

K oznámeniu č. 125/2009 Z. z.

**IMPLEMENTING REGULATIONS
TO THE EUROPEAN PATENT CONVENTION
of 5 October 1973
as amended by decision of the Administrative Council
of the European Patent Organisation of 21 October 2008**

Article 1

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

1. Rule 17(3) EPC shall be amended to read as follows:

“(3) The designation fee shall be paid within six months of the date on which the European Patent Bulletin mentions the publication of the European search report drawn up in respect of the new application. Rule 39, paragraphs 2 and 3, shall apply.”

2. Rule 36(4) EPC shall be amended to read as follows:

“(4) The designation fee shall be paid within six months of the date on which the European Patent Bulletin mentions the publication of the European search report drawn up in respect of the divisional application. Rule 39, paragraphs 2 and 3, shall apply.”

3. Rule 38 EPC shall be amended to read as follows:

“(1) The filing fee and search fee shall be paid within one month of filing the European patent application.

(2) The rules relating to fees may provide for an additional fee as part of the filing fee if the application comprises more than 35 pages.

(3) The additional fee referred to in paragraph 2 shall be paid within one month of filing the European patent application or one month of filing the first set of claims or one month of filing the certified copy referred to in Rule 40, paragraph 3, whichever period expires last.”

4. Rule 39 EPC shall be amended to read as follows:

“(1) The designation fee shall be paid within six months of the date on which the European Patent Bulletin mentions the publication of the European search report.

(2) Where the designation fee is not paid in due time or the designations of all the Contracting States are withdrawn, the European patent application shall be deemed to be withdrawn.

(3) Without prejudice to Rule 37, paragraph 2, second sentence, the designation fee shall not be refunded.”

5. Rule 49(3) and (10) EPC shall be amended to read as follows:

“(3) The documents making up the application shall be on A4 paper (29.7 cm x 21 cm) which shall be pliable, strong, white, smooth, matt and durable. Subject to paragraph 9 and Rule 46, paragraph 2(h), each sheet shall be used with its short sides at the top and bottom (upright position).

(10) Values shall be expressed in units conforming to international standards, wherever appropriate in terms of the metric system using SI units. Any data not meeting this requirement shall also be expressed in units conforming to international standards. Only the technical terms, formulae, signs and symbols generally accepted in the field in question shall be used.”

6. Rule 51(1) EPC shall be amended to read as follows:

“(1) A renewal fee for the European patent application in respect of the coming year shall be due on the last day of the month containing the anniversary of the date of filing of the European patent application. Renewal fees may not be validly paid more than three months before they fall due.”

7. Rule 57(j) EPC shall be amended to read as follows:

“(j) the application meets the requirements laid down in Rule 30.”

8. The English version of Rule 68(4) EPC shall be amended to read as follows:

“(4) If the claims were not filed on the date of filing of the application, this shall be indicated when the application is published. If, before the termination of the technical preparations for publication of the application, the claims have been amended under Rule 137, paragraph 2, the new or amended claims shall be included in the publication in addition to the claims as filed.”

9. Rule 71(3), (5), (7) and (10) EPC shall be amended to read as follows:

“(3) Before the Examining Division decides to grant the European patent, it shall inform the applicant of the text in which it intends to grant it, and shall invite him to pay the fee for grant and publishing and to file a translation of the claims in the two official languages

of the European Patent Office other than the language of the proceedings within a period of four months. If the applicant pays the fees and files the translation within this period, he shall be deemed to have approved the text intended for grant.

(5) If the Examining Division does not consent to an amendment or correction requested under paragraph 4, it shall, before taking a decision, give the applicant an opportunity to submit, within a period to be specified, his observations and any amendments considered necessary by the Examining Division, and, where the claims are amended, a translation of the claims as amended. If the applicant submits such amendments, he shall be deemed to have approved the grant of the patent as amended. If the European patent application is refused, withdrawn or deemed to be withdrawn, the fee for grant and publishing, and any claims fees paid under paragraph 6, shall be refunded.

(7) If the fee for grant and publishing or the claims fees are not paid in due time, or if the translation is not filed in due time, the European patent application shall be deemed to be withdrawn.

