

EIP



What are the options if you want to avoid the UPC?

During the transitional period, it is possible to opt classical (i.e. non-unitary) European patents and applications out of the competence of the UPC (provided that no action has commenced at the UPC in respect of that patent). The opt-out lasts for the lifetime of the patent.

After the transitional period, European patents granted for member states participating in the UPC (both unitary and non-opted out classical) will fall within the competence of the UPC. The only way to avoid the UPC for applications filed after the transitional period ends will be to avoid using the European Patent Office altogether, which can be achieved through filing patent applications at national patent offices. (This route is of course also available during the transitional period.)

Finally, for non-opted-out patents during the transitional period, the UPC and national courts share competence, so it is possible to commence an action at a national court during this period. It will then not be possible to re-litigate the same matter in the UPC.

Interested in learning more about the UPC? This is one of a series of short explainers about the Unitary Patent and Unified Patent Court. The full list of articles is:

- [What is the Unitary Patent, and how do I get one?](#)
- [What is the Unified Patent Court?](#)
- [What is the likely timing of the UPC and UP coming into being?](#)
- [How does the opt-out work in the transitional period of the UPC Agreement?](#)
- [What are the options if you want to be able to use the UPC?](#)
- [What are the options if you want to avoid the UPC?](#)
- [What languages does the UPC use?](#)

- Member States participating in UPC