

Unitary Patent package

Simplified and broader patent
protection at a lower cost

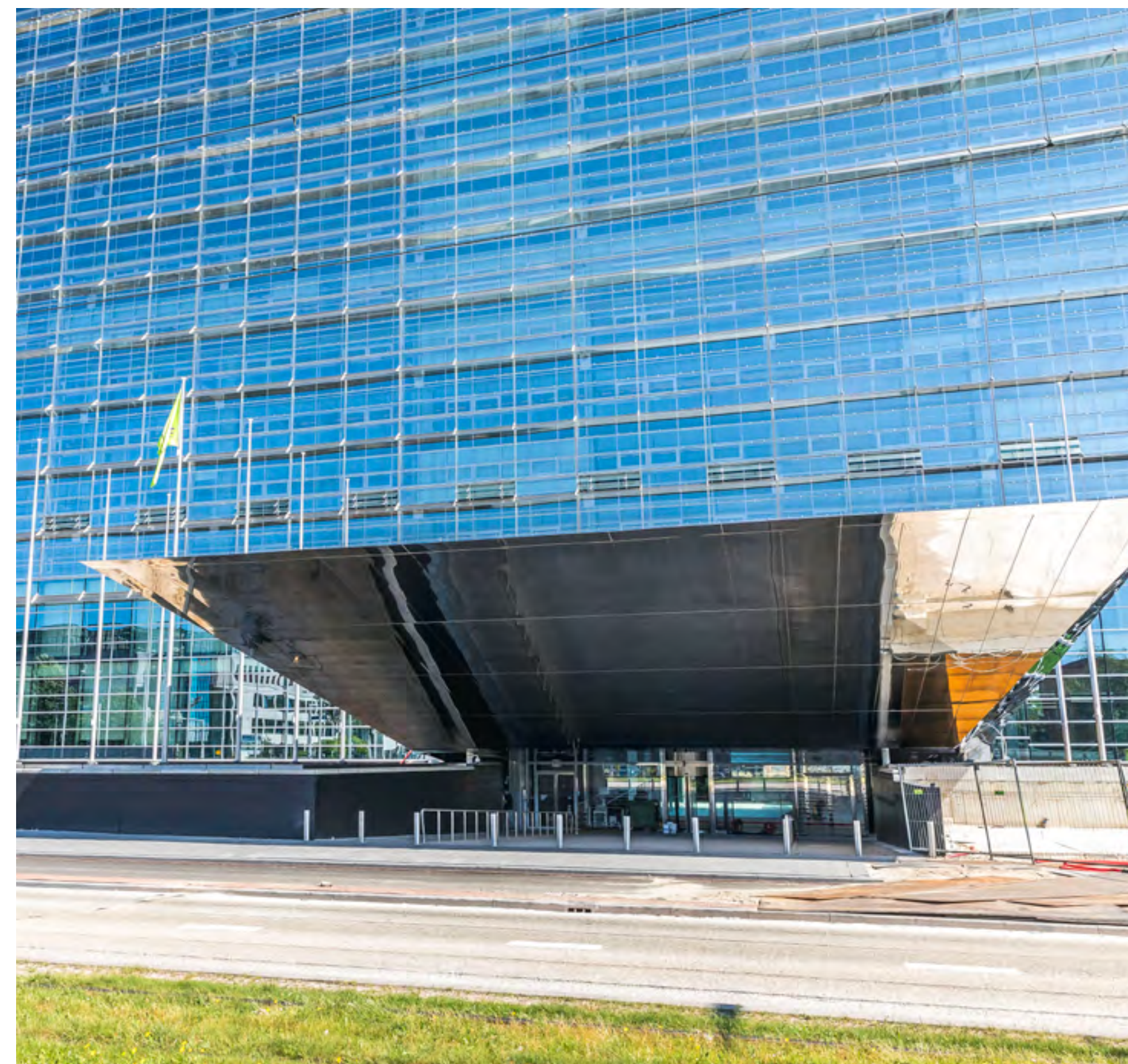
September 2024

The Unitary Patent

supplements and strengthens the existing centralised European patent granting system. Together with the Unified Patent Court, it provides users with a cost-effective option for patent protection and dispute settlement across Europe and stimulates research, development and investment in innovation.

