Unified Patent Court (UPC)
The start of the UPC is imminent - What do licensees need to know now?

Where will it take place?

Austria  Germany  Portugal
Belgium  Italy  Slovenia
Bulgaria  Latvia  Sweden
Denmark  Lithuania
Estonia  Luxembourg
Finland  Malta
France  Netherlands

Ratifiers of the Agreement on a Unified Patent Court
Signatories of the Agreement on a Unified Patent Court

*Germany has ratified the agreement but will delay depositing its formal ratification until the preparations for the establishment of the Unified Patent Court are complete.

UPC - What comes next?

Deposit of German instrument of ratification
Sunrise period (expected to start 1 March 2023)
Court opens (expected 1 June 2023)

What if you are a licensee?

Licensee cannot opt-out or opt-in European bundle patents
Art. 47 UPC-Agreement rules under which conditions a (non-)exclusive licensee can file UPC action
Therefore, licensee should discuss the UPC strategy with the licensor
**What is the biggest threat?**
Patent revocation in one single action for all Participating Member States at once.

**What do I need to do?**
Consider whether the licensed European patent should be opted-out and discuss with licensor.

**Opt-out criteria to be discussed between licensee and licensor**

- Which patents/SPC are relevant to you?
- Where are competitors seated?
- Where do you want to protect your market position?
- Economic impact of a revocation on your business?
- What are the specific needs of the licensee?
- How strong is the validity?
- How likely is a revocation attack?
- Desire to shape case law in your technical area?
- Split approach to mitigate risks?
- Shall licensee be able to bring UPC infringement action?
- Can licensee select between EP/UP?
- Does licensee have a say regarding opt-out/opt-in of EP?

**Renegotiation and amendment of existing license agreements might be required — consider clauses explicitly indicating licensee’s rights:**

WWW.FINNEGAN.COM