

How to get a European patent

April 2004
(10th edition)

Guide for applicants – Part 1

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ABBREVIATIONS

Art.	Article(s) of the European Patent Convention (EPC)
EPC	European Patent Convention
EPO	European Patent Office
Guid.	Guidelines for examination in the European Patent Office (quoted as follows: Guid C-III, 8.4 = Guidelines, Part C, Chapter III, section 8, point 4)
OJ	Official Journal of the European Patent Office (quoted as follows: OJ 2001, 459 = Official Journal, year 2001, page 459)
PCT	Patent Cooperation Treaty
R.	Rule(s) of the Implementing Regulations to the EPC
RFees	Rules relating to Fees

Foreword

The "Guide for applicants" aims to provide companies, inventors and their representatives with an outline of the procedure for granting European patents, offering practical advice to smooth the way to a European patent.

This thoroughly revised and expanded new edition (April 2004) of the first part of the Guide describes and explains the direct route to a European patent and the associated procedures. The second part is devoted to the Euro-PCT route (How to get a European patent, Guide for applicants – Part 2, Euro-PCT, 2nd edition, April 2002, see point 8 below).

A. General

I. Introduction

- 1 This Guide cannot go into all the details, issues and ramifications of the European patent grant procedure, and it does not constitute an official commentary on the EPC.

If you need more detailed information, you are advised to consult the "Guidelines for Examination in the European Patent Office", a comprehensive guide to every stage of the grant procedure and to EPO practice.

The charts in Annexes I and VI to the present Guide schematise the course of the grant procedure and the time limits applicants have to observe.

- 2 In the right-hand margin you will find references to provisions of the EPC, the Implementing Regulations and the Rules relating to Fees, and to passages from the Guidelines and the Official Journal (OJ) of the EPO. You are strongly advised to consult the works in question before taking any decisions in practice.

The authentic texts of the EPC and the Guidelines are given in two EPO publications, "**European Patent Convention**" (11th edition, July 2002) and "**Guidelines for Examination in the European Patent Office**" (December 2003 edition). We also refer you to "**Ancillary Regulations to the European Patent Convention**", a collection of important texts relating to the European patent grant procedure.

A selection of important decisions of the EPO boards of appeal (see points 189-198) is published in the OJ. You should also consult the relevant decisions when questions regarding the interpretation of particular EPC provisions arise. The boards' decisions are recorded on the ESPACE LEGAL CD-ROM and since 1998 have also been published on the EPO website. The publication "**Case Law of the Boards of Appeal of the EPO**" (4th edition, 2001) contains brief summaries of selected decisions and makes it easier to find the relevant ones.

The most important sources for European patent law and EPO practice, along with much other useful information, are accessible on the Internet via the **EPO website** (www.european-patent-office.org).

- 3 As in any other patent grant procedure, you need to be thoroughly familiar with patent matters if you are to steer your way successfully through the European route. **So if you lack the requisite experience, you are advised to turn to a professional representative before the EPO (see points 57-66).**
- 4 In an information brochure entitled "**National law relating to the EPC**" (12th edition, March 2003) you will find detailed information on regulations and requirements governing European patent applications and patents in the contracting states. A valuable supplement to this Guide, it is obtainable free of charge from the EPO and can also be downloaded from the **EPO website** (www.european-patent-office.org).

II. Nature and purpose of the European Patent Convention

- 5** The EPC has created a single European procedure for the grant of patents on the basis of a uniform body of substantive patent law in order to provide easier, cheaper and stronger protection for inventions in the contracting states.

In each contracting state for which it is granted, a European patent gives its proprietor the same rights as would be conferred by a national patent granted in that state. If its subject-matter is a process, protection is extended to products directly obtained by that process. Any infringement of a European patent is dealt with by national law (but see point 9).

Art. 64

A published European patent application provides provisional protection which is no less than that conferred by a contracting state for a published national application and which must at least include the right to reasonable compensation in the event of wrongful infringement.

Art. 67

The standard term of a European patent is twenty years as from the date of filing.

Art. 63

Art. 63(2) sets out circumstances in which the term of a patent can be extended or a longer term granted. This option is intended primarily for medical product patents, where licensing takes so long that the useful life of the patent is diminished.

- 6** European patents may also be effective in some countries that have not acceded to the EPC. At present this applies to Albania, Croatia, Latvia, Lithuania and the former Yugoslav Republic of Macedonia (see point 26).

III. Relationship to other international conventions

- 7** The EPC constitutes a special agreement within the meaning of the Paris Convention for the Protection of Industrial Property.

This means in particular that the provisions of the Paris Convention on claiming priority and the national treatment principle also apply in the European procedure and to European applications.

- 8** The EPC further constitutes a regional patent treaty within the meaning of Article 45(1) PCT, which means that European patents can be granted on the basis of an international application filed under the PCT. Part 2 of the present Guide ("PCT procedure before the EPO – Euro-PCT") deals with this filing route. It was published by the EPO in April 2002 and can be obtained free of charge from the EPO Information Offices at all sites or downloaded from the **EPO website** (www.european-patent-office.org).

Art. 150-158
R. 104-112
Guid. A-VII
Guid. E-IX

- 9** The EPC also forms the basis for the planned EC Regulation on the Community Patent, intended in particular to provide for the uniform effect of European patents granted by the EPO for the territory of the EC (Community patents) and to create a centralised Community patent court (see Proposal for a Council Regulation on the Community patent, COM(2000) 412 final, http://europa.eu.int/eur-lex/en/com/pdf/2000/en_500PC0412.pdf). However, the EPC still needs to be revised to accommodate the Community patent.

IV. Choosing a route: national, European or international

- 10** The European procedure has not superseded the national grant procedures. So when seeking patent protection in one or more EPC contracting states you have a choice between following the national procedure in each state for which you want protection and taking the European route, which in a single procedure confers protection in all the contracting states that you designate.
- 11** If you decide you want a European patent, you have a further choice between the direct European route and the Euro-PCT route (see point 8 and Part 2 of the Guide). With the direct European route, the entire European patent grant procedure is governed by the EPC alone; with the Euro-PCT route, the first phase of the grant procedure (the international phase) is subject to the PCT, while the regional phase before the EPO as designated or elected Office is governed primarily by the EPC.
- 12** We now summarise the chief legal and economic factors that are likely to influence your choice between the European and national procedures.

Legal factors

- 13** A European patent is granted after an examination designed to establish whether the European patent application and the invention to which it relates comply with the patentability requirements of the EPC.

These requirements are the basis not only for the granting of a European patent, but also for the assessment of its validity by national courts. In addition, under the EPC the extent of the protection conferred by the European patent is determined uniformly for all the contracting states.

Art. 138
Art. 69

- 14** The examination procedure is conducted by the EPO departments of first instance (Receiving Section and examining divisions); if they decide against your application, you can file a reasoned petition for review before an appeal body. Once a European patent has been granted, there follows a nine-month period in which third parties are entitled to file a reasoned notice of opposition; and at the end of the resultant additional proceedings, either the patent is maintained as granted or as amended or it is revoked.

Art. 16, 18

- 15** A European patent has a uniform wording and a uniform extent of protection for all designated contracting states (but see points 91 and 102) and offers a high presumption of validity.

Patent law in the contracting states has been extensively harmonised with the EPC in terms of patentability requirements. However, as grant procedures continue to be differently structured and are conducted in parallel by several offices, the national route generally leads to national rights with differing extents of protection.

Economic factors

- 16** Processing fees in the European patent grant procedure are staggered; so at each stage of the procedure, in the light of the completed stages, you have a further chance to decide whether your interest in

Art. 2 RFees

obtaining patent protection is still great enough to justify paying the next fee.

In particular, the separation between search and substantive examination (see points 130-132) enables you to decide in the light of the European search report whether it is worth requesting substantive examination.

- 17** In certain circumstances you may be interested in having your application processed faster, at the search stage or the substantive examination stage or both.

If so, the EPO will make every effort to reduce the usual processing times as much as it can, under the "PACE" programme for accelerated prosecution of European patent applications (for details see Annex II).

OJ 2001, 459

- 18** Your application may be a **first filing** with the EPO.

In that case you will be sent the search report within **six** months of the date of filing (see Annex II, point 1).

Like a first filing with a national office, a European first filing gives rise to the right of priority for a national, European or international second filing made in the priority year (see points 52-56).

- 19** When seeking European patent protection you may also sound out your chances of success by making a **national first filing** and asking for a **search report from the EPO**, either under national law or, if not provided for there, by applying directly to the EPO (in the form of a "standard search").

