

Unitary Patent (UP) and Unified Patent Court (UPC) one year on

Facts & Figures

Maiwald - Your choice for the Unitary Patent and the Unified Patent Court

- › Over 70 registered UPC representatives.
- › Already in year 1 we successfully represented a number of clients before the UPC.
- › One-stop shop: Our IP full-service team covers the entire range of technical fields from a single source.
- › Our lawyers and patent attorneys are fully versed in the workings of the UP and the UPC; they bring with them a fund of knowledge, experience and strategic expertise.



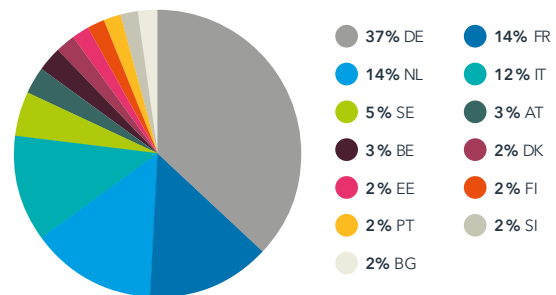
- › We hold regular UPC training sessions with clients and international colleagues (US, China, Japan, Korea, etc.).
- › We maintain an up-to-the-minute file management system relating to the UP and UPC (interfaces, workflows, standard communications).
- › A dedicated UPC task force that includes lawyers, patent attorneys, SPC specialists and patent administration experts is at your disposal:
<http://www.maiwald.eu/en/upc/#upc-taskforce>
- › Maiwald is a member of the UPCLA network of European IP law firms. We plan and coordinate patent litigation and represent clients before the local and regional divisions of the UPC: <https://upcla.eu/>

Our experts are ideally placed to assist you!

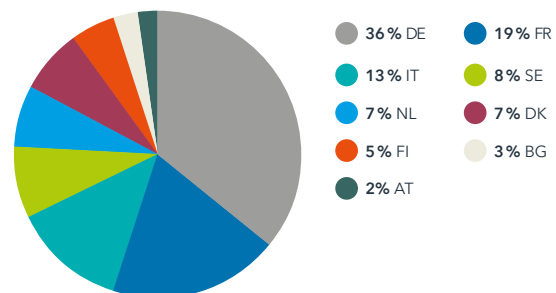
The Unified Patent Court

111 Judges, > 9,600 registered Representatives

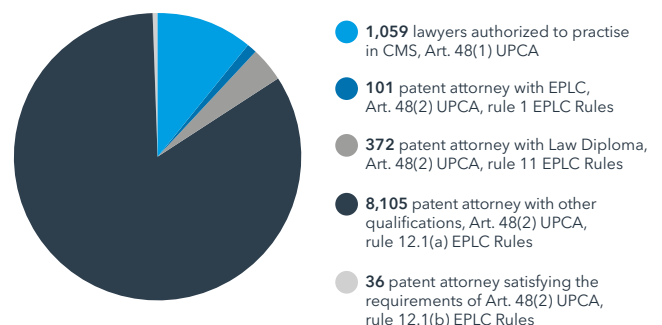
Nationalities of legally qualified judges



Nationalities of technically qualified judges

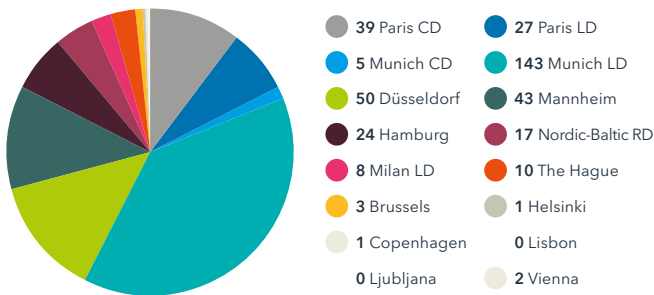


Representatives



Case load of the UPC at end of May 2024

Since June 1, 2023, the Court of First Instance has received a total of 373 cases.



Due to the heavy case load of the German Local Divisions (LD), new judges were appointed to the LDs Mannheim and Munich and a second panel was added to the LD Munich.

The Court of Appeal has received a total of 63 appeals and 13 other applications.

Language of proceedings (first instance)

All countries designated English as (additional) language of the proceedings. After some initial reluctance, English now accounts for 50% of all proceedings, and the trend is rising.

Orders and decisions

293 published orders (O) and decisions (D)

	O	D
Paris CD	37	8
Paris LD	17	1
Munich CD	19	-
Munich LD	80	4
Düsseldorf	42	2
Mannheim	17	-
Hamburg	11	2
Nordic-Baltic RD	2	-
Milan LD	14	-
The Hague	10	-
Brussels	1	-
Helsinki	4	1
Copenhagen	-	-
Lisbon	-	-
Ljubljana	-	-
Vienna	-	1

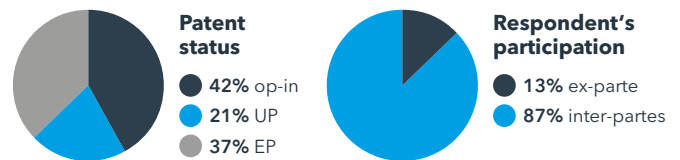
Key aspects

Access to the register · Bifurcation · Claim construction · Change of language · Competence of the Court · Confidentiality · Panel composition · Security for costs · Service · Stay of proceedings · etc.

