

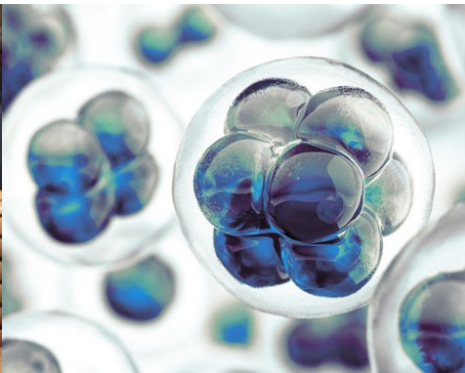


Europäisches
Patentamt
European
Patent Office
Office européen
des brevets

Unitary Patent System - legal perspective



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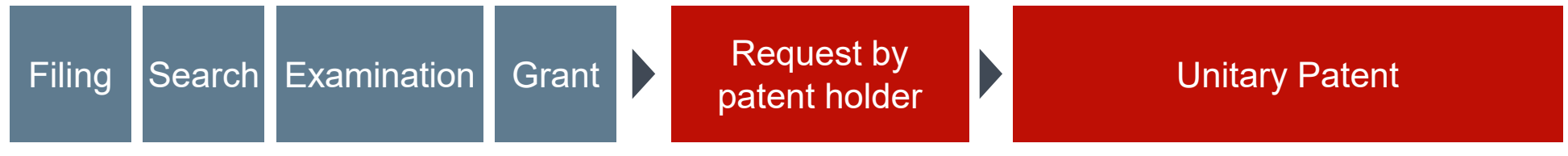


Head of Department European Legal Affairs



8 June 2022

The Unitary Patent: basic concept



- The **Unitary Patent** is a "European patent with unitary effect"
- It has **unitary character** and shall provide **uniform protection**, and shall have **equal effect in all the participating EU member states**
- A European patent will benefit from unitary effect **at the request** of the proprietor: post-grant attribution of unitary effect
- Single EPC procedure for European and "Unitary Patents"

➔ EPC proceedings, incl. opposition and appeal proceedings remains unchanged

Cost benefits

- No fees are charged by the EPO for the purpose of obtaining a Unitary Patent
- Attractive fee level: renewal fees for Unitary Patent for first ten years (= average term of protection of a European patent) below EUR 5 000
- Costs for Unitary Patent lower than for a European patent validated and maintained in four countries
- Reduction of the annual fees by 15% in case of statement on licenses of right
- Compensation scheme concerning translation costs for SMEs

Unitary Patent: Cost efficiency thanks to simplification

Classic European patent

Multiple national post-grant administration procedures

National patent offices



- Translation requirements
- National validation fees
- Procedures
- Renewal fees
- Currencies

Requiring your own local attorney

Unitary Patent

One-stop-shop at the EPO for all post-grant administration

One office



- Simplified translation regime
- No fee for obtaining a Unitary Patent
- One procedure
- One set of renewal fees
- One currency (€)
- One Register

Your European patent attorney

The Unitary Patent: basic concept

- The Unitary Patent will co-exist with national patents and traditional European patents
- Various combinations of classical European patent and Unitary Patent:
 - a Unitary Patent for the participating EU member states, together with
 - a classic European patent taking effect in one or more EPC contracting states not covered by the unitary patent
- **No double protection** by a **unitary patent** and a **classical European patent** on the territory of the 25 participating states
- Double protection by **unitary patent** and **national patent** to be determined at national level (Art. 139(3) EPC): Will be foreseen in several states, incl. DE and FR
- **Effect**: unitary patent takes effect **retroactively** in the participating EU member states as from the date of publication of the mention of grant of the European patent

Requirements for the registration of unitary effect

Substantive requirements

Unitary effect can be requested for European patents that were granted

- on or after the date of entry into operation of the Unitary Patent package
- in respect of all 25 participating EU Member States, and
- with the same set of claims for all of them

Requirements for the registration of unitary effect (2)


