



THE UNITARY PATENT AND THE UNIFIED PATENT COURT

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This handy reference of quick facts is structured in three parts:

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ABBREVIATIONS

CJEU	Court of Justice of the European Union
CMS	Case Management System
EP	European Patent
EPC	European Patent Convention
EU	European Union
MS	Member State of the European Union
PPA	Protocol for Provisional Application
SPC	Supplementary Protection Certificate
UPC	Unified Patent Court
UPCA	Unified Patent Court Agreement
UP	European patent with unitary effect or Unitary Patent

Why This Is Important— In a Nutshell

- The introduction of the Unitary Patent (UP) and the Unified Patent Court (UPC) is the most significant development in patent enforcement in Europe for a generation. The new system, which entered into force on June 1, 2023, is **a fundamental change** in the international patent landscape and already has an impact on global patent strategy.
- It creates a **new patent right**, the Unitary Patent, which provides a single patent right providing protection across all of the participating Member States.
- The UP exists alongside existing national patents in European territories as well as standard European bundle patents (EP) which are separately validated in European Patent Convention (EPC) territories.
- A key objective of the UP (and UPC) is to **reduce costs** for patentees. There is almost no translation costs for the UP and a single relatively low renewal fee (roughly corresponding to total fees payable for renewing EPs in 4 to 5 EU countries).
- The UPC is designed to streamline patent litigation across Europe. It is **an entirely new international patent court**, which is a single patent court with jurisdiction in at least 17 participating Member States (and potentially up to 24 States of the European Union in due course). This makes it, on some measures, the largest patent litigation forum in the world.
- The UPC has **exclusive jurisdiction** over administrative issues and disputes involving a UP. It also has concurrent jurisdiction with national courts to handle patent disputes involving an EP for a transitional period of 7 years (which may be extended up to 14 years), unless the EP is explicitly opted out of the system. After the transitional period, the UPC will also have exclusive jurisdiction over EPs in the participating EU Member States. Only national patents will remain outside the jurisdiction of the UPC.

Participating Member States

- The UPCA entered into force on June 1, 2023 with 17 countries on board: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia and Sweden.
- Additional EU Member States can ratify the UPCA.
- The territorial scope of a UP is limited to the countries that have ratified the UPCA **at the date of registration** that this patent is to have unitary effect (see further below).
- Not all 38 countries that are parties to the EPC can be part of the new UP / UPC. **Only EU Member States** can participate, which excludes, inter alia, the UK and Switzerland. In addition, three of the 27 EU Member States have so far **declined** to participate in the UPC (Spain, Poland, and Croatia).
- Participation requires signing and ratifying a treaty for establishing the Unified Patent Court (the Unified Patent Court Agreement or UPCA) and the Protocol for Provisional Application (PPA).

OVERVIEW

Participating Member States

EPC MEMBER STATES		RATIFICATION OF UPCA	PARTICIPATION IN THE UP AND UPC
AL	Albania		Not an EU Member State
AT	Austria	✓	Yes
BE	Belgium	✓	Yes
BG	Bulgaria	✓	Yes
HR	Croatia	<i>Not signed after joining the EU in 2013</i>	<i>Still possible</i>
CY	Cyprus	<i>Signature only</i>	<i>Not yet</i>
CZ	Czech Republic	<i>Signature only</i>	<i>Not yet</i>
DK	Denmark	✓	Yes
EE	Estonia	✓	Yes
FI	Finland	✓	Yes
FR	France	✓	Yes
DE	Germany	✓	Yes
GR	Greece	<i>Signature only</i>	<i>Not yet</i>
HU	Hungary	<i>Signature only</i>	<i>Not yet</i>
IS	Iceland		Not an EU Member State
IE	Ireland	<i>Signature only</i>	<i>Not yet</i>
IT	Italy	✓	Yes
LV	Latvia	✓	Yes
LI	Liechtenstein		Not an EU Member State
LT	Lithuania	✓	Yes
LU	Luxembourg	✓	Yes
MK	Macedonia		Not an EU Member State
MT	Malta	✓	Yes
MC	Monaco		Not an EU Member State
NL	Netherlands	✓	Yes
NO	Norway		Not an EU Member State
PL	Poland	NO	DECLINED
PT	Portugal	✓	Yes
RO	Romania	<i>Signature only</i>	<i>Not yet</i>
SM	San Marino		Not an EU Member State
RS	Serbia		Not an EU Member State
SK	Slovakia	<i>Signature only</i>	<i>Not yet</i>
SI	Slovenia	✓	Yes
ES	Spain	NO	DECLINED
SE	Sweden	✓	Yes
CH	Switzerland		Not an EU Member State
TR	Turkey		Not an EU Member State
UK	United Kingdom	<i>Withdrawn</i>	Not an EU Member State
38		17 (out of 24 UPCA signatories) (including Germany)	