In this case the search report will generally be drawn up before the end of the priority year, on the same principles and using the same documentation as for a European search; in the course of the priority year you will still be able to decide whether the expenditure for the European procedure is worthwhile (see points 52-56).

- 20** The European search fee is refunded in full or in part if the European search report can be based on an earlier search report already prepared by the EPO on a national, European or international application whose priority is claimed. To take advantage of this you should attach a copy of the earlier search report when filing your European patent application (Sections 41 and 42 of the Request for Grant, see Supplements).

Art. 10 RFees
Guid. A-XI,
10.2.1, 10.4, 10.5
OJ 2001, 608
OJ 2002, 56

- 21** Taking into account the fees levied for the European grant procedure, costs for representation by a single agent and the cost of conducting the proceedings in a single language, a European patent as a rule costs about as much as three or four national patents.

- 22** The European procedure is conducted in one of the three official languages of the EPO (English, French, German), specifically the one in which you file your application. In addition, if you are from a contracting state whose language is not one of the EPO's official languages, you enjoy certain advantages as regards languages and fees (see points 44-46).

Art. 14(3)
Art. 14(2)
R. 6(3)
Art. 12(1) RFees

- 23** In the final phase of the European patent grant procedure, however, you are required to file a number of translations. You have to provide the EPO with translations of the claims in its other two official lan-

Art. 97(5)
R. 51(4), (5), (6)
Art. 65

guages; and most contracting states require you to file a translation of the European patent specification in one of their official languages, if different from the language of the proceedings, in order for the European patent to take effect there (see point 176).

- 24** The European patent grant procedure lasts about three to five years from when the application is filed. It breaks down into two main stages, the first comprising formalities examination and search report preparation, the second comprising substantive examination.
- 25** In the first of these stages there is no need for your active involvement unless the Receiving Section finds formal errors. However, in the second stage, substantive examination, your application is assigned to an examining division, which usually communicates with you or your representative a number of times before deciding whether to grant the patent or refuse the application (see points 132 and 152-175).

Competent preparation of the patent application and of all procedural steps before the EPO is a crucial factor in ensuring that the examination procedure runs quickly and satisfactorily (see point 3).

V. Extending European patents to non-EPC states

- 26** The European Patent Organisation has signed co-operation and European patent extension agreements with a number of states that are not party to the EPC.

As an applicant for a European patent you thus have a simple and cost-effective way of obtaining patent protection in such countries. If you file a request for extension and pay the extension fee, you can have European patent applications (direct and Euro-PCT filings) and patents extended to these countries, where they will then in principle have the same effect as national applications and patents and enjoy essentially the same protection as patents the EPO grants for EPC contracting states. At present you can request extension to Albania, Croatia, Latvia, Lithuania and the former Yugoslav Republic of Macedonia.

The extension system is largely the same as the EPC system operating in the contracting states, except that it is based not on direct application of the EPC but solely on national law modelled on the EPC. Hence it is subject to the national extension rules of the country concerned.

OJ 1994, 527
OJ 1995, 345
OJ 1996, 82
OJ 1997, 538
OJ 2002, 465
OJ 2003, 2
OJ 2004, 117
Guid. A-III, 13

B. Patentability

- 27** European patents are granted for inventions that are new, involve an inventive step and are susceptible of industrial application. Art. 52(1)

I. Invention

- 28** The EPC does not define the meaning of "invention", but it does list subject-matter that cannot constitute an invention, or an invention susceptible of industrial application, or that is expressly excluded from patentability. Art. 52(2), (3), (4)
Art. 53, 57
Guid. C-IV, 2.1-2.3

In this respect your attention is particularly drawn to the following four fields:

- 29** The first is **programs for computers**, which are not regarded as inventions if claimed as such. However, a computer program is not excluded from patentability under Article 52 if, when running on a computer, it causes a further technical effect going beyond the "normal" physical interaction between the program (software) and the computer (hardware). An example of a further technical effect is where the program serves to control a technical process or governs the operation of a technical device. The internal functioning of the computer itself under the influence of the program could also bring about such an effect. Art. 52(2)(c), (3)
Guid. C-IV, 2.3.6

As regards the patentability of a computer program it is immaterial whether the program is claimed by itself, as a record on a data medium, as a method or as part of a computer system.

Thus computer-implemented inventions are not automatically excluded from patentability.

- 30** The second field is **methods for treatment** of the human or animal body **by surgery or therapy**, and **diagnostic methods** practised on the human or animal body. These are not regarded as inventions susceptible of industrial application. This does not apply to products, substances and compositions for use in such methods, eg medicaments or surgical instruments. Substances and compositions are in fact singled out for special treatment in the EPC as regards the novelty requirement: even a known substance or composition may be patented for its first medical or veterinary use by means of a claim of the form: "Substance X for use as a medicament"; in the case of subsequent therapeutic applications, the only allowable claims are those of the form: "Use of substance X for the manufacture of a medicament for therapeutic application Z". Art. 52(4), 57
Guid. C-IV, 4.2, 4.2.1

This exception does not exclude the patentability of other methods of treatment of live human beings and animals; the treatment of body tissues after they have been removed from the human or animal body and diagnostic methods applied to such tissues are patentable as long as the tissues are not returned to the same body. Art. 54(5)
Guid. C-IV, 4.2

- 31** The third field is **plant and animal varieties** and essentially biological processes for the production of plants or animals, which are expressly excluded from patentability. Guid. C-IV, 4.2.1

In the case of plant varieties, a separate form of protection is available in most contracting states and under EU law. Art. 53(b)
R. 23b, 23c
Guid. C-IV, 3.4

A process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.

The exclusion does not apply to microbiological processes or the products of such processes. In general, biotechnological inventions are also patentable if they concern biological material that is isolated from its natural environment or produced by means of a technical process, even if it previously occurred in nature.

Guid. C-IV, 3.5

- 31a** The last field is inventions excluded from patentability because their publication or exploitation would be contrary to "**ordre public**" or **morality**. In particular, patents are not granted in respect of processes for cloning human beings, processes for modifying the germ line genetic identity of human beings, uses of human embryos for industrial or commercial purposes, or processes for modifying the genetic identity of animals that are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

Art. 53(a)
R. 23d
Guid. C-IV, 3.1, 3.2, 3.3, 3.3a, 3.3b

II. Novelty

Art. 54, 55
Guid. C-IV, 5-8

Basic principles

- 32** An invention is considered to be new if it does not form part of the state of the art.

Art. 54(1)

The definition of the state of the art in the EPC reflects the principle of absolute novelty: the state of the art comprises everything made available to the public anywhere in the world by means of a written or oral description, by use, or in any other way, before the date of filing or priority. However, novelty is prejudiced only by something which is clearly disclosed to a skilled person in a **single** source of prior art, eg in a patent application published before the date of priority.

Art. 54(2), 89
Guid. C-IV, 5, 7

- 33** An earlier disclosure of the invention is non-prejudicial only if it occurred no earlier than **six months** before the filing of the European patent application **and** was due to an evident abuse in relation to the applicant or to display at an exhibition falling within the terms of the Paris Convention on international exhibitions¹. Apart from these two cases, the second of which is rare in practice, any disclosure of the invention before the date of filing may be cited against the applicant as forming part of the state of the art, even if the applicant himself was responsible for the disclosure.

Art. 55
R. 23
Guid. A-IV, 3
Guid. C-IV, 8

Prior rights

- 34** The state of the art is also held to comprise the content of European patent applications filed before the date of filing or priority but not published until on or after that date. However, this applies only if a contracting state designated in respect of the later application was also designated in respect of the earlier application as published. Furthermore, European patent applications form part of the state of

Art. 54(3), (4), 89
R. 23a
Guid. B-VI, 4
Guid. C-IV, 6

¹ Every year in the April issue of its Official Journal the EPO publishes a list of exhibitions falling within the terms of this Convention that have been registered by the International Exhibition Bureau.

the art pursuant to Art. 54(3) EPC only in respect of contracting states for which the designation fees have been validly paid.

A PCT application for which the EPO acts as designated Office forms part of the state of the art for the purposes of Art. 54(3) if the national fee has been paid to the EPO and the PCT application is available in one of the EPO's official languages (English, French or German). That means that a translation is required if the PCT application was published in Chinese, Japanese, Russian or Spanish (see 8).

Art. 158(1), (2)
Guid. C-IV, 6.2

Everything in the earlier application as filed is prejudicial to novelty.

