

Unitary Patent System in Europe



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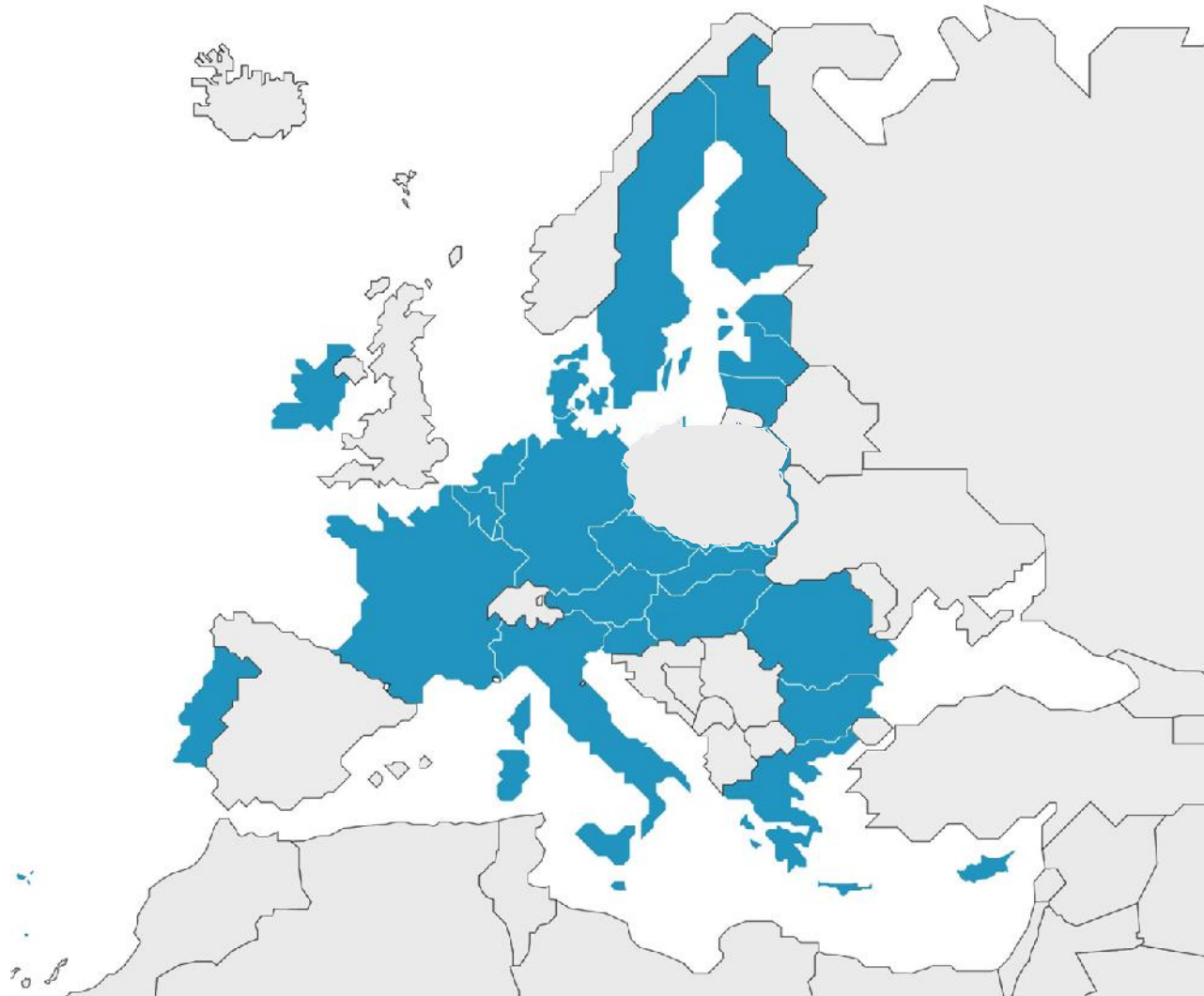
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Disclaimer

The views and opinions expressed in this presentation are those of the author and do not necessarily reflect the official position of the **Unitary Patent Court (UPC) preparatory committee, European Patent Office (EPO) select committee, European Patent Institute (epi).**

Unitary Patent System – What it is

- A European patent in nearly all EU Member States (UPP)
 - *With pre-grant proceedings as in traditional EP Patent*
 - *With only one request to obtain unitary effect in all States*
 - *With only one set of claims and annual renewal fee*
- A Court common to nearly all EU Member States (UPC)
 - *With both legally and technically qualified judges*
 - *With multi-language proceedings*
 - *With warranty of uniform jurisprudence*