(Status: February 2024)

The New Patent Map for Europe



UNITARY PATENT

Features of a UP

- A UP is a **single patent** based on a granted EP and has effect in the territories of the countries that have ratified the UPCA at the date of registration of unitary effect. Given that ratifications of the UPCA will likely take place successively over time, there will be **different generations** of UPs with different territorial coverage. A UP is a single indivisible patent right.
- This means that it is not possible to allow a UP to selectively lapse in one or more territories while maintaining protection in others.
- A UP does **not cover all EPC Member States** as some countries including the UK, Spain, Poland and Switzerland, are not in the system. Patent protection in these territories continues to be available through existing validation procedures of standard EPs or via national patent filings.
- The territorial coverage of a UP remains **constant** for its entire lifetime. This means that, for instance, a given UP's territorial coverage will not be extended to other EU Member States that ratify the UPCA after the registration of its unitary effect. However, **divisional UPs** may have different territorial scope compared to the parent UP due to the later date of registration of the divisional patent's unitary effect.
- The UP may provide patentees with **broader coverage** than they would have pursued under the still existing EP system. Previously some of the UP countries may not have been considered for EP validation due to the additional expense.
- There are however certain potential downsides of a UP. Of these, the most significant is the risk of **central revocation** of a UP across all jurisdictions at any time during the life of the patent (previously, EPs could only be centrally revoked following a challenge during the 9-month opposition period following grant).
- A UP can be enforced and challenged only through the UPC.
- The seat/place of business of the **first named applicant** determines the applicable law for the UP as an object of property.

Grant Procedure and Registration of Unitary Effect

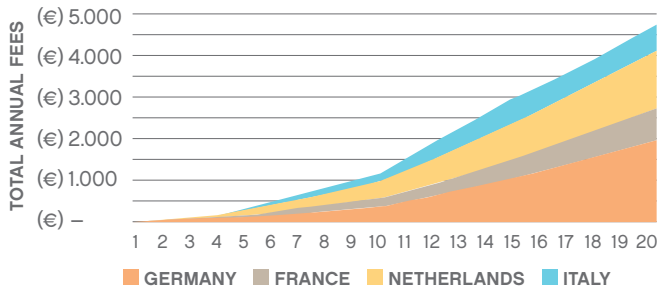
- UPs are granted by the **European Patent Office** (EPO) in the course of the existing EP grant procedure.
- The applicant is able to choose whether or not the resulting EP should have 'unitary effect' in the contracting EU Member States. Such a request has to be filed within **one month** of a decision to grant. In the absence of such a request, the application will lead to the grant of a standard EP, requiring validation in each designated state in the usual way.
- A request for unitary effect can only be made in respect of EPs that are granted with the **same set of claims** for all UP participating Member States.
- If the EPO determines that at least one of the formal requirements for the request for unitary effect is not met, it will invite the applicant to correct the deficiencies within a non-extendable period of **one month**. The request will be rejected if the deficiencies are not addressed within this period. Applicants will have the right to appeal the decision of the EPO to the UPC.

