



The Unitary Patent is coming

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BPO

27 October 2017



BG Presidency and Intellectual Property

- Working Party

prepares

**legislation on
intellectual property**

- Competitiveness
Council.

- on **trademark** legislation
- protection of **trade secrets**
- **EU unitary patent**
- enforcement of **intellectual property rights**
- EU in the **World Intellectual Property Organisation (WIPO)**
- reform in **EU copyright regime**





History of **EU unitary patent**

For decades (**approximately 40 years**) the EU member states have discussed the creation of a patent that covers all the member states.

On 17 December 2012 the European Council and the European Parliament finally reached a formal agreement on the two EU regulations that provided for the creation of the enhanced cooperation for the Unitary Patent.

- **EU Regulation No 1257/2012** creates a "European patent with unitary effect", commonly referred to as "Unitary Patent";
- **EU Regulation No 1260/2012** lays down the translation arrangements for Unitary Patents.

However, they will only apply from the date of entry into force of the **UPC Agreement**

The **UPCA** is open for accession to all EU member states and was first signed **on 19 February 2013** by **24 EU member states**, including all the states participating in the enhanced cooperation; subsequently Italy and Bulgaria signed the agreement, leaving only Poland, Spain and Croatia.



Traditional EP and expected UPP

Present system

The European patent office grants European patents in a **single application procedure** in English, French or German.

After grant, the European patent is then **converted into national patents** of the 38 members states of the European patent conventions.

- Requires translations
- Litigation in many countries



Future system

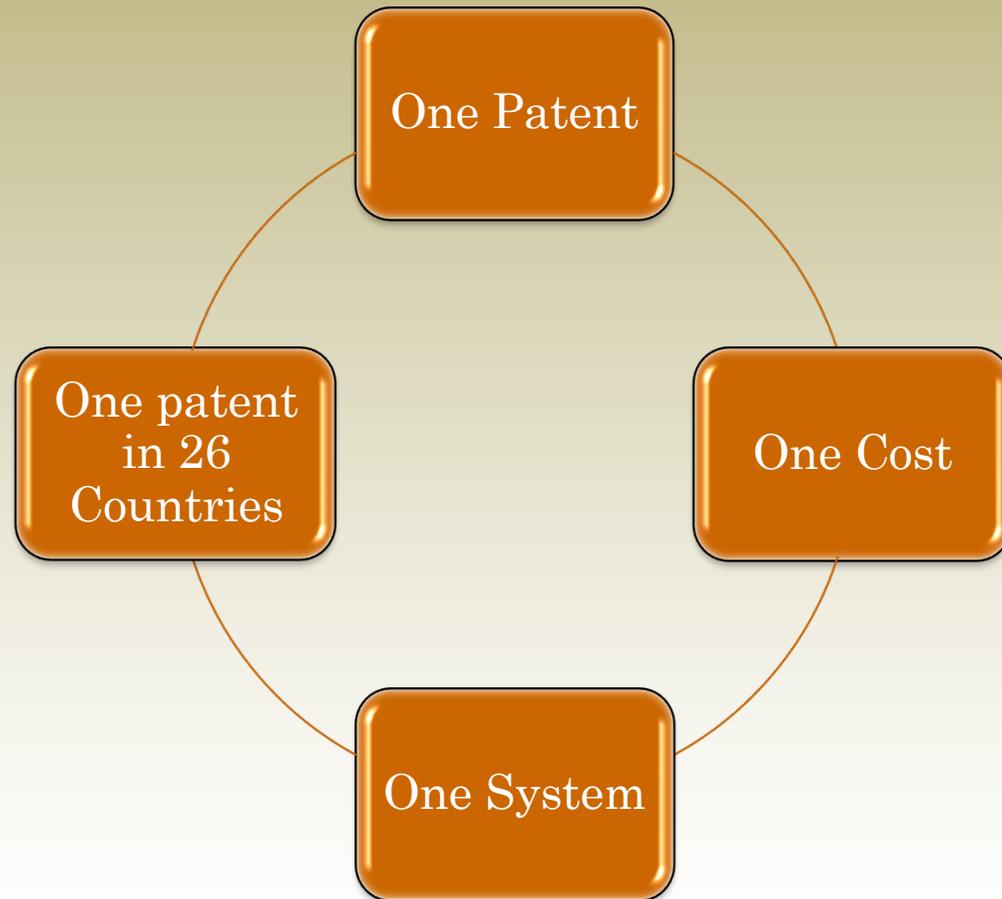
The Unitary Patent – will be based on a European patent granted by the EPO under the EPC's rules and procedures to which, **upon request of the patentee, unitary effect can be given post-grant for the territory of 26 Member States participating in the Unitary Patent scheme;**