**24 EU
participating
Countries**

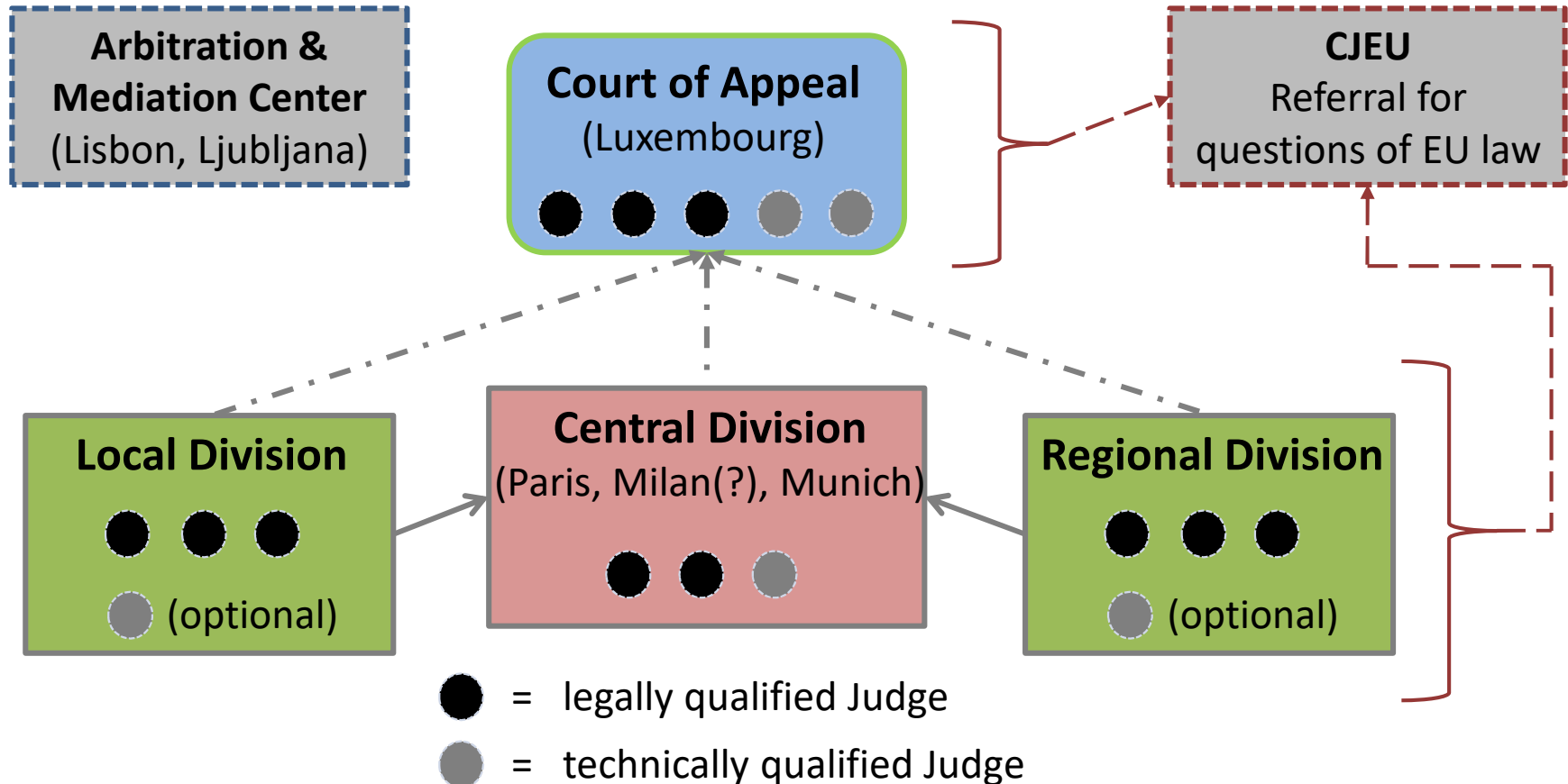
**Expected to enry
into force early
2023**

**Spain, Poland
and Croatia are
not participating
but can join as
soon as they
want.**

Unitary Patent

- **Alternative and additional** to traditional EPO patent system
- Post-grant procedure: a European patent will benefit from unitary effect **at the request of the proprietor**
- **No need of translation from EN, DE, FR**
- For the first 6 years, English translation if the EP patent is not in English, otherwise a translation in any official language of the EU (no legal weight)

Unified Patent Court



Unified Patent Court

Central Division

- Declaration of non-infringement
- Revocation actions

Language of the Patent (English, French, German)

Local/Regional Division

*Where
infringement
occurred or
defendant is
domiciled*

- Infringement actions and preliminary injunctions
- Counterclaims for revocation with discretion to either:
 - Proceed with revocation action,
 - Refer revocation to Central Division and suspend or proceed with infringement case, or
 - Refer entire case to central Division (with agreement of the parties).

