



Unitary Patent package

Making Europe more attractive
for innovation and investors

September 2024

The Unitary Patent

will boost Europe's competitiveness by supplementing and strengthening the existing centralised European patent granting system. Together with the Unified Patent Court, it provides users with a cost-effective option for patent protection and dispute settlement across Europe and so stimulates research, development, and investment in frontier technology. These are vital steps towards the realisation of an EU single market for technology.



The EPO and the fragmented patent system after grant in Europe

As the patent office for Europe, the European Patent Office (EPO) supports innovation, competitiveness and economic growth across Europe. The EPO is not an EU institution but a separate intergovernmental institution set up on the basis of the [European Patent Convention \(EPC\)](#).

The EPO centrally examines and grants **European patents** for the [39 EPC Contracting States](#), which include not only all the EU Member States but a number of non-member states too. This saves inventors the costs of parallel patent applications at several national patent offices and at the same time ensures a high quality of granted patents.



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. This process can be cumbersome and expensive as the patent documents may have to be translated into other languages, national validation and renewal fees have to be paid individually and the costs of hiring local attorneys and service providers in the various countries add up.

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The Unitary Patent: simpler and broader patent protection at a lower cost

The **Unitary Patent** eliminates these shortcomings by enabling inventors to obtain uniform patent protection for the entire territory of the EU Member States participating in the system more simply and cheaply.

The centralised pre-grant procedure at the EPO is now supplemented by a centralised post-grant procedure: instead of validating their European patent in several states individually, proprietors can now obtain a Unitary Patent by filing a single request with the EPO, which acts as a one-stop shop also responsible for centrally administering the Unitary Patent and the related fee payments. This significantly reduces the red tape and costs involved. The fragmented post grant system meant paying different renewal fees of different amounts and in different currencies to different national patent offices, which also have different legal requirements, especially in terms of time limits. Now Unitary Patent proprietors instead pay the EPO a single renewal fee in a single currency and under a single regime of time limits and accepted payment methods. This not only makes the process much simpler but also opens up potential for massive

cost savings, as proprietors can take care of all the post-grant administration by themselves.

