



# EU Insight – Unitary Patent Protection - Historic Achievement for the EU

On 19 February 2013, 24 member states (MS) signed an agreement sealing the establishment of a [Unified Patent Court](#) (UPC) for the European Union (on 5 March 2013 another MS joined the signatory countries; see [Unitary Patent - Ratification Process](#) for the current state of ratification and the list of participating countries; the only two exceptions are Italy and Spain). The UPC is the third element of the so-called “**EU patent package**” – a legislative initiative agreed upon on 11 December 2012 by the MS and the European Parliament after nearly four decades of discussions and failed agreements (for a detailed history of the unitary patent protection process see [The long road to unitary patent protection in Europe](#)).

## **Infobox: What is a patent?**

A patent can be granted for any inventions having a technical character provided that they are new, involve an inventive step and are susceptible of industrial application. A patent can cover how things work, what they do, what they are made of, and how they are made. Anybody - an individual or a company or an institution - can apply for a patent. Patents encourage companies to make the necessary investment for innovation. There would be little incentive otherwise for individuals and companies

## **What is the “unitary patent package”?**

The 'unitary patent package' consists of three components:

- a [Regulation \(EU, No 1257/2012\)](#) by the European Parliament and the Council creating a European patent with unitary effect (or 'unitary patent') (adopted on 17 Dec 2012);
- a [Council Regulation \(EU, No 1260/2012\)](#) establishing a language regime applicable to the unitary patent (adopted on 17 Dec 2012);
- an [international agreement \(No 16351/12\)](#) among Member States setting up a single and specialised patent jurisdiction (the 'Unified Patent Court').

## **What are the main advantages of the new initiative?**

As the [official website of the European Union](#) explains, there are four main advantages that the reform package will bring:

- It will create a unitary patent with uniform protection within the territory of the participating 25 Member States;
- The unitary patent will be available on a one-stop shop basis at affordable costs, as it will be centrally granted by the European Patent Office and no further validation requirements need to be fulfilled and applications can be filed in any language;
- It will create a unified and specialised jurisdiction in patent matters for the participating Member States, and thus avoid an unnecessary duplication of litigation cases before the various courts of the various Member States concerned, and enhance legal certainty; and
- It will ensure the dissemination of patent information in all languages of the European Union through high-quality machine translation services which will be available online and free of charge.



The single unitary patent option will offer those who wish to protect their invention in Europe huge cost advantages and reduce the administrative burden.

### **Cost reduction and language solution**

When the new system is up to speed, an EU patent may cost just €4,725, compared to an average of €36,000 needed today, says the European Commission (for a comparison EU-USA-China see [Closing the competitiveness gap](#); for a costs comparison old system – new system see [Costs comparison: "Classic" European Patent versus new Unitary patent](#)).

Applications for European patents can be filed in any language, as the [European Union](#) states. Yet applicants have to provide a translation of the application into English, French or German which are the official languages of the EPO (if the application was not filed in one of the official languages). Under the new translation regime applicable to the creation of the unitary patent protection, SMEs, natural persons, non-profit organisations, universities and public research organisations having their residence or principal place of business within any of the 27 EU Member States will get a compensation of all translation costs up to a ceiling if the application was filed in one of the official languages of the European Union that is not an official language of the EPO.

The European patent is granted in one of the three EPO languages. High-quality machine translations – on-line and free of charge – will soon be available in all languages. The European Patent Office (EPO) is already providing a machine translation service for 13 languages (between English and Danish, Dutch, German, Finnish, French, Greek, Hungarian, Italian, Norwegian, Polish, Portuguese, Spanish and Swedish). By the end of 2014 the service is expected to cover 32 languages, including all languages of the European Union, plus important non-European languages such as Chinese, Japanese, Korean and Russian. The machine translation service "Patent Translate" can be accessed via the following [website](#).

(For a graphical overview see "[Unitary Patent Protection - How does it work?](#)")

### **A Voice from the EU**

As Commissioner Michel Barnier said in a [statement regarding the unitary patent reform](#), this step is expected to result in a better stance for the EU in competing with the US and China patent protection-wise. "In the United States, in 2011, 224 000 patents were granted, in China 172 000 while here in Europe only 62 000 European patents were delivered. One of the reasons for this difference is without a doubt the prohibitive cost and the complexity of obtaining patent protection throughout the single market. The new texts adopted open the way to simplified procedures and a reduction by one-seventh in the costs for our businesses of protecting their

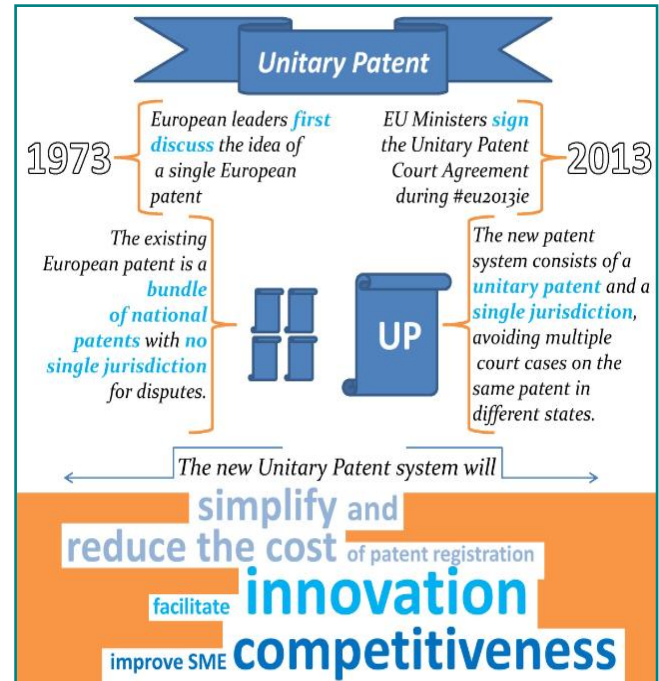


innovations in 25 EU countries. ... With this far-reaching agreement, the European Parliament and the Council bring a decisive contribution to the implementation of the economic and growth agenda.”

**What happens next?**

The international agreement creating a unified patent court will enter into force on 1 January 2014 or after thirteen contracting states ratify it, provided that UK, France and Germany are among them.

The other two acts will apply from 1 January 2014, or from the date when the international agreement enters into force, whichever is the latest. The European Commission will report on how the new regime is working three years after it takes effect.



Source: [Irish EU Presidency Website: Explained - A Unitary Patent System for Europe](#)

Sources and more detailed information can be found on the [website of the European Parliament](#), the [website of the European Union](#) and the [homepage of the EU Single Market initiative](#).