

# **Future of the EU patent system**

## **Role of European Patent Attorney**

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- Challenges for the future: 4<sup>th</sup> industrial revolution
  - Players in future EU patent system and role of EU Patent Attorney
  - Future EU patent system
  - How to make strategic choices
  - UP and UPC
    - Benefits
    - Concerns
  - Summary
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## Changes in industry:

- **First industrial revolution:** mechanization through water and wind
- **Second industrial revolution:** mass production with electricity
- **Third industrial revolution:** digital revolution



But now

- **Fourth industrial revolution:** connected world: internet of things



# Fourth Industrial Revolution

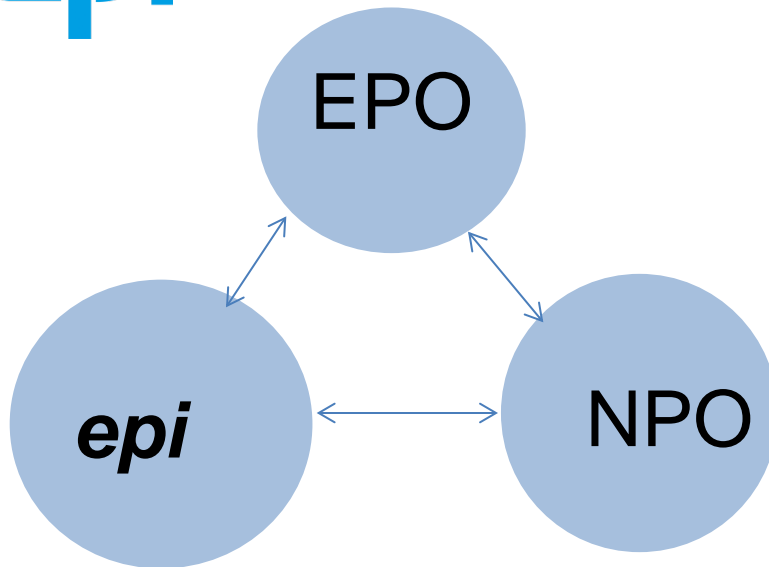
- Machines, work pieces and systems are all connected along the entire value chain. They can control each other autonomously.
- Complexity of production and supplier networks will grow enormously. Factories will be **interconnected** to large manufacturing systems **across geographical regions**.



- Integration of supply chain and producers means innovations need to be shared → Need to define who owns what  
*Thus: Intellectual Property becomes even more important*
- Supply chain is all over Europe and changes over years →  
*Thus: necessary to provide IP protection all over Europe*



# Players future EU patent System



## Need to work together to get most of innovations:

- EPO as central high quality granting organization
- NPO as first entry from countries to patent system: first filing, information to public, universities, SMEs
- **epi** members as first rate advisor for companies and inventors how to create value from innovations

- **Technical:** think with the inventor to transfer idea to patent application
- **Legal:** prosecute patent applications, set-up right legal framework: JV, open innovation, cooperation etc.
- **Strategic:** have a vision of the future
- **Commercial:** make business plan, value creation



1. **National patents** granted by NPO and enforced in national courts
2. **European patents** (EP), granted by EPO and **enforced in UPC** system
3. **European patents** (EP), granted by EPO but **opted out of UPC** system and enforced in national courts as bundle of patents (during the transitional period)
4. **Unitary patents** (UP), registered by EPO and enforced in the UPC system.





## Considerations for strategic choices

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- What **value** are you going to create with IPR **in that country/region**?
- Every country **costs** money
  - IP Office: filing, prosecution, maintenance
  - IP Agent
- Look at **balance value versus costs** created in country
- **Look ahead 5-10 years from now !!**

- **Internal considerations**
  - Ambition
  - Patent: strength / broadness / total portfolio
  - Flexibility needed, i.e. keep options open and adapt countries/regions
    - PCT: national phase and major costs after 30/31 months
    - UP: broad protection, but all eggs in one basket
    - EP or National Patent: maintain or abandon per country

- **External considerations**
  - Markets for products
  - Competitor presence: licensing/defense/counterattack
  - Production countries: US, CN, KR, JP, DE, TH, Africa
  - Import / export facilities: border detentions
  - Speed of grant Patent: US
  - Good litigation system or representative for region:  
UPC, DE

- **Administrative simplification** of patenting in Europe
- Potential for **saving costs**, including validation, translation and post-grant administration costs
- **Geographic extension** of patent protection: ease of enforcement: border detentions
- **More value** for licensing/sale

- Level of unitary patent **renewal fees**
  - Not possible to reduce costs by dropping countries
  - Take-up of the unitary patent is clearly dependent on the level of the renewal fees
- **Costs of litigation** before the Unified Patent Court
- **Centralized revocation**
- More use by firms from outside EU?

- **Avoiding multiple patent litigation** in different jurisdictions
- **Specialized patent court with specialized judges:**
  - One set of rules of proceedings
  - Developing harmonized and consistent jurisprudence
- **European Patent Attorneys may represent**
  - Proven quality: certificate
  - EPAs are the technical experts
  - Well trained in patentability: revocation
  - Lower costs

- **Uncertainty future functioning** of UPC:
  - More like the current national courts in Germany?
  - More like the current national courts in UK?
  - Different flavors of national or regional courts?
- **Costs?**
- **Means for Non-Practicing Entities** known as “trolls” to extend their activities to Europe?

- 4th industrial revolution makes IP more important
  - Future patent system: National patent, EU bundle with or without opt-out, Unitary patent
  - Strategic considerations determine how to use this patent system to get maximum benefit also from UP and UPC
  - EU patent attorney is first rate advisor to help make right choice and create value
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**Thank you  
for your attention!**