

# Unitary Patent & Unified Patent Court

All the advantages  
without any risk

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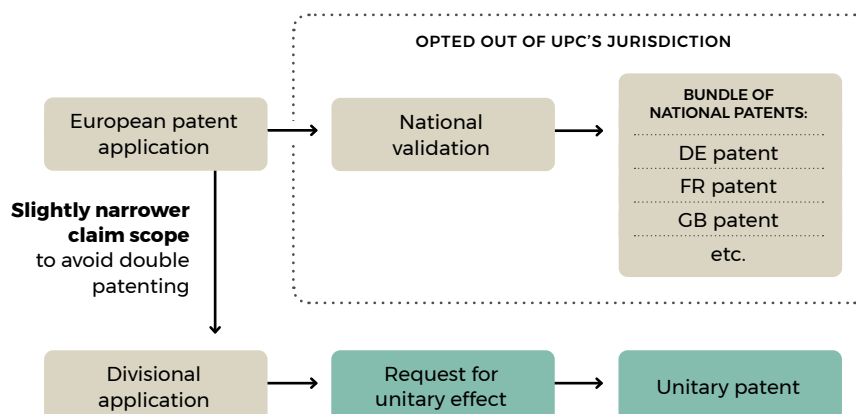
While a unitary patent provides for a significant cost advantage in view of the renewal fees and the Unified Patent Court provides preliminary injunctions and decisions that are enforceable in all participating member states, there is the high risk of losing your European patent in all countries at once by a single revocation action before the UPC.

In order to mitigate the risk of losing your European patent in all countries at once but at the same time benefit from the new system, there are dedicated filing strategies available using the new UP/UPC system and the “classical” national validation system.

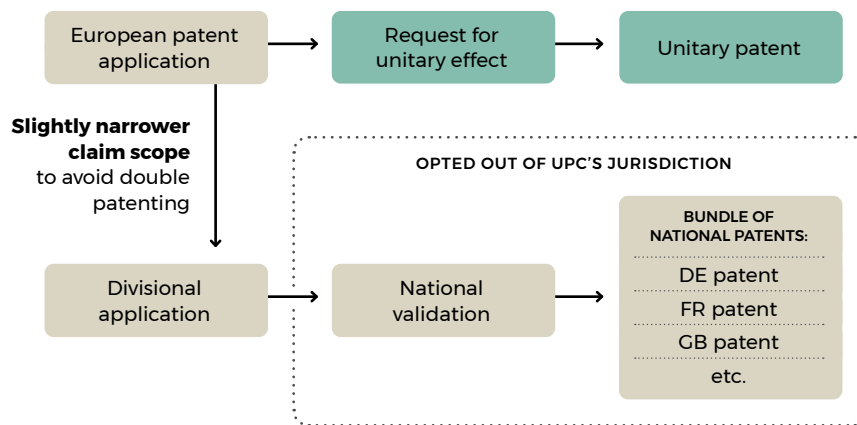
## 1. Divisional application strategy

Based on a divisional application a unitary patent and a parallel “classical” bundle of nationally validated patents with nearly the same scope of protection (quasi double patenting) can be acquired. Before grant of a European patent, e.g. upon receiving the communication pursuant to Rule 71(3) EPC, a divisional application with a slightly narrower scope of protection is filed (no double patenting allowed at the EPO). Based on either the parent or the child application a unitary patent is obtained, while the other application (i.e. the child or the parent application) is opted-out and “classically” validated. Thus, the advantages of the new system, in particular the pan-European infringement action before the UPC, are available while the invention is in addition protected by a “classical” bundle of nationally validated patents that are opted out from the jurisdiction of the UPC, i.e. no central revocation action possible.

### Filing Strategy 1



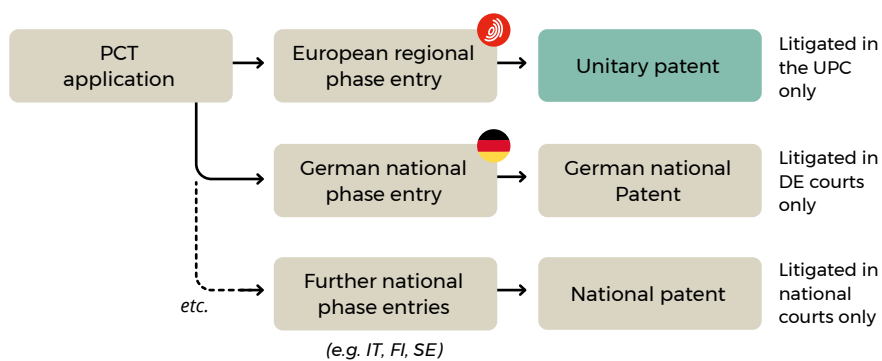
### Filing Strategy 2



## 2. Combination strategies

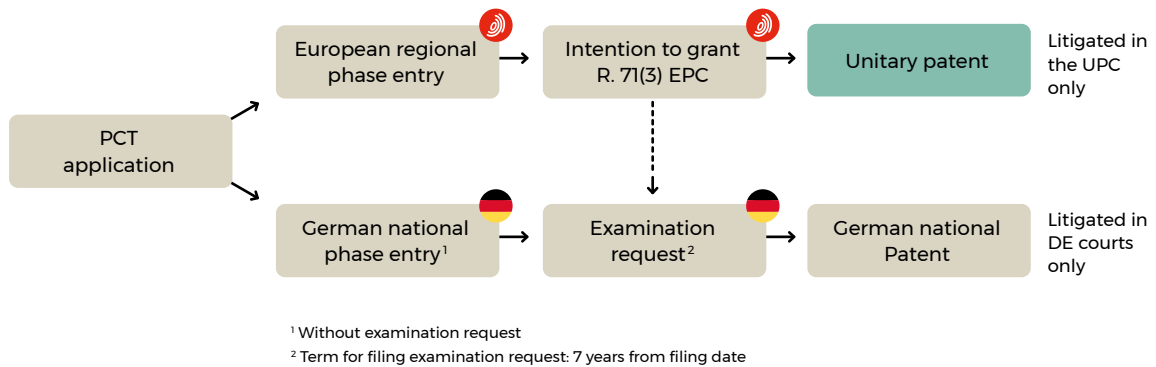
Certain EPC and UPC member states such as Germany, France, Italy, the Netherlands, Austria, Denmark, Estonia, Finland, Malta, Slovenia and Sweden allow literal double patenting. Thus, combination strategies where an EP application/UP is combined with national patent applications/patents are available. Such a combination can be achieved either via Paris Convention or same-day direct filings before the EPO and the respective national offices or by utilising a PCT application and entering the regional phase before the EPO and selected national phases before the respective national offices in parallel within the time limits of the PCT (where such national route is not blocked, e.g. Germany, Italy, Finland, Sweden).

### Filing Strategy 3



Of particular note, in Germany, delaying examination requests up to seven years from the date of filing is possible and would allow optimisation of prosecution and the scope of protection in view of the claims already granted based on the EP application.

### Filing Strategy 4



While the opt out-based divisional strategies 1 and 2 described above remain useful for the duration of the transitional regime, national applications based on combination strategies remain applicable after the transitional regime as well.