

IP IN EUROPE AFTER BREXIT

Patents

European patents are administered by the European Patent Office according to the European Patent Convention (EPC). Membership of the EPC is not dependent on membership of the EU - there are presently several member states of the EPC which are not members of the EU, including Norway and Switzerland – and European patents cover all member states to the EPC, which includes the UK and other EU states.

Accordingly, the UK's relationship with the current European patent system is unaffected by the Brexit decision, and AIPEX services continue as before.

However, it is expected that the proposed so-called "unitary patent", which has not yet come into force, *will* be affected by the Brexit decision. The unitary patent will be administered by the European Patent Office as part of the European patent application process. It is intended to provide applicants with the option of designating or protecting their inventions in all EU states in one hit, rather than the current process of requiring applicants to make a European patent effective in EU states, separately.

The birth of the unitary patent is dependent on the UK (in addition to other EU states) ratifying the Unitary Patent Agreement and, given that the UK is now no longer going to be a member of the EU, it is unclear when, or indeed if, the unitary patent will come into effect.

Assuming it does, however, the unitary patent will be available to all EU states that have ratified the Unitary Patent Agreement and, while it may no longer be possible to designate or cover the UK with the proposed unitary patent, it will still be possible for applicants to select a unitary patent, and separately cover the UK as part of the current European patent system.

Clients of AIPEX member firms will have access to both. The selection of the unitary patent option and coverage in other countries such as the UK occurs at the end of the EP patent prosecution process. AIPEX firms will be able to handle all of these actions, as well as continuing to offer its high quality EP patent prosecution, opposition and appeal services.