



European Semiconductor Industry Association

# **POSITION on EPO proposals on the Renewal Fees for the Unitary Patent**

*Brussels, March 2015*

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## **I. Introduction**

The semiconductor industry is a global industry with innovation, production, markets and end-users in many countries. Semiconductors are at the core of essential infrastructure, apparatuses and devices in today's and tomorrow's society. The functions enabled by semiconductors have none or little geographical differentiation, i.e. there is no local preference for development and manufacturing. At the same time, the semiconductor industry has a high investment in innovation, typically 15 to 20% of sales is spend on R&D. This results in the filing of very significant numbers of patent applications. In view of the global nature of the industry, patents are usually filed in the main regions for manufacturing, direct semiconductor sales, and the presence of end-users.

## **II. EPO Proposals for Unitary Patent Renewal Fees**

Important criteria in which of the main regions to invest in patents, are costs and anticipated results. With respect to costs, Europe distinguishes itself in an unfavorable way from other major economic regions. Although the higher costs in the application phase at the European Patent Office (EPO) may be justified in view of the recognized quality, the real deviation is in the annual maintenance fees both pre-grant and post grant. This deters applicants; in the semiconductor field many patent families have no counterpart in a European country, despite the high quality and cost effectiveness of patent litigation in several Member States.

If patents are validated in several Member States, post-grant maintenance fees are significantly higher in Europe than in the other two important regions for semiconductors, US and China, especially taking into account the size of the economy. The latest proposals by the EPO for the post-grant maintenance fees of the Unitary Patent (UP) – equal or larger than the sum of the fees in the four most validated Member States – undermines the attractiveness of the UP. With this level of fees, the semiconductor industry will use the UP only in exceptional cases.

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Either as multiple nationally validated European patents or the UP, for cost reasons the semiconductor industry will have less patent protection in Europe than in other regions. Semiconductor products specifically developed to form the core of new applications are more open to competition from other regions and accordingly, the R&D efforts for dedicated semiconductor enabled functions will yield a lower return.

### **III. Conclusion**

ESIA strongly believes that the high costs of patent protection in Europe is weakening Europe's position as a region for the development of semiconductor components for infrastructure and for applications from automotive to wearables. To remove these disadvantages, the fees for the UP need to be lower than currently proposed. If proper funding of the European Patent Organization, cannot be obtained with lower fees, a smaller part of the maintenance fees should be diverted to the Member States.

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#### **ABOUT ESIA**

*The European Semiconductor Industry Association (ESIA) is the voice of the Semiconductor Industry in Europe. Its mission is to represent and promote the common interests of the Europe based semiconductor industry towards the European Institutions and stakeholders in order to ensure a sustainable business environment and foster its global competitiveness. As a provider of key enabling technologies the industry creates innovative solutions for industrial development, contributing to economic growth and responding to major societal challenges. Being ranked as the most R&D intensive sector by the European Commission, the European Semi-conductor ecosystem supports approx. 200.000 jobs directly and up to 1.000.000 induced jobs in systems, applications and services in Europe. Overall, micro- and nano-electronics enable the generation of at least 10% of GDP in Europe and the world.*