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TITLE: **Unitary Patent**

SUBJECT: Unitary Patent operational report

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: Select Committee of the Administrative Council (for information)

MAJORITY: Not applicable

LEGAL BASIS: Not applicable

RECOMMENDATION: The Select Committee of the Administrative Council is requested to note this report.

SUMMARY: The report provides an overview of Unitary Patents at the EPO on 1 September 2024, including general trends and information on user profiles.

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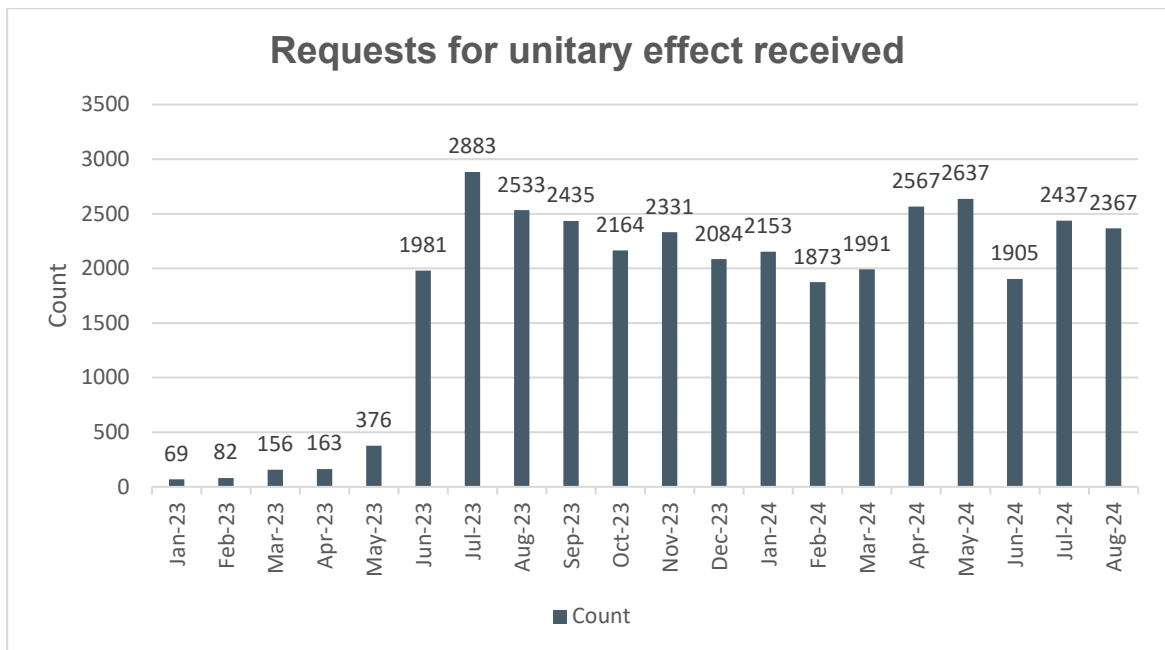
1. Introduction

