

## Paying Additional Search Fees at the EPO

If the EPO considers that the claims of a patent application relate to more than one invention (i.e. lack “unity of invention”), then the applicant initially receives only a partial European search report. This partial search report is a search on the first invention in the claims, and is accompanied by an invitation to pay additional search fees to have the other invention(s) searched. It is not possible at the search stage to argue against the finding of lack of unity.

The paragraphs below set out the options available and factors to consider in deciding whether or not to pay additional search fees.

This information applies only to “direct” European patent applications. The situation is different for the European Regional Phase of international applications.

### If further search fees are not paid

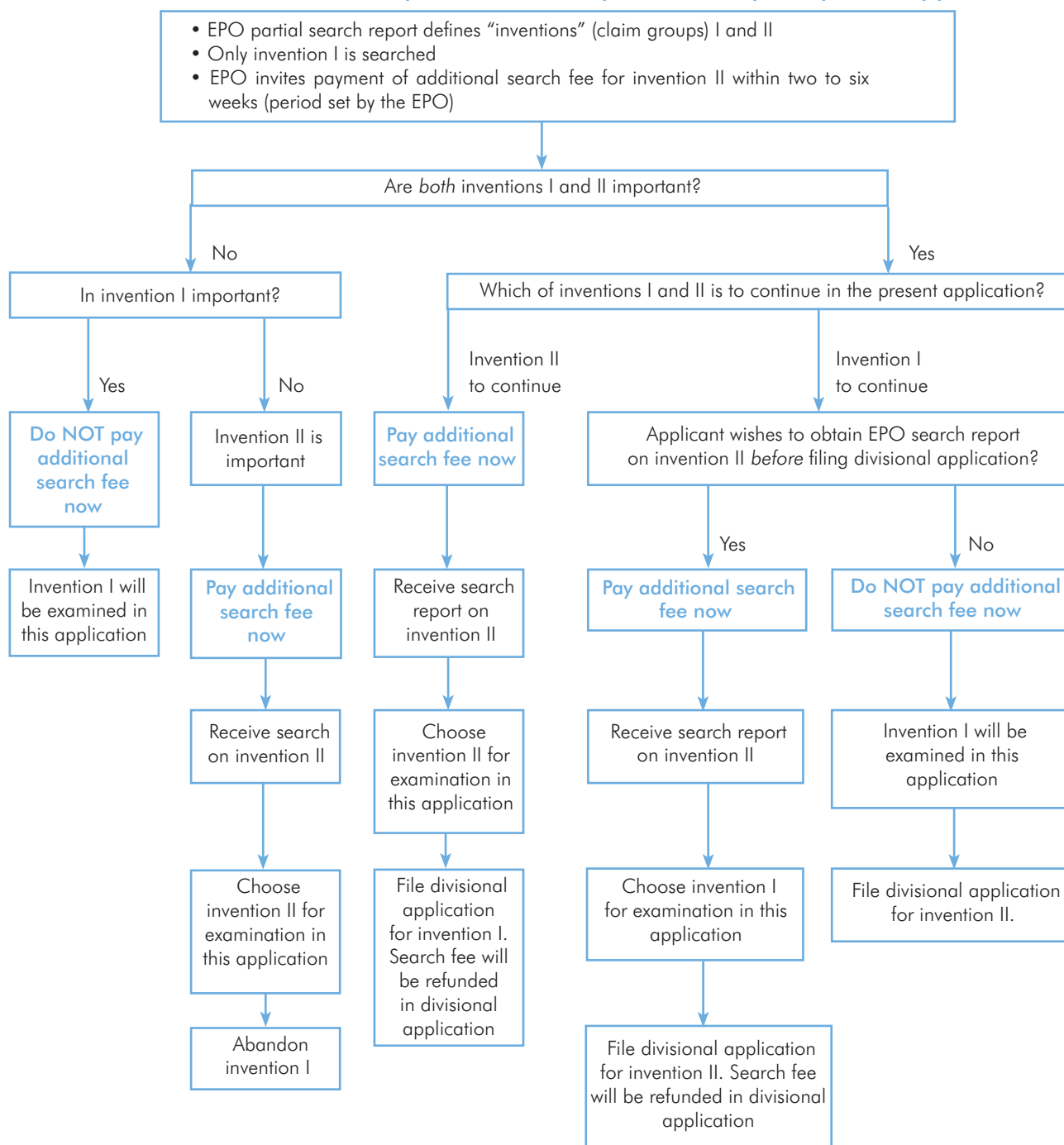
The partial search report will be reissued as a final search report. In most cases the search report will be accompanied by a search opinion (see our separate information sheet on extended European search reports). In response to the search opinion it is possible to argue against the finding of lack of unity. If successful, then the EPO will conduct a further search if necessary, without charge. However, if the lack of unity finding is maintained by the Examining Division, then it will not be possible to have the unsearched inventions examined in the same patent application. Such unsearched subject matter can only be pursued in a divisional application.

### If further search fees are paid

The EPO will search those groups of inventions for which further search fees are paid (note that it is possible to pay only some of the extra search fees - those groups of inventions for which no further search fees are paid will be treated as set out in the section opposite), and the combined search will be issued as a final search report. In most cases the search report will be accompanied by a search opinion (see our separate information sheet on extended European search reports). In response to the search opinion it is possible to argue against the finding of lack of unity. If the arguments are successful, then any extra search fees paid on inventions that are found to be unified will be refunded. If the arguments are unsuccessful, then only one of the searched inventions can remain in the present application, and the further invention(s) can only be pursued in divisional applications. However, the applicant has the choice of which of the searched inventions to select for examination.

If a divisional application is filed directed to the claims on which a search fee has already been paid, then the search fee paid for the divisional application will be refunded after filing.

## Decision chart for action after partial search report on European patent application



Please note that this chart simplifies the options available. Please speak to your Mewburn Ellis LLP contact if you wish to discuss whether or not to pay additional fees to have further inventions searched now.

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