The consequences that any earlier national patent applications or patents have for the patentability of the invention in the designated contracting states are assessed by the competent national courts after the European patent has been granted (but see point 103).

Art. 139(2)
Guid. C-III, 8.4

- 35** As a rule, a conflict between two European patent applications has only limited consequences, as the disclosed content of the earlier application is relevant only to the assessment of the later application's novelty, not its inventive step. Hence the later application's claims can mostly be drafted in such a way that the earlier application is not prejudicial to novelty.

Art. 56
Guid. C-IV, 6.1

III. Inventive step

- 36** An invention is held to involve an inventive step if it is not obvious to the skilled person in the light of the state of the art (which does not include prior rights, see points 34-35). In assessing inventive step as opposed to novelty (see point 32), **multiple** sources of prior art may be applied.

Art. 56

The inventive step requirement is intended to prevent exclusive rights forming barriers to normal and routine development.

- 37** The Office seeks to make a realistic and balanced assessment of the inventive step criterion.

Guid. C-IV, 9

This always depends on the specific circumstances of the case. Depending on the situation, various factors are taken into account, such as the unexpected technical effect of a new combination of known elements, the choice of specific process parameters within a known range, the difficulty the skilled person has in combining known documents, secondary indicia such as the fact that the invention solves a long-standing technical problem which there have many attempts to solve, or the overcoming of a technical prejudice.

If you need more detailed information, you are advised to refer to the Guidelines and to the decision of the boards of appeal (see point 2).

C. Preparing and filing a European patent application

I. Formal requirements

Entitlement to file European patent applications

- 38** A European patent application may be filed by any natural or legal person, or any body equivalent to a legal person, irrespective of nationality and place of residence or business. Art. 58, 59, 118
Guid. A-II, 2

A European patent application may also be filed by joint applicants or by two or more applicants designating different contracting states; where there are different applicants for different contracting states, they are regarded as joint applicants for the purposes of proceedings before the EPO (see also point 64).

States for which European patent applications may be filed

- 39** When filing a European patent application you must specify (designate) the contracting states in which you want your invention to be protected. Art. 79

You may only designate states for which the EPC has already entered into force on the date of filing.

At present there are 28 such states: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and United Kingdom.

Switzerland and Liechtenstein may only be designated jointly.

OJ 1980, 407

- 40** In addition, European patent applications and patents may be extended to a number of states not party to the EPC, these at present being Albania, Croatia, Latvia, Lithuania and the former Yugoslav Republic of Macedonia (see point 26). **References in this Guide to the designation of contracting states also apply to the extension to non-contracting states.**

- 41** You must designate the contracting states in which you want protection on the Request for Grant form (see Supplements), but you can pay the designation fees later. Guid. A-III, 12

By using the prescribed Request for Grant form (EPO Form 1001) and the prechecked declaration designating all EPC contracting states belonging to the EPC at the date of filing (Section 32.1), you can ensure that all designations are made at the time of filing. This gives you time – until expiry of the time limits for designation fee payment – to decide which contracting states you actually want your European patent to cover (see point 116).

If you pay **seven times the amount** of one designation fee, you are deemed to have paid the designation fees for all the contracting states, and you do not need to give any further information about contracting states. If you intend to pay fewer than seven designation fees, you must indicate the relevant contracting states in Section 32.2.

Art. 2, item 3, RFees

Languages for European patent applications

42 The official languages of the EPO are English, French and German. Art. 14(1)

43 European patent applications must be filed in one of the official languages (but see point 44).

The language you choose is made the language of the proceedings, and any amendments made to the application or the European patent must be drawn up in that language. Otherwise, in written proceedings, any party may use any of the EPO's official languages.

Art. 14(3)
R. 1
Guid. A-VIII, 1.1-1.2

With regard to divisional applications see point 202.

Language arrangements to assist applicants from certain contracting states

44 If you have your residence or principal place of business in a contracting state that has a language other than English, French or German as an official language, or if you are a national of that state but are resident abroad, you may file a European patent application in one of the state's official languages. Art. 14(2)
R. 6(1)
Guid. A-VIII, 1.1, 5.2

Then, within **three months** of filing the application, but no more than **thirteen months** after the earliest claimed priority date, you must file a translation in one of the EPO's official languages, which is then made the language of the proceedings. If you do not file the translation in due time, your application is deemed withdrawn.

At any time during the proceedings before the EPO, the translation may be brought into conformity with the text of the application as filed.

45 If point 44 applies to you, at any time in the procedure after filing your application you may file any documents subject to a time limit in an official language of your state; but within **one month** of filing a document you must submit a translation in the language of the proceedings. If you do not file the translation in due time, the document is deemed not to have been received. Art. 14(4), (5)
R. 6(2)
Guid. A-VIII, 3.2

46 If you exercise your rights under points 44 and 45, you are entitled to a 20% reduction in the filing, examination, opposition and appeal fees as appropriate. R. 6(3)
Art. 12(1) RFees
Guid. A-XI, 9.2

Items making up a European patent application

47 A European patent application must contain a **request** for the grant of a European patent, a **description** of the invention, one or more **claims**, any **drawings** referred to in the description or claims, and an **abstract**. Art. 78(1)

Request for grant

48 The request **must** be filed on a **form prescribed by the EPO** (EPO Form 1001) which is obtainable free of charge, together with explanatory notes, from the EPO and from national industrial property offices. The form can also be downloaded from the EPO website or generated with the *epoline*® Online Filing software, obtainable free of charge from the EPO (www.european-patent-office.org). The form and notes are also included in the Supplements to this Guide. R. 26
Guid. A-III, 4
OJ 2003, 586
OJ 2004, 42,177

You are strongly advised to read the notes carefully before completing the request form. By completing the form you meet all mandatory requirements governing information that the request for grant must contain. The request must be **duly signed**. It may be signed by your representative if you have appointed one. Where it is signed on behalf of a legal person, the position of the signatory within the legal entity must also be indicated.

R. 26(2)(i)
Guid. A-III, 4.2.2

One copy of the request itself must be filed; the receipt for documents must be filed in triplicate, or in quadruplicate if filed with a national authority.

Designation of inventor

- 49** In your European patent application you must designate the inventor.

Art. 81

If you yourself are not the inventor or are not the sole inventor, you must file the designation of the inventor in a separate document, which must indicate the origin of your right to the European patent.

R. 17
Guid. A-III, 5

You can obtain forms for designating the inventor free of charge from the EPO and the national industrial property offices. A copy is included with this Guide.

- 50** The person designated as the inventor will be mentioned in the published European patent application, in the European patent specification, in the Register of European Patents and in the European Patent Bulletin unless he waives this right in due time.

Art. 129(a)
R. 18(1), 92(1)(g)
Guid. A-III, 5.2

- 51** If you do not designate the inventor when you file the European patent application, you will be invited to correct this deficiency within **sixteen months** after the date of filing or the earliest priority date; if you fail to do so, your application will be deemed withdrawn (see point 138).

Art. 91(1)(f), (5)
R. 42(1)
Guid. A-III, 5.5

Claiming priority

- 52** If you or your predecessor in title have duly filed an application for a patent or for the registration of a utility model or for a utility certificate or for an inventor's certificate in or for any state party to the Paris Convention for the Protection of Industrial Property, you may claim priority when filing a European patent application in respect of the same invention. You must do so no later than **twelve months** after filing the first application, as afterwards your right to priority is irrevocably lost (see point 218).

Art. 87
Guid. A-III, 6
Guid. C-V, 1.3

If the earlier application was filed in or for an EPC contracting state, you may also designate that state in the European application. The earlier application whose priority you claim may also be a European or international (PCT) application (see point 19).

- 53** You may claim multiple priorities in respect of one European patent application, even if they originate from different countries. You may also claim multiple priorities for any one claim. If you claim multiple priorities, time limits which run from the date of priority are computed from the earliest priority date.

Art. 88(2), (3)
Guid. C-V, 1.5
Guid. A-III, 6.3

- 54** To claim the priority of an earlier application you must indicate the date, country and file number of the earlier application.

Art. 88(1)
R. 38(1)-(3)
Guid. A-III, 6.5, 6.7
Guid. C-V, 3

You must also file the priority document, ie a copy of the earlier application certified by the authority with which it was filed, together with authentication of its filing date from that authority. The EPO adds a copy of the earlier application whose priority you claim to the file of the European patent application free of charge if the earlier application is either a European filing, an international filing with the EPO as receiving Office, a Japanese patent or utility model application or an international filing with the Japan Patent Office as receiving Office.