1. Since the launch of the Unitary Patent system, users have shown a great deal of interest in obtaining unitary effect for their European patents. A key milestone was reached in June 2024, with 30 000 requests for unitary effect, while 17 931 requests were received in the first eight months of 2024. This means that unitary effect was requested for 24.7% of all European patents granted during that period and subsequently registered for the territory of the participating member states.
2. Another key milestone was reached on 1 September 2024 when Romania joined the Unitary Patent system following the deposit of its ratification of the Unified Patent Court Agreement on 31 May 2024. This first accession to the Unitary Patent system since its launch in June 2023 paved the way for a second generation of Unitary Patents covering 18 participating member states. Users obtaining a Unitary Patent on or after 1 September 2024 will thus benefit from this extended territorial coverage at no additional cost.
3. In 2024 the Unitary Patent continued to prove popular with European industry, with 63% of all requests for unitary effect originating from Europe and an uptake rate of 35.8% for the European Union to date. In terms of technologies, medical technology is in the lead, followed by measurement, digital communication and civil engineering. Small and medium-sized enterprises have shown a strong interest in the Unitary Patent.
4. The processing of requests for unitary effect ran smoothly in 2024, and only a handful had to be rejected due to deficiencies. Step by step, we are progressively gaining experience in dealing with all aspects of the Unitary Patent procedure. To support users in handling all aspects of the procedure, the EPO will publish a new set of Unitary Patent Guidelines in early 2025.
5. The EPO strongly promotes a transparent Unitary Patent system via both the UP Register, which includes all legal and procedural case-related actions, and the UP dashboard, which provides a wealth of information on use of the system. The dashboard is continuously being improved and now offers users the option of selecting the year of reference. It will soon feature the uptake rate per country too. Most dashboard information is updated every weekday, including trends in terms of registrations of unitary effect.

2. Arguments

2.1 Unitary effect: positive trends in terms of registrations and uptake

6. In the first eight months of 2024 17 931 requests for unitary effect were received (compared to 17 257 in 2023), and 17 301 patents with unitary effect were registered. A total of 35 188 requests have been received since the launch of the Unitary Patent system in 2023. Despite higher demand than expected, the EPO still managed to deliver a timely service to users thanks to the growing experience of its staff. It now takes five to seven days to process standard requests for unitary effect.



Graph 1: Evolution in requests for unitary effect received since 2023 (as of 31.8.2024).

7. The uptake rate, which represents the percentage of requests for unitary effect received compared to overall grants of European patents, reached 24.7% this year. This is 4.7% higher than the forecast for 2024. Uptake in the European Union (i.e. the percentage of requests for unitary effect received from EU proprietors compared to the total number of grants of European patents delivered to EU proprietors) reached a remarkable 35.8% (see table 2 for the trend since 2023). In many EU member states the figure is above 50%: Latvia (83.3%), Slovakia (76.5%), Malta (72.7%), Portugal (68.2%), Slovenia (57.9%), Hungary (51.5%) and Poland (50.7%). See table 5 in paragraph 11 below for more information on the top 12 member states in terms of uptake.

Uptake rate	2024 (to date)	2023
Global	24.7%	17.5 % (22.3% in 2H)
EU	35.8%	26.3%

Table 2: Uptake rate (global and EU) over 2023 and 2024 (as of 31.8.2024).

8. Most requests received in 2024 to date have resulted in unitary effect being registered. Around two-thirds of the 22 rejections were due to ineligibility or formal deficiencies not corrected in a timely manner. The remainder related to requests which were not filed in a timely manner (see table 3 below). So far, only one in 20 requests for re-establishment of rights submitted in 2024 has been rejected (2023: one in 18), and most of the 1 226 formal deficiencies (2023: 1 356) have been corrected in a timely manner. To date, no actions against a decision rejecting unitary effect or the reestablishment of rights have been lodged with the Unified Patent Court (UPC). In July 2024, however, an action was lodged in relation to a decision to register unitary effect despite a request for delay. Interlocutory revision was granted in this case.

Rejections of unitary effect	2024 (as of 31.8.24)	2023 (as of 1.6.2023)	TOTAL
Ineligibility/formal deficiencies	14	14	28
Timeliness (one month time limit)	8	-	8
TOTAL	22	14	36

Table 3: Rejections of unitary effect in 2023 and 2024 (as of 31.8.2024).

9. The number of requests to register rights increased slightly, with 26 intentions to licence (see paragraph 15 of document SC/3/24 for further information) and 17 licences. In addition, 651 requests for compensation of translation costs have been received in 2024, representing around 3.5% of all requests for unitary effect, of which 514 were granted. Most requests related to Italian as the language of the patent application, representing 60.1% of the total in 2024 to date (see table 4 below).