UNITARY PATENT

Costs and Patent Renewal Fees

- A UP is subject to a **single renewal fee** which is payable to the EPO.
- The EPO retains approximately 50% of the renewal fees. The remainder will be distributed between the participating Member States.
- The renewal fees for UPs have been set at a **“True top 4”** level, meaning that they would be equivalent to the total renewal fees payable for the four most validated countries for standard EPs (namely, Germany, France, Netherlands and Italy). This means that significant cost savings are possible relative to standard EPs for obtaining coverage in up to 24 countries.
- Renewal fees are reduced by 15%, if patent holder registers a license of right.

“True Top 4” Annual Fees



Patent Renewal Fees

PATENT YEAR	UNITARY PATENT*	TRUE TOP FOUR**	ALL 17 UPC MEMBER STATES***	ALL 39 EPC MEMBER STATES****
1	-	-	-	305
2	35	38	146	457
3	105	108	899	1,819
4	145	148	1,049	2,635
5	315	298	1,483	3,573
6	475	476	2,024	4,542
7	630	646	2,554	5,378
8	815	866	3,221	6,456
9	990	1,070	4,036	7,705
10	1,175	1,280	4,756	8,983
11	1,460	1,610	5,561	10,415
12	1,775	1,990	6,414	12,063
13	2,105	2,410	7,306	13,726
14	2,455	2,780	8,163	15,366
15	2,830	3,140	9,011	16,995
16	3,240	3,480	9,983	18,985
17	3,640	3,820	10,964	20,882
18	4,055	4,170	11,862	22,724
19	4,455	4,520	13,054	29,920
20	4,855	4,880	14,202	27,049
Total (€)	35,555	37,730	116,688	229,977

* Unitary Patent fees as of Aug 1, 2023 (EPO); all in €

** Total renewal fees in DE, FR, NL, and IT; all in €

*** Total renewal fees as of Aug 1, 2023 (EPO); all in €

**** Total renewal fees as of Jan 1, 2024 (EPO); all in €

UNITARY PATENT

Comparison: National Patent Renewal Fees

PATENT YEAR	DE	UK	FR	NL	IT
1	-	-	-	-	-
2	-	-	38	-	-
3	70	-	38	-	-
4	70	-	38	40	-
5	100	82	38	100	60
6	150	105	76	160	90
7	210	129	96	220	120
8	280	152	136	280	170
9	350	175	180	340	200
10	430	199	220	400	230
11	540	222	260	500	310
12	680	257	300	600	410
13	830	304	350	700	530
14	980	351	400	800	600
15	1130	421	460	900	650
16	1310	491	520	1000	650
17	1490	550	580	1100	650
18	1670	608	650	1200	650
19	1840	667	730	1300	650
20	2030	713	800	1400	650
Total (€)	14,160	5,426	5,910	11,040	6,620

Total renewal fees as of July 2023 (EPO); all in €

Applicable Law

- The rights conferred by a UP (e.g., definition and consequences of infringement) are **the same** for all participating Member States, as they are stipulated in the UPCA itself.
- The UP is governed by the law of one of the participating Member States (e.g., conditions for
- co-ownership, transfer of ownership and priority rights) and applies to the UP in its entirety.
- **Applicable law** is determined by reference to the law governing the UP as an object of property, which is defined as the law of the participating Member State where, at the time of filing of the patent application:
 1. The applicant had its residence or **principal place of business**, or, in absence of this, any place of business;
 2. For joint applicants (co-owners), **the first listed applicant** is decisive;
 3. If none of the applicants matches these conditions, then, by default, **German law** applies.

