

The European Patent Convention and the Unitary Patent

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The Convention on the Grant of European Patents was signed in Munich in 1973 and entered into force in October 1977. Switzerland, whose delegation played an active part in the negotiations, was among the original contracting states.¹ The European patent is a bundle of national patents granted by a single procedure. Once the European Patent Office has granted it, the patent takes effect in each designated state and is subject to the national law of that state for questions of infringement. Switzerland and Liechtenstein form a single territory for this purpose, since the two countries are linked by a patent treaty under which a patent for one is valid for the other.²

Membership of the European Patent Organisation is independent of membership of the European Union, which allowed Switzerland to participate fully in the European patent system without joining the Union. The Unitary Patent, which became available on 1 June 2023 together with the Unified Patent Court, is different in this respect. It is an instrument of enhanced cooperation among member states of the European Union. Only those states may join the Agreement on a Unified Patent Court.³ Switzerland therefore remains outside the system, so that a pharmaceutical company that wants protection in Switzerland must still validate a classical European patent there, in addition to any Unitary Patent covering the participating member states.

For the Basel groups the practical consequence is a dual litigation landscape. A patent dispute concerning a medicine sold throughout Europe can now be decided centrally by the Unified Patent Court for the participating states. Separate proceedings remain necessary in Switzerland, the United Kingdom, Spain, Poland and other states outside the system. Practitioners have observed that the Unified Patent Court, with its local divisions in Munich, Düsseldorf and other cities, has quickly become an

The European Patent Convention and the Unitary Patent

important forum for pharmaceutical disputes, including disputes on biosimilars.⁴ Swiss decisions, by contrast, bind only the Swiss and Liechtenstein market, which is small in volume but significant in price.

1 Notes

1. Convention on the Grant of European Patents (European Patent Convention, EPC) of 5 October 1973, in force 7 October 1977, revised by the EPC 2000 in force since 13 December 2007; Switzerland a contracting state since its entry into force. To be verified. ↩
2. Treaty between the Swiss Confederation and the Principality of Liechtenstein on Patent Protection of 22 December 1978 (Patentschutzvertrag), SR 0.232.149.514. To be verified. ↩
3. Regulation (EU) No 1257/2012 on unitary patent protection and Regulation (EU) No 1260/2012 on translation arrangements, together with the Agreement on a Unified Patent Court of 19 February 2013; the system started on 1 June 2023. Status to be verified. ↩
4. On the first years of the Unified Patent Court and its case-load in life-sciences matters, see the court's statistics and the practitioner literature since 2023. Status to be verified. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/basel-the-european-patent-convention-and-the-unitary-patent