

# Decision of the Administrative Council of 7 December 2006 amending the Rules relating to Fees CA/D 11/06

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Act revising the Convention on the Grant of European Patents of 29 November 2000 (Revision Act, MR/3/00 Rev. 1) and the decision of the Administrative Council of 28 June 2001 adopting the new text of the European Patent Convention (EPC 2000),

Having regard to the decision of the Administrative Council of 7 December 2006 adopting the Implementing Regulations to the EPC 2000,

Having regard to the European Patent Convention (EPC), and in particular Article 33(2)(d) thereof,

On a proposal from the President of the European Patent Office,

Having regard to the opinion of the Committee on Patent Law,

Having regard to the opinion of the Budget and Finance Committee,

HAS DECIDED AS FOLLOWS:

## **Article 1**

The Rules relating to Fees as revised in the light of the EPC 2000 shall be worded as set out in the annex to this decision.

## **Article 2**

1. The revised Rules relating to Fees shall enter into force on the same date as the revised text of the European Patent Convention.
2. The Rules relating to Fees of 20 October 1977 and the previous decisions of the Administrative Council amending the Rules relating to Fees of 20 October 1977, including their transitional provisions, shall be repealed from the date of the entry into force of the revised Rules relating to Fees.
3. The revised Rules relating to Fees shall apply to payments of fees made from the date of their entry into force. However, in the case of payments made before that date, the Rules relating to Fees in force at that time continue to apply.

Done at Munich, 7 December 2006

For the Administrative Council  
The Chairman

*Roland GROSSENBACHER*

## ANNEX 1

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

HAVING REGARD to the European Patent Convention and in particular Article 33, paragraph 2(d), thereof,

HAS ADOPTED THE FOLLOWING RULES RELATING TO FEES:

### Article 1

#### General

The following shall be levied in accordance with the provisions contained in these Rules:

(a) fees due to be paid to the European Patent Office (hereinafter referred to as the Office) as provided for in the Convention and in the Implementing Regulations and the fees and expenses which the President of the Office lays down pursuant to Article 3, paragraph 1;

(b) fees and expenses pursuant to the Patent Cooperation Treaty (hereinafter referred to as the PCT), the amounts of which may be fixed by the Office.

### Article 2

Fees provided for in the Convention and in the Implementing Regulations

The fees due to be paid to the Office under Article 1 shall be as follows:

	EUR
1. Filing fee (Article 78, paragraph 2) where	
- the European patent application or, in the case of an international application, the form for entry into the European phase (EPO Form 1200) is filed online	95
- the European patent application or, in the case of an international application, the form for entry into the European phase (EPO Form 1200) is not filed online	170
2. Search fee in respect of	
- a European or supplementary European search on an application filed on or after 1 July 2005 (Article 78, paragraph 2, Rule 62, Rule 64, paragraph 1, Article 153, paragraph 7)	1 000
- a European or supplementary European search on an application filed before 1 July 2005 (Article 78, paragraph 2, Rule 64, paragraph 1, Article 153, paragraph 7)	720
- an international search (Rule 16.1 PCT and Rule 158, paragraph 1)	1 615
3. Designation fee for each contracting state designated (Article 79, paragraph 2), designation fees being deemed paid for all	80

contracting states upon payment of seven times the amount of this fee

3a.	Joint designation fee for the Swiss Confederation and the Principality of Liechtenstein	80
4.	Renewal fees for the European patent applications (Article 86, paragraph 1), calculated in each case from the date of filing of the application	
	- for the 3rd year	400
	- for the 4th year	425
	- for the 5th year	450
	- for the 6th year	745
	- for the 7th year	770
	- for the 8th year	800
	- for the 9th year	1 010
	- for the 10th and each subsequent year	1 065
5.	Additional fee for belated payment of a renewal fee for the European patent application (Rule 51, paragraph 2)	10 % of the belated renewal fee
6.	Examination fee (Article 94, paragraph 1) in respect of	
	- an application filed before 1 July 2005	1 490
	- an application filed on or after 1 July 2005	1 335
	- an international application filed on or after 1 July 2005 for which no supplementary European search report is drawn up (Article 153, paragraph 7)	1 490
7.	Fee for grant, including fee for printing the European patent specification (Rule 71, paragraph 3), where the application documents to be printed comprise:	
7.1	not more than 35 pages	750
7.2	more than 35 pages	750
	plus EUR 11 for the 36th and each subsequent page	
8.	Fee for printing a new specification of the European patent (Rule 82, paragraph 2, Rule 95, paragraph 3)	
	- flat-rate fee	55