Main procedural requirements

Filing of the request by the patent owner

- in writing in the language of the proceedings
- no later than one month after the mention of the grant is published in European Patent Bulletin
- containing the following elements:
 - particulars of the requester, number of the European patent to which unitary effect shall be attributed, information regarding the representative and translation of the European Patent (only during a transitional period)
 - a full **English** translation if the patent is **granted in French** or **German**, or
 - a full translation into **any language of the EU** if the patent has been **granted in English**

Filing the request for unitary effect

- New forms will be available
 - Use of trilingual EPO FORM 7000 highly recommended (not mandatory) when filing request
 - Advisable to carefully read explanatory notes to Form 7000
- Online filing tools (OLF, OLF2.0 and web-form filing) available



Europäisches Patentamt
European Patent Office
Office européen des brevets

Antrag auf einheitliche Wirkung
Request for unitary effect
Demande d'effet unitaire

Tag des Eingangs: nur für interne Gebrauch
Date of receipt: for internal use only
Date de réception: interne usage interne

1. Angaben zum Patent (Regel 6 (2) b) DOEPS)
Data concerning the patent (Rule 6(2)(b) UPR)
Données concernant le brevet (règle 6(2)b) RPU)

1.1 Nummer des europäischen Patents /
European patent No. /
Numéro du brevet européen

1.2 Nummer der europäischen Anmeldung /
European application No. /
Numéro de la demande européenne

1.3 Tag des Hinweisens auf die Erteilung /
Date of mention of the grant /
Date de la mention de la délivrance

1.4 Zeichen des Patentinhabers oder Vertreters (max. 15 Zeichen) /
Proprietor's or representative's reference (max. 15 characters) /
Référence du titulaire du brevet ou du mandataire (max. 15 caractères)

1.5 Das europäische Patent wurde mit den gleichen Ansprüchen für alle teilnehmenden Mitgliedstaaten erteilt (Regel 6 (2) DOEPS) /
European patent has been granted with the same set of claims in respect of all participating member states (Rule 5(2) UPR) /
Le brevet européen a été délivré avec le même jeu de revendications pour tous les États-membres participants (règle 5(2) RPU)

2. Antrag / Request / Demande

2.1 Hiermit wird einheitliche Wirkung für das vorstehend genannte Patent beantragt. /
Unitary effect for the above-mentioned patent is hereby requested. /
Un effet unitaire est demandé pour le brevet susmentionné.

2.2 Hiermit wird die Kompensation von Übersetzungskosten beantragt. /
(Regel 9 DOEPS). Der/Jeeder Patentinhaber erklärt hiermit, dass er/elle die Gebührenpflicht der entsprechenden Anmelde- /
Le/Chaque titulaire du brevet déclare ici, qu'il/elle accepte la responsabilité des frais de traduction des revendications de la demande de brevet. /
The/Each proprietor hereby declares that he, she, or it/elle accepts the responsibility of the payment of the translation costs of the claims of the patent application in an entity or a natural person under the law of a participating member state. /
Une compensation des coûts de traduction des revendications de la demande de brevet est demandée. /
Le/Chaque titulaire du brevet déclare ici, qu'il/elle accepte la responsabilité des frais de traduction des revendications de la demande de brevet. /
In the case of a natural person, the applicant is a natural person under the law of a participating member state. /
Le cas échéant, le demandeur est une personne physique au sens de la réglementation de l'UE. /
Il est demandé que la compensation soit versée par chèque.

2.2.1 Es wird beantragt, die Kompensation per Überweisung auf das in Abschnitt Nr. 9 dieses Formblatts angegebene laufende Konto beim EPA zu zahlen. /
Compensation for translation is requested to be paid to the EPO deposit account mentioned in section 9 of this form. /
Il est demandé que la compensation soit versée par virement sur le compte courant ouvert auprès de l'OEB qui est indiqué à la rubrique 9 du présent formulaire.

2.2.2 Es wird beantragt, die Kompensation per Scheck zu zahlen. /
Compensation for translation is requested by cheque. /
Il est demandé que la compensation soit versée par chèque.

