



## IZI NEWS

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## Introduction

*Dear Reader,*

We proudly present to you IZI Patents' first newsletter. As you may know, we are the first and only IP firm in The Netherlands offering fixed prices for all its IP services. This makes budgeting easy (IZI) and avoids unpleasant financial surprises afterwards. Our motto is "Making Money from Molecules". In other words: IP should serve the business.

This way of working is only possible with a great team. Therefore I would like to use this preface to briefly introduce the IZI Patents team and leave you with the items of your interest. Our key players are Ton Hubregtse, Marty Wulferink, Jeroen Ruhaak, Lisette Holwerda and undersigned. Ton and Marty are the patent attorneys who turn your inventions into valuable patents. Their combined expertise covers all fields of chemistry and life sciences. Jeroen takes care of solid agreements from the very first moment you did an invention and want to initiate co-operation with others, as well as during the commercialization of your invention into profitable products or processes, *e.g.* agreements concerning secrecy, joint development, cooperation, technology transfer, exploitation and licensing. Johan (undersigned) secures that IP is synchronized with the business and, if desired, proposes partners and assists in finding funding with the aid of our extensive and sympathetic network. As a Senior Formalities Officer, Lisette is responsible for legal deadlines as well as for timely payment of (maintenance) fees. Besides that, she acts as primary account manager and is therewith the face of our organization. Last but not least she is supporting our workflow so that we can all serve you best. Next to this core-team, we make use of a network of specialists if needed.

Our passion is to provide solid fundamentals to your inventions. By getting to know you and especially your business, we look forward to having a long-lasting relationship, resulting in successful business.

For now, I wish you a pleasant and instructive newsletter and hope to meet you again soon.

Warm regards – Johan Tiesnitsch, Owner IZI Patents



## The IZI Patents way of working

### *Intellectual Property (IP) serves the business*

When a client wants to apply for a patent, then we at IZI Patents say: “we ‘d love to do this for you”. Directly afterwards, however, we ask the client what has brought her tot this decision and what the purpose is of this patent application. We start at the beginning: we first want to understand the enterprise of the client and from that understanding we want to discover how IP can contribute to her innovation and commercialisation. Our advice can be of diverse nature: sometimes it appears for example better to change the focus of the desired protection, sometimes to accurately map out the rights of third parties, sometimes not to apply for a patent for the time being, and sometimes first an advice is given about the set-up of the client’s innovation and commercialization process. Actually, IZI Patents is of the opinion that her IP services should serve the business of the client. In this respect, not only profitability, but also the continuity of the enterprise are of importance.

Accordingly, IZI Patents’ motto is that the client should make money with molecules, rather than that her income is drained by patents.

### *The “first-time-right” principle*

This motto is expressed in that we work according to our “first-time-right” principle, which is leading during the drafting of a first patent application (priority filing). When a shortcoming would be present at the first filing, then this generally requires lots of repair work later on in the grant procedure. To prevent such repair work, we spend great efforts to draft a priority filing that forms a solid foundation for the entire traject up to grant. A solid basis is also obtained by further elaborating the invention in a subsequent application. Such application can be filed up to one year after the priority filing. When new data and insights have been acquired in this year, we will work towards a more detailed description of the invention, with an eye on the client’s business objectives. With our legal knowlegde of patents, technical knowlegde, knowlegde of the client’s business and of the priority search report, we can advise about what should be changed or added to the subsequent application.

### *Various IP-services*

In order to serve the client in the most optimal form, we can perform a range of services. These are not only the creation of patent protection for products and processes, but also providing advice on strategic IP policy: identification of opportunities, blocking of competitors, investigating third party rights (freedom to operate), creation of (cross-)licences.



## Fixed prices instead of hourly rates

For services of *e.g.* accountants, consultants, lawyers, and patent attorneys as well, invoicing traditionally occurs on the basis of the number of worked hours at a certain hourly rate. It is a trend of the past few years, that alternatives for this pricing model are being used. It is only recently that also leading offices acknowledge that this model is on the way out, as is *e.g.* pointed out by a front page article on the Dutch newspaper NRC of 28 November 2014: “Fixed prices. Charging at an hourly rate for lawyers gets out of fashion.”

IZI Patents has been using fixed prices for all its services already since its establishment in 2012. At the time being ahead of her time, even today IZI Patents is the only patent office in The Netherlands offering fixed prices for all her services. Therefore, a client knows in advance exactly what the costs of a particular service will be. These costs are “all-inclusive”, and there are therefore no unpleasant financial surprises afterwards. This makes budgeting easy (IZI) for our clients.

It is important to note in this respect, that IZI Patents is transparent about the costs. We are able to explain what is comprised in our all-inclusive prices. For example, the amounts that are charged by the national patent offices, or the costs for translations. We are convinced that transparency is at the basis of the openness, visibility and accessibility of IZI patents.



