

Info ja keskustelutilaisuus:
"Patenttiuudistus etenee – onko
yrityksesi valmis?"
– a **biotech SME** perspective –

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Jukka Hiltunen, Ph.D. MBA
Chief IP Counsel
Glykos Finland Oy

Patents are essential for business
Patents are out-licensed or sold

- Technologies:
 - Antibody drug conjugates (ADC)
 - Glycomarkers and antibodies for stem cells, cancer and cancer stem cells
 - Glycoengineering of biomolecules and host cell organisms
 - Glykos Analytics


How to prepare for UPC?

- **How do you commercialise your patents? (SME)**
- **How your clients commercialise their patents? (Big Pharma/Biotech)**

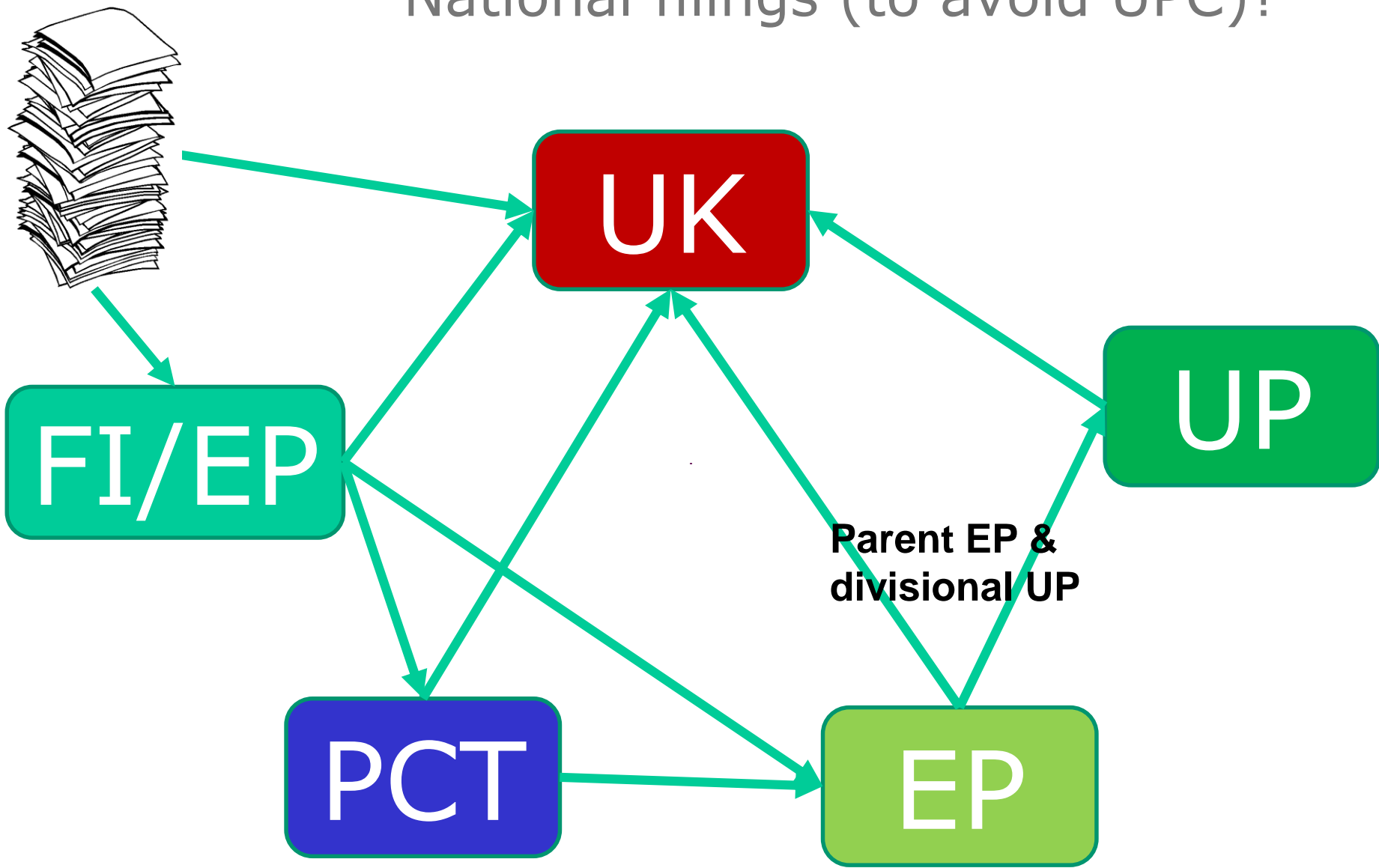
Patent value €

- **Actions taken not to decrease value (or actions taken even to increase the value)?**



