

THE UNITARY PATENT (UP) and THE UNIFIED PATENT COURT (UPC)

The start of the Unitary Patent (UP) and The Unified Patent Court (UPC) system is imminent and is likely to be at the beginning of June 2023.

The Unitary Patent (UP)

The UP will result in a Patent having unitary effect in the member states of the European Union (EU) who are participating in the UP and UPC system*. The UP will be granted by the European Patent Office (EPO). The UP will have a number of advantages for Patent owners including a significant reduction in translation costs and a single, relatively low, renewal fee for the maintenance of the UP instead of having to pay renewal fees to each national patent office as is currently required.

* Initially, Unitary Patents (UPs) will not cover all 24 participating EU Member States as only 17 EU Member States are likely to have ratified the UPC Agreement when it enters into force. The other countries will join over time as the other countries will take the necessary steps to ratify the UPC Agreement, so there will be UPs having different territorial coverage over time. However, the coverage of a particular generation of UPs will stay the same for the entire lifetime of those patents, irrespective of any subsequent ratifications of the UPC Agreement after the date of registration of unitary effect.

The Unified Patent Court (UPC)

The newly created UPC will have exclusive jurisdiction over Unitary Patents. The UPC will be a Court specifically tasked with being the relevant forum for determining the outcome of patent infringement and revocation proceedings for Unitary Patents. In addition, unless a particular member state of the European Union has decided not to be part of the UPC system, the jurisdiction of the UPC will also extend to all national patents derived from European Patents granted by the EPO.

Ireland is not yet in a position to join in the UP and UPC system because of the need to hold a referendum to enable Ireland to ratify the relevant Agreement.

The Association of Patent and Trade Mark attorneys (APTMA) is the professional representative body representing patent attorneys who advise and work with users of the Patent system in Ireland. APTMA has significant insight into the needs of the users of the Patent system and is therefore a key stakeholder in matters related to the UP and UPC.

The importance of the UP and UPC is such that APTMA have created a UP/UPC Committee who are tasked with ensuring that members of APTMA are fully briefed on all legal aspects and the progress towards commencement of UP/UPC system. In addition, the UP/UPC Committee and other Committees (such as the Education Committee) will have a role in informing the public on the issues that will be the subject of the referendum. APTMA will provide encouragement and support to try and ensure ratification of the Agreement and that this can be achieved as expeditiously as possible.