European Regional Phase Patent Applications:
Early stage procedure where an authority other than the EPO acted as the ISA

For an International (PCT) application that enters the regional phase at the EPO where an authority other than the EPO carried out the International search, the EPO will perform a supplementary search for each application. The EPO may find a lack of unity of invention, irrespective of the results of the International search, and will search the first invention mentioned in the claims, giving the Applicant the opportunity to pay further search fees for other inventions identified.

Where a unity of invention objection is raised by the EPO during the supplementary search stage, it is possible for the Applicant to pay one or more search fees and to choose which invention they wish to pursue in the European regional phase:

- EPO partial supplementary search report defines “inventions” (claim groups) I and II
- Only invention I is searched

Are both inventions I and II important?

Is invention I important?

Yes

- Do NOT pay additional search fee now
- Amend claims to refer only to invention I
- Invention I will be examined in this application

No

- Pay additional search fee now
- Invention II is important
- Pay additional search fee now
- Receive results of search on invention II
- Amend claims to refer only to invention II
- Invention II will be examined in this application

Which of inventions I and II is to continue in the present application?

Invention II to continue

- Pay additional search fee now
- Does Applicant wish to obtain EPO search report on invention II before filing a divisional application?
  
  Yes
  
  - Pay additional search fee now
  
  No
  
  - Do NOT pay additional search fee now

Invention I to continue

- Pay additional search fee now
- Invention II to continue
- Pay additional search fee now
- Receive results of search on invention II
- Amend claims to refer only to invention II
- Invention II will be examined in this application

 Applicant retains option to file a divisional application to pursue the other invention.
Search fee will be refunded in divisional application filed to pursue an invention that has already been searched.

Contact Us
For more information on Mewburn Ellis LLP and other intellectual property matters, please visit our website at www.mewburn.com; email firstname.lastname@mewburn.com or mail@mewburn.com