



KATHOLIEKE UNIVERSITEIT  
**LEUVEN**

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# The Unitary Patent and Unified Patent Court

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European Patent Office  
Office européen des brevets

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**EUROPÄISCHE PATENTSCHRIFT**

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Int. Cl.: F 28 D 15/00 F 24 J 3/04

**Thermische Wärmepumpe**

Priorität: 02.09.77 DE 2739689

Veröffentlichungstag der Anmeldung: 20.12.78 Patentblatt 78/01

Bekanntmachung des Hinweis auf die Patenterteilung: 07.01.81 Patentblatt 81/01

Bekanntete Vertragsstaaten: BE CH FR GB NL SE

Entgegenhaltungen:  
DE - A - 2 161 506  
FR - A - 2 029 499  
US - A - 3 532 199  
US - A - 3 868 782  
US - A - 3 913 666  
US - A - 3 985 970  
US - A - 4 018 269

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Anmerkung: Innerhalb von neun Monaten nach der Bekanntmachung des Hinweis auf die Erteilung des europäischen Patents ist Einpruch einlegen. Der Einpruch ist schriftlich einzureichen und zu begründen. Er gilt erst als eingelegt, wenn die Einpruchgebühr entrichtet worden ist (Art. 89(1) Europäisches Patentübereinkommen).

Courier Press, Leamington Spa, England.

## European patent

### Claims

1. Thermal heat pump, characterized by a heat pipe (11) in which the vapor passage (16) located between the heat transfer zone to the heat supply and the heat transfer zone to the heat removal has a cross section which varies across its length and which increases the velocity of the vapor flow to begin with and then decreases it and that a further, third heat transfer zone with heat supply or heat removal is located in the area of the increased vapor velocity.

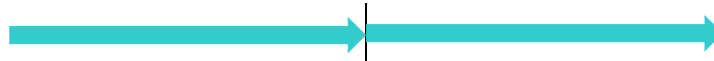
## European patent with unitary effect

European patent [EPC]



*Council of Europe/EPO* - Munich    *national* courts  
European Patent Convention    *national* patent acts  
38 member states

European patent with unitary patent effect [unitary patent]



*European Parliament* - Brussels    *Unified Patent Court*  
Council Regulations    *International Agreement*  
24 EU member states

# Unitary patent legislation <sup>(1)</sup>

## Unitary Patent Package [UPP]

## Scope

### – Council Regulations

- Regulation (EU) 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection
- Regulation (EU) 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation agreements

**European patent with unitary effect** → **Unitary patent**  
[26 states]

- **Agreement** on a Unified Patent Court, Brussels, 11 January 2013 (Council of the European Union)

**Unified Patent Court** → **Unitary patent**  
[26 states]  
→ **EPC patent**  
[38 states]

# Unitary patent legislation <sup>(2)</sup>

Material scope

## Regulation 1257      Agreement

### • Patentability

[subject matter]

### • Conditions

### • Rights

- Art. 5. Effect of unitary patent
- Art. 7. Object of property
- **Art. 8. Licenses of right**
- Art. 25. Right to exclude

### • Limitations

- Art. 27. Limitations
  - (a) private and non commercial use
  - (b) **experimental purposes**
  - (c) **breeding; developing**

### • Other

- Recital 10. Compulsory license [member states]

- Art. 28. Prior use
- Art. 29. Exhaustion

**Unitary patent**

Implication: Court of Justice EU  
*no* competence  
UPC: *exclusive* competence

# Unitary patent legislation (3)

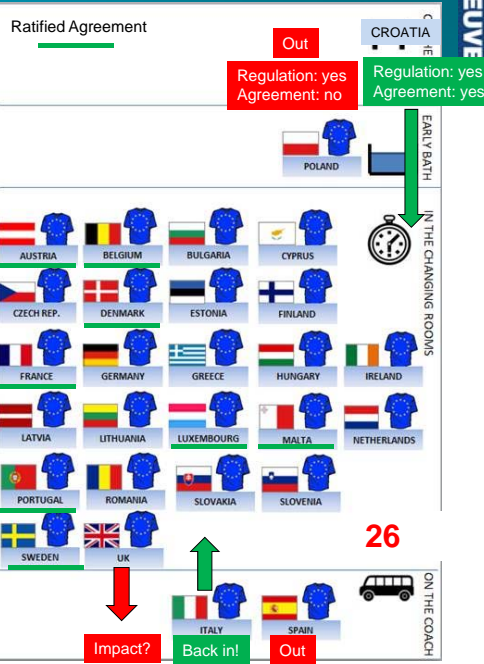
Geographical scope



EPO member states: 28 + 10  
[Norway, Switzerland, etc.]



EU member states: 28



## Unitary patent court <sup>(1)</sup>

Court of Justice EU

Court of Appeal  
Luxemburg



Court of First Instance

Local or Regional  
Division



Local: UK, France, the Netherlands, Belgium,  
Italy, Austria, Denmark, Finland, Ireland,  
Germany (4)  
Regional: Sweden-Estonia-Latvia-Lithuania  
(Stockholm)

Legally qualified member

Central  
Division



Paris: primary central division - ICT  
London: chemical, pharma, life science  
Munich: mechanical engineering

Technically qualified member

## Papers

- **ECON**
  - **Cost**
    - Bronwyn Hall
    - Bruno Van Pottelsberghe
- **LAW**
  - **Trust**
    - Esther van Zimmerman

## Unitary patent court (2)

- Local /regional divisions
  - Competence
    - **Infringement suits**
  - Location: patentee can shop for forum
    - Default rule: local/regional division is competent
      - place of (threat of ) **infringement**
      - seat of place of business of **defendant**
    - In case of infringement in three different states
      - defendant can ask for move to Central Division
    - In case infringer comes from outside EU
      - Central division or place infringement
  - Scope: decision of local/regional division is valid
    - On the territory of **all participating** member states

## Unitary patent court (3)

- Central division
  - Competence
    - **Validity**
      - *Direct* procedures concerning validity;
      - *Counterclaims* – in an infringement suit - on validity can be sent to central division;
    - **Infringement**
      - Infringement procedures where infringement takes place on territory of a member state not having a local/regional division
      - Infringement cases where defendant lives outside EU ,
      - Infringement in territory from more than three member states (on request defendant)
  - Location
    - Paris, London, Munich

## Unitary patent court <sup>(4)</sup>

- Court of Justice EU
  - Competence
    - **Interpretation EU legislation**
      - EU Biotechnology Directive,
      - EU Enforcement Directive
      - Regulation (EU) 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection
      - Regulation (EU) 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation agreements
    - **NO Interpretation substantive patent law**
      - EPC
      - Agreement on a Unified Patent Court, 2013