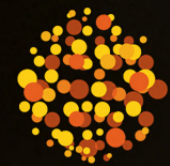


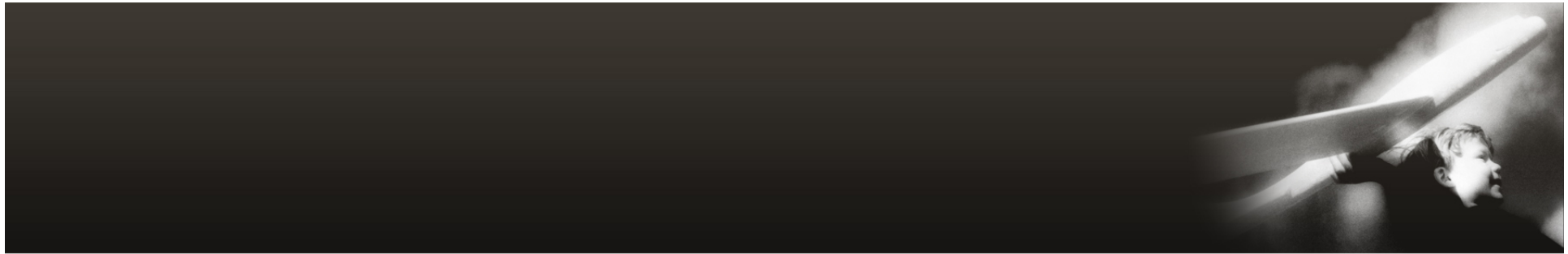
“innovation

distinguishes between a leader and a follower”

STEVE JOBS



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# OBTAINING PATENT PROTECTION IN EUROPE

**Michael Williams**



# Overview



- 1. Background to European patent system**
- 2. Updates on European patent practice**
- 3. Future changes**

# European patent system



- Centralized search, examination and grant procedure
- Administered by European Patent Office (EPO)
- Leads to a bundle of national patents
- 38 member states
- No single European court (yet)

# EPC member states 2013



Source: European Patent Office

# Search opinions



- Historically, search and examination were separate.
- EPO now issues a search opinion together with the search report.
- Need to respond to the search opinion when requesting examination.
- **Treat search report as first examination report**

# Multiple independent claims

- The EPO will now only search a single independent claim in any one category
- Any unsearched claims must be deleted
- Exception – separate independent claims to “interrelated products” may be allowed (e.g. transmitter and receiver)
- **Avoid US style multiple independent claims**

# Claims fees



- Very high claims fees for claims over 15.
- However multiple claim dependencies are allowed.
- Restrict number of claims to 15
- Use multiple claim dependencies



# Divisional applications



- New rules introduced by EPO in 2010
- Deadline for filing divisional application is:
  - 24 months from first official communication, or
  - 24 months from first lack of unity objection
- Parent application must also be pending

# Divisional applications



- In most cases, the “first communication” will set the 24 month term for filing any divisional applications
- The “first communication” is the first communication from Examining Division on any member of the European family
- Not recommended to rely on receiving a lack of unity objection

# Added subject matter



- EPO takes very strict approach to added subject matter.
- Often need to show directly-worded basis for any claim amendments.
- Added subject matter can lead to invalidity later
- **Make sure application contains language to support claim amendments.**

# Patentable subject matter



- Invention must involve an inventive step in a technical field.
- EPO uses problem-solution approach to assess inventive step
- **Show that invention involves a technical solution to a technical problem**

# What is technical?



- Features or steps which are relevant to the machine, rather than the human operator
- Anything commercial or administrative is considered non-technical.
- **Avoid references to commercial or administrative advantages.**

# EU unitary patent package

- **Unitary Patents Court**
- **Unitary Patent**
- **Approved by European Parliament and European Council**
- **Needs to be ratified by member states**
- **Aim is for 2015**

# Unitary Patents Court



- **Centralised European patent litigation**
- **Court of first instance**
  - Central division (Paris, London, Munich)
  - Local/Regional divisions
- **Court of Appeal**
  - Luxembourg

# Unitary Patent



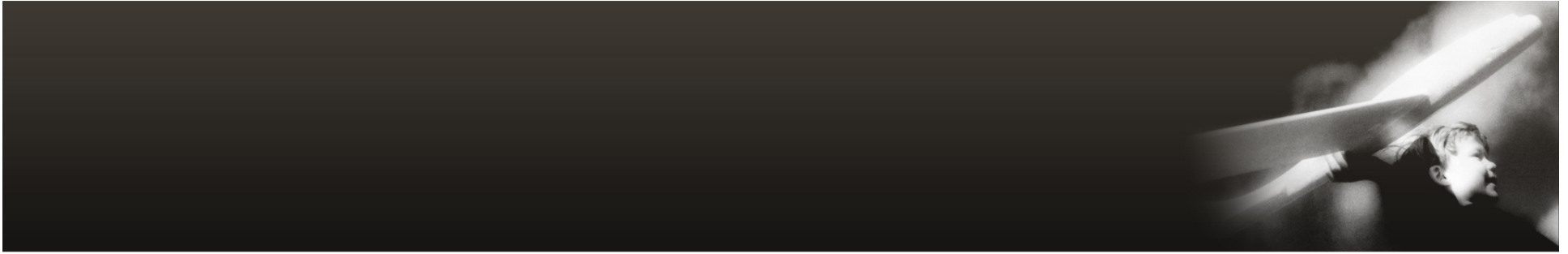
- **Single patent for all participating states (not Italy or Spain)**
- **Obtained by validating a European patent as a unitary patent**
- **For a transitional period, need to file a translation into one other language**
- **Renew fees yet to be set**



# Note



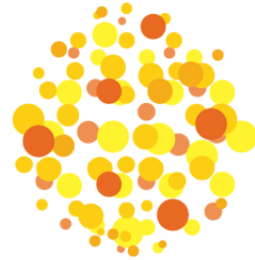
- **Unitary Patents Court will have jurisdiction over Unitary patents and European patents**
- **One time opt out for European patents**



**Thank you!**

**Any questions?**





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