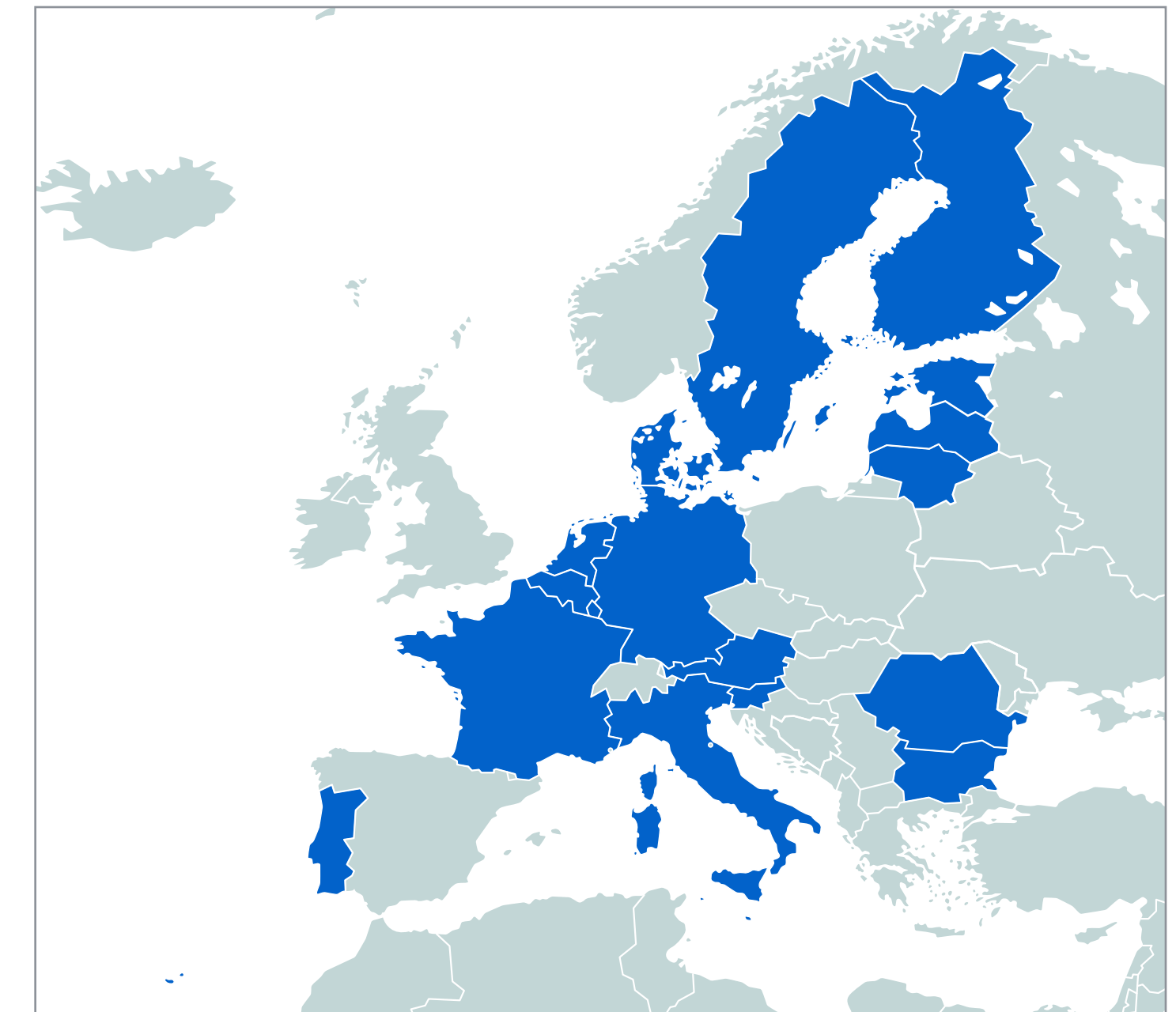
What is more, requests for Unitary Patents are entirely free of charge, meaning no filing, examination or registration fees will be payable to the EPO for this. The renewal fee for a Unitary Patent has also been set at a very attractive and business-friendly level: the total cost of maintaining one for the first ten years, which is the average lifetime of a patent granted by the EPO, will be less than EUR 5 000.

Renewal fees for the Unitary Patent

–	–	11th year	€ 1 460
2nd year	€ 35	12th year	€ 1 775
3rd year	€ 105	13th year	€ 2 105
4th year	€ 145	14th year	€ 2 455
5th year	€ 315	15th year	€ 2 830
6th year	€ 475	16th year	€ 3 240
7th year	€ 630	17th year	€ 3 640
8th year	€ 815	18th year	€ 4 055
9th year	€ 990	19th year	€ 4 455
10th year	€ 1 175	20th year	€ 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 Unitary Patent covers the following 18 states: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Sweden.

While the Unitary Patent has the potential to cover all EU Member States, protection is currently available for 18 of them. Other states could join in the future. To be covered by a Unitary Patent, EU Member States must participate in the enhanced co-operation (so far 25 do so) and ratify the Agreement on a Unified Patent Court (UPCA).

The Unified Patent Court (UPC): centralised enforcement and increased legal certainty

Centralised enforcement through the new Unified Patent Court

Judicial enforcement is also becoming much simpler. Previously, the national courts have had exclusive jurisdiction over patent litigation. For example, revocation actions against European patents had to be brought before national courts but each court's decision had effect only for the territory of its state. This could sometimes mean having to conduct parallel litigation in different member states, and the resulting fragmentation was not only costly and highly complex for all parties but also entailed a risk of conflicting national decisions.

The new Unified Patent Court (UPC) introduces a uniform, specialised and efficient framework for patent litigation at a European level. A supranational court set up under an international treaty – the UPCA – the UPC has jurisdiction over disputes, including infringement and revocation actions, relating to both Unitary Patents and classic European patents (although some exceptions will apply for the latter during a transitional period until 31 May 2030). The specialist UPC is an effective new forum for enforcing and challenging patents that benefits inventors, third parties and the general public alike. Patent proprietors can now enforce their patents more efficiently, while third parties and the general public can seek revocation of European and Unitary Patents in one centralised procedure. This puts an end to parallel disputes over the same patent in different countries and so makes litigation considerably cheaper. In addition, the UPC enhances legal certainty by eliminating the risk of conflicting national decisions and by harmonising the case law.