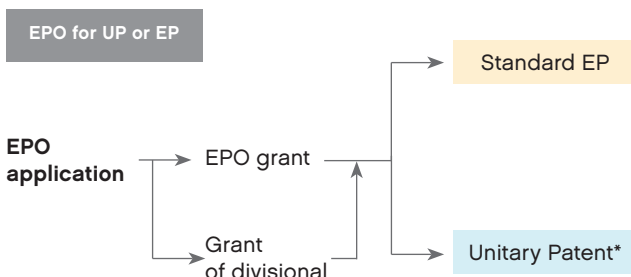
Language and Translation Requirements

- A key underlying objective of the UP is to **simplify** existing language and translation requirements for European patents. The ultimate intention is that:
 1. There will be **no formal translation requirements** for the UP in the long run;
 2. The EPO's free online **machine translation** program will be used primarily for translations; and
 3. A full human translation will only need to be provided in case of dispute, at the request of the Court or the request of an alleged infringer.
- Language requirements of the **grant proceedings**
- before the EPO remain the same.
- There is a transitional period (6 to 12 years) until high quality machine-translation tools are available. During the transitional period, a translation of the **description** and **claims** is required:
 1. Filing in German: English translation;
 2. Filing in French: English translation;
 3. Filing in English: translation into any official EU language.
- Translation requirements will change after the transitional period.

UNITARY PATENT

Patent Filing and Prosecution Options

- After EPO grant, the applicant can **choose** to obtain a UP or a standard EP. After grant of a divisional application, there is the renewed choice of obtaining a UP or a standard EP.
- Geographical scope of protection of a UP depends on the UP participating Member States **at the date of registration** of unitary effect. Filing European divisional applications with different or broader geographical coverage and/or scope of protection may be considered - some to be opted out, some to remain in the UPC.



*non-participating Member States via standard EP.

- Direct national patent filings may be considered when protection is sought in only a small number of countries.

National Application

DE application → DE grant → DE

FR application → FR grant → FR

IT application → IT grant → IT

- Alternative protection by **national utility models/utility certificates/short-term patents** derived from a EP, UP or PCT may be considered. Such protections are available in some EU Member States, such as Austria, Bulgaria, Czech Republic, Germany, Denmark, Estonia, Spain, Finland, France, Greece, Croatia, Italy, Hungary, Poland, Portugal, Romania, Slovakia.

Patent Filing and Prosecution Strategies

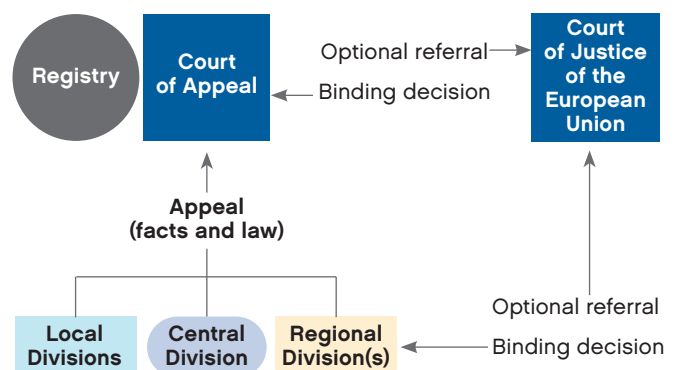
- Various parallel protections are possible:
 - Parallel protection from a **national part** of an EP and a **national utility model** or certificate/short-term patent is possible in states such as: Austria, Bulgaria, Croatia, Czech Republic, Denmark, Germany, Estonia, Finland, France, Hungary, Poland, Portugal, Romania, and Slovakia.
 - Parallel protection from a **EP** and a **direct national patent** is possible in states such as: Austria, Denmark, Finland, Hungary, Iceland, Norway, Poland, Portugal, and Sweden.
 - Parallel protection from a **direct national patent** and either a **not-opted-out EP or a UP** is possible in states such as: France and Germany.

Key Facts in Brief

- The UPC is an **entirely new court** with newly created procedural rules.
- The UPC is international and completely **independent** from any national court.
- The UPC has jurisdiction **solely for patent litigation**, but handles both infringement and (in)validity proceedings.
- The UPC is a **“closed” court system**. Patent cases are finally decided by the UPC, with the possibility of referrals to the Court of Justice of the European Union (CJEU) on certain matters of law.
- The UPC **blends procedural rules** and customs from various European jurisdictions. Case law of the UPC on substantive law issues will need to develop over time and this may end up incorporating practices and approaches from various European jurisdictions.
- The UPC provides a unified court for participating Member States instead of the existing patchwork of patent courts. There is **one decision** for the entire UPC territory.
- The UPC has **exclusive jurisdiction** over **UPs**.
- During the transitional period of 7 years (and up to possibly 14 years), the UPC has also **joint jurisdiction** with the national courts over already granted **EPs**, unless the EP is explicitly opted out. The UPC will assume exclusive jurisdiction over EPs after the transitional period.
- The UPC has various **Divisions** (Central, Regional, Local divisions) among which the plaintiff is able to choose the venue for the first instance proceedings.
- There is potential for **forum shopping** within the UPC and between the UPC and national courts.

