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## Unitary Patent Package

On 11 December 2012, the European Parliament voted to approve the “unitary patent package”. The unitary patent package consists of three elements: the **unitary patent**, a **language regime**, and the setting up of a specialised “**Unified Patent Court**”.

This new patent regime gives businesses the option to protect their inventions across all 25 participating EU Member States (with the exception of Spain and Italy) through a single application administered by one organisation.

This marks an important step in delivering a unified patent system within Europe and has the aim of offering administrative, legal and financial advantages to those wishing to patent inventions in Europe.

The **unitary patent** itself will create the option for applicants to secure a European patent from the European Patent Office (EPO) with unitary effect. Currently, when granted, European patents must be validated in each state the patent proprietor wishes to secure protection in and certain validation requirements apply which can be costly. Under the unitary patent system, when granted, patent proprietors will be able to request the unitary effect, and convert the patent application into a single granted patent for the 25 participating member states. Therefore, an applicant can select an appropriate European patent strategy from national patents, European patents (i.e. without unitary effect) and Unitary Patents.

Under the **language regime**, applications will still have to be made in an official language of the EPO (English, German or French). As with the current system at the EPO, before grant, the applicant is required to provide a translation of the claims into the other two official EPO languages. For a transitional period of maximum 12 years, European patents with unitary effect that are granted in French or German will need to be translated into English and those granted in English will need to be translated to another official language of the EU. After which, no further translations will be required. Additional translations will be required for litigation and will depend on the language of the parties and the Court.

The **Unified Patent Court** (UPC) will be a court common to the participating Member States. The UPC will have exclusive jurisdiction especially in respect of civil litigation related to infringement and validity for both European patents and European patents with unitary effect.

The UPC will consist of a Court of First Instance, with a central as well as local and regional divisions, a Court of Appeal and a Registry. The Central Court of First Instance will be in Paris. Specialised sections of the central division will be set up in London and in Munich. London will have jurisdiction over litigation of patents relating to chemistry and the life sciences; Munich will have jurisdiction over litigation of patents relating to mechanical engineering and Paris, jurisdiction for other technologies. The Court of Appeal will be in Luxembourg. The agreement on the UPC is expected to be signed in early 2013.

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It is expected entry into force for all regulations will take place at the same time and is planned after 13 states (including Germany, France and the United Kingdom) have ratified the Patent Court agreement (but not before 1 January 2014).

There are still a number of uncertainties surrounding the Unitary Patent Package and how it will impact on patent filing strategies in Europe. Once more information is available, particularly in respect of Unitary patent renewal fees and costs at the proposed UPC we will be providing further advice to our clients.

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**For further advice, please contact your usual HGF representative with your query or Estelle Senior**