



# The European Unitary Patent

**It is not expected that all EU countries will sign up to the new unitary patent package on day one**

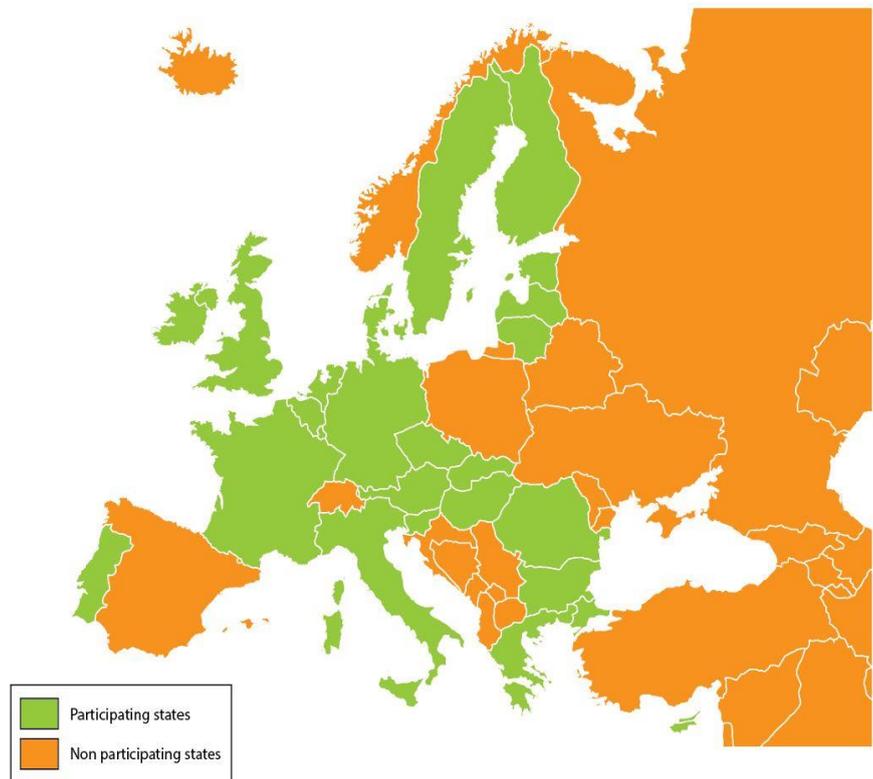
The Council Regulation on the Creation of Unitary Patent Protection sets out the characteristics of the proposed new European unitary patent. This will be a European patent granted by the European Patent Office (EPO) but for which, on the request of the proprietor, unitary effect is given for the territory of any participating European Union member state.

The EU member states include the UK, Germany and France, as well as Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. It is not expected that all of these countries will sign up to the new unitary patent package on day one, and early indication suggests that Poland and Spain will not be part of both the unitary patent and Unified Court system; however, this may well change in the future.

Non-EU contracting states of the current European patent system are unable to participate in the European unitary patent system. These are currently Switzerland & Liechtenstein, Albania, Iceland, Macedonia, Monaco, Norway, San Marino, Serbia, and Turkey.

A map showing the current participants in the unitary patent system is shown on the next page.

The states currently participating in the proposed unitary patent system are shown on the map



### Effect

Unitary effect means that uniform protection is provided with equal effect in all member states. In the unusual situation where a European patent grants with different claims for different member states, because of different relevant prior art for example, grant of a unitary patent will not be possible.

As it is a unitary right, a European unitary patent may only be transferred, revoked, lapsed or limited in respect of all participating member states together. A European unitary patent may however be licensed in respect of all or some of the member states.

### The Request

Unitary patent protection may be requested for any European patent granted on or after the date the relevant regulation comes into force. Thus, it may be expected to apply to some currently pending European patent applications once they proceed to grant. A request for unitary effect must be filed at the EPO no later than one month after grant of the European patent. When the request is filed, it is also necessary to file a translation of the granted European patent into one other EU language.



## The European unitary patent coexists with national and European patents (in so far as those European patents are validated in non-participating states)

The European unitary patents coexists with national patents and current European patents (in so far as those European patent are validated in states not participating in the unitary patent system). Protection in a single member state is therefore not permitted via a request for unitary effect and via national validation of the same European patent. After grant, the patentee has to make a choice of which system to use for their European patent.

Participating member states will also have to ensure (as they do now) that there is no duplication of patent protection in their territory between national patents and patents granted via the EPO.

### Renewal Fees

The EPO will collect annual renewal fees on European patents with unitary effect. The Select Committee of the EPO has endorsed a proposal that the renewal fees for a unitary patent should be based on the renewal fees for renewal of a patent in the UK, France, Germany and the Netherlands. This means that based on 2015 fee levels, the unitary patent renewal fee will be €315 for the 5th year (assuming that the patent has been granted by then), increasing for each subsequent renewal to €1175 for the 10th year and €4855 for the 20th year.

### The Register

Lastly, the European Patent Office will maintain and update the register to show the European patents for which a request for unitary effect has been granted, whether the translation has been filed, and whether the renewal fees have been paid.

Updated October 2015

#### London Office

16 Theobalds Road  
London  
WC1X 8PL

T + 44 (0)20 7242 0901  
F + 44 (0)20 7242 3290

#### Cambridge Office

Clarendon House  
Clarendon Road  
Cambridge CB2 8FH

T + 44 (0) 1223 360 350  
F + 44 (0) 1223 360 280

Reddie & Grose LLP  
[www.reddie.co.uk](http://www.reddie.co.uk)

For general enquiries, please email:  
[enquiries@reddie.co.uk](mailto:enquiries@reddie.co.uk)

*This article is for general information only. Its content is not a statement of the law on any subject and does not constitute advice. Please contact Reddie & Grose LLP for advice before taking any action in reliance on it.*