

IP, Policy and the Future of the Patent Profession

CIPA Informals

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Trade Deals

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Comprehensive and Progressive Trans-Pacific Partnership (CPTPP)



Trade Deals



1 February 2021

UK government formally applied to join the CPTPP



Art. 18.38 CPTPP

Member states must provide a 12 month grace period for self-disclosure



EPO

No provisions for such grace periods

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CPTPP - Implications



Trade Deals

UKIPO:

"[The UK] will only accede to CPTPP on terms compatible with the UK's broader interests and domestic priorities. The UK will ensure that accession negotiations with CPTPP are consistent with the UK's interests and the Government's policies and priorities, and with the UK's existing international obligations, including the European Patent Convention."

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Unitary Patents

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Why have a Unitary Patent and a Unified Patent Court?



Unitary Patents

- Current European patent system – bundle of separate national rights
- Significant variations post-grant across EPC Member States

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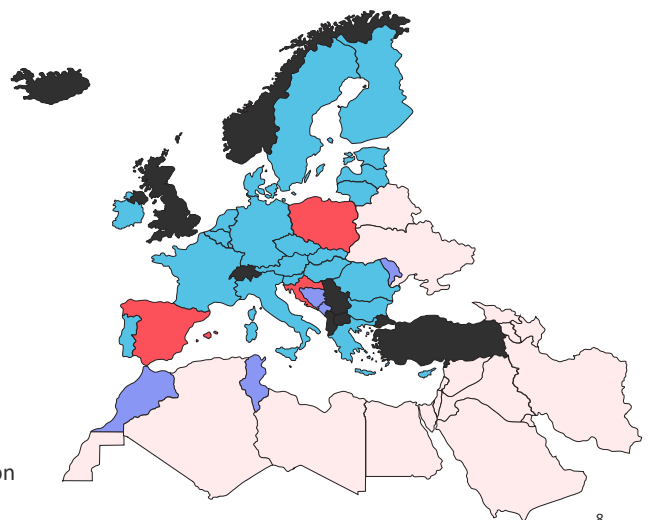
What is a Unitary Patent?



Unitary Patents

- A single patent which will provide protection in multiple countries
- 25 of the (then) 28 EU countries signed the Agreement on a Unified Patent Court on 19 February 2013

-  Unitary Patent
-  EU non Unitary Patent
-  EPC non EU
-  EPC validation/extension



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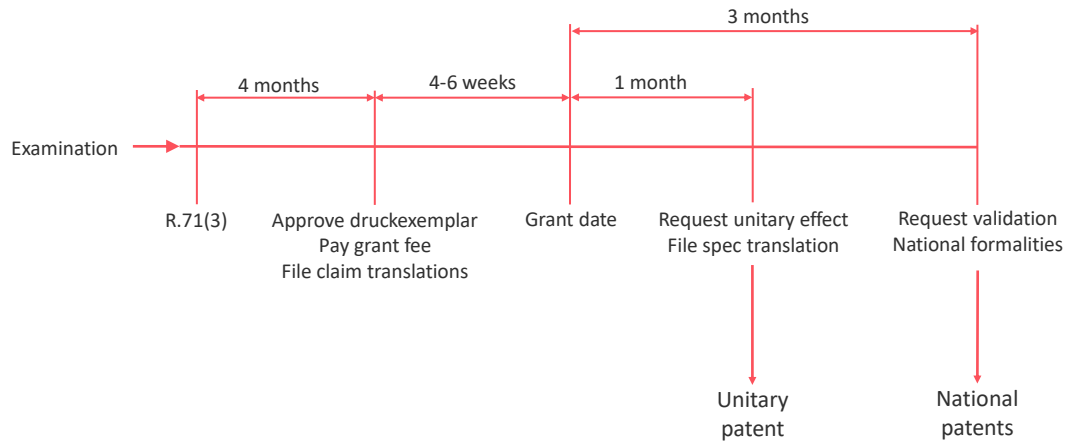
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How to get a Unitary Patent



Unitary Patents

- Existing European patent grant process remains the same



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Unified Patent Court

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What is the Unified Patent Court for?



