a Unitary Patent alongside validating their classic European patent in other EPC Contracting States that either are not participating in the new system or have not yet acceded to the Agreement on a Unified Patent Court (UPCA).

The Unitary Patent will complement the existing system rather than replacing it.

Innovative businesses from all over the world will be free to choose whether to take the national route, opt for Unitary Patent protection, or combine the new system with the existing one.

How to obtain it?

Before proprietors can have a Unitary Patent registered by the EPO, they must first obtain a European patent. This means that a European patent application must be filed and processed under the familiar and trusted rules and procedures of the European Patent Convention. What is new is that the existing centralised pre grant procedure will be supplemented by a centralised post-grant procedure at the EPO.

The procedure for obtaining a Unitary Patent is simple and straightforward: the European patent must have been granted with the same set of claims in respect of all the participating EU Member States. The request for unitary effect will then have to be filed within one month of publication of the grant of the European patent. Except in an initial transition period, no post-grant translations will be required for the Unitary Patent. The EPO will examine the request for unitary effect and register a Unitary Patent if the requirements are fulfilled.

The procedure for obtaining a Unitary Patent is simple and straightforward: Proprietors must first obtain a European patent, then a request for unitary effect will have to be filed.

What will it cost?

The request for unitary effect will be entirely free of charge, i.e. no filing, examination or registration fees will be payable to the EPO for this.

The renewal fee for a Unitary Patent has been fixed at a very attractive and business-friendly level: the total cost of maintaining it for the first ten years, which is the average lifetime of a European patent, will be less than EUR 5 000.

A comparison of the fees and indirect costs shows that the overall cost of a Unitary Patent will be significantly lower than the cost currently incurred in validating and maintaining a classic European patent in four countries.

The full cost-saving potential of a Unitary Patent becomes clear when the savings from its simplified administration are also factored into the equation. In today's fragmented post-grant phase, different renewal fees of different amounts have to be paid in different currencies to different national patent offices, which also have different legal requirements, especially in terms of time limits. For the Unitary Patent, there will be just a single renewal fee, payable centrally to the EPO in a single currency (euro) and via a standardised procedure with one deadline and no obligation to use a

representative.

What is more, SMEs will be eligible for compensation of EUR 500 for the costs of filing a translation of their initial patent application into one of the three official languages at the EPO.

| Renewal fees for the Unitary Patent | | | | |
|-------------------------------------|-----------|--|-----------------------|-----------|
| - | - | | 11 th year | EUR 1 460 |
| 2 nd year | EUR 35 | | 12 th year | EUR 1 775 |
| 3 rd year | EUR 105 | | 13 th year | EUR 2 105 |
| 4 th year | EUR 145 | | 14 th year | EUR 2 455 |
| 5 th year | EUR 315 | | 15 th year | EUR 2 830 |
| 6 th year | EUR 475 | | 16 th year | EUR 3 240 |
| 7 th year | EUR 630 | | 17 th year | EUR 3 640 |
| 8 th year | EUR 815 | | 18 th year | EUR 4 055 |
| 9 th year | EUR 990 | | 19 th year | EUR 4 455 |
| 10 th year | EUR 1 175 | | 20 th year | EUR 4 855 |

— Additional fee for belated payment of a renewal fee = 50 % of the belated renewal fee (Rule 2[1], item 2, RFeesUPP)

— Renewal fee reduction of 15 % in case of a license of right (Rule 12 UPR, Rule 3 RFeesUPP)

For more information about the cost of a Unitary Patent as compared with equivalent protection in just four leading European countries under the “classic” European patent system, see the [EPO website](#).

