

K oznámeniu č. 477/2010 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 26 October 2010

and

**The Rules Relating to Fees of the European Patent Convention**

of 20 October 1977

as amended by decision of the Administrative Council of the European Patent Organisation of 26 October 2010

## Article 1

1. Rule 71 of the Implementing Regulations to the EPC shall be amended as follows:

Paragraphs 3 to 11 shall be replaced by the following paragraphs 3 to 7:

“(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 of the related bibliographic data. In this communication the Examining Division shall invite the applicant 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 four months.

(4) If the European patent application in the text intended for grant comprises more than fifteen claims, the Examining Division shall invite the applicant to pay claims fees in respect of the sixteenth and each subsequent claim within the period under paragraph 3 unless the said fees have already been paid under Rule 45 or Rule 162.

(5) If the applicant, within the period laid down in paragraph 3, pays the fees under paragraph 3 and, where applicable, paragraph 4 and files the translations under paragraph 3, he shall be deemed to have approved the text communicated to him under paragraph 3 and verified the bibliographic data.

(6) If the applicant, within the period under paragraph 3, requests reasoned amendments or corrections to the communicated text or keeps to the latest text submitted by him, the Examining Division shall issue a new communication under paragraph 3 if it gives its consent; otherwise it shall resume the examination proceedings.

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in due time, or if the translations are not filed in due time, the European patent application shall be deemed to be withdrawn.”

2. The following new Rule 71a shall be added in Part IV, Chapter IV:

## “Rule 71a

## Conclusion of the grant procedure

(1) The decision to grant the European patent shall be issued if all fees have been paid, a translation of the claims in the two official languages of the European Patent Office other than the language of the proceedings has been filed and there is agreement as to the text to be granted. It shall state which text of the European patent application forms the basis for the decision.

(2) Until the decision to grant the European patent, the Examining Division may resume the examination proceedings at any time.

(3) If the designation fee becomes due after the communication under Rule 71, 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.

(4) If a renewal fee becomes due after the communication under Rule 71, paragraph 3, and before the next possible date for publication of the mention of the grant of the European patent, the mention shall not be published until the renewal fee has been paid. The applicant shall be informed accordingly.

(5) If, in response to an invitation under Rule 71, paragraph 3, the applicant has already paid the fee for

grant and publishing or the claims fees, the paid amount shall be credited if a further such invitation is issued.

(6) If the European patent application is refused, withdrawn prior to notification of the decision on the grant of a European patent or, at that time, deemed to be withdrawn, the fee for grant and publishing shall be refunded.”

#### Article 2

1. Rule 82, paragraph 2, of the Implementing Regulations to the EPC shall 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.”

2. Rule 95, paragraph 3, of the Implementing Regulations to the EPC shall 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.”

#### Article 3

Article 2, paragraph 1, item 15, of the Rules relating to Fees shall read as follows:

“Claims fee (Rule 45, paragraph 1, Rule 71, paragraph 4, and Rule 162, paragraph 1) in respect of an application filed on or after 1 April 2009

- for the 16th and each subsequent claim up to the limit of 50 210
- for the 51st and each subsequent claim 525”

#### Article 4

(1) The provisions mentioned in Articles 1, 2 and 3 of this decision shall enter into force on 1 April 2012.

(2) Rule 71 EPC as amended and Rule 71a EPC as added by Article 1 of this decision, and Article 2 of the Rules relating to Fees as amended by Article 3 of this decision shall apply to European patent applications in respect of which a communication under existing Rule 71(3) EPC has not yet been despatched by the date of entry into force of these provisions.

Done at The Hague, 26 October 2010