(10) The communication under paragraph 3 shall contain a reference to the website of the European Patent Office where information concerning translation requirements under Article 65, paragraph 1, in the Contracting States is published.”

10. Rule 71(8) EPC shall be amended to read as follows:

“(8) If the designation fee becomes due after the communication under paragraph 3, the mention of the grant of the European patent shall not be published until the designation fee has been paid. The applicant shall be informed accordingly.”

11. The English version of Rule 77(1) EPC shall be amended to read as follows:

“(1) If the Opposition Division notes that the notice of opposition does not comply with Article 99, paragraph 1, or Rule 76, paragraph 2(c), or does not sufficiently identify the patent against which opposition has been filed, it shall reject the opposition as inadmissible, unless these deficiencies have been remedied before expiry of the opposition period.”

12. Rule 82(2) EPC shall be amended to read as follows:

“(2) If a party disapproves of the text communicated by the Opposition Division, examination of the opposition may be continued. Otherwise, the Opposition Division shall, on expiry of the period under paragraph 1, invite the proprietor of the patent to pay the prescribed fee and to file a translation of any amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months. This invitation shall contain a reference to the website of the European Patent Office where information concerning translation requirements under Article 65, paragraph 1, in the Contracting States is published.”

13. Rule 92(1) EPC shall be amended to read as follows:

“(1) The request for limitation or revocation of a European patent shall be filed in writing in one of the official languages of the European Patent Office. It may also be filed in an official language of a Contracting State, provided that a translation is filed in one of the official languages of the European Patent Office within the period specified in Rule 6, paragraph 2. Part III of the Implementing Regulations shall apply mutatis mutandis to documents filed in limitation or revocation proceedings.”

14. Rule 95(3) EPC shall be amended to read as follows:

“(3) If a request for limitation is allowable under paragraph 2, the Examining Division shall communicate this to the requester and invite him to pay the prescribed fee and to file a translation of the amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months; Rule 82, paragraph 3, first sentence, shall apply mutatis mutandis. If the requester performs these acts in due time, the Examining Division shall limit the patent. The invitation shall contain a reference to the website of the European Patent Office where information concerning translation requirements under Article 65, paragraph 1, in the Contracting States is published.”

15. The title of Rule 153 EPC shall be amended to read as follows:

“Rule 153 - Attorney-client evidentiary privilege”

16. The French version of Rule 153 EPC shall be amended to read as follows:

(Amendment to the French version only)

17. The English version of Rule 155(3) EPC shall be amended to read as follows:

“(3) Article 135, paragraph 4, shall apply if the request for conversion referred to in Article 135, paragraphs 1(a) and (2), is not transmitted before the expiry of a period of twenty months from the date of filing or, if priority has been claimed, the date of priority.”

18. Rule 159(1)(d) EPC shall be amended to read as follows:

“(d) pay the designation fee if the period under Rule 39 has expired earlier;”

19. Rule 160 EPC shall be amended to read as follows:

“(1) If either the translation of the international application or the request for examination is not filed in due time, or if the filing fee, the search fee or the designation fee is not paid in due time, the European patent application shall be deemed to be withdrawn.

(2) If the European Patent Office notes that the application is deemed to be withdrawn under paragraph 1, it shall communicate this to the applicant. Rule 112, paragraph 2, shall apply mutatis mutandis.”

20. Rule 163(2) EPC shall be amended to read as follows:

“(3) Where the priority of an earlier application is

claimed and the file number of the previous application or the copy thereof provided for in Rule 52, paragraph 1, and Rule 53 have not yet been submitted within the period under Rule 159, paragraph 1, the European Patent Office shall invite the applicant to furnish that number or copy within two months. Rule 53, paragraph 2, shall apply.”

Article 2

(1) The provisions of the Implementing Regulations referred to in and amended by Article 1, points 5 to 8,

10 to 17 and 20 of this decision shall enter into force on 1 April 2009.

(2) The provisions of the Implementing Regulations referred to in and amended by Article 1, points 1 to 4, 9, 18 and 19, of this decision shall enter into force on 1 April 2009 and shall apply to European patent applications filed on or after that date, as well as international applications entering the regional phase on or after that date.

This decision shall enter into force on 21 October 2008.

Done at Munich, 21 October 2008.