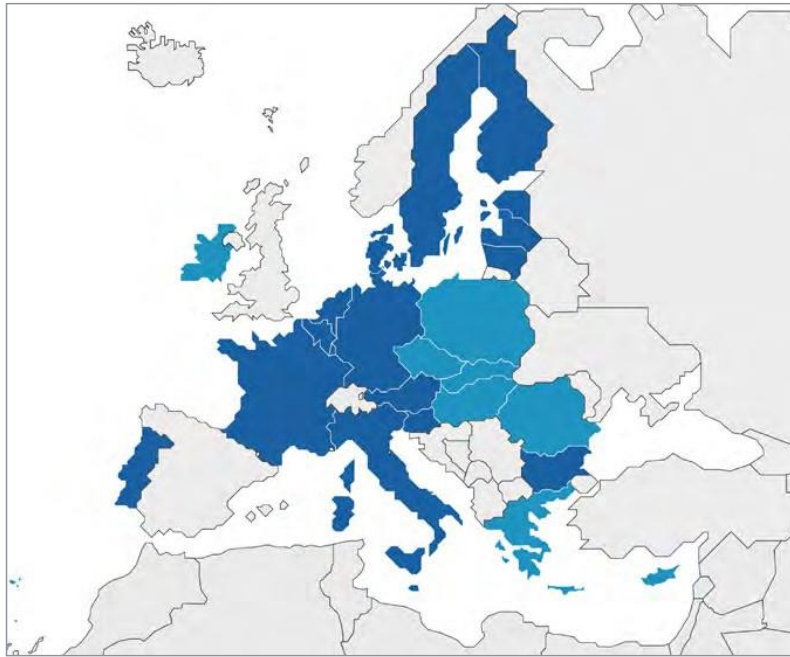
The request will be free of charge and the renewal fee has been fixed at a very attractive and business-friendly level.

What about the geographical coverage?

The geographical scope of the Unitary Patent will eventually cover all the 25 EU Member States that have joined the enhanced cooperation on Unitary Patent protection.

But to be covered by the Unitary Patent, a Member State must not only be participating in the enhanced cooperation but must also have ratified the UPCA when the Unitary Patent is registered. It is expected that at least 17 states will have done so by the time the new system starts.

The geographical scope of a given Unitary Patent will remain the same for its lifetime and will not be extended to states that ratify the UPCA after its unitary effect has been registered.



The 25 states participating in enhanced cooperation include 17 states (dark blue) which have ratified the Unified Patent Court Agreement (UPCA) and so will be covered by Unitary Patent protection when the new system starts (namely: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Sweden); as well as 8 other states (pale blue) which could join the system once they ratify the UPCA (namely: Cyprus, Czech Republic, Greece, Hungary, Ireland, Poland, Romania, Slovakia).

A single court for patents in Europe

The new dedicated Unified Patent Court (UPC) will apply uniform substantive patent law in determining the scope of the rights conferred and their limitations.

Judicial enforcement will also become much simpler, with actions brought before the Unified Patent Court (UPC), a new dedicated central patent judiciary for the participating EU Member States with jurisdiction to hear disputes over infringement or revocation in particular.

Today's absence of a dedicated European patent court means patents may need to be litigated in parallel proceedings before various national courts, which can make taking legal action complex and costly for all parties.

The UPC will put an end to this. Holders of Unitary Patents and classic European patents will enjoy a simpler patent litigation environment in the states signed up to its jurisdiction.

The UPC will consist of a Court of First Instance, a Court of Appeal and a Registry. It will apply uniform substantive patent law in determining the scope of the rights

conferred and their limitations. Decisions will be taken by multinational panels composed of both legally and technically qualified judges. Their decisions will meet the highest standards of quality and establish harmonised case law ensuring greater legal certainty.

Procedures before the UPC will be simpler, quicker and more efficient. The cost of litigation will also be lower as there will be no need to litigate in each Member State. Small companies will additionally benefit from reduced court fees and, if they lose their case, a lower ceiling on the recoverable costs that can be awarded to the winning side. Besides Unitary Patents, the UPC will also have jurisdiction over classic European patents, although some exceptions will apply for a transitional period of seven years.

When will the system start?

The new Unitary Patent system is expected to come into effect by the **end of 2022**.

Transitional measures

To support users in an early uptake of the Unitary Patent, the EPO has introduced two transitional measures applicable to European patent applications that have reached the final stage of the grant procedure: the “early request for unitary effect” and the “request for a delay in issuing the decision to grant a European patent”. More information about these transitional arrangements is available [here](#).

The new system will come into effect by the end of 2022. To support users, the EPO has introduced two transitional measures applicable to European patent applications.