

CLIENT INFORMATION MARCH 2009

New Fee Structure of the European Patent Office

On 1 April 2009 various changes of the Rules relating to Fees of the European Patent Convention (EPC) will enter into force.

With the new fee structure, a two-tier system is introduced for the claims fees. An additional fee becomes due for applications comprising more than 35 pages; in return, any page fee to be payable at the grant stage no longer applies. The system of the designation of Contracting States of the EPC is further simplified by introduction of a flat designation fee. A further change involves the period for payment of renewal fees before their due date, which is reduced to three months.

Unless otherwise specified, the amendments are applicable to European patent applications, including European divisional applications, **filed on or after 1 April 2009** and to international applications entering the regional phase (Euro-PCT applications) on or after that date. For all older applications the Rules relating to Fees applicable last continue to apply.

An overview of the essential amendments is given below.

1) Two-tier system of claims fees

Already since 1 April 2008, if a European patent application comprises more than 15 claims, a claims fee of EUR 200 has been payable for the 16th and each subsequent claim. Upon entry into force of the amendments on 1 April 2009, the claims fee is **raised to EUR 500 each for the 51st and each subsequent claim**. Accordingly, the following amounts then apply to claims fees:

1st to 15th claim: no claims fee
16th to 50th claim: EUR 200 each
as from the 51st claim: EUR 500 each

2) Additional fee on filing

Under the new fee structure, the filing fee is composed of a basic fee and a newly introduced additional fee of EUR 12 per page for the 36th and each subsequent page of the application. The additional fee is calculated on the basis of the number of pages of the description, claims, drawings and one page for the abstract, in the language of filing. The pages of the request for grant are not considered. If the application is filed without claims, the additional fee takes account of the pages of the first set of claims filed.

For Euro-PCT applications, the additional fee is calculated on the basis of the number of pages of the preceding international publication, plus one page for the abstract. Any amendments under Art. 19 and/or Art. 34 PCT are taken into account if they were filed within the 31-month period for entering the European regional phase. Any replacement pages need to be clearly identified since otherwise they are counted as additional pages.

3) Flat fee for grant and publication

The additional fee explained in item 2) replaces the current fee for printing in the amount of EUR 11 per page for the 36th and each subsequent page of the "Druckexemplar" (text intended for grant), which used to be part of the fee for grant. For European patent applications filed and international applications entering the regional phase on or after 1 April 2009, a flat fee for grant and publication of EUR 790 applies from now on, irrespective of the number of pages.

4) Flat designation fee

Since the EPC 2000 entered into force in December 2007, all Contracting States of the EPC (currently 35) are automatically deemed to be designated at the time of filing a European patent application. But until now, a requirement for validation of a granted European patent was a valid designation of the desired Contracting States, which was effected by payment of individual designation fees in the amount of EUR 85 per Contracting State. By payment of seven designation fees (EUR 595), all Contracting States were deemed to be validly designated, so that the option on later validation in all Contracting States could be kept open.

With the new fee structure the system of flat-rate designation of all Contracting States is now also established for the payment of the designation fees in the form of a flat fee. For European patent applications filed and international applications entering the regional phase on or after 1 April 2009, a flat designation fee of EUR 500 is payable, by which all Contracting States are automatically validly designated, unless individual designations are expressly withdrawn. In the case of a divisional application, however, it is basically not possible to validly designate any Contracting States different from those in the parent application.

In practice, this change may mean an increase in fees if, under the old arrangement, only five or less Contracting States would have been designated, but it may also result in a saving if six or more Contracting States would have been designated.

5) Three-month period for advance payment of renewal fees

Until now, renewal fees for European patent applications could be validly paid up to one year before their due date. With effect from 1 April 2009, this period is being reduced to three months before the due date. This change applies to all applications, irrespective of the date of filing or date of entry into the regional phase.

Any questions you may have in connection with the topic of this newsletter will be gladly answered by Jürgen Strass (J.Strass@prinz.eu).

© Prinz & Partner 2009

Prinz & Partner
D-80335 München
Tel: + 49 (0) 89 / 59 98 87-0
Fax: + 49 (0) 89 / 59 98 87-211
www.prinz.eu