9.	Surcharge for late performance of the acts required to maintain the European patent in amended form (Rule 82, paragraph 3, Rule 95, paragraph 3)	
	- flat-rate fee	100
10.	Opposition fee (Article 99, paragraph 1, and Article 105, paragraph 2)	635
10a.	Limitation or revocation fee (Article 105a, paragraph 1)	
	- request for limitation	1000
	- request for revocation	450
11.	Fee for appeal (article 108)	1 065
11a.	Fee for petition for review (Article 112a, paragraph 4)	2500
12.	Fee for further processing (Rule 135, paragraph 1)	
	- in the event of late payment of a fee	50% of the relevant fee
	- in the event of late performance of the acts required under Rule 71, paragraph 3	210
	- other cases	210
13.	Fee for re-establishment of rights / fee for request for re-establishment of rights (Rule 136, paragraph 1, Rule 26bis.3(d) PCT, Rule 49ter.2(d) PCT)	550
14.	Conversion fee (Article 135, paragraph 3, and Article 140)	55
14a.	Fee for late furnishing of a sequence listing (Rule 30, paragraph 3)	200
15.	Claims fee for the eleventh and each subsequent claim (Rule 45, paragraph 1, Rule 71, paragraph 7, and Rule 162, paragraph 1)	45
16.	Fee for the awarding of costs (Rule 88, paragraph 3)	55
17.	Fee for the conservation of evidence (Rule 123, paragraph 3)	55
18.	Transmittal fee for an international application (Rule 157, paragraph 4)	105
19.	Fee for the preliminary examination of an international application (Rule 58 PCT and Rule 158, paragraph 2)	1 595
20.	Fee for a technical opinion (Article 25)	3 185
21.	Protest fee (Rules 40.2(e) and 68.3(e) PCT)	

- for international applications still pending on [date of entry into force of the EPC 2000]	1 065
- for international applications filed on or after [date of entry into force of the EPC 2000] (Rule 158, paragraph 3)	750

### **Article 3**

Fees, expenses and prices laid down by the President of the Office

(1) The President of the Office shall lay down the amount of the administrative fees provided for in the Implementing Regulations and, where appropriate, the amount of the fees and expenses for any services rendered by the Office other than those specified in Article 2.

(2) He shall also lay down the prices of the publications referred to in Articles 93, 98, 103 and 129 of the Convention.

(3) The amounts of the fees provided for in Article 2 and of the fees and expenses laid down in accordance with paragraph 1 shall be published in the Official Journal and on the website of the European Patent Office.

### **Article 4**

Due date for fees

(1) Fees in respect of which the due date is not specified in the provisions of the Convention or of the PCT or of the Implementing Regulations thereto shall be due on the date of receipt of the request for the service incurring the fee concerned.

(2) The President of the Office may decide not to make services within the meaning of paragraph 1 dependent upon the advance payment of the corresponding fee.

### **Article 5**

Payment of fees

(1) The fees due to the Office shall be paid in euro:

- (a) by payment or transfer to a bank account held by the Office,
- (b) by payment or transfer to a Giro account held by the Office, or
- (c) by delivery or remittance of cheques made payable to the Office.

(2) The President of the Office may allow other methods of paying fees than those set out in paragraph 1.

### **Article 6**

Particulars concerning payments

(1) Every payment must indicate the name of the person making the payment and must contain the necessary particulars to enable the Office to establish immediately the purpose of the payment.

(2) If the purpose of the payment cannot immediately be established, the Office shall require the person making the payment to notify it in writing of this purpose within such period as it may specify. If he does not comply with this request in due time the payment shall be considered not to have been made.

## **Article 7**

Date to be considered as the date on which payment is made

(1) The date on which any payment shall be considered to have been made to the Office shall be as follows:

(a) in the cases referred to in Article 5, paragraph 1(a) and (b): the date on which the amount of the payment or of the transfer is actually entered in a bank account or a Giro account held by the Office;

(b) in the case referred to in Article 5, paragraph 1(c): the date of receipt of the cheque at the Office, provided that the cheque is met.

(2) Where the President of the Office allows, in accordance with the provisions of Article 5, paragraph 2, other methods of paying fees than those set out in Article 5, paragraph 1, he shall also lay down the date on which such payments shall be considered to have been made.