- 55** You must submit the declaration indicating the date and country of the earlier application **when you file your European patent application**. If you fail to do so, you will lose your right to priority.

R. 26(2)(g),
R. 38(2), (3)
Guid. A-III, 6.5, 6.7
Guid. C-V, 3.2

You must supply the file number and the priority document no later than **sixteen months** after the earliest priority date.

If you do not meet these requirements within the above time limit, you will be invited to remedy the deficiency; if you fail to do so, you will lose your right to priority (but see point 139).

Art. 91(3)
R. 41(1)
Guid. A-III, 6.9, 6.10

If a translation of the earlier application in an EPO official language is required, you must file it within a period set by the EPO, but at latest within the (extendable) period under Rule 51(4); alternatively, you may submit a declaration that the European patent application is a complete translation of the earlier application.

R. 38(5)
Guid. A-III, 6.8
Guid. C-V, 3.4
OJ 2002, 192

- 56** Among the effects of a valid claim to priority is that the date of priority determines the prior art that can be cited against the European patent application.

Art. 89, 54(2), (3),
Art. 60(2)

As a rule, the EPO examines only the formal conditions for claiming priority. Substantive examiners (see points 157 et seq.) normally check whether a right to priority exists if they find prior art (see point 32) from between the priority date and the date of filing of the European patent application or if they find a prior right under Article 54(3) (see point 34). The claimed subject-matter for which priority is claimed must be derivable directly and unambiguously from the full disclosure of the invention in the priority document.

Guid. C-V, 2.1

Representation

- 57** If you have your residence or principal place of business in a contracting state, you may act on your own behalf in proceedings before the EPO (but see point 3).

Art. 133(1)
Guid. A-IX, 1

- 58** If you have neither a residence nor your principal place of business in a contracting state, you must appoint a representative and act through him in all proceedings before the EPO other than in filing your European patent application and paying the fees.

Art. 133(2)

- 59** Representation before the EPO may be undertaken only by professional representatives who are on a list maintained by the EPO, or by legal practitioners entitled to act before the EPO. You can order the directory of professional representatives from the EPO (Vienna) for an administrative fee. You will also find a searchable online database of professional representatives on the EPO website (www.european-patent-office.org).

Art. 134(1), (7)
Guid. A-IX, 1.4

- 60** Representatives may be authorised either by individual authorisation or by general authorisation. The relevant forms are available free of

R. 101(1), (2)
Guid. A-IX, 1.5

charge from the EPO and the national industrial property offices. They can also be downloaded from the EPO website (www.european-patent-office.org). The Supplements to this Guide include an individual authorisation form.

As a rule, professional representatives who identify themselves as such no longer need to file individual authorisations. OJ 1991, 489

General authorisations, which are particularly beneficial to all concerned, are registered at the EPO. OJ 1985, 42
OJ 1986, 327

61 If a required authorisation is not filed within the period specified by the EPO, any actions taken by the representative other than the filing of the European patent application and the payment of fees are deemed not to have been taken. R. 101(4)
Guid. A-IX, 1.7

62 If several representatives are appointed, they may act either jointly or singly before the EPO, regardless of any provisions to the contrary in the notification of their appointment or in the authorisation. With multiple representatives it is also advisable to give the particulars of only one of them in the Request for Grant, appending "et al." to his name. R. 101(8)

63 If you have your residence or principal place of business in a contracting state, you may also be represented by your employees, who need not be professional representatives. Art. 133(3)
Guid. A-IX, 1.2

An employee representing his employer must have an authorisation complying with the regulations referred to in point 60.

64 If an application is filed by more than one person, the Request for Grant should designate one of them or a representative as the common representative. Otherwise, the applicant named first in the Request for Grant is deemed to be the common representative. However, if one of the applicants is obliged to appoint a professional representative, the latter is deemed to be the common representative unless the applicant named first in the Request for Grant has appointed a professional representative. Art. 133(4)
R. 26(3), 100(1)
Guid. A-IX, 1.3

65 The particulars of the representative's name and business address given in the Request for Grant are recorded in the Register of European Patents, published in the European Patent Bulletin and printed in the published European patent application and patent. R. 92(1)(h)
Art. 129(a)
R. 49

66 Documents notified by the EPO (communications, notices, decisions and summonses) are addressed: Art. 119
R. 77-82
Guid. E-I, 2.4

(a) to the representative recorded in the Register of European Patents; or

(b) to you as applicant if you do not appoint a representative, this also being the case if an employee is acting on your behalf.

If your business operates from different locations (ie comprises structural sub-divisions with no separate legal personality) and you wish notifications in proceedings before the EPO to be addressed to the department dealing with the application and to have a different address, eg your company's head office, used for publications and the Register of European Patents, you must indicate this separately in the Request for Grant (see point 48 and Supplements), next to "Address for correspondence".

II. Presenting your invention

Disclosing your invention

- 67** The European patent application must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. Art. 83, 84, 69(1)

The description and any accompanying drawings form the basis for the claims, the terms of which determine the extent of the protection conferred by the European patent. The description and the drawings are also used to interpret the claims. Guid. C-II, 4.1
Guid. C-III, 6.1

- 68** Once a European patent application has been filed, no amendments extending beyond its content as filed may be made to the description, the claims or the drawings. Hence you are not allowed to add examples or features to the application documents at a later date to remedies deficiencies in the disclosure. Nor are you allowed to extend the subject-matter of the claims, eg by omitting certain features, unless there is clear support for such extension in the application as filed. You must therefore make sure that the claims as filed clearly and accurately identify the invention that you want to protect (see also point 174). Art. 123(2)
Guid. C-VI, 5.3-5.3.11
Guid. C-II, 4.3, 4.10

Unity of invention

- 69** The European patent application must relate to only a single invention, or to a group of inventions so linked as to form a single general inventive concept. In the latter case, multiple independent claims in the same category are allowed as long as they comply with Rule 29(2); but the more usual scenario is multiple independent claims in different categories (see point 85). Art. 82
R. 29(2), 30
Guid. C-III, 7
OJ 2002, 112

Drafting the technical application documents

- 70** The requirements relating to the content of the description, claims, drawings and abstract are set out in Articles 84-85 and Rules 27 to 34. The formal requirements for these documents are defined in Rules 32 to 35; those for documents filed subsequently are in Rule 36. Art. 83, 84, 85
R. 27-34
Guid. A-IX, 2
Guid. A-X

- 71** The following are the chief provisions governing the form of application documents and documents filed subsequently: R. 35
R. 36

- (a) The documents making up the European patent application (description, claims, drawings and abstract) must be filed in a single copy. The same applies to documents replacing these original documents.
- (b) The documents must be on strong, white A 4 paper (portrait format).
- (c) Each document making up the application (request, description, claims, drawings and abstract) must begin on a new sheet.
- (d) All the sheets must be numbered in consecutive Arabic numerals, which must be positioned top centre but not in the top margin.

- (e) The following minimum margins (type area) must be left blank:
 - top: 2 cm
 - left: 2.5 cm
 - right: 2 cm
 - bottom: 2 cm
- (f) The lines of each sheet of the description and the claims should be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.
- (g) The line spacing must be 1.5.
- (h) There must be no handwritten additions to the text.
However, for amendments see Guidelines, E-II, 2.

The special requirements to be met by drawings are dealt with in the Guidelines, Part A, Chapter X.

- 72** Annex III gives three examples of how to draft a European patent application.

Description

- 73** In the description you must do the following: R. 27, Guid. C-II, 4
 - (a) Specify the technical field to which the invention relates. You may do this for example by reproducing the first ("prior art") portion of the independent claims in full or in substance or by simply referring to it. R. 27(1)(a)
 - (b) Indicate the background art of which you are aware, to the extent that it is useful for understanding the invention, preferably citing source documents reflecting such art. This applies in particular to the background art corresponding to the prior art portion of the independent claims. Source document citations must be sufficiently complete to be verifiable: patent specifications by country and number; books by author, title, publisher, edition, place and year of publication and page numbers; periodicals by title, year, issue and page numbers. R. 27(1)(b)
Guid. C-II, 4.3-4.4
 - (c) Disclose the invention as claimed. R. 27(1)(c)
Guid. C-II, 4.5-4.6

The disclosure must indicate the technical problem that the invention is designed to solve (even if it does not state it expressly) and describe the solution.

To elucidate the nature of the solution according to the independent claims you can repeat or refer to the characterising portion of the independent claims (see example) or reproduce the substance of the features of the solution according to the relevant claims.