Structure of the Unified Patent Court

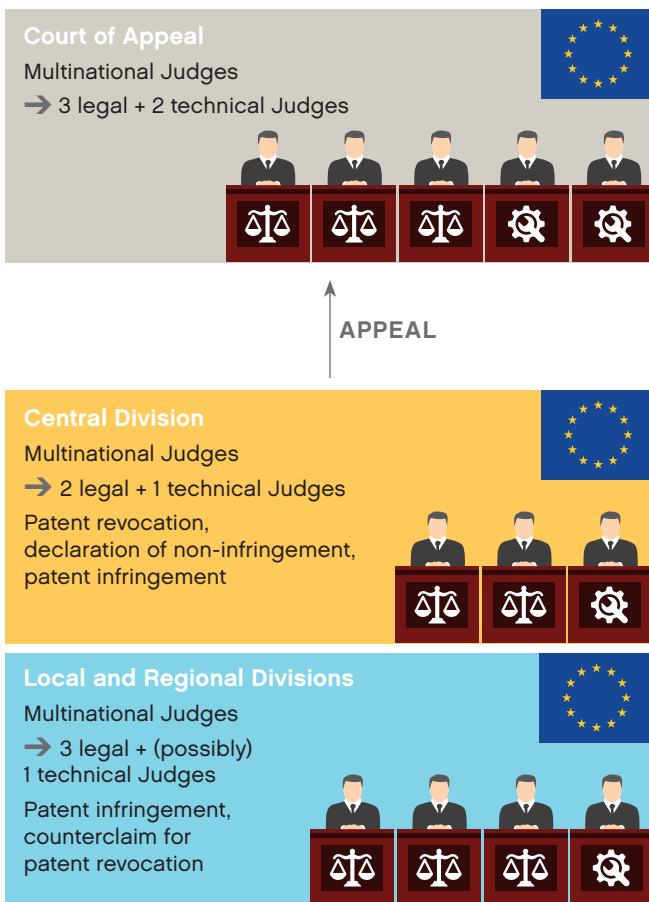
- The UPC comprises the Court of First Instance and the Court of Appeal.
- The **Court of First Instance** consists of:
 1. **Local Divisions** - typically, one per larger Member State:
 - Germany has four (Düsseldorf, Munich, Mannheim and Hamburg);
 - Single Local Divisions are located in Austria, Belgium, Denmark, Finland, France, Italy, the Netherlands, Portugal and Slovenia.
 2. **Regional Divisions** - for groups of Member States without their own Local Divisions:
 - Sweden and the Baltic States host a Regional Division for Sweden, Latvia, Lithuania and Estonia.
 3. The **Central Division** has its seat in Paris and a section in Munich. Another section will be added in Milan, Italy, on June 1, 2024.
- The **Court of Appeal** is located in Luxembourg.
- The UPC presented its 85 judges nominated for the Court of Appeal, the Central Division, and the Local and Regional Divisions in October 2022, others have been appointed after that date. It is led by Paris Court of Appeal Judge Florence Butin as President of the Court of First Instance and German Federal Court of Justice Judge Klaus Grabinski as President of the Court of Appeal. The Presidium is completed by five other judges of the Court of Appeal and the Court of First Instance, one of whom originates from The Netherlands, Sweden, and France, and two from Germany. The Hague Court of Appeal Judge Rian Kalden has been elected as Presiding Judge of the second panel of the Court of Appeal.
- Either instance may refer selective questions of law to the CJEU, also located in Luxembourg.



