

# Unitary Patent Translation Compensation Scheme

## Translation Requirements for Requesting Unitary Effect

During the transitional period, in order to request the unitary effect, the patent proprietor must file one translation of the complete European patent specification. The language of the translation depends on the language of proceedings of the patent as follows:

- If the language of the proceedings before the European Patent Office (EPO) was English, the translation can be into any other official language of an EU member state.
- If the language of the proceedings before the EPO was French or German, the translation must be in English.

The translation must be filed together with the request for unitary effect. The translation is for information only and has no legal effect. However, such translations should not be carried out by automated means ([according to the preamble \(12\) of the respective Council Regulation \(EU\) No 1260/2012](#)), meaning a machine translation is not permitted.

After expiry of the transitional period, a translation will no longer be required to obtain a Unitary Patent.

## Compensation Scheme for Translation Costs

The [compensation scheme](#) provides, where eligible, a lump sum, presently of 500 EUR ([Article 4\(1\) RFeesUPP](#)), towards the cost of translating the application.

To be eligible for this compensation, the proprietor(s) must:

1. have filed the European patent application or Euro-PCT application leading to the Unitary Patent in an official EU language that is not one of the EPO's official languages (English, French or German); and
2. have their residence or principal place of business in an EU member state (it does not matter if the member state is not one participating in the Unitary Patent scheme).

The first condition (i) listed above applies only in the rare circumstances where either:

- a European application was filed directly at the EPO in an official EU language other than English, French or German (before being translated in to one of these languages prior to search and examination at the EPO); or
- a PCT application was originally filed at a PCT receiving Office or the International Bureau in an EU official language other than English, French or German (even if the application was translated in to one of these languages before entry to the European regional phase).

The compensation scheme is also only available to proprietors falling into one of the following categories:

- a natural person
- a small or medium-sized enterprise (SME) (as defined in [European Commission recommendation 2003/361/EC](#) dated 6 May 2003)
- a non-profit organisation (as defined in [Article 2\(1\)\(14\) of Regulation \(EU\) No 1290/2013](#))
- a university (see [OJ EPO 2014, A23](#))
- a public research organisation (see [OJ EPO 2014, A23](#))

If there are multiple proprietors, compensation will be granted only if all proprietors fulfil the eligibility criteria ([Rule 8\(4\) UPR](#)).

Where a request for compensation is submitted after ownership of the European patent application or European patent has changed (e.g. following a transfer or merger), compensation will be granted only if both the original applicant and the new proprietor fulfil the eligibility criteria ([Rule 8\(3\) UPR](#)).

## Requesting Compensation

The request for compensation must be filed together with the request for unitary effect ([Rule 9\(1\) UPR](#)).

Once compensation has been granted, proprietors retain the compensation regardless of any possible subsequent change in status (i.e. even if, for instance, they no longer fulfil the SME criteria or assign their Unitary Patent to a new proprietor who does not meet the above eligibility criteria) ([Rule 10\(2\) UPR](#)).

Compensation for translation costs may be requested by ticking the appropriate box in section 2.2 of EPA/EPO/OEB Form 7000.

## False Declaration of Eligibility for Compensation

The EPO does not require supporting documents and will normally not verify the veracity of the declaration before granting compensation. It does, however, conduct random checks.

If the EPO finds that the compensation was granted on the basis of a false declaration, it will invite the patent proprietor to pay, together with the next renewal fee falling due, an additional fee composed of the amount of the compensation paid and an administrative fee as laid down in the RFeesUPP ([Article 4\(2\) RFeesUPP](#)).

If this additional fee is not paid in due time, the European patent with unitary effect will lapse ([Rule 14 UPR](#)).

## Identification of Proprietor Category

It may be noted that section 4.8 of EPA/EPO/OEB Form 7000 enables the proprietor to be identified as an SME, natural person,

non-profit organisation, university or public research organisation.

However, the information given in section 4.8 is optional and is provided only to help the EPO to carry out internal studies on the unitary patent. The boxes in section 4.8 are therefore not

specifically relevant to the compensation scheme. It would nonetheless be appropriate for the relevant box in section 4.8 to be selected for the first proprietor if compensation is being requested in section 2.2.

**For more information, please contact:**

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