

The revision of the European Patent Convention

Filing of applications under EPC 2000 and formalities examination

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Date of filing I

Rule 40 EPC - Implementation of Article 5 PLT

- an indication that a European patent is sought
- information identifying the applicant or allowing the applicant to be contacted
- a description

instead of a description a reference to a previously filed application may be filed

Date of filing II

Language requirements: application may be filed in any language

- translation into EPO official language to be filed within two months (Rule 6(1) EPC)
- if not filed within two months → invitation to submit within further two months (Rule 58 EPC)
- still not filed → application deemed to be withdrawn (Article 14(2) EPC)

Filing fee reduction only available to applicants from contracting states (Rule 6(3) EPC)

Date of filing III

Claims no longer necessary for accordance of a date of filing

- Not present on filing date → invitation to file within two months (Rule 58 EPC)
- Late filed claims may not contain added matter (Article 123(2) EPC)
- Late filed claims must be in the language of the proceedings
- Claims not filed within time limit set → application refused (Article 90(5) EPC)
- Claims fee to be paid within one month of filing of first set of claims (Rule 45(2) EPC)

Date of filing IV

Filing by reference

- Instead of a description a reference to a previously filed application may be filed (Rule 40(2) EPC)
- Reference includes drawings of the previous application
- Reference may also be made to the claims of the previous application (Rule 57(c) EPC)
- Previous application does not need to be the priority application

Date of filing V

Filing by reference - formal requirements

- certified copy of the previous application to be filed within two months (Rule 40(3) EPC)
- if previous application is not in DE/EN/FR translation to be filed within two months (Rule 40(3) EPC)
- if not filed within two months → invitation to submit within further two months (Rule 55/58 EPC)
- certified copy still not filed → application not dealt with as European patent application (Rule 55 EPC)
- translation still not filed → application deemed withdrawn (Article 14(2) EPC)

Date of filing VI

Missing parts of description / missing drawings

- May be filed within two months of filing date or communication (Rule 56(1) EPC)
- Application will be re-dated, unless missing parts are completely contained in priority application (Rule 56(2)(3) EPC)
- Opportunity to withdraw late-filed missing parts in order to keep original filing date (Rule 56(6) EPC)

Date of filing VII

Sequence listings

Nucleotide or amino acid sequences disclosed in the application → sequence listing conforming to WIPO Standard 25 must be submitted on date of filing

If not available on date of filing:

- invitation to file within two months
- invitation to pay late furnishing fee within two months

No filing/payment within two months → application refused
(Rule 30(3) EPC)

Date of filing VIII

Designations

- All EPC contracting states deemed designated on date of filing (Article 79(1) EPC)
- Designation fees remain - to be paid six months after publication of search report (Rule 39(1) EPC)
- Not paid in time → designation deemed to be withdrawn (Rule 39(3) EPC)
- No more grace period but further processing available

Attention: waiver to receive communication of loss of rights involves waiver of possibility to request further processing

Date of filing IX

Filing and search fee

- To be paid within one month of filing date (Rule 38 EPC)
- Not paid in time → application deemed to be withdrawn (Article 78(2) EPC)
- No more grace period but further processing available

Means of filing

- Possibility to file by technical means of communication (details to be determined by President of the EPO) now laid down in "General provisions" (Rule 2(1) EPC)
- Legal basis for electronic signature (Rule 2(2) EPC)
- Definition of "written form": must be possible to reproduce contents on paper (Rule 1 EPC)

Designation of inventor

- To be filed within 16 months from priority or before completion of technical preparations for publication (Rule 60(1) EPC)
- Not filed in time → further processing available

Entry into European phase of PCT applications I

New:

- no more grace periods, but further processing available if acts for entry into EP phase (translation, fees) have not been completed in time
- sequence listing conforming to WIPO ST 25 not present on entry into EP phase → invitation to file and pay late furnishing fee (Rule 163(3) EPC)
- indications concerning applicant(s) missing → invitation to file (Rule 163(4) EPC)
- no professional representative appointed where necessary → invitation to appoint (Rule 163(5) EPC)

Entry into European phase of PCT applications II

Non-unity

Applicant will no longer receive an invitation to pay additional fees for unsearched inventions;

Opportunity to have multiple inventions searched limited to international phase

- supplementary search on first mentioned invention only (Rule 164(1) EPC)
- application must be limited to searched invention (Rule 164(2) EPC)
- further inventions to be pursued in divisional applications

Thank you for your attention!