## What can IZI Patents do for you legally?

*What we are about is to help companies to cooperate ...  
"Interesting?" Judge for yourself.*

### *Development with major parties*

As technology is developed, it often takes place through collaborations with other (large) market players or research institutes such as universities and public-private consortia. The agreements used by such larger parties, in most cases follow the principle to divide intellectual property rights (IPR) in their favor. Those agreements are thus often not directed to the small innovating parties, but are in favor of the larger partners. This applies to R&D agreements and regularly also to secrecy agreements; a non-legal expert does not see that the rights are unequally distributed. On the other hand, we do often see that especially these major parties are not fully aware how to arrange the IP rights in a proper manner.

IZI Patents supports you actually in obtaining a good legal position, so you afterwards possess as many rights as possible or at least the rights you deserve. Secondly, IZI Patents finds it very important that you always receive explanations so that you can ultimately take an informed decision yourself. Only in such manner, one can have a good business and achieve a proper co-operation you can rely on.

Through more than twenty years of being employed by large multinationals, Jeroen Ruhaak has seen the importance of a well thought-out distribution of intellectual property rights. In the development stage, but also for the stage after that: the commercialization.

### *Commercialization of your invention as a product or process*

You will have to think about what you want - so make plans - and how to arrange this as profitable as possible. This applies in the development phase, but also specifically in the subsequent commercialization. You can sell your invention yourself or grant licenses to sell products or have products manufactured. You can handle the commercialization yourself, but also through distributors or agents. All this for The Netherlands, for certain countries, or even globally.

Most important here, is that all these agreements are set up very specifically, especially in the field of patents and know-how rights. Also, there should be no conflict between the agreements you make with your partners or customers. For example, you cannot just give an exclusive license to a distributor and then also still continue selling yourself. In practice many things go wrong, which sometimes even leads to a costly litigation – a worst case scenario.

As a former lawyer and through many years of experience as an international business legal counsel, Jeroen Ruhaak has frequently gone through these processes in close collaboration with sales and marketing professionals. By this he knows how to avoid the risks and where to look for the opportunities to help you!

*Indeed interesting, we think. Especially when our pricing for legal advice is considered.*

*Would you like to further discuss this or do you have a question? You can directly contact Jeroen Ruhaak at cell phone +31-6 5241 1781 or by e-mail: [Jeroen.Ruhaak@izipatents.com](mailto:Jeroen.Ruhaak@izipatents.com).*



## Status update on the “Unitary Patent”

### *The European Patent Convention*

Currently, “European patents” are granted by the European Patent Office under the European Patent Convention (EPC). 38 states, including all 28 states of the European Union, are parties to the EPC. After grant of a European patent, however, the patent essentially becomes “a bundle of national patents”, which have to be validated in each individual state. Validation often involves translation of (a part of) the patent into one of the official languages of such state, and further payment of renewal fees for each state, which can lead to high costs after grant of a European patent, especially if it is validated in many states.

Another drawback of the current practice is that infringement procedures in one state have essentially no effect in others, which sometimes leads to multiple lawsuits regarding the same European patent in different states. These multiple lawsuits which may even lead to different decisions, *e.g.* in one state a patent is revoked while in another state the same patent is considered valid and even forms the basis for infringement proceedings.

### *The Agreement on a Unified Patent Court*

To reduce translation and litigation costs, the European Union has introduced legislation regarding European patents with unitary effect and a unified patent court (UPC). Eventually, conflicts regarding European patents will be brought before the UPC, which will decide on infringement or validity of the patent for all UPC member states. Registration of unitary effect is to be organized by the European Patent Office and is expected to result in limited translation requirements and a single renewal fee for the whole territory.

At this moment all EU member states with the exception of Spain, Italy and Poland are participating member states of the Agreement. It has to be noted that non-EU member states, for example Switzerland and Norway, are excluded from participation in the unitary patent. It has been agreed upon that the Agreement will enter into force as soon as 13 of the participating member states (which must include Germany, France and the United Kingdom) have ratified the Agreement. At this moment, only France, Belgium, Sweden, Denmark, Austria and Malta have ratified the Agreement. It is expected that by early 2016, the United Kingdom and Germany, as well as five of the remaining 16 states will have ratified the Agreement.

Once the unitary patent has entered into force, a patent proprietor may request registration of unitary effect of its European patent by the EPO. If no request is made within one month after publication of the grant, the European patent will be treated as a bundle of national patents, as is the case at this moment.



### *Your Unitary Patent Strategy*

Although registration of unitary effect will thus not be possible at least until early 2016, it is advisable to already take into account the pros and cons of such unitary effect for your pending or new to be filed European patent applications. Because it is not possible to retrospectively request unitary effect for patents that have been granted before the Agreement has entered into force, it may, for instance, be favourable to postpone an expected grant of a European patent if you consider requesting unitary effect for it.

Please consider that, although it will become easier to litigate an assumed infringer in several states in the European Union in one procedure, a possible drawback is that one single nullity action in one of the member states of the UPC may invalidate your European patent in all participating member states. Please feel free to contact one of our patent attorneys in case you have questions or need specific advice on the unitary patent.

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