

# Decision of the Administrative Council of 28 June 2001 amending the Implementing Regulations to the European Patent Convention and the Rules relating to Fees: CA/D 16/01

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (EPC), and in particular Article 33, paragraphs 1(b) and 2(d) thereof,

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

After hearing the opinion of the Committee on Patent Law,

After hearing the opinion of the Budget and Finance Committee,

HAS DECIDED AS FOLLOWS:

## **Article 1**

The Implementing Regulations to the EPC shall be amended as follows:

1. Rule 85a(1) shall be amended to read as follows:

"If the filing fee, the search fee or a designation fee has not been paid within the time limits provided for in Article 78, paragraph 2, Article 79, paragraph 2, Rule 15, paragraph 2, or Rule 25, paragraph 2, it may still be validly paid within a period of grace of one month from notification of a communication pointing out the failure to observe the time limit, provided that within this period a surcharge is paid."

2. Rule 85b shall be amended to read as follows:

"If the request for examination has not been filed within the time limit provided for in Article 94, paragraph 2, it may still be validly filed within a period of grace of one month from notification of a communication pointing out the failure to observe the time limit, provided that within this period a surcharge is paid."

3. Rule 108 shall be amended to read as follows:

"Consequences of non-fulfilment of certain requirements

(1) If either the translation of the international application or the request for examination is not filed in due time, or if the national basic fee or the search fee is not paid in due time, or if no designation fee is paid in due time, the European patent application shall be deemed to be withdrawn.

(2) The designation of any Contracting State in respect of which the designation fee has not been paid in due time shall be deemed to be withdrawn.

(3) If the European Patent Office notes that the application or the designation of a Contracting State is deemed to be withdrawn under paragraph 1 or 2, it shall communicate this to the applicant. Rule 69, paragraph 2, shall apply mutatis mutandis. The loss of rights shall be deemed not to have occurred if, within two months of notification of the communication under sentence 1, the omitted act is completed and a surcharge is paid."

## **Article 2**

Article 2 of the Rules relating to Fees shall be amended as follows:

1. Item 3b shall be amended to read as follows:

"3b. Surcharge for late payment of the filing fee, the 50% of the relevant fee or fees, but not to exceed a search fee or the designation fees (Rule 85a)"                      total of EUR 650

2. The following new item 3c shall be inserted:

"3c. Surcharge for late filing of either the translation of the international application or the request for examination, or for late payment of the national basic fee, the search fee or the designation fees (Rule 108(3))"                      50% of the relevant fees, but at least EUR 500 for late filing of the translation, up to a maximum of EUR 1 750

## **Article 3**

This decision shall enter into force on 2 January 2002.

## **Article 4**

Rule 108 EPC and Article 2, item 3c of the Rules relating to Fees in the text of this decision shall apply to all international applications for which, on 2 January 2002, the acts prescribed in Rule 107(1)(a) and (c) to (f) EPC have not yet been validly performed and the time limit provided for under that Rule has not yet expired.

Done at Munich on 28 June 2001

For the Administrative Council  
The Chairman  
Roland GROSSENBACHER