

## **LATE ENTRY INTO EP REGIONAL PHASE**

### **Normal Deadline**

The normal deadline for entering the European Regional Phase of a PCT Application designating the EPO is 31 months from the earliest priority date. At this point, it is necessary to request examination, and pay filing, designation, and examination fees to the EPO, possibly also with a supplementary search fee and extra claims fees.

### **Late Entry Deadline and Procedure**

If the 31 months deadline is missed, it is still possible to enter the EP Regional Phase using the EPO “Further Processing” provisions. This involves filing a late request for examination, and late payment of the required fees with a 50% EPO surcharge.

The deadline for requesting Further Processing is two month from the date of issuance of a Notification of Loss of Rights under EPC Rule 160(3) (EPO Form 1025A). This form is sent directly to the Applicant, not the representative named on the PCT Application. It is generally sent between 2 and 10 weeks after the 31 month deadline. Thus, the deadline for late entry is generally extended to between 33 and 35 months from the earliest priority date.

### **Example**

PCT Priority Date: 24 January 2007

PCT Filing Date: 24 January 2008

USPTO is International Search Authority

Specification: 30 pages, including 24 claims

- Normal 31 month deadline: 24 August 2009
- EPO Form 1025A issues to Applicant: 30 September 2009
- Deadline for Late EP Entry: 30 November 2009

In the situation of this case, the fees due on filing would be:

- Filing: €100 + 50%
- Designation: €500 + 50%
- Search: €860 + 50%
- Examination: €1405 + 50%
- Late Examination Request Fee: €250
- Claims Fees: May be deferred until one month after notification of Rule 161 Communication

### **Important**

It is important to note that the deadline for late entry is triggered by the EPO issuing the Form 1025A to the Applicant, and not the representative. Therefore, if you are considering later entry, please ensure that the Applicant informs you as soon as the form issues. Alternatively, we can file a Caveat to monitor for the issuance of the form.

Additionally, there is no fixed time limit for the EPO to issue the Form 1025A, therefore it is critical that its issuance is monitored. However, even if it issues by the EPO immediately after the expiry of the 31<sup>st</sup> month, a minimum of two further months is available for late entry.

**PURDYLUCEY** provides a tailored service offering for US clients wishing to enter the EP Regional Phase of a PCT Patent. For more information, please contact us at:

PURDYLUCEY Intellectual Property  
Suites 138-139, The Capel Building  
Mary's Abbey, Dublin 7,  
Ireland  
P: +353 1 8880862  
F: +353 1 8880865  
E: [info@purdylucey.com](mailto:info@purdylucey.com)  
[www.purdylucey.com](http://www.purdylucey.com)