UNIFIED PATENT COURT

Composition of the Panels of the Court

- Judges are recruited from **various jurisdictions** across Europe.
- Each panel consists of judges from **at least two** countries.
- Panels comprise legally qualified judges of **mixed nationality**.
- Some Court panels include **technically qualified judges**.
- Legally and technically qualified judges have **equal voting rights**.



Competence of the Unified Patent Court

- Since the day the UPC became operational, it has **exclusive jurisdiction** for the following actions relating to UPs and, subject to a transitional period and possible opt-out, relating to standard EPs and Supplementary Protection Certificates (SPCs):
 - actions for **infringement**;
 - actions for declarations of **non-infringement**;
 - actions for **provisional and protective measures** and injunctions;
 - actions for **revocation** of patents and for declaration of invalidity of SPCs;
 - counterclaims for revocation;
 - action for **damages** or compensation;
 - actions relating to the use of the invention prior to the granting of the patent or to the right based on prior use of the invention;
 - actions for compensation for licenses of right of UPs;
 - Decisions of the EPO in carrying out the administrative tasks regarding UPs.
- All other actions are **outside the jurisdiction of the UPC** and thus remain within the exclusive jurisdiction of national courts, notably:
 - actions concerning **national patents**;
 - claims regarding **ownership**;
 - remuneration of **employees' inventions**;
 - **contractual claims**.
- During a **transitional period** of 7 years (possibly extended to 14 years), actions for infringement or for revocation of an EP or an SPC may still be brought before national courts.

UNIFIED PATENT COURT

Subject Matter Competence of the Central Division Sections

PC CLASS	SUBJECT MATTER	ASSIGNED TO
A	HUMAN NECESSITIES Except SPCs	Milan
B	PERFORMING OPERATIONS- TRANSPORTING	Paris
C	CHEMISTRY; METALLURGY Except SPCs	Munich
D	TEXTILES; PAPER	Paris
E	FIXED CONSTRUCTIONS	Paris
F	MECHANICAL ENGINEERING; LIGHTING; HEATING; WEAPONS; BLASTING	Munich
G	PHYSICS	Paris
H	ELECTRICITY	Paris
	SUPPLEMENTARY PROTECTION CERTIFICATES	Paris

Procedure before the UPC

- The UPC aims to have a first instance hearing on infringement and validity within one year of the issuance of the claim.
- The UPC Rules provide for a three-stage procedure:
 1. Written procedure: A key feature is the exchange of detailed pleadings in the early stages of the proceeding which is designed to “to front-load” the legal arguments and evidence and facilitate early resolution. This is similar to existing European civil-law litigation procedure.
 2. Interim procedure: The reporting Judge has responsibility for actively preparing and managing the case for the oral hearing, clarifying selected issues and deciding on document production, etc.
 3. Oral procedure: In most cases, there is a one-day hearing and in simpler cases, this may be followed by a decision on the same day.
- There are **separate proceedings** for determining damages and costs which will follow the first instance decision.
- The UPC has specific procedures to address certain aspects of patent litigation, including for instance:
 - Applications for **provisional measures** (including applications to obtain a preliminary injunction);
 - Order for inspections (“**dawn raid**” to collect facts and secure evidence).

Timeline of First Instance Infringement Proceedings

INFRINGEMENT	REVOCACTION COUNTERCLAIM	APPLICATION TO AMEND	TIME ALLOCATED	
Statement of claim	—	—	—	WRITTEN PROCEDURE
Statement of defense	Counterclaim for revocation	—	3 months	
Reply	Defense to counterclaim	Application to amend	2 months	
Rejoinder	Reply	Defense	2 months	
—	Rejoinder	Reply	1 month	
—	—	Rejoinder	1 month	
Interim Procedure (may include an interim conference)			Up to 3 months	INTERIM
Oral Hearing (to be completed within 1 day)			Within 1 month	ORAL
Decision (reasons may be provided subsequently)			May be on day of hearing	