Requests for compensation	2024 (as of 31.8.24)	2023 (as of 1.6.2023)	TOTAL
Granted	514 (94%)	543 (84%)	1 057 (87.5%)
Rejected	33 (6%)	107 (16%)	151 (12.5%)
TOTAL	651	650	1 345
Filing language of application	IT (60.1%) ES (10.8%) PL (4.6%) NL (4.4%) FI (4%)	IT (45%) ES (13.8%) NL (5.5%) PL (4.3%) FI (4%)	

Table 4: Requests for compensation of translation costs in 2023 and 2024, including filing languages in percent (as of 31.8.2024).

10. As of 5 June 2024 users have been able to request a delay to the registration of unitary effect in order to benefit from the extended territorial scope of the second Unitary Patent generation covering Romania as from 1 September 2024¹. Around 1 600 users made use of this service, which was offered on condition that the request for delay was submitted together with the request for unitary effect to ensure it could be addressed in a timely manner prior to registration of unitary effect.

¹ See the notice from the European Patent Office dated 5 June 2024 concerning Romania's ratification of the Agreement on a Unified Patent Court and the possibility of requesting a delay in the registration of unitary effect (OJ EPO 2024, A61).

2.2 User profiles: European SMEs show strong interest in UP protection

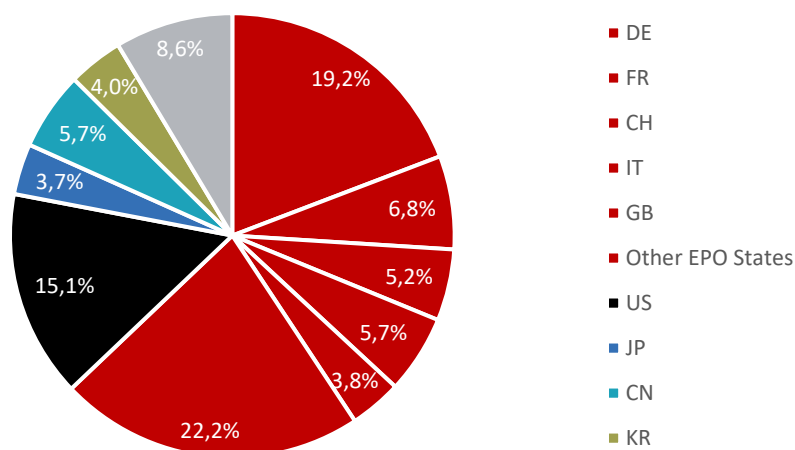
11. In 2024 most users of the Unitary Patent system continue to come from Europe, which is consolidating its leading position with 63% of all requests for unitary protection, including 19.2% from Germany, 6.8% from France and 5.7% from Italy. European users are showing strong interest in this new option, with a 32.9% uptake rate for Germany (i.e. 32.9% of German proprietors granted a European patent requested unitary effect), 27.7% for France and 42.1% for Italy (see table 5 below). In fact, over 50% of national users are requesting unitary patent protection in an ever-growing number of European countries (see also paragraph 7, above).

Top 12 member states	2024 (as of 31.8.24)	2023 (as of 1.6.2023)
Germany	3 443 (32.9%)	3 293 (22.9%)
France	1 211 (27.7%)	1 238 (19.9%)
Italy	1 013 (42.1%)	904 (29%)
Switzerland	939 (31.6%)	966 (24.2%)
Sweden	798 (44.5%)	853 (31.5%)
United Kingdom	685 (29.9%)	716 (24.7%)
Netherlands	608 (31.8%)	631 (24.3%)
Austria	479 (45.6%)	476 (33.6%)
Denmark	411 (51.4%)	508 (44.3%)
Belgium	322 (37.3%)	351 (31.9%)
Finland	316 (40%)	353 (32%)
Spain	278 (48.3%)	350 (37.3%)

Table 5: Top 12 EPC member states in terms of number of requests for unitary effect received and uptake rate for each country in 2023 and 2024 (as of 31.8.2024).