3. Übersetzung / Translation / Traduction

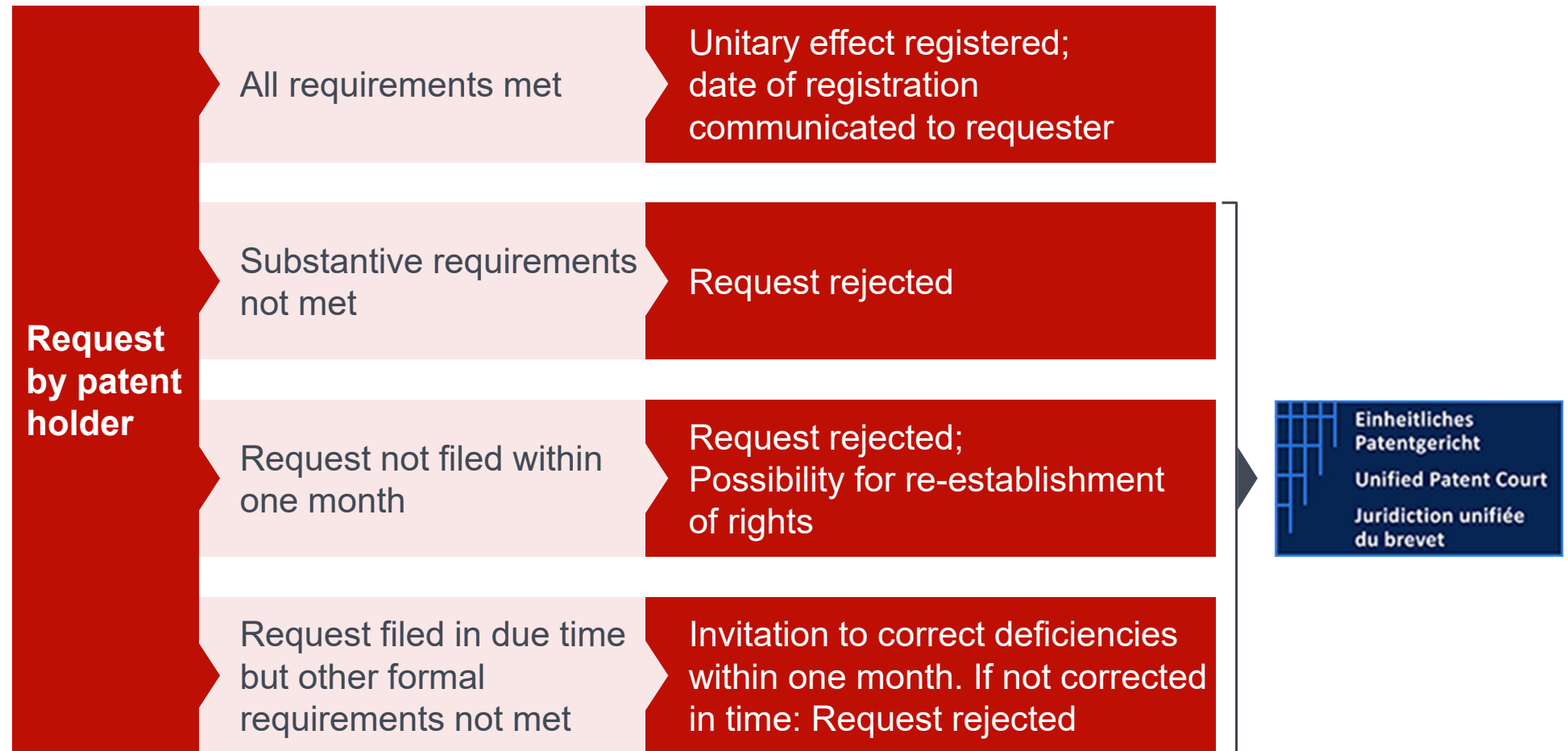
3.1 Verfahrenssprache ist Englisch. Eine Übersetzung des europäischen Patents in einer der anderen Amtssprachen der Europäischen Union (Regel 6 (2) d) DOEPS) ist beigelegt, nämlich: /
Language of proceedings is English. A translation of the European patent into one of the other official languages of the European Union (Rule 6(2)(d) UPR) is enclosed, namely: /
La langue de la procédure est anglaise. Une traduction du brevet européen dans une autre langue officielle de l'Union européenne (règle 6(2)(d) RPU) est jointe, à savoir dans la langue suivante:

3.2 Verfahrenssprache ist Deutsch oder Französisch. Eine Übersetzung des europäischen Patents in Englisch (Regel 6 (2) d) DOEPS) ist beigelegt. /
Language of proceedings is French or German. A translation of the European patent into English (Rule 6(2)(d) UPR) is enclosed. /
La langue de la procédure est le français ou l'allemand. Une traduction en anglaise du brevet européen (règle 6(2)(d) RPU) est jointe.

