

EIP



What is the Unitary Patent, and how do I get one?

The Unitary Patent will be a single patent right, obtained via the European Patent Office, covering all EU Member States which have ratified the agreement at the patent grant date. (As of June 2022, the participating countries are Belgium, Bulgaria, Denmark, Estonia, France, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden, and will further include at least Germany by the date of entry into force)

The request to convert the European patent into one having unitary effect, instead of a bundle of national rights in the participating countries, is made by the proprietor on grant of the patent to the European Patent Office (EPO). Even if other countries join the system after the grant of the patent, they will not be added to the Unitary Patent and if protection in those countries is required then the European Patent will need to have been validated in those countries at grant, in the same way as for a classical European Patent (i.e. as under the current system).

A unitary patent will be a single indivisible patent, rather than a bundle of national patents. It will have the same claims for all participating Member States and must be valid in all states. The UP will offer protection in many countries for a lower total cost, as compared to the current bundle system. Further, a single enforcement action, effective in many countries, should make litigation cheaper too.

A unitary patent may only be limited, transferred or revoked, or lapse in respect of all the participating Member States. However, a unitary patent may be licensed in respect of the whole or part of the territories of the participating Member States.

Note that the Unitary Patent will not be compulsory. It will be possible to use the

classical EPC route even for Member States which participate in the Unitary Patent system. The classical route may remain attractive because, compared with a classical European patent, for the Unitary Patent:

- Costs will be higher if you only usually validate in a few countries (<3).
- There is a single renewal fee; it is not possible to drop countries to “prune” portfolio and reduce costs by not paying a renewal fee for a given country.
- Patent is vulnerable to a single knock out across member states, and from people in countries who previously would not have taken any interest because you did not validate in that/those country/countries.
- Prior art that is currently only relevant in one state would invalidate the patent in all member states of the Unitary Patent.
- Cannot opt-out of the UPC (if you wanted to).

Interested in learning more about the UPC? This is one of a series of short explainers about the Unitary Patent and Unified Patent Court. The full list of articles is:

- [What is the Unitary Patent, and how do I get one?](#)
- [What is the Unified Patent Court?](#)
- [What is the likely timing of the UPC and UP coming into being?](#)
- [How does the opt-out work in the transitional period of the UPC Agreement?](#)
- [What are the options if you want to be able to use the UPC?](#)
- [What are the options if you want to avoid the UPC?](#)
- [What languages does the UPC use?](#)
- [Member States participating in UPC](#)