12. In 2024 non-European users represent a slightly bigger share of the total than in 2023, with 15.1% from the US, 5.7% from China, 4% from the Republic of Korea, 3.7% from Japan and 8.6% from the rest of the world. More non-European proprietors are deciding to request unitary effect, but strategies diverge considerably from one country to another. For instance, uptake is lower in Japan (7.3%) than in the US (15.3%), the Republic of Korea (17.9%) or China (17.7%). For users from the rest of the world uptake is 38.7%.

Origin of proprietors 2024 (geographical distribution)



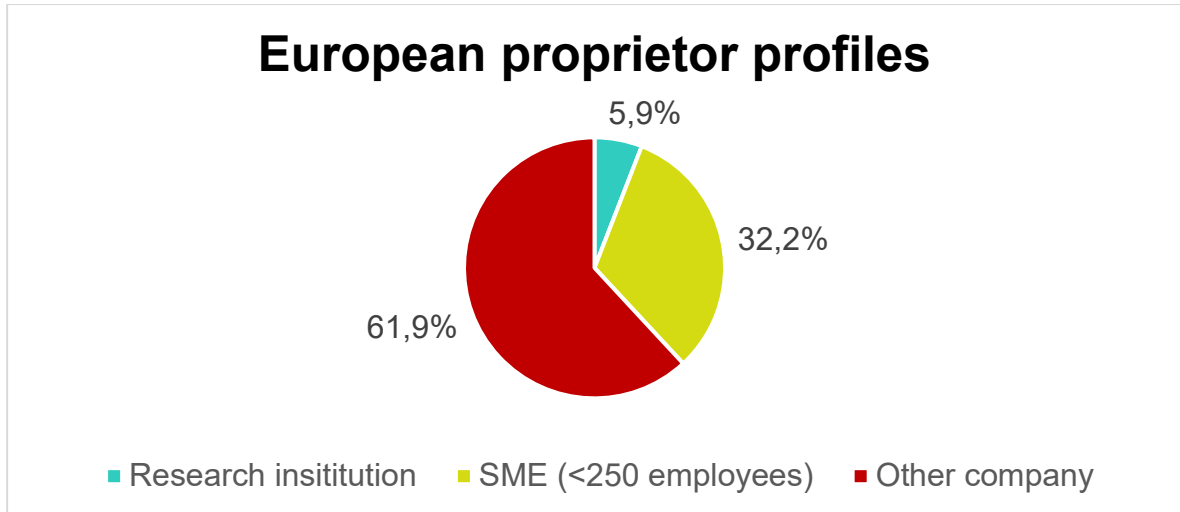
Graph 6: Share of requests for unitary effect in 2024 (global) (as of 31.08.2024).

13. In terms of fields of technology (WIPO classification), medical technology continues to lead in 2024 (12.4% of the total number of requests for unitary effect), followed by measurement (5.6%), digital communication (5.4%), civil engineering (5.3%) and transport (5.1%) (see table 7 below). The highest uptake rates are seen in civil engineering (39%), food chemistry (34.3%), environmental technology (34%), biotechnology (33.9%), furniture and handling (33.3%) and pharmaceuticals (32.7%).

