

## Comparison between revocation action before the UPC and opposition proceedings at the EPO

	Revocation action before the UPC (see our <a href="#">Summer saga - episode 8</a> )	Opposition proceedings at the EPO
Who?	Any person, or any body entitled to take action under its national law, <b>concerned by the patent</b>	Any person (Opposition filed by a Strawman allowed)
When?	<b>Any time from</b> the grant of a Unitary patent / European patent (no opt-out) / SPC even without having to file notice of opposition with the EPO	<b>Within 9 months from</b> the grant of a Unitary patent / European patent
Where?	Central Division or, if the parties agree, any Local or Regional Division	EPO
Language	Central Division: language of the granted patent Local or Regional Division: official language of the division or one of the EPO languages designated by the division (see our <a href="#">Summer saga - episode 7</a> )	EPO languages
Grounds	<u>Art. 138 EPC</u> <u>Art. 139 (2) EPC</u> : UP revoked entirely / national part of the EP revoked	<u>Art. 100 EPC</u>
Official fees	20 000 Euros	840 Euros
Time limits for the proprietor	<b>Within two months</b> of the Statement for revocation:  Defence to revocation which may include: Application to amend the patent (auxiliary requests allowed), and Counterclaim for infringement (see our <a href="#">Summer saga - episode 8</a> )	<b>Withing four months</b> of the notification from the Opposition Division:  Response to the opposition which may include: Amendments of the patent (auxiliary requests allowed)
Time limits for patent amendments	<b>Within two months</b> of the Statement for revocation along with the Application to amend the patent  <b>No other possibility</b> of further claim amendments without the permission of the UPC	<b>Within four months</b> of the notification from the Opposition Division  <b>Within the time limit set</b> in the summons to attend oral proceedings  During oral proceedings if accepted by the Opposition Division
Language of the patent amendments	Language of the granted patent <b>with a translation</b> : - in the language of the proceeding and - in the language of the defendant's domicile for a Unitary patent	Language of the granted patent
Intervention	Intervention of <b>any person showing a legal interest</b> in the result of the revocation action is admissible before the closure of the written procedure unless the UPC orders otherwise	Intervention of <b>the alleged infringer</b> admissible only if: the declaration is filed <b>within three months of the date</b> on which: - the infringement action was filed, or - an action for declaration for non-infringement was filed
EP / UPC parallel proceedings	The UPC <b>may stay proceedings</b> in case of opposition proceedings relating to the same patent where a decision may be expected rapidly and may request the EPO to accelerate the proceedings	EPO can accelerate opposition proceedings upon the request of UPC in case of revocation action relating to the same patent
Means of obtaining evidence	<u>Art. 53 UPCA</u> , <u>Art. 59 UPCA</u> and <u>Art. 60 UPCA</u>  Broader means of evidence at the UPC than before the EPO as they may include: - ordering conducting comparative tests and experiments - ordering a party or a third party to produce evidence - ordering measures to preserve evidence	<u>Art. 117 EPC</u>
Effects	Patent held valid, partially valid or revoked for the UPC Member States (17 Member States)	Patent held valid, partially valid or revoked for the EPC Members States (38 Member States)

Find all the relevant texts of the UPC  
in our "[Smart & Interactive Code](#)"

[www.upc-casalonga.eu](http://www.upc-casalonga.eu)

A free and easily accessible platform  
to understand and familiarize yourself with the UPC texts