Unified Patent Court

- “Classical” European patents as well as Unitary Patents
- Infringement proceedings
- Revocation proceedings
- Declaration of non-infringement

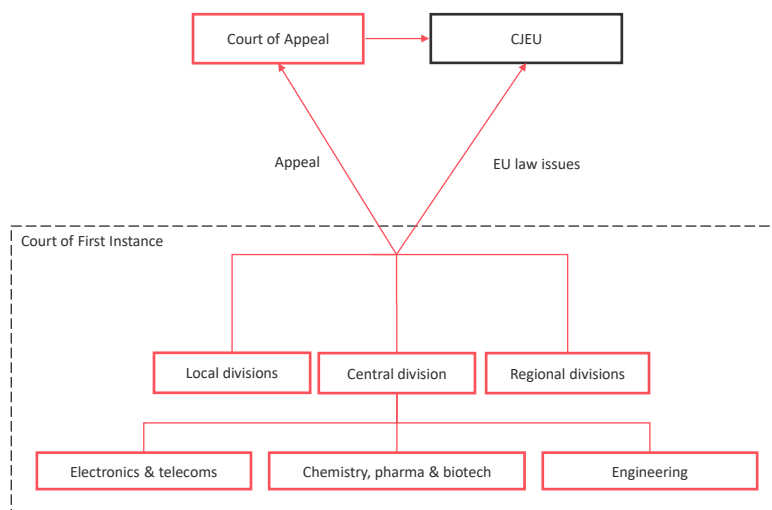
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UPC Structure



Unified Patent Court



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Representation



Unified Patent Court

- Lawyers authorised to practice before a Member State
- European Patent Attorneys
 - With European Patent Litigation Certificate
 - With law degree
 - Legacy provision
- Legacy provision – one year transition period from entry into force of UPC
 - Queen Mary Certificate or MSc
 - IPReg Litigation Certificate
 - Nottingham course on Intellectual Property Litigation and Advocacy
 - **Not** Bournemouth Certificate
 - **Not** UK Foundation or Final exams

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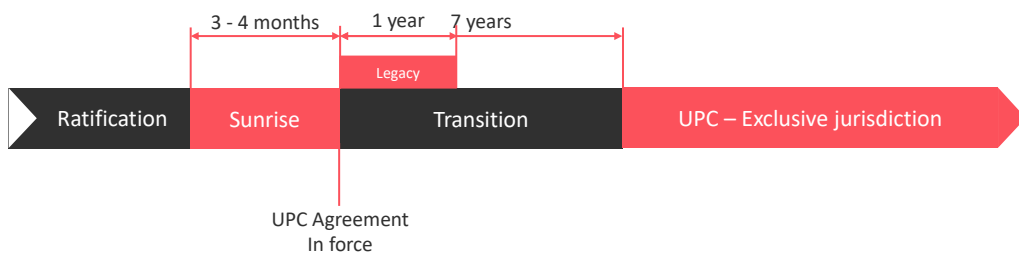
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Opt-out of UPC jurisdiction



Unified Patent Court

- Default opt-in for European patents
- Why opt-out?
- Restrictions on opt-out
 - A Unitary Patent cannot be opted out
 - A European Patent cannot be opted out if there have already been any proceedings in the UPC
- Opting back in?
 - Opt-out cannot be withdrawn if there have already been any proceedings in any national court



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When will the Unitary Patent and UPC come into force?