European patents are potent assets, enabling innovative companies to attract investment, make profitable licensing deals, protect their market share and expand their business. However, validating, maintaining and enforcing European patents can be costly and complex. The new Unitary Patent system not only makes

it simpler and cheaper to protect inventions throughout Europe effectively but also introduces a less complex, centralised dispute settlement system offering greater legal certainty.



From a bundle of national patents ...

Since the 1970s, the European Patent Office (EPO) has provided a single centralised process for granting patents in Europe. Patent applications, filed in English, French or German, are extensively searched and legally examined to ensure that the resulting patents are of the best possible quality. After this centralised grant procedure, the patent proprietor can obtain patent protection in up to 45 countries. However, the granted European patent is not a unitary right but instead a bundle of national patents, meaning it has to be validated and maintained individually in each country in which it is to take effect – a process that can be cumbersome and expensive.



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... to a single unitary right

The Unitary Patent system eliminates these shortcomings for the participating EU Member States: the new **European patent with unitary effect (“Unitary Patent”)** offers a simplified route to uniform and broad territorial patent protection, significantly reducing red tape and costs. The centralised pre-grant procedure of the European patent is now supplemented by a centralised post-grant procedure: instead of validating their European patent in several states individually, proprietors can obtain a Unitary Patent by filing a single request with the EPO, which acts as a one-stop shop also responsible for centrally administering the Unitary Patent and the related fee payments.

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How does it work?

The Unitary Patent complements the existing European patent system rather than replacing it. Innovative businesses from all over the world are free to choose whether to take the national route of validating their European patent in one or more EPC Contracting States or opt for Unitary Patent protection. Or they can combine the new system with the existing one and so have a Unitary Patent alongside validating their classic European patent in other EPC Contracting States that either are not participating in the new Unitary Patent system or have not yet acceded to the Agreement on a Unified Patent Court (UPCA).

The Unitary Patent complements the existing system rather than replacing it. Innovative businesses from all over the world will be free to choose whether to take the national route, opt for Unitary Patent protection, or combine the new system with the existing one.



How to obtain one?

Before proprietors can have a Unitary Patent registered by the EPO, they must first obtain a European patent. This means that a European patent application must be filed and processed under the familiar and trusted rules and procedures of the European Patent Convention. What is new is that the existing centralised pre grant procedure is now supplemented by a centralised post-grant procedure at the EPO.

The procedure for obtaining a Unitary Patent is simple and straightforward: the European patent must have been granted with the same set of claims in respect of all the participating EU Member States. The request for unitary effect should then be filed within one month of publication of the grant of the European patent, and may be filed earlier at any time after the notification of the decision to grant. Except in an initial transition period, no post-grant translations will be required for the Unitary Patent. The EPO will examine the request for unitary effect and register a Unitary Patent if the requirements are fulfilled.

The procedure for obtaining a Unitary Patent is simple and straightforward: Proprietors must first obtain a European patent, then a request for unitary effect will have to be filed.

What does it cost?

The request for unitary effect is entirely free of charge, i.e. no filing, examination or registration fees will be payable to the EPO for this.

The renewal fee for a Unitary Patent has been fixed at a very attractive and business-friendly level: the total cost of maintaining it for the first ten years, which is the average lifetime of a European patent, will be less than EUR 5 000.

A comparison of the fees and indirect costs shows that the overall cost of a Unitary Patent will be significantly lower than the cost currently incurred in validating and maintaining a classic European patent in four countries.

