

## What is the Unified Patent Court?

The **UPC** is an international court set up to deal on a pan-European basis with the infringement and validity of certain patents and supplementary protection certificates ("**SPCs**") in Europe.

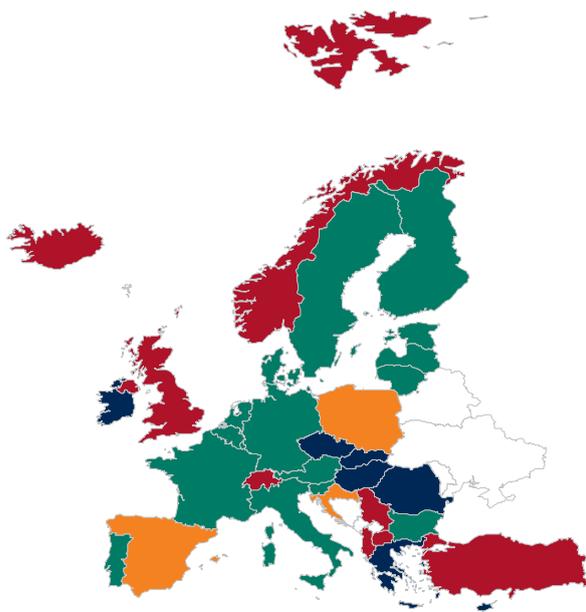
## What is the Unitary Patent?

The **UP** is a single patent right covering all participating Member States.

## How will it work?

The UPC's rulings will apply to all European patents (current and future) designated to participating EU Member States that have ratified the Agreement on a Unified Patent Court ("**UPC Agreement**") - unless they have been opted out of the UPC's jurisdiction - and to the forthcoming Unitary Patent, plus SPCs relating to such patents in those jurisdictions.

## Which jurisdictions are involved?



### Legend:

- Green** Signed and ratified the UPC Agreement and so will be participating in the UPC
  - Belgium, Bulgaria, Denmark, Estonia, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland, Sweden
- Dark Blue** Signed but not ratified and so will not be in the system unless they ratify in the meantime
  - Cyprus, Czech Republic, Greece, Hungary, Ireland, Romania, Slovakia
- Orange** Not currently participating in the UPC although they could as EU Member States
  - Spain, Poland and Croatia
- Red** As non-EU European Patent Convention member states, are not permitted to participate in the UPC/UP system
  - Iceland, Norway, Turkey, Switzerland, Serbia, Albania, Macedonia and the UK



## How does this impact you?

Whilst the UPC only applies in the countries listed above, the new system will affect your patent prosecution, licensing and litigation strategy across Europe. The UPC Agreement will enter into force on **1 June 2023** so you should start to prepare now.

## What should you be doing now?

As Germany has now ratified the UPC Agreement, the **sunrise period** has begun. This means that patentees can opt existing European patents out of the jurisdiction of the UPC, by notifying the Registry of the Court of their opt out decision. This will prevent central revocation actions being brought straight after the UPC has come into operation. You should:

-  **review your patents portfolio** in conjunction with your litigation strategy and risks to identify which patents you want to opt out during the sunrise period;
-  consider the potential impact of the UPC / UP on patent **licence agreements**;
-  **re-assess your patent prosecution strategies** to take account of the impact of the UP's potential jurisdiction on the relative benefits and risks of applying for UPs, European patents and national patents;
-  consider your **freedom-to-operate** position; and
-  ensure the **patent registers** are up to date.