At this point in the description you need only give details of embodiments of the invention according to the dependent claims if you do not do so when describing ways of performing the claimed invention or describing what the drawings show.

You should state any advantageous effects your invention has compared to the prior art, but without making disparaging remarks about any specific previous product or process. R. 34(1)(b)

- | | | |
|-----|---|-------------------------------------|
| (d) | Briefly describe what is illustrated in any drawings, making sure you give their numbers. | R. 27(1)(d)
Guid. C-II, 4.7 |
| (e) | Describe in detail at least one way of carrying out the claimed invention, typically using examples and referring to any drawings and the reference signs used in them. | R. 27(1)(e)
Guid. C-II, 4.8-4.11 |
| (f) | Indicate how the invention is susceptible of industrial application within the meaning of Article 57. | R. 27(1)(f)
Guid. C-II, 4.12 |

74	In exceptional cases you may arrange the description in a different manner and order if this affords a better understanding or a more economic presentation.	R. 27(2) Guid. C-II, 4.13
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75	Although the description must be clear and straightforward and avoid unnecessary technical jargon, the use of recognised terms of art is acceptable and often desirable. Little known or especially formulated technical terms may be allowed provided that they are adequately defined and that there are no generally recognised equivalents.	R. 35(12), (13) Guid. C-II, 4.14-4.18
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Proper names or similar words may be used to refer to a product only if they uniquely identify it. Even then, however, the product must be sufficiently identified, without reliance upon such terms, to enable the invention to be carried out by the skilled person. If such proper names or similar words are registered trade marks, that fact should be mentioned.

Biotechnology applications

(a) Nucleotide and amino acid sequences

75a	If your European patent application discloses nucleotide or amino acid sequences (unbranched sequences of four or more amino acids or unbranched sequences of ten or more nucleotides), the description must contain a sequence listing conforming to WIPO Standard ST.25. You must file the sequence listing both on paper and on an electronic data medium in a machine-readable form complying with WIPO Standard ST.25. If you file your application online in electronic form, you must send the sequence listing as an attachment to the online filing. You are advised to use the EPO's free "PatentIn" software, which simplifies standardised sequence presentation.	R. 27a Guid. A-IV, 5 Supplement No. 2 to OJ 11/1998, 1, 5, 59
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You must also check the box in Section 31 of the Request for Grant form (see Supplements) to indicate that the application contains a sequence listing.

75b	The standardised presentation of such nucleotide and amino acid sequences is mandatory. If you do not comply with the requirements, your European patent application will be refused.	Art. 91(1)(b), 91(3), R. 40
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(b) Depositing biological material to supplement the description

76	If your invention involves the use of or concerns biological material that is not available to the public and cannot be described in your European patent application in such a way that it can be carried out by a skilled person, you must deposit a sample of this biological material with a recognised depositary institution no later than at the date of filing.	Art. 53(b), 83 R. 28, 28a Guid. A-IV, 4 Guid. C-II, 6 OJ 1986, 269, amended by OJ 1991, 461 OJ 1996, 390, 596
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	The recognised depositary institutions are the international depositary authorities under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and a number of other institutions designated by the President of the EPO. A full list of recognised depositary institutions is published once a year in the April issue of the EPO's Official Journal; the Official Journal also publishes changes to the list as they occur and any other relevant information.	R. 28(9) OJ 2004, 217, 224
77	The application as filed must also give any relevant information that is available to you on the characteristics of the biological material. If the biological material has been deposited by someone else, you must state the depositor's name and address in your application and submit documents satisfying the EPO that the depositor has authorised you to refer to the deposited biological material in your application and has given his unreserved and irrevocable consent to the deposited material being made available to the public in accordance with Rule 28.	R. 28(1)(b) Guid. C-II, 6.3 R. 28(1)(d)
78	Lastly you must state your chosen depositary institution and the accession number of the deposited biological material, as a rule within sixteen months after the date of filing or, if you have claimed priority, after the earliest priority date.	R. 28(1)(c), (2)
79	You are advised to take care when completing Sections 26 to 30 of the Request for Grant ("Biological material", see Supplements), which are designed to alert the EPO immediately if the technical application documents refer to biological material deposited under Rule 28 and enable it to draw your attention to any deficiencies before the time limit laid down in Rule 28(2) expires.	Guid. A-IV, 4.2
80	From the date of publication of the European patent application (see point 147), the deposited material is available to anyone on request, but only if the requester makes certain undertakings to the applicant or proprietor regarding restrictions on the transmission and use of the material. Until the technical preparations for publication of your application are deemed to be complete (see point 147), you may inform the EPO that, for a certain period, access to the biological material requires the intervention of an expert. This may be an expert appointed by mutual agreement between you and the requester, or a person chosen by the requester from a list of experts recognised by the President which is published in the Official Journal. The "expert" option is mentioned in the published European patent application.	R. 28(3), (6) R. 28(4), (5), (9) Guid. A-VI, 1.1, 1.3 OJ 1992, 470
81	Requests for the issue of samples of biological material deposited under Rule 28 must be submitted on forms obtainable free of charge from the EPO. These forms can also be downloaded from the EPO website (www.european-patent-office.org). The completed forms must be sent to the EPO, which certifies them and transmits them to the competent depositary institution.	R. 28(7), (8)
	<i>Claims</i>	
82	The claims must define the matter for which protection is sought in terms of the technical features of the invention. They must be clear and concise and supported by the description.	Art. 84 R. 29 Guid. C-III, 1

- 83** Wherever appropriate, claims should be in two parts (see the examples in Annex III), a prior art portion and a characterising portion. In the first claim and all other independent claims, the prior art portion should designate the subject-matter of the invention and the technical features which are needed to define it but which, in combination, form part of the prior art. The characterising portion should state the technical features for which protection is sought in combination with the features in the prior art portion.
- R. 29(1)(a), (b)
Guid. C-III, 2
- 84** An "independent" claim must state all the essential features of the invention.
- R. 29(3)
Guid. C-III, 3.4, 3.7, 3.7a, 4.4
- 85** A European patent application may not contain more than one independent claim in the same category (eg product and/or process) unless one of the exceptions listed in Rule 29(2) applies.
- R. 29(2)
OJ 2002, 112
- 86** Each independent claim may be followed by one or more "dependent" claims concerning particular embodiments of the invention.
- R. 29(3), (4)
Guid. C-III, 3.4, 3.5, 3.6
- Dependent claims should include all the features of the claim to which they relate. They must contain, if possible at the beginning, a reference to this other claim, which may also be dependent, and then state the additional features for which protection is sought.
- As far as possible, all dependent claims referring back to one or more previous claims must be grouped together in the most appropriate way.
- 87** As Article 84 requires claims to be concise (a requirement that applies both to the claims in their entirety and to each claim individually), you must keep the amount of claims reasonable in consideration of the nature of the invention you wish to protect. You should therefore avoid undue repetition resulting from the use of independent claims in the same category or a proliferation of dependent claims.
- R. 29(5)
Guid. C-III, 5
- 88** You must number your claims consecutively in Arabic numerals.
- R. 29(5)
- 89** It is essential to formulate your claims clearly, as they define the matter that you want to protect.
- Art. 84, 69
Guid. C-III, 4.1
- The wording you use in claims must leave no doubt as to their meaning and scope, and you must avoid any inconsistencies between the description and the claims.
- Guid. C-III, 4.2-4.6
- The area defined by the claims must be as precise as the invention allows. As a general rule, claims which attempt to define the invention in terms of the result to be achieved are not allowed. Where the invention relates to a chemical product, it may be defined by its chemical formula or as a product of a process, or exceptionally in terms of its parameters.
- Guid. C-III, 4.7-4.9
- Furthermore, references to the description or drawings, particularly in the form of "as described in part ... of the description" or "as illustrated in figure ... of the drawings", are not allowed unless they are absolutely indispensable.
- R. 29(6)
Guid. C-III, 4.10
- 90** However, in a European patent application containing drawings, reference signs linking the claims to the drawings should be placed in brackets after the technical features mentioned in the claims if this makes the claims easier to understand. They must not be construed as limiting the claims.
- R. 29(7)
Guid. C-III, 4.11

- 91** In exceptional circumstances, a European patent application or patent may include separate sets of claims for specific designated states (see point 102).

Claims incurring fees

- 92** If your European patent application comprises more than ten claims at the time of filing, you must pay a claims fee in respect of each claim over and above that number. You must pay claims fees within one month of filing the application.