Unified Patent Court

- Original requirement: 13 members, of which three had to be UK, France and Germany, must ratify
- Of the 25 EU Member States who signed the Agreement, 15 have ratified so far:

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

- Pending German ratification
- UK revoked its ratification on 20 July 2020

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+simmons
simmons

Qualifying Exams

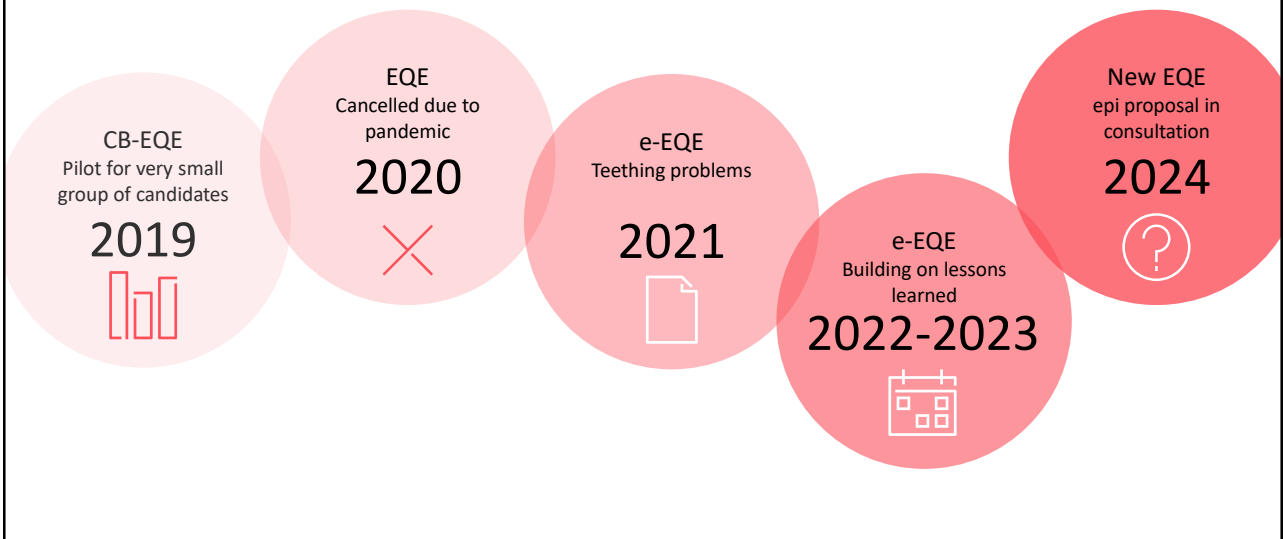
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European Qualifying Examination

Modernising the EQE



Qualifying Exams



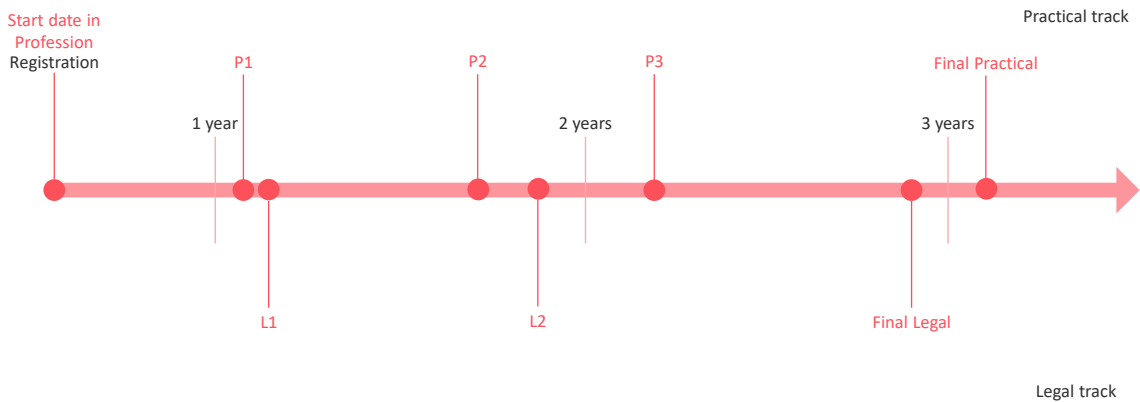
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European Qualifying Examination

epi Proposal – Tracks to Qualification



Qualifying Exams



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European Qualifying Examination

epi Proposal – Transition Provisions



Qualifying Exams

Already Passed	Exemptions	Still to sit
Pre-exam Pre-exam + any one of A, B or C	P1 P2 L1	P3 L2 Final Practical Final Legal
Pre-exam + D	L1 L2 Final Legal P1 P2	P3 Final Practical
Pre-exam + A + B	L1 P1 P2 P3	L2 Final Legal Final Practical
Pre-exam + A + B + C	L1 P1 P2 P3 Final Practical	L2 Final Legal

