

# Unitary Patents: What You Should Do Now

## What's New?

The patent system in Europe added two new elements in June 2023, the **Unitary Patent (UP)** and the new **Unified Patent Court (UPC)**, with the aim of making the process of obtaining and enforcing Europe-wide patent protection simpler and more cost-effective.

It is important to note that the **UP and UPC does not affect the procedure of obtaining a European patent at all until after grant (i.e. at the validation stage). Applications will still be filed as European applications, e.g., by entering the EP Regional Phase from a PCT application / directly filing at the European Patent Office (EPO).**

## The Unitary Patent (UP)

The UP is an alternative way of validating a patent granted by the EPO **to cover at least 16 European countries with one 'unified' patent**, rather than validating many individual patents each covering a single country. Once the provisions come into effect, applicants will be able to choose a UP at grant of their European patent application, along with other validation states that are currently not covered by the UP.



## The Unified Patent Court (UPC)

The UPC is a court which has jurisdiction for **all infringement and validity actions for UPs**. For now, **applicants can choose** if the UPC has jurisdiction over their 'classic' national validations of EPs in UPC countries.



## Why Choose The UP?

Pros of UP	Cons of UP
✓ Costs lower than validating in every UPC country	× Costs higher than validating in just a few countries
✓ Coverage across all UPC countries with a single annual renewal fee	× Cannot opt-out of UPC jurisdiction, so single invalidity action applies to all UPC countries
✓ UPC has jurisdiction, so a single infringement action covers all UPC countries	× Translation into, e.g. French or German must be filed.

## What Should You Do Now?

- 1) **Decide if you want to request Unitary Patents when your European Patents grant.** If wanted, request UP at the validation stage at the same time as any non-UP countries. Ask us for our flow chart guide if you need help deciding.
- 2) **For granted European patents where a UP is not requested, decide if you want to opt-out of the UPC for national validations in UPC countries.** If you do want to opt-out, do so at grant. Ask us for our flow chart guide if you need help deciding.

## Contact Us

We can help you choose the **right European patent strategy for your business**. To arrange a consultation, please contact **Louise Carr**.



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