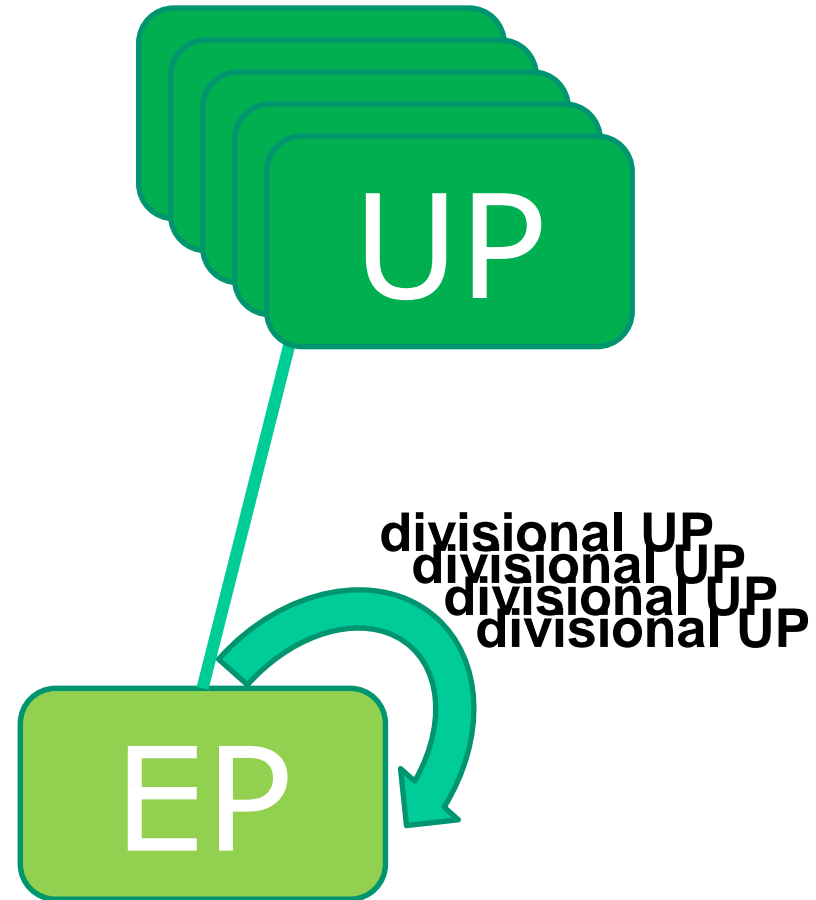
- **National route(s) or Euro-PCT?**
 - **Opt-out (opt-in)?**
 - **Grantend EP patents**
 - **Pending applications**
 - **EP or UP?**
 - **Filing divisionals**
 - **UP: no pruning vs EP bundle: pruning**
 - **UPC vs national courts (litigation)**
 - **Traditional SPCs vs Unitary SPC**
 - **Costs of validations vs markets covered: EP vs UP**
- 

National filings (to avoid UPC)?



Patentees shall have – finally – possibility to construct multilayered patent protection in Europe

- Filing (many) divisionals possible at low(er) cost because one translation - or few translations - required to cover Europe
 - Also in pharma patents
- Together with PACE and EPO initiatives – waiving R. 70(2) EPC, R. 70a(2) EPC, R. 161/162 EPC and R. 71(3) EPC – time to grant may be considerably shortened



SPCs

- Not single SPC for all UP countries, yet (but in future?)
- Opt-out / opt-in
- Current SPC regulation does not allow granting of national SPCs by national IP office on the basis of UP (SPC Regulation needs to be amended)
- Proprietors of both basic patent and of SPC must register opt-out

“Most of our patents will be UP” (a big pharma representative at a Life Science conference 2015)



**Pessimistic big pharma perceptions on the UPC
have started changing...
Good news for SMEs!**

Decisions and actions?

- Patent filings strategy: priority (FI/EP)→PCT→EP→ UP
 - Patent owner(s) correctly registered at the EPO (the first applicant in the registry matters)
- UP or EP – opt-out?
 - If at time of granting EP no clear commercial path ahead → UP
 - UP is better than few EP validations (*i.e.* ratified countries)
 - UP much cheaper compared to EP bundle of same country coverage (translations and annual fees)
 - Any hurdles of obtaining SPCs based on UP will be taken care of in near future!
 - Current granted EP patents opted out
 - Creation of multilayered protection by divisionals
- Business risk – injunctions vs central revocation
- Further emphasis on oppositions (UPC fees high [for SMEs])
- Business intelligence updated, competitor's patent strategies [opt out, UP]
- **In any case patent claims must be stronger, even further emphasis on determination of prior art**

UPC is up and running in 2017...

- Thinking exercises / scenarios / simulations:
- Effects of UPC on your business
- Effects of UPC on your patent filing strategy and portfolio
 - Each technology sector different (IT, pharma, etc.)
 - SME vs big players (SME-Big, Big-Big)
 - Agreements
 - Competition
 - Litigation, forum shopping/selling, infringement criteria
 - Who are (will be) experts (UK, DE, FR attorneys)?

You have to start making proactive decisions and taking actions

PATENT VALUE €

**ONLY BY PLAYING UPC YOU CAN
PROSPER AND CONQUER!**

Glykos Finland Oy
Viikinkaari 6
00790 Helsinki
Finland

Tel: +358 9 3193 6340

www.glykos.fi

Email: jukka.hiltunen@glykos.fi