

Europe's Unified Patent Court: opt-out?

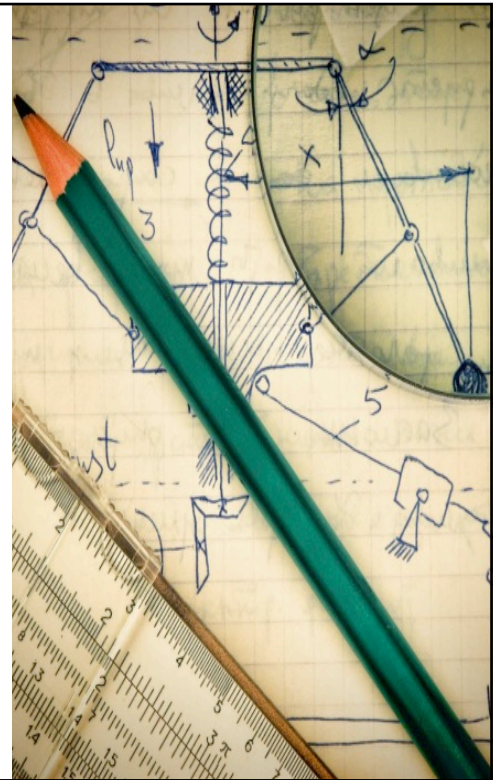
The University of Texas School of Law
27th Annual Advanced Patent Law Institute

Clemens Rübel
Partner, Munich

Jonathan Ball
Partner, London

20-21 October 2022

Norton Rose Fulbright LLP



Current Regime

Patent Prosecution 

Patents Sought in Specific, Individual Jurisdictions

**European Patent (EP)
Bundle of Patent Rights in Designated States**

Litigation 

Assertion is Handled by Each Designated Nation's Court Systems

New Regime Beginning April 1, 2023

Patent Prosecution 

Litigation 

Patents Sought in Specific, Individual Jurisdictions

European Patent (EP) Bundle of Patent Rights in Designated States

Unitary Patent

Cases Handled by Each Designated Nation's Court System – Results in Multiple Parallel Litigations

Unified Patent Court



3

Unified Patent Court System

EP Opt-out UPC System 

“Sunrise period”
Jan.-Mar. 2023

Risk for patentees facing multinational invalidation actions on the first day against “crown-jewel patents” 

New system co-exists with national court system during the transitional period of 7 (or 14) years 



4

Introduction

Opt-out decision

- Opt-out decision requires knowing what you opt in or out and what are the pros and cons of the new system
- Opt-out decision only concerns EPs; different decision whether to seek UPs in the future for which the UPC is compulsory
- This presentation does not cover the topic of whether to seek a UP instead of EPs or national patents

5



5

Introduction

Coverage

- One decision for many countries instead of enforcement country by country
- But the UPC does not cover all European countries, only those countries that are:
 - EPC member states
 - EU member states
 - Participate in the enhanced cooperation and
 - Ratified the UPC agreement

6



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Europe's Unified Patent Court: opt-out?

Also available as part of the eCourse

[2022 Advanced Patent Law \(Austin\) eConference](#)

First appeared as part of the conference materials for the
27th Annual Advanced Patent Law Institute session

"To Opt-Out or Not to Opt-Out of the UPC in Europe?"