(3) Where, under the provisions of paragraphs 1 and 2, payment of a fee is not considered to have been made until after the expiry of the period in which it should have been made, it shall be considered that this period has been observed if evidence is provided to the Office that the person who made the payment

(a) fulfilled one of the following conditions in a Contracting State within the period within which the payment should have been made:

(i) he effected the payment through a banking establishment or a post office;

(ii) he duly gave an order to a banking establishment or a post office to transfer the amount of the payment;

(iii) he despatched at a post office a letter bearing the address of the Office and containing a cheque within the meaning of Article 5, paragraph

1(c), provided that the cheque is met, and

(b) paid a surcharge of 10% on the relevant fee or fees, but not exceeding EUR 150; no surcharge is payable if a condition according to sub-paragraph (a) has been fulfilled not later than ten days before the expiry of the period for payment.

(4) The Office may request the person who made the payment to produce evidence as to the date on which a condition according to paragraph

3(a) was fulfilled and, where required, pay the surcharge referred to in paragraph 3(b), within a period to be specified by it. If he fails to comply with this request or if the evidence is insufficient, or if the required surcharge is not paid in due time, the period for payment shall be considered not to have been observed.

## **Article 8**

### Insufficiency of the amount paid

(1) A time limit for payment shall in principle be deemed to have been observed only if the full amount of the fee has been paid in due time. If the fee is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired. The Office may, however, in so far as this is possible within the time remaining before the end of the period, give the person making the payment the opportunity to pay the amount lacking. It may also, where this is considered justified, overlook any small amounts lacking without prejudice to the rights of the person making the payment.

(2) Where the amount paid in designation fees is insufficient to cover the designation fees payable for all the Contracting States, the amount paid shall be applied according to the specifications to be made by the applicant by the time of payment at the latest. If the applicant makes no such specifications, the fees shall be deemed to be paid only for as many designations as are covered by the amount paid and in the order in which the Contracting States are listed in the request for grant.

## **Article 9**

### Refund of search fees

(1) The search fee paid for a European or supplementary European search shall be fully refunded if the European patent application is withdrawn or refused or deemed to be withdrawn at a time when the Office has not yet begun to draw up the search report.

(2) Where the European search report is based on an earlier search report prepared by the Office on an application whose priority is claimed or an earlier application within the meaning of Article 76 of the Convention or of Rule 17 of the Convention, the Office shall refund to the applicant, in accordance with a decision of its President, an amount which shall depend on the type of earlier search and the extent to which the Office benefits from the earlier search report when carrying out the subsequent search.

## **Article 10**

### Refund of the fee for a technical opinion

An amount of 75% of the fee for a technical opinion under Article 25 of the Convention shall be refunded if the request for a technical opinion is withdrawn at a time when the Office has not yet begun to draw up the technical opinion.

## **Article 11**

### Refund of examination fee

The examination fee provided for in Article 94, paragraph 1, of the Convention shall be refunded:

(a) in full if the European patent application is withdrawn, refused or deemed to be withdrawn before the Examining Divisions have assumed responsibility;

(b) at a rate of 75% if the European patent application is withdrawn, refused or deemed to be withdrawn after the Examining Divisions have assumed responsibility but before substantive examination has begun.

## **Article 12**

Refund of insignificant amounts

Where too large a sum is paid to cover a fee, the excess shall not be refunded if the amount is insignificant and the party concerned has not expressly requested a refund. The President of the Office shall determine what constitutes an insignificant amount.

## **Article 13**

Decisions fixing costs which are subject to appeal

In accordance with Rule 97, paragraph 2, of the Convention, decisions fixing the amount of costs of opposition proceedings may be appealed if the amount is in excess of the fee for appeal.

## **Article 14**

Reduction of fees

(1) The reduction laid down in Rule 6, paragraph 3, of the Convention shall be 20% of the filing fee, examination fee, opposition fee, appeal fee, fee for the petition for review or the limitation or revocation fee.

(2) Where the European Patent Office has drawn up an international preliminary examination report, the examination fee shall be reduced by 50%. If the report was established on certain parts of the international application in accordance with Article 34, paragraph 3(c), PCT, the fee shall not be reduced if subject-matter not covered by the report is to be examined.

## **Article 15**

Entry into force

These Rules shall enter into force on 20 October 1977. \*

DONE at Munich, 20 October 1977

For the Administrative Council  
The Chairman

\* Amended by decision of the Administrative Council of 7 December 2006