

**Forum shopping with the Unified Patent Court:
Less cases, more choice?**

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EPLAW
(European Patent Lawyers Association)

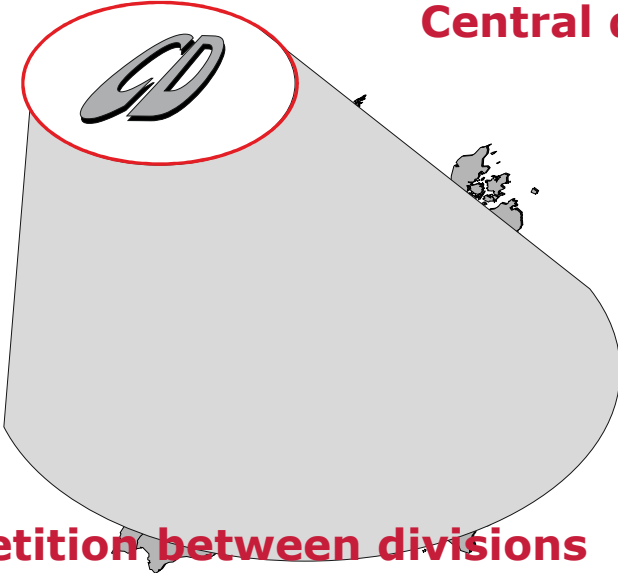
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**DE
FR
NL
UK**

Current situation

**Competition between national courts
Conflicting decisions possible**


**UPC situation
Central division**



**Competition between divisions
One decision only**

The diagram shows a map of Europe with a red circle highlighting the central region. Inside the circle is a stylized logo consisting of the letters 'CD' in a grey, italicized font. The rest of the map is shaded grey.

**UPC situation
Eastern district
of Texas in EU?**

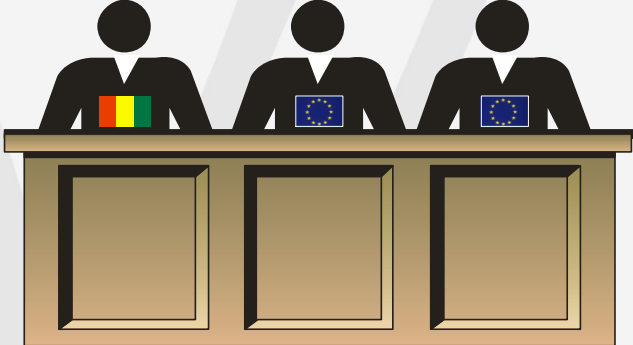


**Competition between divisions
One decision only**

The diagram shows a map of Europe with a large red circle covering the central and eastern parts of the continent. The rest of the map is shaded grey.

The Unified Patent Court

8 (2) (anti Eastern District Texas provision)
Panel: 1st instance local division



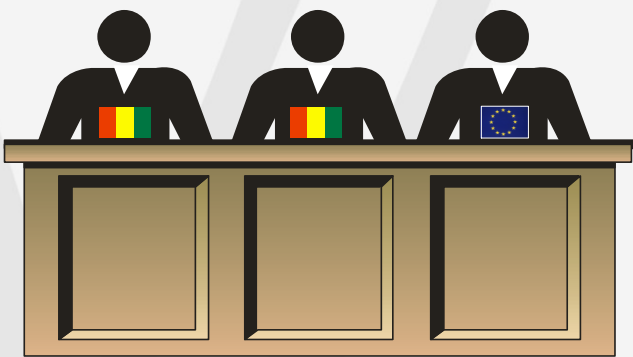
Member State with < 50 cases

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5

The Unified Patent Court

8 (3) & (4)
Panel: 1st instance local division



**Member State with > 50 cases
or regional division**



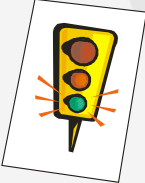
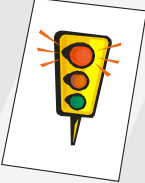
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6

The Unified Patent Court

32 Jurisdiction

- Infringement
- Declaration of non-infringement
- Revocation
- Miscellaneous



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7

The Unified Patent Court

33 (1) Infringement: (a) place of infringement




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The Unified Patent Court

**33 (1)
Infringement: (b) defendant's domicile**




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9

Detailed description: A cartoon illustration of a man with a mustache and glasses, wearing a yellow shirt and blue trousers, pointing towards a map of Europe. He is holding a yellow sign with a red border that says 'HOME SWEET HOME' in black capital letters. The map of Europe is shown in grey with black outlines of countries. A small red pin is visible on the map, indicating a location in Western Europe. The background features a large, faint watermark of the number '10'.

The Unified Patent Court

**33 (1) §3
Infringement
non EU defendants: Central Division**



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10

Detailed description: A map of Europe is shown in grey with black outlines of countries. Several flags are placed around the map: Canada (top left), USA (middle left), Brazil (bottom left), Spain (bottom left), Switzerland (bottom center), South Korea (top right), Japan (middle right), and China (bottom right). A red circle highlights a grey logo with the letters 'CD' inside, positioned over the map of Germany. The background features a large, faint watermark of the number '10'.

The Unified Patent Court

33 (7) Infringement: choice of the parties

11

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The Unified Patent Court

49 Language of proceedings: 1st instance

Regional division

Language of the court
(national or EPO language)

Local division

Central division

Language of the patent

Regional division

Local division


Language of the court
(national or EPO language)

12


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The Unified Patent Court

50 Language of proceedings: appeal

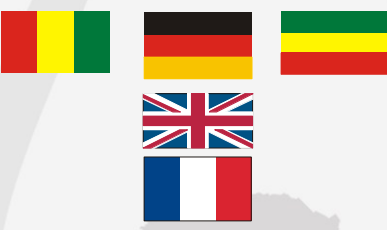


- Language of 1st instance
- Language of the patent (upon the parties' agreement)
- Language chosen by the court and approved by the parties




Court of Appeal

Appeal (facts & law)




13



The Unified Patent Court

83 Transitional period: 7 years




01/04/2014
Entry into operation
Unified Patent Court
Agreement

31/03/2021
End of
Transitional Period

01/04/2014 - 31/03/2021
Transitional Period : 7 years

- National courts still competent for EP
- European Patent holders may opt out from Unified Patent Court (withdrawal possible=opt in)

14



83 Transitional period

“(3) Unless an action has already been brought before the Court, a proprietor of or an applicant for a European patent granted or applied for prior to the end of the transitional period under paragraph 1 and, where applicable, paragraph 5, shall have the possibility to **opt out** from the exclusive competence of the Court. To this end they shall notify their opt-out to the Registry by the latest one month before expiry of the transitional period. The opt-out shall take effect upon its entry into the register.

(4) Unless an action has already been brought before a national court, proprietors of or applicants for European patents who made use of the opt-out in accordance with paragraph 3 shall be entitled to **withdraw their opt-out** at any moment. In this event they shall notify the Registry accordingly. The withdrawal of the opt-out shall take effect upon its entry into the register.”

Opt out situation



Competition between national courts
Conflicting decisions possible

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Thank you

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