

Decision of the Administrative Council of 25 October 2007 amending the Rules relating to Fees (CA/D 17/07)

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, 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 and the Budget and Finance Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The Rules relating to Fees shall be amended as follows:

1. Article 2, item 13, shall be amended to read as follows:

"13. Fee for re-establishment of rights / fee for requesting restoration / fee for reinstatement of rights (Rule 136, paragraph 1, Rule 26bis.3(d) PCT, Rule 49ter.2(d) PCT, Rule 49.6(d)(i) PCT) 550"

2. Article 5 shall be amended to read as follows:

"Article 5

Payment of fees

(1) The fees due to the Office shall be paid in euro by payment or transfer to a bank account held by the Office.

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

3. Article 7 shall be amended to read as follows:

"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 the date on which the amount of the payment or of the transfer is actually entered in a bank account held by the Office.

(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;

(ii) he duly gave an order to a banking establishment to transfer the amount of the payment; 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."

4. Article 13 shall be amended to read as follows:

"Article 13

Termination of financial obligations

(1) Rights of the Organisation to the payment of a fee to the European Patent Office shall be extinguished after four years from the end of the calendar year in which the fee was due.

(2) Rights against the Organisation for the refunding by the European Patent Office of fees or sums of money paid in excess of a fee shall be extinguished after four years from the end of the calendar year in which the right arose.

(3) The period laid down in paragraphs 1 and 2 shall be interrupted in the case covered by paragraph 1 by a request for payment of the fee and in the case covered by paragraph 2 by a reasoned claim in writing. On interruption it shall begin again immediately and shall end at the latest six years after the end of the year in which it originally began, unless, in the meantime, judicial proceedings to enforce the right have begun; in this case the period shall end at the earliest one year after the judgment enters into force.

(4) The President of the European Patent Office may waive action for the enforced recovery of any sum due if the sum to be recovered is minimal or if such recovery is too uncertain."

Article 2

(1) This decision shall enter into force on 25 October 2007.

(2) Article 1, points 1 and 4, of this decision shall enter into force on the same date as the text of the Rules relating to Fees adopted by the Administrative Council with the decision CA/D 11/06 of 7 December 2006.

(3) Article 1, points 2 and 3, of this decision shall enter into force on 1 April 2008 and shall apply to payments of fees made from that date.

Done at Munich, 25 October 2007

For the Administrative Council
The Chairman

Roland GROSSENBACHER