The full cost-saving potential of a Unitary Patent becomes clear when the savings from its simplified administration are also factored into the equation. In case of a classic European patent, different renewal fees of different amounts have to be paid in different currencies to different national patent offices, which also have different legal requirements, especially in terms of time limits. For the Unitary Patent, there is just a single renewal fee, payable centrally to the EPO in a single currency (euro) and via a standardised procedure with one deadline and no obligation to use a representative.

What is more, SMEs are now eligible for compensation of EUR 500 for the costs of filing a translation of their initial patent application into one of the three official languages at the EPO.

Renewal fees for the Unitary Patent

—	—	11th year	€ 1 460
2nd year	€ 35	12th year	€ 1 775
3rd year	€ 105	13th year	€ 2 105
4th year	€ 145	14th year	€ 2 455
5th year	€ 315	15th year	€ 2 830
6th year	€ 475	16th year	€ 3 240
7th year	€ 630	17th year	€ 3 640
8th year	€ 815	18th year	€ 4 055
9th year	€ 990	19th year	€ 4 455
10th year	€ 1 175	20th year	€ 4 855

— Additional fee for belated payment of a renewal fee = 50 % of the belated renewal fee (Rule 2[1], item 2, RFeesUPP)
— Renewal fee reduction of 15 % in case of a license of right (Rule 12 UPR, Rule 3 RFeesUPP)

For more information about the cost of a Unitary Patent as compared with equivalent protection in just four leading European countries under the classic European patent system, see the [EPO website](#).

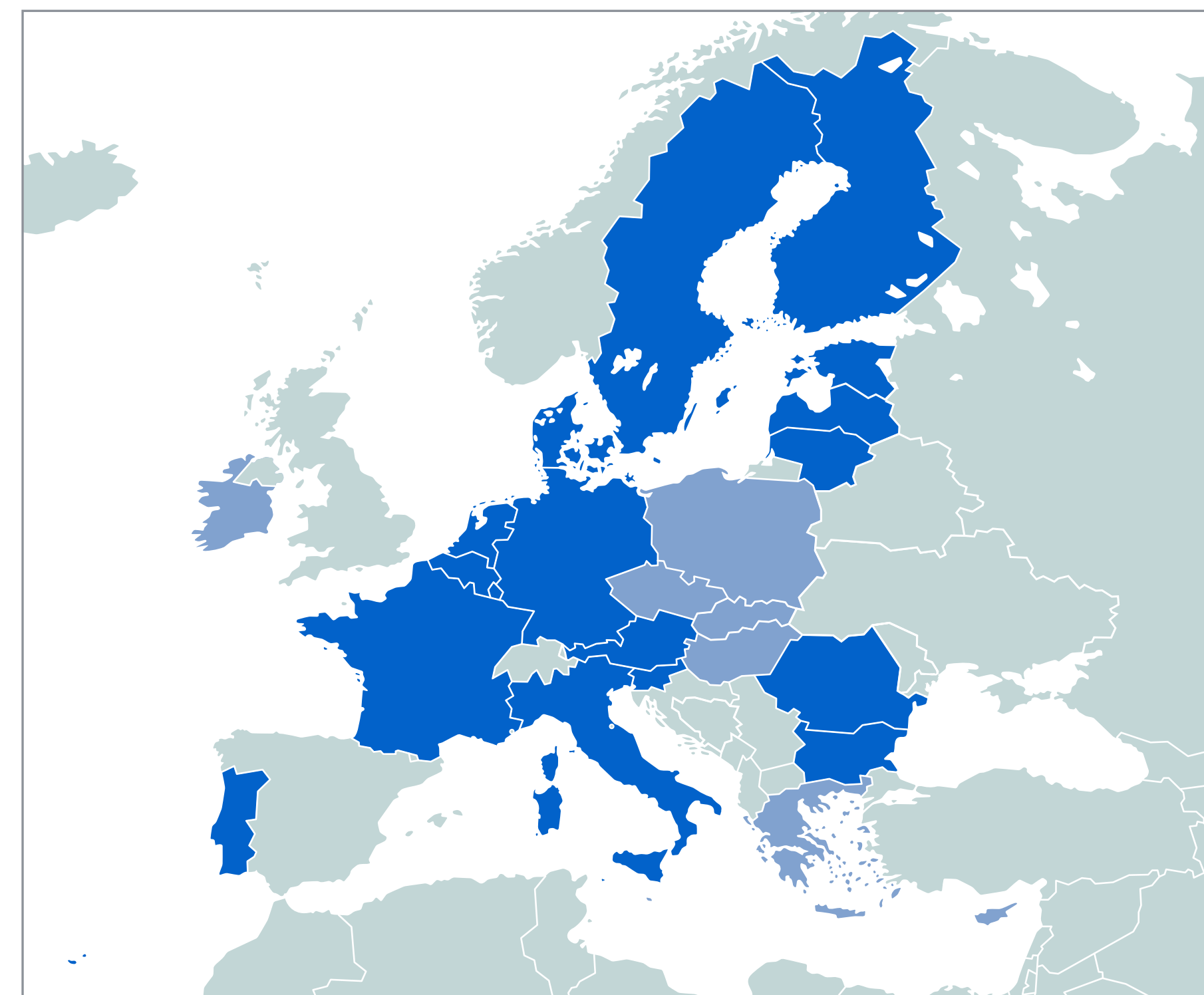
The request is free of charge and the renewal fee has been fixed at a very attractive and business-friendly level.