R. 31(1)
Guid. A-III, 9

If your application includes several sets of claims (see point 102), a fee is payable only in respect of each claim beyond the tenth in the set that contains the greatest number of claims.

If you fail to pay the fees in due time, you may still validly pay them within a non-extendable grace period of one month after being notified of your failure to observe the time limit. If you do not pay the fees within this grace period, the claims for which you have not paid the fees are deemed to be abandoned, and you are notified accordingly.

Art. 91(2)
R. 41(1), 31, 69(1)
Guid. A-III, 9

- 93** If your application contains more than ten claims at the time of *grant*, the claims fees are payable at this stage if they have not already been paid. If you do not pay them in due time, your application is deemed to be withdrawn (see points 166 and 167).

R. 51(7)
Guid. C-VI, 15.1

Drawings

- 94** Requirements governing the representation of your invention in the drawings are set out in Rules 32, 34 and 35. Reference signs not mentioned in the description and claims must not be used in the drawings, and vice versa. The same features, when denoted by reference signs, must be denoted by the same signs throughout the application.

R. 32, 34, 35
Guid. A-X
Guid. C-II, 5

- 95** Drawings must not contain text matter except, when absolutely indispensable, brief terms such as "water", "steam", "open", "closed", "section on AB" and, on electric circuits and block schematics or flow sheet diagrams, short catchwords indispensable for understanding. Any such words must be placed in such a way that they can be replaced by their translations without interfering with any lines of the drawings.

R. 32(2)(j)
Guid. A-X, 8

- 96** Flow sheets and diagrams are considered to be drawings.

R. 32(3)
Guid. A-X, 1

Abstract

- 97** The abstract merely serves for use as technical information. It may not be taken into account for any other purpose, such as interpreting the scope of the protection sought or applying Article 54(3). It must be so drafted that it constitutes an efficient instrument for searching in the particular technical field, particularly by making it possible to assess whether the European patent application itself needs to be consulted.

Art. 85
R. 33(5)
Guid. B-XI, 1, 2

- 98** The abstract, which must be preceded by the title of the invention, must contain a concise summary (preferably no more than 150 words long) of the disclosure as contained in the description, claims and drawings. It should indicate the technical field to which the invention relates, unless that is already clear from the title, and should be so drafted as to allow a clear understanding of the technical problem, the gist of the solution of that problem through the invention and the principal use of the invention.

R. 33(1)-(3)
Guid. B-XI, 3

99 If your application contains drawings, you must indicate the figure or, exceptionally, figures which you suggest should accompany the published abstract. In this case each main feature mentioned in the abstract and illustrated in the drawing must be followed by the corresponding reference sign in parentheses.

R. 33(4)
R. 47(1)
OJ 1982, 357

100 The definitive content of the abstract is determined by the examiner (see point 146). Once the abstract has been published as part of the European patent application (see point 147), it is not amended again.

Prohibited matter

101 Your application must not contain statements or drawings that are contrary to *ordre public* or morality. Nor should it contain statements disparaging the products or processes of any third party, or the merits or validity of any third party's applications or patents. Mere comparisons with the prior art are not considered disparaging *per se*. Furthermore, no statements should be made which are obviously irrelevant or unnecessary under the circumstances.

R. 34
Guid. A-III, 8
Guid. C-II, 7

Unity of European patent applications and patents

102 In principle, European patent applications and European patents have a unitary character, which means that the text and any drawings are uniform for all designated contracting states.

Art. 118
Guid. C-III, 8

The exceptions to this principle are as follows:

(a) If the content of an earlier European patent application forms part of the state of the art pursuant to Article 54(3) and (4) in respect of one or more of the designated contracting states (see point 34), or if the EPO is informed of the existence of a prior right under Article 139(2), the European patent application or patent may, for such state or states, contain different claims and, if the examining division considers it necessary, different descriptions and drawings.

R. 87
Guid. C-III, 8.1

(b) If it is adjudged by a final decision that a third party is entitled to be granted a European patent in respect of only one part of the matter disclosed in the European patent application, the original European patent application must, for the designated states in which the decision was taken or recognised, contain claims, descriptions and drawings which, where necessary, are different from those for the other designated contracting states.

R. 16(1), (2)
Guid. C-III, 8.2

103 National rights of earlier date do not form part of the state of the art for the purposes of the EPO's examination for patentability (see point 34, last paragraph).

Guid. C-III, 8.4

However, during substantive examination (see point 172) or opposition proceedings (see point 182) you may, on your own initiative, submit separate claims for each designated contracting state in which an earlier national right exists, provided that you supply evidence of its existence to the examining or opposition division as appropriate. In such cases the examining or opposition division examines only the admissibility of the separate claims; it does not have to judge whether you have adequately limited the scope of your application in relation to the earlier national right. What it does examine, however, is whether the invention identified in the separate claims meets the patentability requirements of the EPC.

III. Filing European patent applications

Where to file

104 You can file European patent applications: Art. 75(1), (2)

- (a) at the EPO in Munich, its branch at The Hague or its sub-office in Berlin, but **not** at its sub-office in Vienna
- (b) at the central industrial property office or other competent authority of a contracting state if the law of that state so permits or prescribes.

Divisional applications must however be filed directly with the EPO. Art. 76(1)

105 The EPO's addresses are given in Annex IV. The addresses of the national patent authorities and national provisions of the contracting states governing compulsory or optional filing of European patent applications with such authorities are given in **"National law relating to the EPC"** (see point 4 above).

How to file

106 You can file applications in writing, either directly or by post. R. 24(1)
Guid. A-II, 1
OJ 1992, 299, 306

You can also file by fax with the EPO, and with the competent national authorities of those contracting states which so permit, currently Austria (AT), Belgium (BE), Bulgaria (BG), Czech Republic (CZ), Denmark (DK), Finland (FI), France (FR), Germany (DE), Greece (GR), Ireland (IE), Liechtenstein (LI), Luxembourg (LU), Monaco (MC), Poland (PL), Portugal (PT), Slovakia (SK), Slovenia (SI), Spain (ES), Sweden (SE), Switzerland (CH) and United Kingdom (GB).


107 You can file European patent applications online or on electronic data media using software issued by the EPO (*epoline*® Online Filing software; www.european-patent-office.org). The accepted data media and formats are published in the *epoline*® area of the EPO website. You can also file European patent applications in electronic form with the competent national authorities of the contracting states which so permit, currently Finland (FI), France (FR), Germany (DE) and Spain (ES). OJ 2002, 543, 545
OJ 2003, 610

You **cannot** file European patent applications with the EPO by telegram, telex, teletex or e-mail. OJ 2000, 458

108 As the EPO uses an automatic scanner system to capture European patent applications for printing, you are urgently requested to use a machine-readable typeface for your applications. OJ 1993, 59

Written confirmation

109 If you file a European patent application by fax, you should forward the hard-copy application documents in due form in a single copy at the same time as the duly signed Request for Grant (see Supplements). Otherwise, the EPO will invite you to supply these documents within a non-extendable period of one month. If you fail to comply with this invitation in due time, your application will be refused. OJ 1992, 299, 306

To prevent duplication of files, you are asked to cross  box next to "Confirmation of an application already filed by facsimile" and enter the relevant information at the top of the Request for Grant form.

If you file your application electronically, you do not need to supply paper confirmation. OJ 2002, 544

Date of receipt

110 The date of filing accorded to applications filed directly at the EPO is the date on which they are handed in or are posted in one of the EPO's automated mailboxes. OJ 1992, 306

The date of filing accorded to applications sent to the EPO by post is the date on which they are received.

The date of filing accorded to applications filed by fax is the date on which the faxed application documents are received in full at the EPO, provided the documents comply with the requirements of Article 80 (see point 135).

The above rules similarly apply to applications filed with the competent national authorities of the contracting states.

The date of filing accorded to applications filed electronically is the date on which the application documents are received at the EPO or the competent national authority, provided the documents comply with the requirements of Article 80. OJ 2002, 548

Acknowledgement of receipt

111 The authority with which you file your application acknowledges receipt without delay by sending you page 6 of the Request for Grant (see Supplements), on which it notes the date it received the application documents and the number of the application. R. 24(2), (3)
Guid. A-II, 3.1
OJ 1992, 306, 310

On request, the EPO will also issue telex or fax acknowledgement that it has received your documents, provided that

- you enclose the request for telex or fax acknowledgement with your documents
- you indicate the postal, telex or fax address to which the acknowledgement is to be sent, and
- you provide evidence of payment of the prescribed administrative fee (see Annex VII) or enclose a debit order.