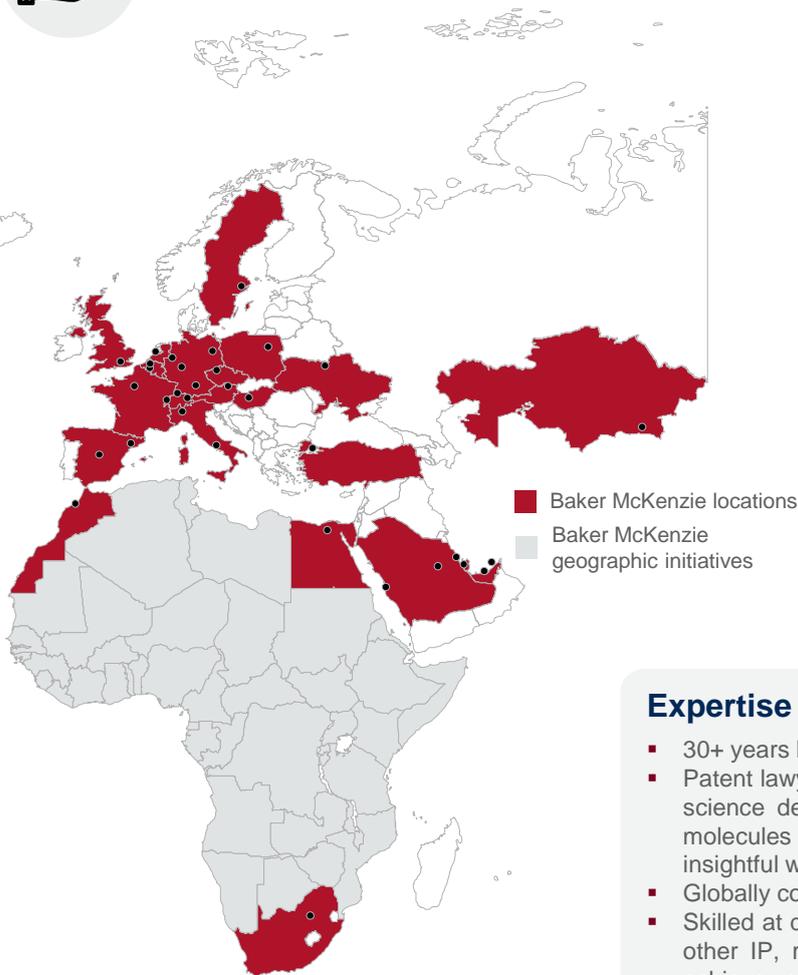


## Should you opt out?

The decision of whether or not to opt your existing European patents out of the system will depend on a number of factors. Please speak to a member of our team who can assist with the best way forward for your business.



## Where can we help?



## EMEA Offices

Austria	Morocco
Belgium	Netherlands
Czech Republic	Poland
Egypt	South Africa
France	Spain
Germany	Sweden
Gulf Offices	Switzerland
Hungary	Turkey
Italy	Ukraine
Kazakhstan	United Kingdom
Luxembourg	

\*\*Gulf Offices includes Bahrain, Qatar, Saudi Arabia and UAE

## Expertise

- 30+ years handling patent portfolios and significant patent disputes
- Patent lawyers and agents with undergraduate and advanced technical and science degrees in relevant fields including microbiology, virology, small molecules chemistry, and biomedical engineering, as well as practical and insightful work experience
- Globally connected, locally fluent
- Skilled at developing and executing patent litigation strategies, aligned with other IP, regulatory, competition, and consumer protection strategies, to achieve your commercial aims
- Deep experience in your industry

## What others say ...

- “The full-service outfit excels at prosecution for some of the world’s top corporations operating across the full spectrum of industries.” **IAM Patent 1000**
- Patent owners are consistently delighted by the service on offer at this innovative firm... companies can rest assured that their instructions will be handled in a way that maximizes the value of their crown-jewel assets. **IAM PATENT 1000 SURVEY**
- As Global IP Firm of the Year, Baker McKenzie “demonstrated that it can provide cost-effective, quality IP services to clients in any region.” **Managing Intellectual Property Awards**
- Band 1 in Intellectual Property for 15 consecutive years. **Chambers Global 2008 – 2022**

## Please contact one of our UPC Team Leads to discuss further:



### Hiroshi Sheraton

Partner  
London  
hiroshi.sheraton  
@bakermckenzie.com



### Tanvi Shah

Senior Associate  
London  
tanvi.shah  
@bakermckenzie.com



### Peder Oxhammar

Partner  
Stockholm  
peder.oxhammar  
@bakermckenzie.com



### Alexander Ritter

Partner  
Munich  
alexander.ritter  
@bakermckenzie.com



### Katarzyna Tobiasz-Dumania

Senior Associate  
Warsaw  
katarzyna.tobiasz-dumania  
@bakermckenzie.com

[www.bakermckenzie.com](http://www.bakermckenzie.com)

Baker & McKenzie LLP is a member firm of Baker & McKenzie International, a global law firm with member law firms around the world. In accordance with the common terminology used in professional service organisations, reference to a “partner” means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an “office” means an office of any such law firm. This may qualify as “Attorney Advertising” requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

© 2023 Baker & McKenzie LLP