Timeline of Procedure to Lay Open Books

Phase 1: Request to lay open books

REQUEST TO LAY OPEN BOOKS	TIME ALLOCATED	
File application	Within one year after decision on merits	WRITTEN PROCEDURE
Defense brief	2 months	
Reply brief	14 days	
Rejoinder	14 days	
Interim Procedure	Reduced timetable, max. 3 months	INTERIM
Oral Hearing	Reduced timetable, max. 1 month	ORAL
Decision on request to lay open books	Within 6 weeks	
Enforcement	Time set by the court. Periodic penalty payments if defendant fails to comply	

Timeline of Procedure for Determination of Damages

Phase 2: Determination of Damages

APPLICATION FOR THE DETERMINATION OF DAMAGES	TIME ALLOCATED	
File application	When the procedure for laying open of books is complete	WRITTEN PROCEDURE
Defense brief	2 months	
Reply brief	1 month	
Rejoinder	1 month	
Interim Procedure	Reduced timetable, max. 3 months	INTERIM
Oral Hearing	Reduced timetable, max. 1 month	ORAL
Decision for the determination of damages	Within 6 weeks	

Languages before the UPC

The UPC as an international Court can conduct proceedings in various official languages of the participating Member States. The UPC Agreement provides several options for choice of the language of the proceedings:

1. Language determined for Local/Regional Division

- Local Divisions use the (or one of the) official language(s) of the Member State hosting this division.
- The Member States hosting a Regional Division may determine the official language(s) used before the Regional Chamber.
- Other languages may be used in addition or instead of the official language, if designated by the respective Member State(s) (e.g., allowing proceedings in English also).
- Most Member States accept English at their Local/Regional Divisions.

2. Language of the patent in dispute

- Before the Central Division, proceedings are in the language of the patent in dispute (English, German or French).
- The language of the patent can also be used in the Local Divisions if the parties agree on this, or when the Court, after having heard the parties, decides accordingly.

3. Consequences of applicable language

- Irrespective of the language of the proceedings, upon request of the defendant, the patent in dispute has to be translated into the official language of the Member State where the defendant has its seat or where the infringement was committed.
- Every document need to be translated into the language of the proceedings, unless the panel waives the translation requirement.
- Simultaneous interpretation of oral hearings is possible.
- The language of the proceedings is an important factor in selecting where to bring infringement proceedings. In pan-European disputes, the plaintiff has multiple options for choosing the language for the proceedings to be litigated.

Jurisdiction and Forum Shopping

- **Infringement proceedings** can be brought before the **Local or Regional Division** where:
 - an act of infringement has occurred, or
 - where the defendant, or one of the defendants, has its residence or principal place of business.
- **Infringement proceedings** can also be brought before the **Central Division** if:
 - defendant does not have a residence or place of business within a UPC territory, or
 - the Member State where infringement has occurred or in which the defendant has its residence or principle place of business has neither a Local nor a Regional Division.
- **Actions for revocation or non-infringement** shall be brought before the **Central Division**, or, when an infringement action is already pending, as a
- counterclaim in the pending infringement action before a Local/Regional Division. If an action for infringement is initiated within three months of the inception of an action for revocation or for non-infringement, the local or Regional Division can decide to proceed with both actions.
- Parties may agree to bring actions before the Division of their choice.

Infringement and Validity: Bifurcation or Not

- The UPC allows either German-style **bifurcation** or joint hearing of infringement and validity.
- If a **counterclaim for revocation** is launched in an infringement action, the Local/Regional Division may:
 1. proceed with both actions (infringement and revocation); or
 2. refer the counterclaim for revocation to the Central Division (i.e., bifurcation); or
 3. with the agreement of the parties, refer both actions to the Central Division.
- The various Local/Regional Divisions will likely develop their own practice on this, thus encouraging **forum shopping**.

