

The EU Patent Package Handbook: A Practitioners Guide



A new patent right for Europe (the European Patent with Unitary Effect) and a new European enforcement and invalidation regime (the Unified Patent Court) are expected to come into operation soon, potentially as early as 2015. Existing patents granted by the European Patent Office (EPO), as well as those granted in the future, will automatically come under the jurisdiction of the new Court, unless opt-out rights are exercised. These measures represent one of the most complex and ambitious legal reforms in the field of European intellectual property since the creation of the EPO in 1977. For applicants and proprietors used to the current European system of national patents and national courts, the new system will present both opportunities and challenges in developing, maintaining and leveraging a cost-effective patent portfolio. For manufacturers, distributors and end-users, the new system will subject their activities to the jurisdiction of a new court, with unique and possibly unfamiliar powers and procedures. Decisions must therefore be made as to how best to take advantage of the possibilities afforded by the new system. Applicants and proprietors are already asking themselves questions such as: Should I start to register European patents as European Patents with Unitary Effect when they become available, or should I continue with national validation? For which European patents and applications should I make use of the opt-out to keep litigation in the national courts? Should I consider reverting to national filings instead of using the EPO? How will the new Unified Patent Court be structured, and how will it work? What choices will I have in future as to where to litigate should I choose a national court or the UPC to enforce or invalidate a European patent? This Handbook provides both guidance for the strategic decisions which will have to be

taken and a detailed reference manual to the law and practice of the new system.

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