

## Unitary Patent and Unified Patent Court – new patent system to start 1 June 2023

A renewed patent system for Europe is about to be launched on 1 June 2023. With the introduction of the Unitary Patent and the establishment of the Unified Patent Court it will become more efficient, easier and less costly to protect innovations throughout Europe. The Unitary Patent makes it possible to obtain patent protection in almost all Member States of the European Union (EU) with a single registration. In addition, the judicial enforcement of patents is centralized by means of a single court with jurisdiction to hear disputes on validity and infringement of European patents: the Unified Patent Court. The new system not only radically changes the European patent landscape, but is of relevance to the Caribbean part of the Kingdom of the Netherlands as well.

The upcoming reform of the European patent system has been long-awaited. The current patent landscape in Europe is fragmented and overly burdensome for innovative businesses. Validation requirements, renewal fees and judicial procedures vary among EU Member States. As a result of the Unitary Patent, national validations and associated administrative requirements are no longer necessary. Decisions of the Unified Patent Court will have effect in a large part of the EU, avoiding parallel proceeding at national courts with possible diverging outcomes.

**Sint Maarten, Curaçao, Bonaire, Sint Eustatius and Saba participate**

Simultaneously with the start of the new European patent system, Dutch patent legislation 'Rijksoctrooiwet 1995' will be brought in line with the UPC Agreement and EU regulations on the Unitary Patent. This has the advantage that the same law applies regardless of whether a patent dispute is brought before the Unified Patent Court or a national court.

The amendment of the Rijksoctrooiwet 1995 also regulates that for European patents valid in Sint Maarten, Curaçao, Bonaire, Sint Eustatius and Saba, the new European patent system applies. In Article 51a of the Rijksoctrooiwet 1995, that will enter into force on the same day as the UPC Agreement (1 June 2023), the provisions of the EU-regulations governing the Unitary Patent apply mutatis mutandis to European patents in effect in Sint Maarten, Curaçao, Bonaire, Sint Eustatius and Saba. As a consequence, Unitary Patents also offer protection in these parts of the Kingdom of The Netherlands.

On November 28, 2019, the UPC Agreement was ratified for Sint Maarten, Curaçao, Bonaire, Sint Eustatius and Saba. The UPC Agreement will, after it enters into force, be directly applicable in Sint Maarten, Curaçao, Bonaire, Sint Eustatius and Saba. This means that the Unified Patent Court also has jurisdiction over European patents applicable in the aforementioned parts of the Kingdom of The Netherlands.

If a patent holder wishes to bring a patent dispute to a national court instead of the Unified Patent Court, it may 'opt-out' its European patent from the jurisdiction of the Unified Patent Court. This 'opt-out' procedure is only available for 'classic' European patents, not for Unitary Patents.

### How to obtain a Unitary Patent?

The Unitary Patent will not replace the existing European patent system. It allows for an additional option next to the European patent as we know it today. Applicants are free to choose whether to validate their European patent nationally in one or more EU Member States or apply for Unitary Patent protection.

Before applying for a Unitary Patent, a European patent must be obtained from the European Patent Office. After the European patent has been granted, the patent holder can file a request for unitary effect. This must be done within one month of publication of the grant of the European patent. If all requirements are fulfilled, the European Patent Office will register the Unitary Patent. No fee applies to the request for or registration of unitary effect.

A single renewal fee will apply for the Unitary Patent. It is fixed at a level that is significantly lower than the costs currently incurred for maintaining a 'classic' European patent in the same number of countries covered by the Unitary Patent. For example, the total costs of maintaining a Unitary Patent for the first ten years (average lifetime of a European patent), is less than €5000. The renewal fee is paid centrally to the European Patent Office in a single currency (Euro).

### Unified Patent Court

The Unified Patent Court will consist of a Court of First Instance, a Court of Appeal and a Registry. The Court of First Instance has a tiered structure with central, regional and local divisions. From the start, there will be 13 local divisions of the Unified Patent Court hosted by Member States across Europe, allowing businesses to bring their patent disputes to a court close to home. The Netherlands will host a local division in The Hague. At the Dutch local division it will be possible to litigate not only in Dutch but also in English.

Decisions of the Unified Patent Court will be taken by multinational panels composed of both legally and technically qualified judges. Their decisions will meet the highest standards and will bring unity in EU patent case law ensuring greater legal certainty and a level playing field for innovative businesses.

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Nick Kruijssen

### Relevant links about patents

The Netherlands Patent Office (RVO) | [Octrooiencentrum Nederland voor octrooiprofessionals](#)

The Netherlands Patent Office (RVO) | [Octrooiencentrum Nederland voor ondernemers](#)

The Netherlands Patent Office (RVO) | [Octrooidatabase Espacenet](#)

World Intellectual Property Organization (WIPO) | [What is a patent?](#)

United States Patent and Trademark Office (USPTO) | [Search for patents](#)

\* This list is not exhaustive.

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📅 IP Events Calendar	📍 Location	🌐 Website
04/04 WIPO: LES Italy: The 2023 Overhaul of the Italian Arbitration Law	Virtual	<a href="http://www.wipo.int">www.wipo.int</a>
11/04 WIPO: LESI Thought Leadership Program: Mediation & Arbitration for SEP and FRAND Disputes	Virtual	<a href="http://www.wipo.int">www.wipo.int</a>
02/05 WIPO: Mock Mediation of an IP Licensing Dispute, LESI Annual Conference	Virtual	<a href="http://www.wipo.int">www.wipo.int</a>
04/05 WIPO: USPTO/WIPO Webinar: Standard Essential Patents (SEP) / FRAND Disputes: How SMEs can utilize Mediation	Virtual	<a href="http://www.wipo.int">www.wipo.int</a>
03/05 04/05 LSPN North America 5th Annual LSPN North America Spring Conference: Protecting and Leveraging Innovation in the Life Sciences	Boston, Massachusetts	<a href="http://www.lspnnorthamerica.com">www.lspnnorthamerica.com</a>
16/05 20/05 INTA: 2023 Annual Meeting	Singapore	<a href="http://www.inta.org">www.inta.org</a>
14/06 16/06 WIPO: Online Mediation and Arbitration Workshop	Virtual	<a href="http://www.wipo.int">www.wipo.int</a>
21/06 Patent Licensing USA: Effective & Practical Strategies for the Patent Licensing Lifecycle	Washington, DC	<a href="http://www.patentlicensingusa.com">www.patentlicensingusa.com</a>
22/06 TPN Europe 2023: Driving Innovation. Protecting IP	London, UK	<a href="http://www.tpneurope.com">www.tpneurope.com</a>
27/06 29/06 INTA: 2023 Annual Meeting	Live	<a href="http://www.inta.org">www.inta.org</a>
28/06 01/07 ECTA: ECTA 41st Annual Conference	Prague, Czech Republic	<a href="http://www.ecta.org">www.ecta.org</a>

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