What about the geographical coverage?

The geographical scope of the Unitary Patent could potentially cover all 27 EU Member States.

But to be covered by the Unitary Patent, a Member State must not only participate in the enhanced co-operation but must also have ratified the UPCA when the Unitary Patent is registered.

The geographical scope of a given Unitary Patent will remain the same for its lifetime and will not be extended to states that ratify the UPCA after its own unitary effect has been registered.



The 25 states participating in enhanced cooperation include 18 states (dark blue) which have ratified the Unified Patent Court Agreement (UPCA), namely: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovenia, Sweden; as well as 7 other states (pale blue) which could join the system once they ratify the UPCA (namely: Cyprus, Czech Republic, Greece, Hungary, Ireland, Poland, Slovakia). Croatia and Spain are free to join enhanced co-operation if they wish in future.

A single court for patents in Europe

The new dedicated Unified Patent Court (UPC) applies uniform substantive patent law in determining the scope of the rights conferred and their limitations.

Judicial enforcement is becoming much simpler, with actions brought before the Unified Patent Court (UPC), a new dedicated central patent judiciary for the participating EU Member States with jurisdiction to hear disputes over infringement or revocation in particular.

The previous lack of a dedicated European patent court meant patents might have been litigated in parallel proceedings before various national courts, which could make taking legal action complex and costly for all parties.

The UPC puts an end to this. Holders of Unitary Patents and classic European patents now enjoy a simpler patent litigation environment in the states signed up to its jurisdiction.

The UPC consists of a Court of First Instance, a Court of Appeal and a Registry. It applies uniform substantive patent law in determining the scope of the rights conferred and their limitations. Decisions are taken by multinational panels composed of both legally and technically qualified judges. Their decisions will meet the highest standards of quality and establish harmonised case law ensuring greater legal certainty.

Procedures before the UPC will be simpler, quicker and more efficient. The cost of litigation will also be lower as there will be no need to litigate in each Member State. Small companies will additionally benefit from reduced court fees and, if they lose their case, a lower ceiling on the recoverable costs that can be awarded to the winning side.

Besides Unitary Patents, the UPC also has jurisdiction over classic European patents, although some exceptions will apply for a transitional period until 31 May 2030.

When did the new system start?

The new Unitary Patent system came into effect on **1 June 2023**, when the Unified Patent Court began to operate.



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