“Local” language or Language of the Patent (if approved)

Unified Patent Court

Transitional period (7+7 years)

- **Choice of Court**: for infringement or for revocation of a European patent the plaintiff may bring the UPC or the (different) national courts, and the process remains in the place where it is first grounded
- **Opt-out**, R.5 = The proprietor of a traditional European patent may choose not to be subject to the UPC:
 - Only if no proceedings were filed with the UPC either by the proprietor or third parties;
 - By communicating the decision to the Registry of the UPC at least one month before the expiry of the transitional period.

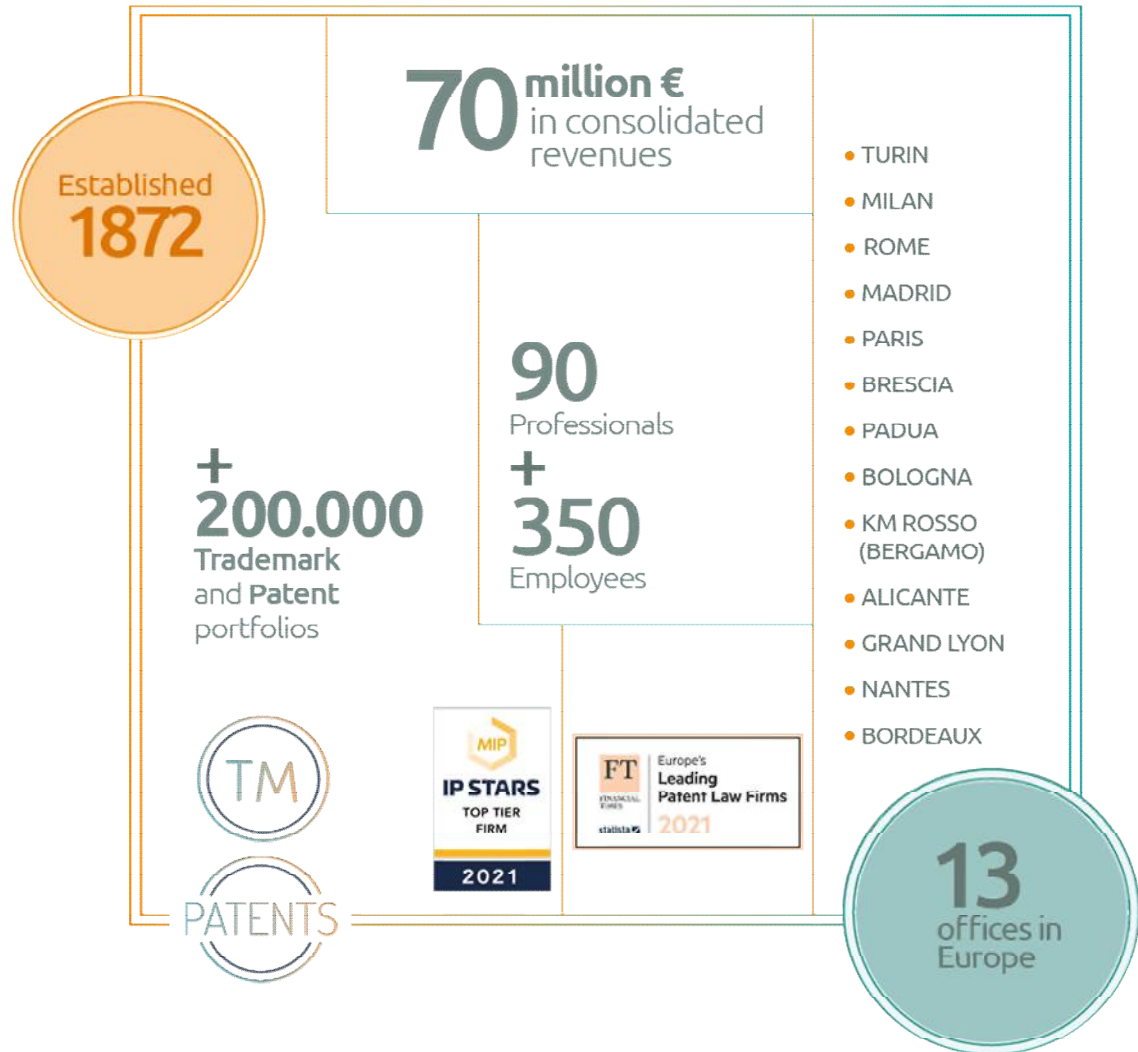
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Andrea Perronace. European patent attorney. Andrea got a master in Physics in Rome and a Ph.D. in Physical Chemistry in Paris, has worked for the European Commission in Brussels. 21-year experience on patent and design prosecution and litigation, epi full member in EPPC/EPO Guidelines and ICT working groups.



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