

Patent litigation strategies in the Unified Patent Court (UPC) and UK

07 May 2025  Mark Daniels

The launch of the [Unified Patent Court \(UPC\)](#) in June 2023 and its subsequent popularity opens up many new opportunities for patent owners and third parties.

Litigation strategies need to consider these new opportunities, as well as key developments in other jurisdictions – such as the UK.

Overview and impact of the UPC

According to [data published by the UPC](#), the court received 798 cases at first instance from 1 June 2023 to 1 April 2025. This number included 289 infringement actions, 285 counterclaims for revocation (relating to 160 infringement actions), 57 stand-alone revocation actions and 79 applications for provisional measures, preserving evidence, orders for inspection and orders to freeze assets. So far, there have also been 177 appeals filed at the UPC Court of Appeal.

These statistics demonstrate how, relatively quickly, the UPC has become an important tool for patent litigation in Europe. Moreover, it is being used by patent owners across a wide range of technologies. As well as expected fields such as telecoms, pharmaceuticals and medical devices, there have been cases related to patents for [safety equipment](#), [printing plates](#) and even a [method for decorating leather](#)!

One of the reasons for the UPC's popularity is that it offers litigants the opportunity to obtain an injunction covering 18 EU Member States (with more expected to join in the future) as well as damages. So far, the court has proved to be efficient, meeting its self-imposed deadlines for holding hearings and delivering and publishing judgments.

But navigating the UPC poses a number of strategic challenges for litigants, such as choosing which of the local or regional divisions to bring a case in, which language to use and what evidence to rely on. As a generally front-loaded system, it is essential to assemble arguments and evidence at an early stage as timings are very strict. It is also important to factor in certain distinctive features of the new system, such as the presence of technically qualified judges on panels.

Recent developments, notably in [BSH v Electrolux](#), have stress tested the 'long arm' of the UPC and quite how far its jurisdiction extends. While the UPC appears to be replacing national proceedings in some participating member states, courts in other European countries continue to play an important role in patent litigation strategies. In particular, the courts in England and Wales offer benefits including specialist IP judges who give fully reasoned judgments, disclosure of evidence, creative remedies and well-established precedents – with a range of procedures available depending on the nature of the dispute.

For example, the well-established [Intellectual Property Enterprise Court \(IPEC\)](#) has rules optimised for less complex and less valuable claims. Multi-track claims are for cases with damages up to £500,000 and recoverable costs are subject to a cap of £60,000 (to judgment on liability). On the small claims track (for claims up to £10,000) costs orders are highly restricted.

Meanwhile, since 2018 the High Court has operated the [Shorter Trials Scheme and Flexible Trials Scheme](#) which provide a means to limit hearings, disclosure and oral evidence. Both schemes have been successfully used in IP cases.

Thanks to these and other measures, UK judges can decide many cases, including complex disputes involving multiple issues, relatively quickly. Their decisions on key points can often help parties to resolve global disputes without the need for further litigation. Judgments from the Court of Appeal are also delivered promptly, often within a few weeks of the hearing.

Finally, it is important to note that the Court of Appeal recently confirmed the availability of interim injunctions in the UK, where they are justified by the facts, in its judgment in [AstraZeneca AB & Anor v Glenmark Pharmaceuticals Europe Ltd.](#)

Strategic considerations

The emergence of the UPC, coupled with the [patent litigation](#) landscape in the UK, provide litigants with a number of options when it comes to enforcing or challenging patents in Europe. Making the right decision involves weighing up various factors in each particular case.

Please do contact us if you would like to discuss this further.

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