

The background features a network diagram with light blue nodes and connecting lines, set against a darker blue gradient background.

UPDATE

THE UNITARY PATENT SYSTEM

30TH NOVEMBER 2018

zacco

AGENDA

1. Zacco in brief
2. Reform of the European Patent System
3. Implications for Companies
4. If time - Industry 4.0 and Patenting

ZACCO - EUROPEAN FOOTPRINT INTERNATIONAL NETWORK

- Full-service European IP consultancy with Scandinavian roots
- 360° approach to IP – Classical Legal Instruments, Cyber Security, Digital Brands, Data and Digital Assets
- More than **472 employees**
- **29 offices** in Denmark, Sweden, Norway, Germany, Great-Britain, France and India
- Founded in **1870**

REFORM OF THE EUROPEAN PATENT SYSTEM

THE EPC AND THE PATENT REFORM

The European Patent Convention of 1973

- **Intergovernmental agreement** establishing the European Patent Organisation – not an European Union institution - and managed by the Administrative Council
- Establish the **European Patent** as a supplement to Paris-route applications to national offices
- European patents are validated in European countries and thus form a **“Bundled patent”** of national rights with the same origin and legal capacity
- European patents are enforced in national jurisdictions
- Ever since the entry in to force of the EPC, attempts has been made to establish a common enforcement system - but to no avail – until 2012

WHY THE REFORM CREATING THE UP AND THE UPC ?

As IP becomes decisive for Company Value:

.... a strong political desire emerged to create a European-wide enforcement system being an integrale part of the European patent system, that:

- Are cost-efficient and less time consuming
- Avoids (or reduce) forum shopping
- Establish one single set of Rules of Procedures, and
- That ensure a high and uniform quality of enforcement by having a shared pool of judges with equivalent education and traning

POLITICAL COMPROMISE AND -DECISION

DANISH PRESIDENCY OF THE EU

- Political compromise reached in December 2012 by agreement between the European Council and the European Parliament
- Elements from the German system of bifocation (separation of validity and infringement issues) and North European practise of oral proceedings
- The court can be set at national, regional and central level, thus allowing contracting states to keep proximity to users

IMPLEMENTATION – REMAINING ISSUES AND WAY FORWARD

- The UP/UPC will enter in to force when 13 contracting states has ratified – including the UK, France and Germany
- Today, 16 stats has ratified including France and the UK

Two issues:

1. A constitutional complaint is filed in Germany – no information as to when and whether this will be clarified
2. If the Agreement is not entered in to force before 29. March 2019 (day of Brexit), elements of the deal has to be renegotiated

PROJECTION

The Optimist

- Germany is expected to clarify the constitutional issues within 6. mth. i.e. June 2019
- Re-negotiate UK participation - 6. mth. towards the end 2019
- Ratification in the beginning of 2020
- End Preliminary Application Period (PAP) June 2020 and UP/UPC up-and-running year end 2020

The Pessimist

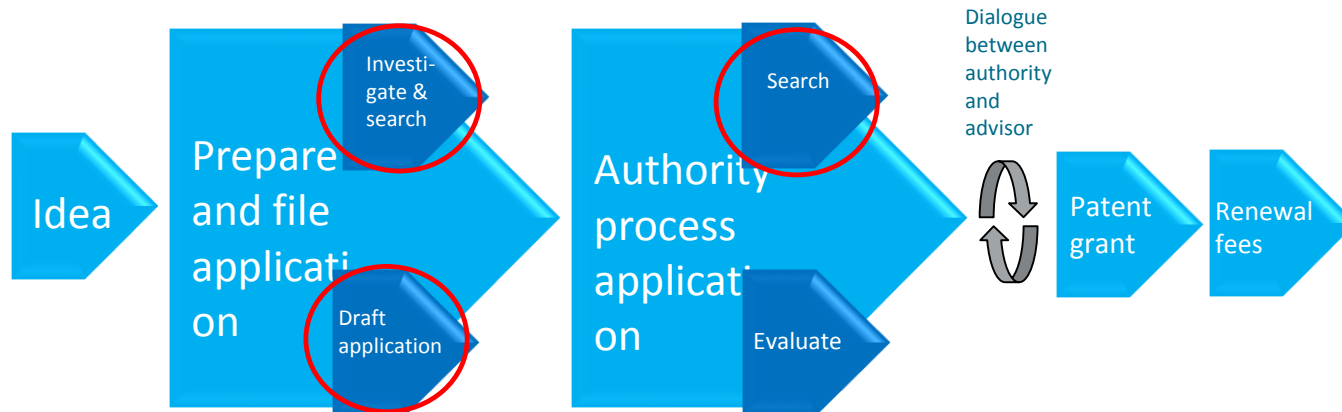
- Additional two years negotiating UK participation and location of central divisions bio-banche
- Up-and-running 2022 or later

IMPORTANT TO CONSIDER OPT-OUT ? – IF AND WHEN

- In the PAP of four month from the last ratification until “Sun-rise” – applicants can opt-out with the right to opt-in later
- After sun-rice, applicants can opt-out, unles their application is part of an ongoing legal prociding.
- Anglo-American pharma and biotech companies are expected to opt-out undtil practise has been established with the new UPC
- Similar considerations in other industries
- European and national patents will prevail in the short and medium term

INDUSTRY 4.0 AND THE PATENT SYSTEM IF TIME PERMITS

INDUSTRY 4.0 AND THE PATENT PROCESS



Red circles indicate that processes are "disrupted"

THANK YOU FOR YOUR ATTENTION

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