

## European Council Agrees on a Unitary Patent and a Unified Patent Court

The European Council met in Brussels on June 28-29, 2012, and agreed to establish an EU Unitary Patent together with an [EU Unified Patent Court](#). The agreement by the Council set the location of the Central Division within Paris, with specialized courts in London and Munich. Final approval by the European Parliament is expected this summer.

- The heads of state for member states of the European Union agreed to seat the Central Division of the Unified Patent Court in Paris, London and Munich
- London will hear cases related to “human necessities,” including chemistry, biotechnology, pharmaceuticals, and medical devices
- Munich will hear cases related to mechanical engineering
- A court of second instance, an appeals court, will be established in Luxembourg

Today’s agreement represents a watershed moment that spans over 30 years of negotiation among EU countries. Since 1978, the European Patent Office (EPO) has resided in Munich to examine and grant patents that are nationally validated in countries of the European Union. But patent enforcement has historically only been available through the individual national courts, where a decision from one national court only impacts a company’s rights in that respective country. As such, at present, patent holders enforce their patents on a country-by-country basis, knowing that different countries often reach different conclusions. Patent protection in Europe has thus been viewed by U.S. and Asian companies as more expensive with lower value-add than the U.S. system, and many U.S. businesses have avoided filing and enforcing patents in Europe altogether.

The Unified Patent Court and Unitary Patent System propose to make the European patent system comparable to the U.S. system in terms of cost and enforceability. The Unified Patent Court will act as a court of first instance, like a federal district court, to adjudicate patent matters and to issue rulings that will have effect throughout the European Union. A decision by the Unified Patent Court will determine issues of infringement and validity throughout the \$15 Trillion EU market. In macro terms, that can empower patent owners to block competitors throughout the EU and U.S. – which represent over 30% of the world’s GDP – with only two patents in two enforcement proceedings.

A lower cost patent process and EU-wide jurisdiction will change how global companies protect and enforce their intellectual property. While many details are to emerge, companies with significant business in Europe need to prepare for this change. Navigating the new system will require advanced planning and coordination with the U.S. strategy in litigation and prosecution.

For a more detailed presentation on this development and its implications for your company, please contact your usual Ropes & Gray attorney or one of the following Ropes & Gray attorneys: [Anita Varma](#), [Edward Kelly](#), [Charles Larsen](#), [Richard McCaulley](#), [Gene Lee](#).