UPP will co-exist with national patents and with classical European patents and patent holders will be able to choose between various combinations of a Unitary Patent, "classical" European patents, and national patents.





Unitary Patent Package



Unitary patent protection will make the existing European system:

- Simpler
-
- Less expensive for inventors.
- Will end complex validation requirements
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- Drastically limit expensive translation requirements in participating countries.

Consequently, it is expected to stimulate research, development and investment in innovation.



UPP - When will be an option

The Unitary Patent Regulations are now in force for 26 EU Member States

But are going to apply from the date of the entry into force of the UPC Agreement.

UPCA will enter into force on the first day of the fourth month after the deposit of the 13th instrument of ratification or accession,

including the three States in which the highest number of traditional European patents had effect in the year preceding the signature of the Agreement (DE, FR, UK).

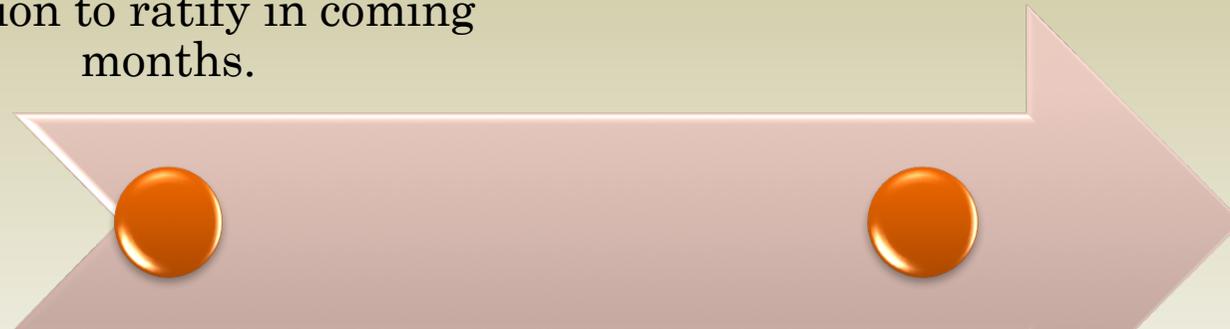
All technical preparations are concluded

The new product is expected to start in 2018.



UPP - When will be an option

12 EU Member States have deposited their instruments of ratification incl. FR and soon BG, with several others having indicated their intention to ratify in coming months.



The UK and DE are currently undertaking the national legislative steps to ratify the UPCA.