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Patent Examination Board



Qualifying Exams

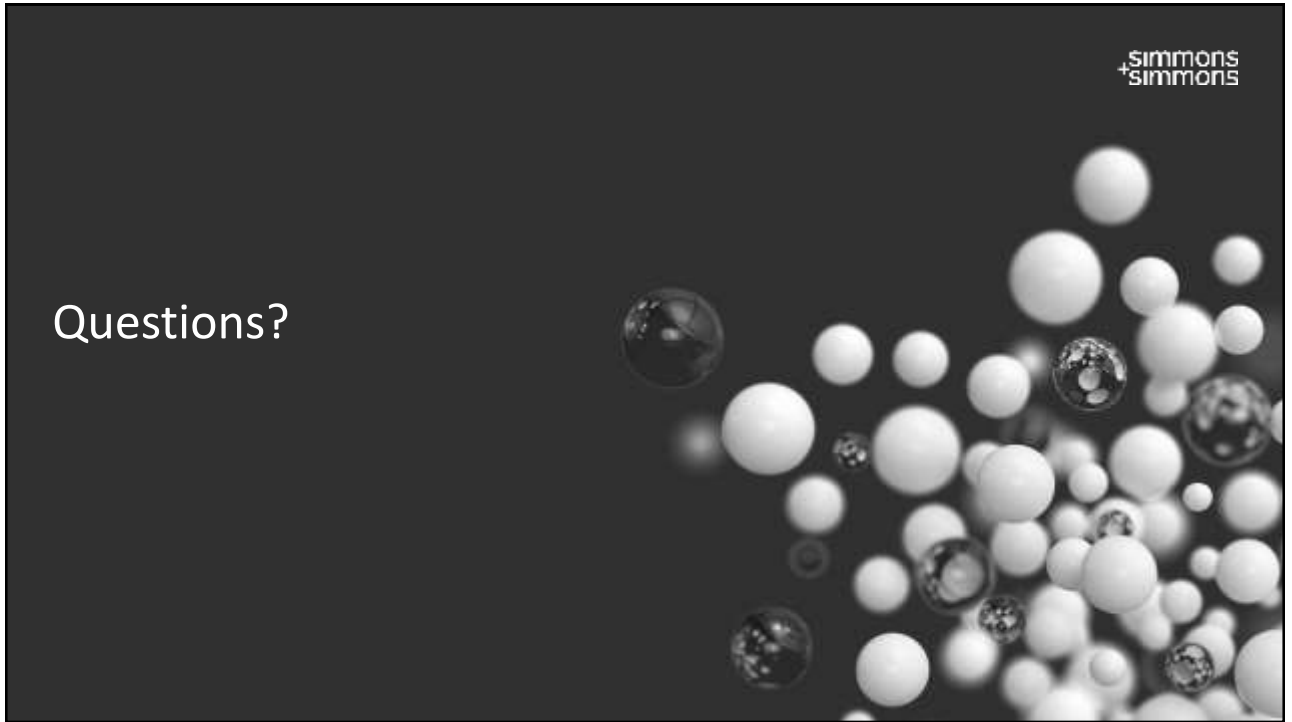
- Online exams
- Middlesex University Report on FD4

“The report produced was damning. The papers were criticised for too much reliance on memorising obscure content, lack of relevance to professional work and inconsistent marking schemes. However, little was done in the wake of the Middlesex Report to address these concerns.”

IPKat - <https://ipkitten.blogspot.com/2020/02/gantry-gate-have-your-say-in-mercier.html>

- Mercer Review

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