

EIP



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

The Unitary Patent (UP) is 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, and is subject to the UPC (opt out is not possible).

Even if other countries join the system after the grant of the patent, they will not be added to the UP.

It is also referred to as a “European patent having unitary effect”.

How do I obtain a Unitary Patent?

The request to convert the European patent into a UP, instead of a bundle of national rights in the participating countries, is made by the proprietor to the European Patent Office (EPO) on grant of the patent.

Your EIP contact can assist with this.

Does this replace the validation procedures?

The existing validation procedures continue to be available in order to obtain protection in those countries which have not ratified the agreement at the grant date (including those which may later ratify the agreement), i.e. those which would not be covered by a UP.

Additionally, because the Unitary Patent is not compulsory, the existing validation procedures continue to be available in order to obtain individual patents with national effect even for Member States which participate in the Unitary Patent system.

Why should I obtain a Unitary Patent?

The UP offers protection in many countries for a lower total cost than if the current

bundle system is used to obtain protection in the same set of countries. Further, a single enforcement action, effective in many countries, means that litigation is likely to be cheaper too.

What else is important about Unitary Patents?

A UP is a single indivisible patent, rather than a bundle of national patents. It is only available if the granted European patent has the same claims for all participating Member States (which here means all EU states that participated in the Unitary Patent project from the outset, even those who are currently outside the system because they have not yet ratified the UPC agreement) and must be valid in all the states that it covers (i.e. those that have ratified the UPC agreement as of the grant date of the European patent). This could mean that prior art that is only relevant in one state may invalidate a UP.

The UP is vulnerable to a single revocation action across member states. This might be initiated by someone resident in a country where the UP has effect, who otherwise might not have taken any interest if you did not validate in that country.

A UP may only be limited, transferred or revoked, or lapse in respect of all the participating Member States that it covers. There is a single renewal fee _ it is not possible to selectively drop countries to reduce renewal fee costs. However, a UP may be licensed in respect of the whole or part of the territories of the participating Member States.