If you file online, receipt is acknowledged electronically during the submission session. If you file on CD-R, receipt is acknowledged by post. OJ 2002, 545, item 8

Applications filed with national authorities and forwarded to the EPO

112 If an application you file with a national authority is forwarded to the EPO, the EPO notifies you accordingly, indicating the date it received it, by sending you a copy of the receipt for documents (page 6 of the Request for Grant, see Supplements). National authorities inform the EPO without delay when they receive applications. R. 24(4)
Guid. A-II, 3.2
OJ 1990, 306

You are also sent an acknowledgement of receipt pursuant to Rule 24(4) if you file European patent applications electronically with national authorities.

113 In the very rare occurrence that your application fails to reach the EPO before the end of the fourteenth month after filing or after the earliest Art. 77(5)
Guid. A-II, 1.6; 3.2

priority date, it is deemed to be withdrawn, and any fees that you have paid are refunded. The EPO notifies you accordingly, and you can then convert your European patent application into national applications.

You must file the request for conversion with the central industrial property office of the contracting state in which you filed the application, and must do so within three months after receiving notification from the EPO. For more details you are referred to **"National law relating to the EPC"** (see point 4 above).

Art. 135(2), 136(2)

Fees

114 The following fees are payable in respect of a European patent application:

- (a) filing fee
- (b) search fee
- (c) claims fee where appropriate
- (d) designation fees (one for each contracting state designated;
- (e) if you pay seven designation fees you are deemed to have designated all contracting states; for joint designation of Switzerland and Liechtenstein only one fee needs to be paid, see point 40)
- (f) extension fees where appropriate (one for each extension state, see point 26)

Art. 2, item 1, RFees
OJ 2004, 3

115 After filing the application you must pay the filing and search fees (and any claims fees) within one month.

Art. 2, items 3, 3a,
RFees
Guid. A-III, 12.2
Art. 78(2), R. 31
Guid. A-II, 4.2.1

You must pay the designation fees (and any extension fees) within six months of the date on which the European Patent Bulletin mentions publication of the European search report.

Art. 79(2)

The EPO will not send you reminders to pay these fees in due time.

116 If you fail to pay the filing fee, the search fee or a designation fee within the above time limits, you may still validly pay them within a grace period of one month after being notified of your failure to observe the time limit, provided that you pay a surcharge within this grace period.

R. 85a

Designation fees in respect of which you have dispensed with the above notification (see Section 32.2 of the Request for Grant) may still be validly paid within a grace period of two months after the normal time limit has expired, provided that you pay a surcharge within this grace period.

After the normal time limit for paying extension fees has expired, you may still validly pay them within a grace period of two months, provided that you pay a surcharge within this grace period.

The EPO will not notify you of any failure to observe the time limits for paying extension fees.

OJ 1994, 75, 76

117 If you fail to pay the filing and search fees in due time, your European patent application is deemed to be withdrawn.

Art. 90(3)
Guid. A-II, 4.2.3

If you fail to pay the designation fee for a contracting state in due time, the designation of that state is deemed to be withdrawn. If no designation fee is paid in due time, the application is deemed to be withdrawn.

Art. 91(4), Art. 79(3)
Guid. A-III, 12.3

- 118** Refer to points 92 and 93 for payment of claims fees due in respect of the eleventh and each subsequent claim.

R. 31(1)
Guid. A-III, 9

- 119** After filing a European divisional application (see points 199-203), you must pay the filing and search fees (and any claims fees) within one month. You must pay the designation fees within six months of the date on which the European Patent Bulletin mentions publication of the European search report on the divisional application. You may still pay the filing, search and designation fees within the grace periods mentioned in point 116 (provided that you pay a surcharge within the relevant grace period).

R. 25(2), 31(1), 85a
Guid. A-IV, 1.4

- 120** You should note that you are not entitled to have your rights re-established if you fail to observe the above-mentioned time limits for the payment of the filing fee, the search fee or the designation fees (see point 218).

Art. 122(5)
Guid. A-II, 4.2.3
Guid. A-III, 12.5

Fee levels and payment methods

- 121** Fee levels, payment methods and effective payment dates are governed by the Rules relating to Fees (RFees) and by measures adopted by the President of the EPO implementing certain provisions of those Rules.

Art. 2, 5, 8 RFees,
Supplement to OJ
2/2002 (ADA)
Guid. A-XI

Guidance on fee payment is published in each issue of the EPO's Official Journal, so you should consult the latest issue to find out the current situation.

- 122** Note the following advice and recommendations on paying fees to the EPO:

- (a) Fees due to the EPO must be paid in euro.

Art. 5 RFees
Guid. A-XI, 2

All fees, even those for a European patent application filed with a national authority, must be paid direct to the EPO. This can be done by payment or transfer to a bank or giro account held by the EPO², by delivery or remittance of cheques made payable to the EPO (see (e) below) or by debiting a deposit account opened with the EPO.

- (b) Depending on how you pay, the deemed date of payment is the day on which

Art. 8 RFees

- the amount of the payment or transfer is actually credited to a bank or giro account held by the Office
- the cheque is received at the EPO, provided that the cheque is met
- the order to debit a deposit account is received at the EPO.

It is advisable to pay fees as promptly as possible, preferably when you file the European patent application.

² The EPO publishes a list of its accounts in every issue of its Official Journal and on its website (www.european-patent-office.org/epo/fees1.htm).

- (c) If a payment is received after the time limit by which it should have been made, the time limit is deemed to have been met if you can prove to the Office that:
- Art. 8(3) RFees,
Point 6.8 ADA
Guid. A-XI, 6.2
- (1) in a contracting state, before the relevant time limit expired,
 - you effected the payment through a banking establishment or post office, or
 - you duly gave an order to a banking establishment or post office to transfer the relevant amount, or
 - you despatched at a post office a letter addressed to the Office and containing a cheque or an order debiting a deposit account opened with the EPO, provided that the cheque is met or that there are sufficient funds on the deposit account on the date when the time limit expires.
 - (2) you have paid a surcharge of 10% on the relevant fee or fees, but not exceeding EUR 150; no surcharge is payable if you took one of the actions listed in (1) above no later than ten days before expiry of the period for payment.
- The Office may request you to produce evidence of the date on which you took one of the actions listed in (1), and where necessary to pay the surcharge, within a period which it specifies. If you fail to comply with this request, if you produce insufficient evidence, or if you fail to pay the required surcharge in due time, the time limit for payment is deemed not to have been met.
- Art. 8(4) RFees
- (d) If you pay fees through a banking establishment, you may use the bank of your choice. Payments and transfers must be made payable to an account of the European Patent Organisation.
 - (e) Cheques should not be enclosed with European patent applications filed with a national authority, as payment is not deemed to have been effected until the date on which the cheque is received by the EPO.
 - (f) If you file a European patent application with the EPO or a national authority and have a deposit account with the EPO, you can pay fees due on filing simply and securely by debiting your deposit account; you merely have to fill in the appropriate section of the fee payment form that you enclose with the application.
- Art. 8(2) RFees
Guid. A-XI, 3.3
Supplement to OJ
2/2002
- The EPO also accepts debit orders issued by telex or fax or filed electronically.
- Point 6.2 ADA
- If you file your application with a national authority and the EPO does not receive the enclosed debit order until after the time limit for fee payment has expired, you are deemed to have met the time limit if there were sufficient funds on your deposit account on the date when the time limit expired.
- Point 6.10 ADA
- If you are an EPO deposit account holder, you also have the option of issuing an automatic debit order (using Section 43 of the Request for Grant, see Supplements).
- Supplement to OJ
2/2002, Annex A.1
and A.2;
Guid. A-XI, 3.4
- (g) Regardless of how you choose to pay, it is always advisable to use the fee payment form (see Supplements) to communicate particulars concerning payments. You can obtain the form free
- Art. 7 RFees

of charge from the EPO or from the central industrial property offices of the contracting states, or you can download it from the EPO website (www.european-patent-office.org).

IV. Filing other documents

Where and how to file

- 123** After you have filed a European patent application, you may file other documents as referred to in Rule 36 EPC with the EPO (preferably its branch at The Hague) directly or by post. R. 36(5)
OJ 1992, 299, 306
Guid. A-IX, 2.5

Apart from authorisations and priority documents, you may also file them by telegram, telex or fax. In grant proceedings, documents other than priority documents may also be filed electronically.