THE UNIFIED PATENT COURT - Central Divisions

EPO patent languages



3 Central Division ◆

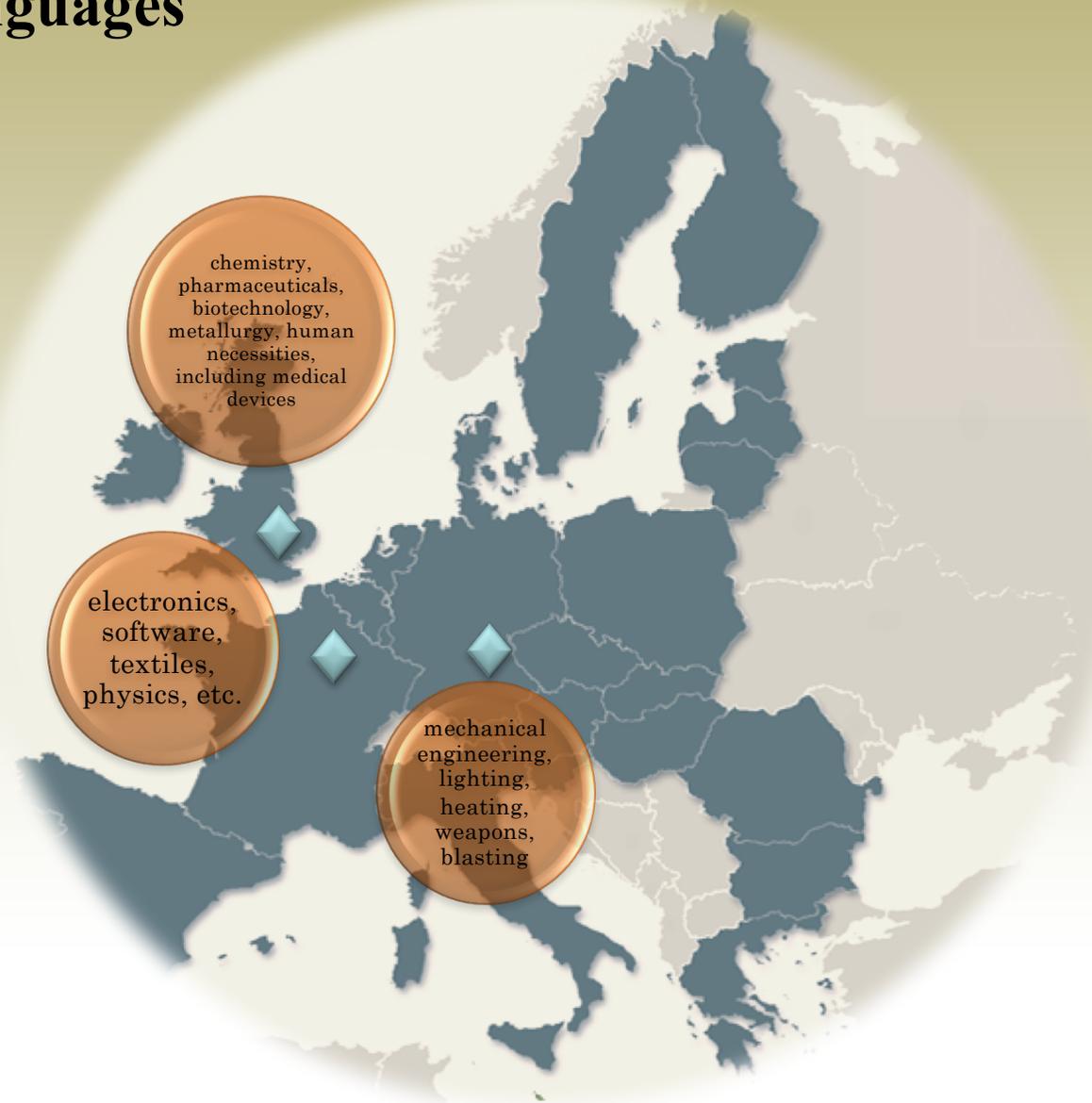
7 Local Divisions

3 Regional Divisions

Court of Appeal

**Patent Mediation and Arbitration
Center**

2 Training Centers for Judges





UPP attracts with cost efficiency

Filing of the request for the registration of Unitary Patents, examination, and registration is completely free of charge before the EPO.

No post-grant translations are required for the purpose of obtaining Unitary Patent (after an initial 6-year transitional period during which only one translation will be required for information purposes having no legal effect)



Expected real fees (UP vs Classic EP)

The fee level is particularly attractive in the early years, with annual fees for maintaining a Unitary Patent for ten years – amounting to less than **EUR 5 000**

	Unitary Patent (UP)	Classic European patent (EP) maintained in DE, FR, GB and IT
Total official fees for years 5-10	4 400	3 745
Total external costs* for years 5-10	3 000	3 855
Total cost up to year 10	7 400	7 600
difference UP vs EP: EUR -200 = -3%		
Total official fees for years 5-12	7 635	6 585
Total external costs* years 5-12	3 625	5 265
Total cost up to year 12	11 260	11 850
difference UP vs EP: EUR -590 = -5%		

* Attorney costs: translation (24 pages), validation and maintenance of a European patent granted during the 4th year after filing of the application



Conclusions:

EU member states are very close to the successful end of UP protection in Europe.

The final steps may be concluded either during BG Presidency, or immediately after it – but during the Trio Presidency.

if the Brexit goes smoothly.



**Thank you
for your attention!!**