Proceedings at the UPC

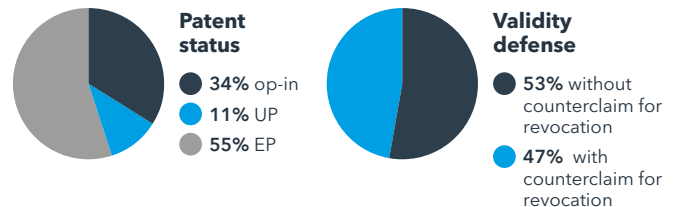
Provisional measures (preliminary injunction)

- › In 56% of cases, protective letters were previously filed.
- › A technically qualified judge was assigned in most cases.
- › Average duration of first instance *inter partes* proceedings is only 3.7 months, including summary review of infringement and validity of the patent-in-suit.



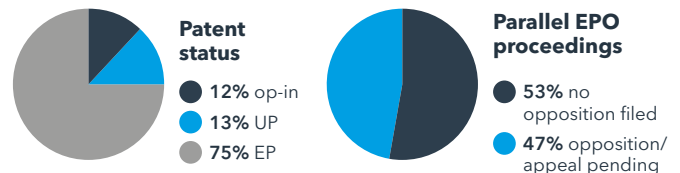
Infringement action

No bifurcation as yet. 165 counterclaims for revocation have been filed with the Court. In some cases, the LDs Düsseldorf, Munich and The Hague have already decided in favor of a joint hearing of infringement and validity and against a so-called bifurcation.



Revocation action

No stay as yet. Parallel opposition or appeal proceedings are pending before the EPO for a large number of patents. In two cases, the CDs Paris and Munich have each decided not to make use of the possibility of suspending the revocation action.



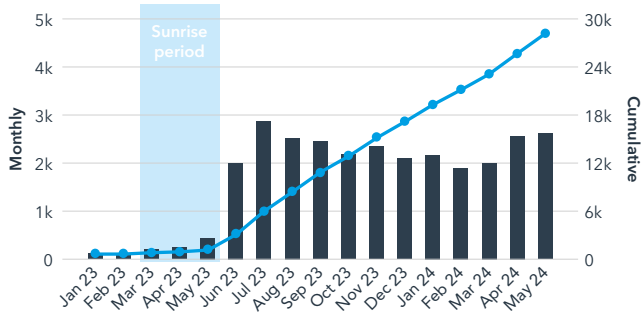
The Unitary Patent (UP)

One year on, the outcome is more than positive:

UP requests

Up until June 2024, the EPO received a total of 28,452 requests for unitary effect; a total of 27,691 UPs are registered.

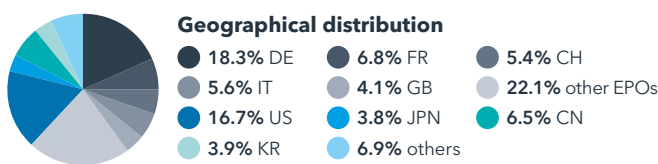
Evolution of requests received



Thus, expectations for the UP have been met and even exceeded for both 2023 (expected 17%, actual 17.3%) and 2024 (expected 20%, currently 24%).

Origin of proprietors

The majority of applicants are from Germany, followed by the USA, France and China.



Technology fields

The most frequently represented technical fields are medical technology (12.1%), civil engineering (5.7%), measurement technology (5.4%), transportation (5.3%) and pharmaceuticals (3.7%).

UPC proceedings

The Unitary Patent already makes up about 29% of all applications for provisional measures, infringement and revocation actions lodged with the UPC in the first year!

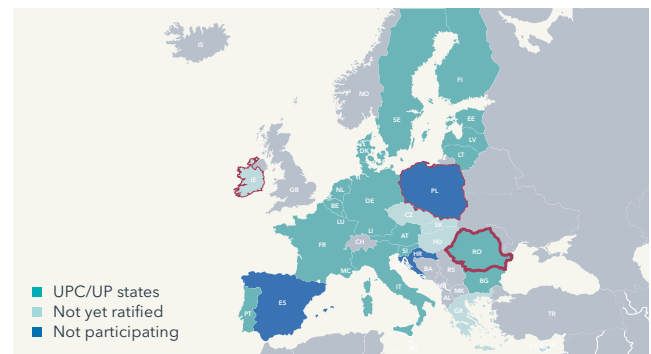
For daily updated figures, consult the EPO Unitary Patent Dashboard!*

* <https://www.epo.org/en/about-us/statistics/statistics-centre#/customchart>

What can we expect in the coming year?

Enlarged territory

On September 1, 2024, Romania will become the 18th contracting member state of the UPCA. Another potential candidate is Ireland. Unconfirmed rumors suggest that Poland is discussing signing up to the UPCA, which would be a further major step towards uniformity.



Unitary Patent second generation

Also from September 1, 2024, the second generation of Unitary Patents then covering 18 EU member states, including Romania, will start.

Central division completed

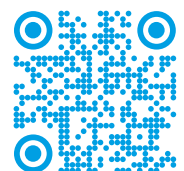
The second section of the Central Division will open its doors in Milan on June 26, 2024, taking over responsibility from Paris for IPC class A. At the same time, responsibility for SPCs for classes A and C will pass to Paris.

Landmark case law

Around 60 first instance decisions on infringement actions and around 20 decisions on revocation actions are expected by the end of 2024. Moreover, important decisions by the Court of Appeal are expected, in particular on the jurisdiction of the UPC.

It can be assumed that after the UPC's second year, many procedural and substantive issues will have been clarified, at least at first instance level.

Find here
further information
on the topic





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