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# The Unitary Patent

Since June 1, 2023



## Background

The Unitary Patent (UP) is a patent system in Europe that allows applicants to obtain patent protection in multiple countries of the European Union (EU) with a single application. The Unitary Patent has been under discussion for many years, and the necessary legislation has been agreed upon by a majority of EU member states. Currently, 17 EU countries agreed to participate in the Unified Patent Court and the EU unitary patent system.

The UP system can replace the classic European patent validation system or coexist with it, taking into account the needs of the applicant. In the classic European patent validation system, the granted patent is validated country by country, making it more expensive and time-consuming to protect inventions in several European countries. Under the UP system, a granted European patent will be valid in all participating countries.

The Unitary Patent is expected to have a significant impact on the European patent system, making it easier and less expensive for applicants to protect their inventions across multiple countries.

Adequate management of these assets is of great relevance for competitiveness, in an increasingly demanding market.

“ The European patent owner will have the freedom to choose between the UP system, the "classic" validation system, or both, depending on the costs involved, their protection strategy, and the countries of interest.

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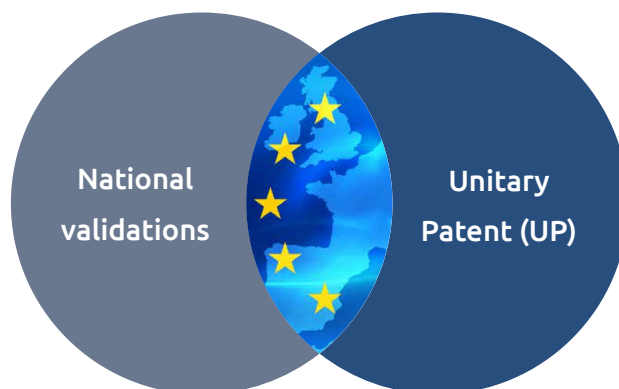


## European patent granted. What are the next steps?

Once the European Patent is granted by the European Patent Office (EPO), the patent owner must choose the member states of the European Patent Convention (EPC) and/or its extension states that are of interest, in order to ensure that the patent is in effect in the countries of interest.

The patent owner can opt for one of the following routes or even a combination of both:

### Possible routes



The pre-grant prosecution for the European patent remains unchanged, ensuring that applications are examined by the EPO according to the same high quality standards as any other patent application filed with this office.

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*The post-grant prosecution for the UP will be conducted before the EPO, reducing costs and administrative workload for the owner without requiring national validation in each (EU) member state.*

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## Unitary Patent (UP)

As of June 1, 2023, the Unitary Patent (UP) allows patent owners to enforce the granted European patent, before the European Patent Office (EPO), and obtain patent rights throughout all European Union (EU) member states that have ratified the required legislation.

The post-grant prosecution for the UP will be conducted before the EPO, reducing costs and administrative workload for the owner without requiring national validation in each (EU) member state.

The classic European patents will remain in force and unchanged with the creation of the UP system.

The patent owner will have the freedom to choose between the UP system, the "classic" validation system, or both, depending on the costs involved, their protection strategy, and the countries of interest.

For example, under the unitary patent system, the patent owner can safeguard their invention in the participating member states and choose to validate the patent through national validations (classic system) in other countries of interest.

## Main characteristics of each of the two routes

Characteristics	National validations (classical route)	Unitary Patent (UP)
Member States and Extension States (*)	<p>Albania, Austria, Belgium, Bulgaria, Switzerland, Cyprus, Czechia, Germany, Denmark, Estonia, Spain, Finland, France, United Kingdom, Greece, Croatia, Hungary, Ireland, Iceland, Italy, Liechtenstein, Lithuania, Luxembourg, Latvia, Monaco, Montenegro, North Macedonia, Malta, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Sweden, Slovenia, Slovakia, San Marino, and Turkey;</p> <p>(*) Bosnia and Herzegovina, Morocco, Republic of Moldova, Tunisia, and Cambodia.</p>	<p>Currently, European patents validated with unitary effect are valid across 17 of the participating countries:</p> <p>Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, and Sweden.</p>
Countries of interest	It is necessary to validate the patent in each of the countries of interest.	The patent has effect in the 17 member countries.
Request	Request for each of the National Institutes of the selected countries (official fees apply).	Single request and without official fee, submitted to the EPO.
Annual fees	Due to each of the National Institutes of the selected countries.	Annuities paid to the EPO.
Translations	It may be necessary to translate the patent into the official language of a selected country, as defined in their respective national laws (translation with legal effect).	A single translation of the patent into another language of the EU, other than English, (informative translation).
Possible litigation	Unified Patent Court (UPC) or National Courts** of the selected countries.	Unified Patent Court (UPC)

\* Must be selected in advance in the European patent application.

\*\* The owner of the European patent may choose to opt-out of the jurisdiction of the Unified Patent Court (UPC).



## Actions required to make the European Patent effective \*

Actions Required	National validations (classical route)	Unitary Patent (UP)
Measures after notification of intention to grant of the European Patent	Reply to the notification of intention to grant the European patent, pay the official grant and publication fee. Submit the translations of the granted claims into German and French within 4 months after the date of said notification.	
Deadline for application	3 months after the publication of the European Patent grant.	1 month after the publication of the European Patent grant.

\* Actions required to make the European Patent effective in the countries of interest from the moment the applicant receives an intention to grant notification from the EPO.

Feel free to contact our team for further clarifications on the Unitary Patent & UPC System or any other related matter.

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