

OFFICIAL TIMELINE

19 January 2022

Provisional Application Period began

The transition to the operational phase began, in particular:

- the Unified Patent Court (UPC) acquired legal personality
- UPC's central, regional and local divisions were established
- Registry was set up at the seat of the Court of Appeal (Luxembourg)
- the Administrative Committee, Budget Committee and Advisory Committee were set up
- UPC judges have been appointed
- Patent mediation and arbitration center was established in Ljubljana (Slovenia) and Lisbon (Portugal)

8 July 2022

UPC rules of procedure finalised

One of the final necessary preparatory steps before the court can begin operating.

1 September 2022

Rules of procedure come into force

Sets the legal framework for certain acts that will be possible during the "sunrise period", such as opt-outs.

November 2022
(expected)

Start of the sunrise period

The sunrise period provides the option for opting-out European patents, European patent applications and SPCs from the UPC's jurisdiction. It will also be possible to start filing requests for unitary patents with the European Patent Office during the sunrise period.

March 2023
(expected)

UPC begins operating and UPs start being granted

When the UPC begins operating, it will be possible to bring actions before the court. The European Patent Office will begin granting unitary patents.

PATENT/SPC OWNERS' NEXT STEPS

PREPARATION FOR OPTING OUT EXISTING EUROPEAN PATENTS / SPCs

The UPC will have exclusive jurisdiction over existing European patents and SPCs, making a central revocation attack possible.

Owners of a European patent as well as holders of an SPC may opt-out from the exclusive competence of the UPC for at least 7 years and thus we recommend that you:

- determine your opt-out strategy
- carry out due diligence review of your patent / SPC portfolio to identify the patents / SPCs that will be opted-out
- correct issues related to chain of title
- identify co-owners of such patents / SPCs and obtain their consent to opt-out
- review your license agreements related to such patents / SPCs to ensure that (1) an appropriate process is in place for managing opt-out / opt-in and (2) litigation provisions are coherent with opt-out / opt-in strategy
- review litigation strategy with your current licensees given its impact on the right to opt-out / opt-in

DEFINE STRATEGY FOR PENDING APPLICATIONS

- Identify the patent applications that will be opted-out
- Draft joint ownership / license agreements to ensure that (1) an appropriate process is in place for managing opt-out / opt-in and unitary effect decisions and (2) litigation provisions are coherent with opt-out / opt-in strategy

OPTING -OUT

You may opt-out from jurisdiction of the UPC by notifying your opt-out with the Registry of the UPC once the sunrise period begins.

REQUEST FOR UNITARY EFFECT

If you are an applicant for a European patent at the final phase of the grant procedure, you may obtain a Unitary Patent by:

- filing an early request of unitary effect or
- delaying the grant procedure until after the UPC start date.