Decision Time: The Unified Patent Court Begins in 2023

The Unified Patent Court ("UPC") is set to begin on June 1, 2023. Under the UPC framework, a single court proceeding could result in simultaneous revocation of European Patents across multiple European Union ("EU") countries, including France and Germany.

A three-month "Sunrise Period" is set to begin March 1, 2023. If a request is filed during the Sunrise Period, patent owners can "opt-out" specific patents from the UPC, such that they never become subject to the UPC unless the patent owner decides to withdraw the opt-out. However, the opt-out procedure is not necessarily straightforward. Importantly, if not done correctly ***and*** completed within the Sunrise Period, any patent challenged by a third party within the UPC will irrevocably be confined to the UPC's jurisdiction. Given the high stakes, patent owners should begin assessing which patents they would like to opt-out of the UPC and ensure that the necessary parties are involved in the opt-out procedure. Parties to license agreements, collaboration agreements, and the like should evaluate their existing agreements to see if they are UPC ready. Further, parties to future agreements should take the UPC into account when drafting those agreements.

Read the client alert **here**.