

European Parliament Set to Unify the European Patent System

Yesterday, November 19, 2012, the European Council announced that it has reached final agreement on the European Union's proposed Unitary Patent System. This announcement follows the EU's historic agreement of [June 29, 2012](#) and frees the European Parliament to vote on and implement the new system, which establishes a lower cost patent process with EU-wide enforcement jurisdiction. The next steps are largely procedural – the agreement is expected to be approved by Parliament and the EU member states during 2013, with the first “Unitary Patents” to be issued and Unified Patent Court to be set up by April 2014. Spain and Italy have challenged the legality of the new system under EU law, and the European Court of Justice is expected to rule and uphold the new system on December 11, 2012.

After years of negotiation, yesterday's agreement affirms the EU's commitment to unify its patent system so it is more globally competitive. It represents a major change to the current European system where innovators enforce their patents on a country-by-country basis, often with variable results. A centralized system with EU-wide enforcement jurisdiction will change how global companies protect and enforce their intellectual property in Europe. In macro terms, the new system can empower innovators to block competitors throughout the EU and U.S. – which represent over 40% of the world's GDP – with only two patents in two enforcement proceedings. Companies with significant business in Europe need to prepare for this change. Companies will need to plan in advance and coordinate European and U.S. strategies in patent litigation and prosecution. Investors will need to account for this new system when assessing target and portfolio company valuations and competitive strategies.