

New EPO Fees - April 1 2009

The introduction of new fees by the EPO on the 1 April 2009 will place an extra financial burden on applicants, especially in the case for extra large specifications over 35 pages. The three main changes to the fees for new European applications, and consequences for International PCT applications entering into the European Regional Phase, are summarised below:

1. Additional fee as part of the filing fee for applications with pages in excess of thirty-five

Under the new structure, the filing fee is composed of a "basic" fee and an additional fee of **€12 per page** for the 36th and each subsequent page of the application.

2. Flat designation fee

For European patent applications filed (including divisional applications) and international applications entering the regional phase on or after 1 April 2009, **one flat designation fee of €500** covers the designation of all contracting states, unless individual designations are expressly withdrawn.

However, for European patent applications, including European divisional applications, filed **before 1 April 2009**, and for international applications entering the regional phase before that date, the old system of individual designation fees for each contracting state designated, up to a maximum of seven times the amount of the designation fee to cover all states, continues to apply.

3. Two-tier system of Claims Fees

Since 1 April 2008, if a European patent application comprises more than 15 claims, a claims fee of €200 has been payable for the 16th and each subsequent claim. This fee amount continues to apply on or after 1 April 2009 to European patent applications which are filed, and to international applications which enter the regional phase, before that date.

Under the new two-tier system, for European patent applications filed and international applications entering the regional phase on or after **1 April 2009**, the following amounts apply for claims fees:

- for each claim from the **16th** to the **50th**: **€200**
- for the **51st** and **each subsequent** claim: **€500**

Consequences for International PCT applications

For international PCT applications entering the European phase on or after **1 April 2009**, the additional fee for pages in excess of thirty-five is payable as part of the filing fee within the 31-month period.

The additional fee is calculated on the basis of the international application as published, any amendments under Article 19 PCT and one page for the abstract. If there is more than one page of bibliographic data, the further pages are not counted. EPO Form 1200 is disregarded for the calculation.

The pages of the latest set of any amended documents (Article 34 PCT, amendments filed upon entry) on which European phase processing is to be based will also be taken into account **where available to the EPO by the date of payment of the additional fee and on condition that the date of payment is within the 31-month period.**

If the applicant intends pages of the international publication or of previous amendments to be **replaced** by pages of the latest set of amendments, and therefore to be excluded from the calculation, he must also, at the latest by the date of payment, identify these replacement pages and clearly indicate the pages which they are to replace. This will be of advantage in cases in which the applicant can reduce the number of pages of the application compared with the international application as published or any pages of amendments previously filed. The necessary indications should preferably be given in the relevant section in the form for entry into the European phase (EPO Form 1200). In the absence of this information any new pages will be taken to be **additional** pages and will be counted for the calculation of the additional fee.

Summary

It is clear that the upcoming EPO fee changes, and existing claim fees, can have material effect on the costs for applicants.

PURDYLUCEY provides a specialized patent service for entering PCT applications into the European phase and direct European filings. This includes an expert review of the claims by an experienced European Patent Attorney and, where possible, providing practical recommendations to reduce the claim fees, without compromising the scope of protection sought in the patent application.

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