EPA/EPO/OEB 7000.1 (03.17)

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Examination of request for unitary effect



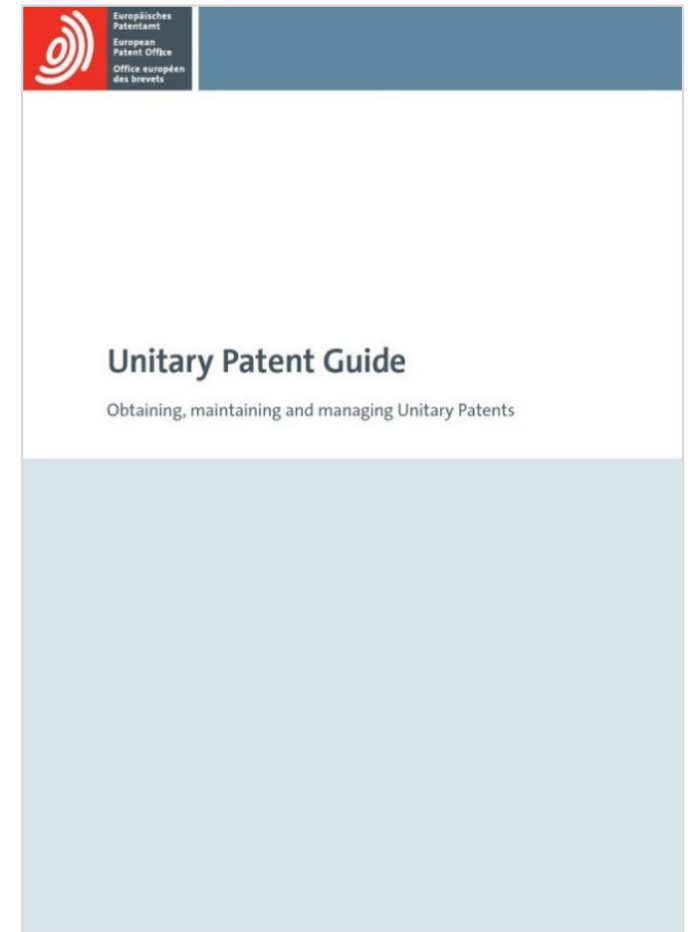
Transitional measures before the start of the Unitary Patent

- EPO provides two **transitional measures** to support users in an early uptake of the Unitary Patent
 - **Early request for unitary effect** (OJ EPO 2022, A6)
 - The EPO will allow applicants to file requests for unitary effect already before the start of the Unitary Patent system, so that unitary effect can be registered immediately at the start of the system.
 - **Request for a delay in issuing the decision to grant** (OJ EPO 2022, A4/A5)
 - The EPO will provide the possibility to request a delay in issuing the decision to grant a European patent, so that users do not miss the opportunity to obtain a Unitary Patent.
- The two measures are interrelated but separate from each other from a procedural perspective.
- They will apply only for a **transitional period of 3-4 months** after the deposit of the UPCA ratification instrument by DE. They will stop as of the entry into force of the UPC/UPP.

<https://www.epo.org/law-practice/unitary/unitary-patent/transitional-arrangements-for-early-uptake.html>

Unitary Patent Guide

- Provides companies, inventors and their representatives with an outline of the procedure involved in obtaining a Unitary Patent
- Deals also with the accessory procedures relating to Unitary Patents (e.g. compensation scheme for translation costs, registering a statement on licences of right) and gives overview of the rules on how to pay renewal fees for Unitary Patents
- Available at: www.epo.org/law-practice/unitary/unitary-patent/unitary-patent-guide.html



When will the new system start?



Need more information?



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Contact us

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Thank you for your attention!

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