A boost to trade and investment

Industries with above-average use of intellectual property, and especially patents, are already known to make a greater contribution to GDP and external trade. However, their contribution to trade and foreign direct investment (FDI) flows between EU countries is still limited, suggesting untapped potential to achieve an EU single market for technology. The fragmentation of the previous European patent system undoubtedly acted to limit the circulation of patented inventions among EU countries. Most European patents were validated in only a few EU Member States to save on the cost of validating and maintaining them.

The harmonisation of patent protection brought by the Unitary Patent is expected to have a positive impact on trade and FDI flows in IP- and technology-intensive industries. According to a study conducted by the EPO in collaboration with the University of Colorado Boulder and the London School of Economics, an alignment of EU countries on the best existing standard of patent protection has the potential to generate a 2% increase (EUR 14.6 billion) in annual trade inflows and a 15% increase (EUR 1.8 billion) in annual FDI inflows in these industries in the EU.

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In addition, the broad territorial protection the Unitary Patent offers will facilitate cross-border technology transfers and co-operation across European countries. A central register containing legal status information on transfers of Unitary Patents and licences – including licences of rights – will help to establish an efficient market for technology transfer in the participating Member States. The market for technology will also be more inclusive: it will facilitate technology transfers and research collaborations with parties located in countries where European patents have so far seldom been validated. Finally, technology transfers will also benefit from the reduction in renewal fees available to patent proprietors who grant licences.



Multiple benefits for companies, in particular SMEs, start-ups and universities

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The new Unitary Patent system has many benefits for applicants, in particular those with limited resources, such as small and medium-sized enterprises (SMEs), start-ups and universities, on which the future of the European economy largely depends.

Intellectual property rights play a key role in helping these small entities to bring new technologies to market. They enable them to reap the benefits of their creativity, inventiveness and investment and so create an incentive for further investment and innovation.

Many small entities that used patents in the past tended to rely on national rights. As a result, they often ended up with no effective protection of their inventions in Europe at all or with protection only in a very small number of countries. The Unitary Patent system dismantles the bureaucratic and financial hurdles these small entities face in entering the EU market with their invention, thus enabling them to better compete with their rivals. SMEs and start-ups that register a Unitary Patent will be in a better position to decide whether and when to scale up and enter new markets, depending on the success of the product or on new business opportunities in other EU markets. The Unitary Patent provides research institutions with broad protection for promising inventions at an early stage, facilitating cross border partnerships and technology transfers as the technology matures.

The fragmented system provided by the classic European patent – with all its complexities and the possible need for parallel litigation in multiple jurisdictions – also makes it practically impossible for small entities to cope effectively with patent litigation, be it as claimant or defendant. The reduced cost of litigation before the UPC now ensures that access to justice and the enforcement of patent protection no longer depends on financial power.

In addition, a compensation and fee-reduction scheme is in place for those with limited resources. Natural persons, SMEs, non-profit organisations, universities and public research organisations filing a successful application in an official language of the EU other than English, French or German are entitled to lump-sum compensation of EUR 500 for their translation costs.

More importantly, the fees at the UPC have been fixed so as to strike the right balance between ensuring parties make an adequate contribution towards their costs and the principle of fair access to justice. For instance, the rules on court fees include measures ensuring that SMEs are charged a reduced rate of only 60%. In addition, where an SME presents reasonable evidence that the amount of payable court fees threatens its economic existence, the UPC may reimburse some or even all of those fees. To limit the litigation risk even further, the UPC may also set a cap on recoverable costs for the winning party if those costs might threaten the economic existence of the losing party.

When did the new system start?

The new Unitary Patent system came into effect on **1 June 2023**, when the Unified Patent Court began to operate.



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