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## What types of actions will the UPC be competent to hear?

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The UPC will, as a general rule, have exclusive competence in respect of civil litigation on matters relating to European patents, European patents with unitary effect, supplementary protection certificates issued for a product covered by such a patent and European patent applications. (The exclusive competence is however subject to [exceptions during the transitional period.](#)) The area of exclusive competence of the UPC is specified in Article 32 of the UPC Agreement. Among other things it includes actions for actual or threatened infringements and related defences, actions for declaration of non-infringement, actions for provisional and protective measures and injunctions, actions for revocation and counterclaims for revocation.

The UPC will also have exclusive competence in respect of actions concerning decisions of the European Patent Office in carrying out the tasks set out in [Regulation \(EU\) 1257/2012](#) on Unitary Patent Protection.

National courts will remain competent for actions which do not come within the exclusive competence of the UPC.

## What will be the competence of the divisions of the UPC's Court of First Instance?

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Article 33 of the UPC Agreement contains a detailed regulation on the competence of the divisions of the UPC's Court of First Instance. The main outlines are as follows.

- Actions for or relating to infringement, provisional and protective measures and injunctions, damages or compensation derived from provisional protection and/or prior use shall be brought before the:
  - local/regional division where the infringement has occurred; or where the defendant has residence or place of business,
  - If the defendant has no residence or place of business within the Contracting Member States: the local/regional division where the infringement has occurred or before the central division.
  - If the concerned Contracting Member State has no local/regional division: the central division.
- Actions for revocation or non-infringement shall be brought before the central division unless an action for infringement between the same parties referring to the same patent has been brought before a local or regional division then these actions may only be brought before the same local/regional division.
- If a counterclaim for revocation is launched in the case of an action of infringement the local/regional division may:
  - proceed with both actions;
  - refer the counterclaim for revocation to the central division ([Bifurcation](#)); or
  - with the agreement of the parties, refer the whole case to the central division.
  - Parties may agree to bring actions before the division of their choice, including the central division.
- Actions concerning decisions of the EPO in carrying out the tasks referred to in Article 9 of [Regulation \(EU\) 1257/2012](#) on Unitary Patent Protection shall always be brought before the central division.

## What will be the role of the Court of Justice of the European Union?

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The UPC will be a court common to the Contracting Member States. It must respect and apply Union law and together with the Court of Justice of the European Union ensure its correct application and uniform interpretation. The UPC will in particular have the same obligation as any national court to request preliminary rulings in accordance with Article 267 of the Treaty on the Functioning of the European Union.

## Will oppositions at the EPO still be possible when the UPC comes into existence? What will happen in case of parallel proceedings before the UPC and the European Patent Office?

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Oppositions at the EPO will still be possible. A party shall inform the UPC of any pending revocation, limitation or opposition proceedings before the EPO. The UPC may stay its proceedings when a rapid decision may be expected from the EPO, Article 33.10 of the UPC Agreement. The Court may of its own motion - or at the request of a party - request that opposition proceedings before the European Patent Office be accelerated in accordance with the proceedings of the European Patent Office, Rule 298 of the draft Rules of Procedure of the UPC.