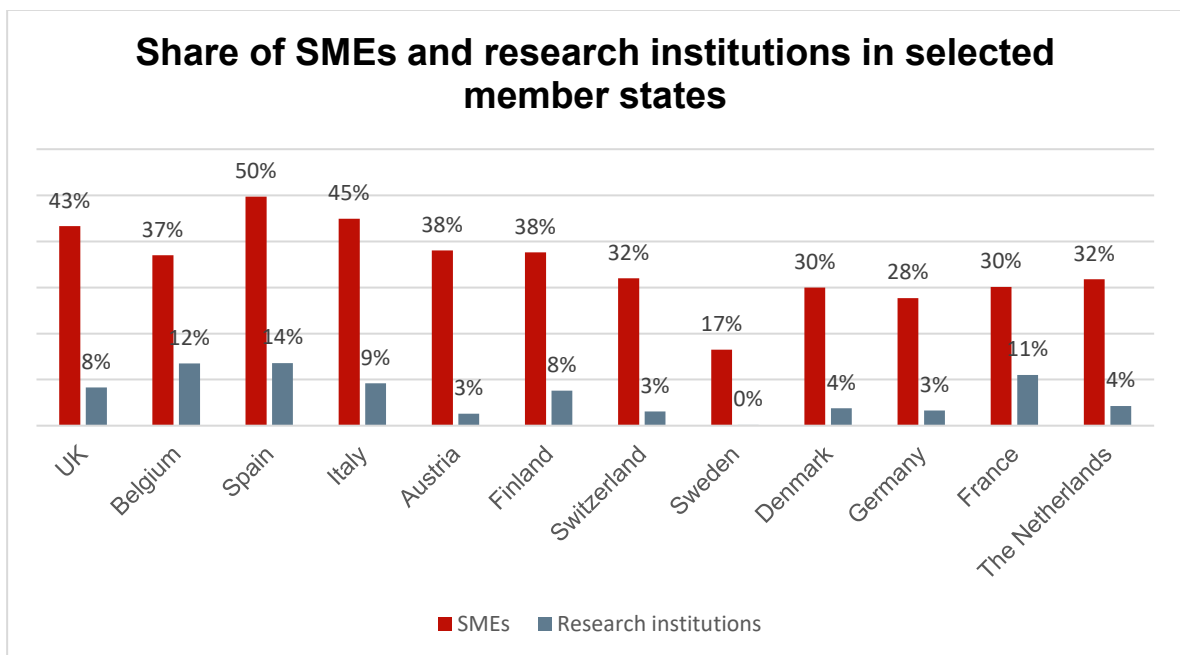
Top 10 fields of technology	2024 (as of 31.8.24)	2023 (as of 1.6.2023)
Medical technology	2 230 (12.4%)	1 994 (11.6%)
Measurement	1 006 (5.6%)	916 (5.3%)
Digital communication	974 (5.4%)	860 (5%)
Civil engineering	950 (5.3%)	1 020 (5.9%)
Transport	919 (5.1%)	948 (5.5%)
Computer technology	908 (5.1%)	752 (4.4%)
Electrical machinery	882 (4.9%)	808 (4.7%)
Special machines	871 (4.9%)	915 (5.3%)
Pharmaceuticals	673 (3.8%)	712 (4.1%)
Handling	653 (3.6%)	712 (4.1%)

Table 7: Top 10 fields of technology in 2023 and 2024 in terms of number of requests for unitary effect and percentage of the total at global level (as of 31.8.2024).

14. In terms of UP proprietor profiles in Europe, small and medium-sized enterprises (SMEs) continued to represent a very large share of UP owners in the first half of 2024, accounting for 32.2% of the total. Research institutions are also well represented with 5.9% of the total (see pie chart 8 below). This trend is particularly strong in European countries such as Spain and Italy (see graph 9). A significant number of key European companies have clearly embraced the Unitary Patent system, as illustrated by the fact that 17 of the top 25 proprietors are based in Europe.



Graph 8: European proprietor profiles in the first half of 2024 in terms of requests for unitary effect as a percentage of the total.



Graph 9: Share of SMEs and research institutions in selected member states in the first half of 2024 in terms of requests for unitary effect received identified under any of the three categories, as a percentage. Please note that the figures contained in this table are only indicative in nature, since not all entities could be identified for the purpose of categorisation.

3. Financial implications

15. See documents SC/15/24, SC/16/24, SC/C 3/24, SC/C 4/24 and SC/C 5/24.

4. Documents cited

16. SC/3/24.