

# The Unified Patent Court (UPC)

A fundamentally new court system for  
patent infringement cases in Europe

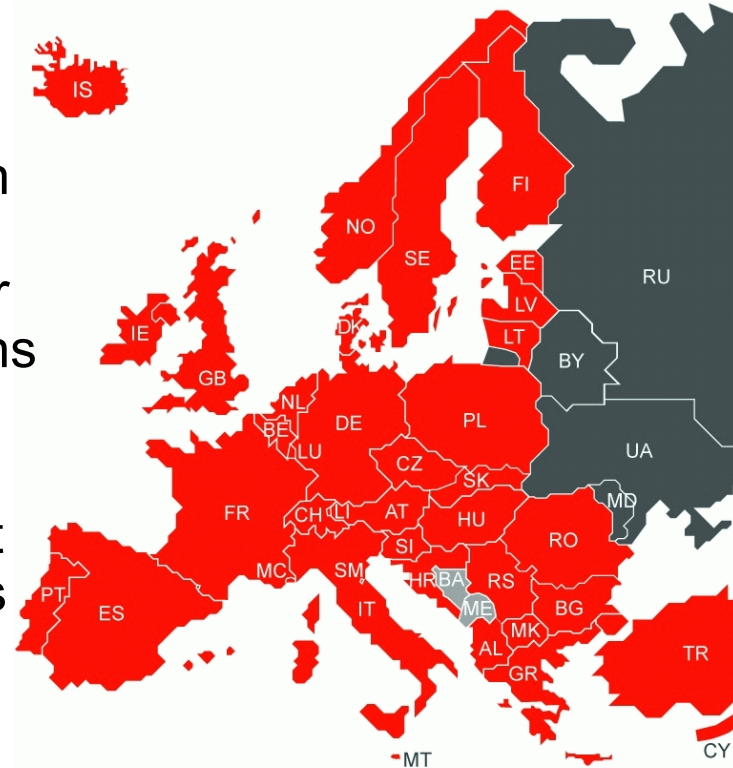


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# Status Quo – European Patents

## European Patent Office (main seat in Munich)

- Central application, examination and registration procedure for European Patents with effect for 38 member states + 2 extensions states
- After grant:  
The European Patent falls apart into a bundle of national patents
- Patent litigation in case of infringement and patent nullity proceedings on a national (i.e. country-per-country) basis



# Status Quo - drawbacks

- Validation of a European Patent in a plurality of countries is very costly
  - translation requirements for a number of countries
  - annuities (maintenance fees) to be paid for each country separately
- Litigation on a national basis with high costs and risk of diverging decisions in different countries

# Unitary Patent – Part I

- Created by REGULATIONS (EU)
  - No. 1257/2012 and
  - No. 1260/2012of the European Parliament and of the European Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection and with regard to the applicable translation arrangements
- Accepted by 25 EU member states with the exception of Spain and Italy
- Unitary Patent = European Patent granted by the EPO under the (already existing) provisions of the European Patent Convention with unitary effect in all participating states, at the patentee's request

# Unitary Patent – Part II

- Advantages
  - reduced translation costs (EPO language regime applies) – no human translations necessary after a transitional period
  - no national renewal fees to be paid
  - central litigation and revocation proceedings
- Drawbacks
  - less flexibility with regard to the regional scope of protection and the corresponding costs (incl. renewal fees); the existing system of European Patents will therefore continue to (co-)exist

# Unified Patent Court – Part I

- The Unitary Patent requires a fundamentally new court system with jurisdiction for all participating countries with regard to validity and infringement of Unitary Patents

-> Unified Patent Court (UPC)

# Unified Patent Court – Part II

- The UPC comprises a
  - Court of First Instance being composed of
    - a central division (seat in Paris and two sections in Munich and London)
    - several local / regional divisions in the Contracting Member States of the Agreement
  - Court of Appeal (seat in Luxemburg) and
  - Registry (with local sub-registries).
- Mandatory representation by either
  - lawyers authorized to practice before national courts  
or
  - European Patent Attorneys with additional qualification

# Unified Patent Court – Part III

- Court of First Instance
  - Internationally composed panels with legally qualified judges and technically qualified judges
  - Jurisdiction for both, classical European Patents and Unitary Patents
  - Reference to the Court of Justice of the European Union for preliminary rulings whenever a question of Union law requires interpretation
  - Discretion for local divisions to either deal themselves with counterclaims for revocation of patents or refer such counterclaims to the central division
  - Entry into force once 13 member states (incl. DE, FR, UK) will have ratified the agreement on the Unified Patent Court



Member State	Participation in the enhanced cooperation on the unitary patent protection	Signature of the Agreement on a Unified Patent Court	Ratification of the Agreement on a Unified Patent Court
Austria	✓	✓ 19.02.2013 <sup>1</sup>	✓ 06.08.2013 <sup>2</sup>
Belgium	✓	✓ 19.02.2013 <sup>1</sup>	
Bulgaria	✓	✓ 05.03.2013 <sup>1</sup>	
Croatia			
Czech Republic	✓	✓ 19.02.2013 <sup>1</sup>	
Cyprus	✓	✓ 19.02.2013 <sup>1</sup>	
Germany	✓	✓ 19.02.2013 <sup>1</sup>	
Denmark	✓	✓ 19.02.2013 <sup>1</sup>	
Estonia	✓	✓ 19.02.2013 <sup>1</sup>	
Greece	✓	✓ 19.02.2013 <sup>1</sup>	
Finland	✓	✓ 19.02.2013 <sup>1</sup>	
France	✓	✓ 19.02.2013 <sup>1</sup>	✓ 14.03.2014
Hungary	✓	✓ 19.02.2013 <sup>1</sup>	
Ireland	✓	✓ 19.02.2013 <sup>1</sup>	
Italy		✓ 19.02.2013 <sup>1</sup>	
Latvia	✓	✓ 19.02.2013 <sup>1</sup>	
Lithuania	✓	✓ 19.02.2013 <sup>1</sup>	
Luxembourg	✓	✓ 19.02.2013 <sup>1</sup>	
Malta	✓	✓ 19.02.2013 <sup>1</sup>	
The Netherlands	✓	✓ 19.02.2013 <sup>1</sup>	
Poland	✓		
Portugal	✓	✓ 19.02.2013 <sup>1</sup>	
Romania	✓	✓ 19.02.2013 <sup>1</sup>	
Slovakia	✓	✓ 19.02.2013 <sup>1</sup>	
Slovenia	✓	✓ 19.02.2013 <sup>1</sup>	
Spain			
Sweden	✓	✓ 19.02.2013 <sup>1</sup>	
United Kingdom	✓	✓ 19.02.2013 <sup>1</sup>	

# Current Status of participation and ratification

# Thank you for your attention!

Patent Attorneys

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