Opting Out and Opting Back In

- An EP or a pending EP application can be **“opted out”** of the jurisdiction of the UPC. This will avoid a central attack on validity or central actions for a declaration of non-infringement before the UPC. This was possible during the three-month **“sunrise period”** immediately preceding the entry into force of the UPC from March 1, 2023, and is still possible up to one month before the end of the transitional period. Opt-out extends to any **SPC** based on the EP. Opt-out of a parent EP application does not extend to the **divisional EP** application. There is no possibility to opt out a UP.
- From a practical perspective, the proprietors of an EP or the applicants of an EP application request an opt-out through the **UPC Registry** using the UPC Case Management System. The opt-out becomes effective when it is entered into the UPC register. Where an EP has multiple proprietors/applicants, an opt-out must be made by them **jointly**. Licensees, even exclusive licensees, cannot apply for an opt-out. There is the possibility to opt-out multiple EPs / EP applications in one single step.
- During the “sunrise period”, EPs and pending EP applications can be opted out without any risk of an action being brought before the UPC. Opt-out is still possible during the **transitional period** so long as no action has been brought before the UPC prior to the opt-out being entered in the UPC register.
- Opt-outs are effective for all designated states of the EP. Once opted out, the UPC has **no jurisdiction** over the EP - only national courts will have jurisdiction over it. The EP will then remain outside the UPC **for the lifetime** of the patent, including after the transitional period. This also applies to any SPC based on the opted-out EP.
- An opted-out EP or EP application can be **opted back in** at any time by withdrawal of the opt-out with the Register, unless an action has been brought before a national court. A second opt-out after opting back in is not possible.
- Whether or not to opt out existing EPs or pending EP applications should be decided **on a case-by-case basis**. Proprietor/applicant/licensees should therefore consider and discuss opt-out strategy before the “sunrise period” starts.
- There are **no fees** for opt-out or a withdrawal of opt-out.

UNIFIED PATENT COURT

Court Fees: Infringement Action (First Instance)

Court fees for an **infringement action** at the UPC, compared to existing national proceedings:

VALUE OF ACTION (€)	UPC COURT FEES (€)	GERMANY COURT FEES (€)	UK COURT FEES* (€)	FRANCE COURT FEES (€)
100,000	11,000	3,378	5,977	0
500,000	11,000	11,703	11,954	0
1 million	15,000	17,643	11,954	0
2 million	24,000	29,523	11,954	0
5 million	43,000	65,163	11,954	0
10 million	76,000	124,653	11,954	0
30 million	161,000	362,163	11,954	0
50 million	261,000	362,163	11,954	0
100 million	336,000	362,163	11,954	0

* Fees in the IPEC are subject to a different cost regimes.

Recoverable Attorneys' Fees (First Instance)

Loser-Pays Principle: Net recoverable **attorneys' fees** at the UPC, compared to existing national proceedings:

VALUE OF ACTION (€)	UPC (€, UP TO)	GERMANY (€, CA.)	UK	FRANCE
100,000	38,000	20,500	Usually 60-70% of actual attorneys' costs incurred. Not dependent on value of action.	Usually 30-70% of actual attorneys' costs incurred. Not dependent on value of action.
500,000	56,000	43,000		
1 million	112,000	67,000		
2 million	200,000	112,000		
5 million	600,000	240,000		
10 million	800,000	468,000		
30 million	1.2 million	1.2 million		
50 million	1.5 million	1.2 million		
100 million	2 million	1.2 million		

(Assuming representation by a litigator together with a patent attorney, without VAT and expenses, including a separate nullity action for Germany with an increase value of 25%.)

Court Fees: Revocation Action (First Instance)

Court fees for a **revocation** action at the UPC, compared to existing national proceedings:

VALUE OF ACTION (€)	UPC COURT FEES (€)	GERMANY COURT FEES (€)	UK COURT FEES (€)	FRANCE COURT FEES (€)
100,000	11,000-20,000*	5,081	680	0
500,000	11,000-20,000*	17,555	680	0
1 million	15,000-20,000*	26,465	680	0
2 million	20,000	44,285	680	0
5 million	20,000	97,745	680	0
10 million	20,000	186,845	680	0
30 million	20,000	543,245	680	0
50 million	20,000	543,245	680	0
100 million	20,000	543,245	680	0

* Lower number refers to revocation action brought as a counterclaim to infringement proceedings.

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