OJ 2003, 609

- 124** If you filed the application with a national authority, you may likewise file all other documents relating to the application with that authority, subject to any restrictions under national law, but only until the date on which you receive notification that the EPO has received your application. Once you have received this notification, you must file any such documents with the EPO direct. R. 24(4)
Guid. A-II, 3.2

Signature

- 125** Any documents, apart from annexes, filed after filing of the European patent application must be signed unless they are annexes. The name of the person filing such documents will be accepted by way of signature on telegrams and telexes, as will the reproduction of the filer's signature on faxes. The name and position of that person must be clear from the signature. R. 36(3)
Guid. A-IX, 3.3
OJ 1992, 306

If the signature is omitted on a document, the EPO will invite the party concerned to sign within a fixed time limit. If signed in due time, the document retains its original date of receipt; otherwise it is deemed not to have been received.

Guid. A-IX, 3.1

Written confirmation

- 126** If you file documents by telegram, telex or fax, you must supply written confirmation reproducing their contents and complying with the EPC Implementing Regulations within a non-extendable period of one month if invited to do so by the EPO department charged with the procedure. If you fail to comply with this invitation in due time, the telegram, telex or fax is deemed not to have been received. OJ 1992, 299, 306
Guid. A-IX, 2.5

- 127** The EPO normally requires written confirmation only if:
- (a) the application, the designation of a contracting state or a claim to priority is withdrawn in the document;
 - (b) the document or drawings in question alter or replace application or patent documents; or
 - (c) the documents so communicated are of inferior quality.

You are requested to indicate clearly on regulation hard-copy documents that they constitute "confirmation of a document filed on ... by telegram/telex/fax".

Date of receipt

- 128** The rules governing the filing of the European patent application set out in point 110 apply *mutatis mutandis* to the filing of other documents. As with documents filed by fax, the date of filing accorded to documents filed by telegram or telex is the date on which they are received in full; save as provided for in point 124, all other documents relating to the application may only be filed with the EPO. OJ 1992, 306

Acknowledgement of receipt

- 129** The EPO acknowledges receipt of subsequently filed items on the forms provided for this purpose and completed by the applicant (EPO Forms 1037 and 1038). OJ 1992, 306

For the possibility of obtaining an acknowledgement of receipt by telex or fax see the second paragraph of point 111. Guid. A-II, 3.1

D. The European patent grant procedure

I. General survey

- 130** The European patent grant procedure is an examination procedure beginning with a formalities examination and a mandatory search.

The first stage ends with the publication of the European patent application and the search report.

At the applicant's request this is followed by the second stage, substantive examination.

After the patent has been granted, there may be a third stage in the form of opposition proceedings.

- 131** The **first stage of the procedure** comprises an examination on filing, formalities examination, preparation of the European search report and publication of the application and the search report. Responsibility for this stage rests with the Receiving Section and a search division.

Art. 16, 17, 90-93
R. 39-50
Guid. A; B

- 132** The **second stage** comprises substantive examination and grant. An examining division is made up of three technically qualified examiners, who may if necessary be joined by a legally qualified examiner; but until a decision has to be taken on the application, its examination is as a rule entrusted entirely to one of the technically qualified examiners. This examiner is responsible for issuing the requisite communications and for discussing the application with the applicant in writing, in person or on the telephone.

Art. 18, 94-98
R. 51-54
Guid. C-VI

However, if oral proceedings are requested by the applicant or (in exceptional cases) arranged at the Office's initiative, they are held before the full examining division. The final decision on the grant of the patent is also a matter for the full examining division.

Art. 116
Guid. E-III

- 133** The **third stage** consists of opposition proceedings, the first point at which third parties such as competitors are involved. Responsibility for examining oppositions rests with the opposition divisions, which are composed in the same way as the examining divisions except that only one member of the opposition division is allowed to have been involved in the earlier grant proceedings; and that member is not allowed to chair the division.

Art. 19, 99-105
R. 55-63
Guid. D

- 134** Appeal proceedings constitute a **special stage of the procedure**. Appeals may be filed during the above three stages against decisions taken by the Receiving Section, the examining divisions, the opposition divisions and the Legal Division. A decision which does not terminate proceedings as regards one of the parties can only be appealed together with the final decision, unless the decision allows separate appeal.

Art. 106-112
R. 64-67
OJ 2003, 61

Decisions on appeals are taken by the boards of appeal.

Art. 21

II. Procedure up to publication of the application

Examination on filing

- 135** On receiving an application the Receiving Section examines whether it can be accorded a date of filing. This is the case if the application

Art. 80, 90
Guid. A-II, 4

documents contain:

- an indication that a European patent is sought
- the designation of at least one contracting state
- information identifying the applicant
- a description and
- one or more claims in one of the languages in which applications may be filed.

136 If a date of filing cannot be accorded because any deficiencies found have not been remedied in due time despite an invitation to do so, the application will not be dealt with as a European patent application.

Art. 90(2)
R. 39
Guid. A-II, 4.1.4

137 Once the date of filing has been accorded, the Receiving Section examines whether the filing and search fees have been paid in due time and whether the translation of the application into the language of the proceedings, if required, has been filed in due time (see points 114, 115 and 42-46). If the fees have not been paid in due time allowing for the grace period under Rule 85a and the associated surcharge (see point 116), or if the translation has not been filed in due time, the European patent application is deemed to be withdrawn.

Art. 90(1)(b), (c)
Guid. A-II, 4.2
Art. 90(3)

Formalities examination

138 If the application has been accorded a date of filing and is not deemed to be withdrawn, the Receiving Section checks for compliance with provisions governing representation (see points 57-66), formal requirements (see point 70), the filing of the abstract (see points 47 and 97-100), the content of the Request for Grant (see point 48), any priority claimed (see points 52-56), designation of the inventor (see points 49-51) and the filing of any drawings. If the Receiving Section finds correctable deficiencies, it invites you to remedy them (see points 66 and 210-219); if you fail to do so, the legal consequences provided for in the EPC take effect, ie the application is deemed to be withdrawn or is refused.

Art. 91
R. 40, 41(1), 42, 84
Guid. A-III
Guid. E-I; II

139 If the deficiencies relate to a claim for priority and are not correctable, or if you do not remedy them although invited to do so, you lose your right of priority.

Art. 91(1)(d), (3)
R. 41(2), (3)
Guid. A-III, 14

A distinction must be made between failure to indicate the date or country of the prior application(s) when filing the European patent application and failure to meet other requirements. Only deficiencies relating to the latter requirements are correctable.

140 If the drawings referred to in the description or the claims are missing on the date of filing, you have a choice between re-dating the application to the date when the drawings are filed and deleting the late-filed drawings together with references to them in the application.

Art. 91(1)(g), (6)
R. 43
Guid. A-III, 10

141 With regard to the requirements governing documents filed after the filing of the European patent application see points 123-128 and 170-175.

European search report

- 142** While the formalities examination is in progress, the European search is performed. As already mentioned (point 17), the EPO will make every effort to speed up the search if you request this when filing the application (see Annex II, point 2). For European first filings see point 18.
- Art. 92
R. 44
Guid. B
OJ 2001, 459
- The search report is drawn up on the basis of the claims, with due regard to the description and any drawings. It mentions the documents available to the EPO when it is drawn up which may be taken into consideration in assessing novelty and inventive step. It does not give reasons or express any opinions on the patentability of the invention to which the application relates.
- On 1 July 2003 the EPO launched a pilot project for European first filings, which involves issuing to the applicant, together with the search report, an opinion on whether the application and the invention to which it relates meet the requirements of the EPC (**Extended European Search Report**). This non-binding opinion on patentability is issued free of charge as a service.
- OJ 2003, 206
- 143** Immediately after it has been drawn up, the European search report is transmitted to you together with copies of any cited documents. If you require a second copy of the documents, you can obtain it by placing a cross in the appropriate box on the Request for Grant form (refer to point 48 and Section 40 of the Request for Grant, see Supplements) when filing the application and by paying the prescribed administrative fee.
- Art. 92(2)
Guid. B-X
- 144** Having received the search report, you may withdraw the application if you think it has no chance of success. If you decide to pursue the patent grant procedure (see point 152), you have an opportunity to amend the application to reflect the results of the search (see points 170-175).
- 145** If the search division considers that the application does not comply with the requirement of unity of invention (see point 69), it draws up a European search report on those parts which relate to the invention first mentioned in the claims. It informs you that if the search report is to cover the other inventions, you must pay a further search fee in respect of each of them within a period that it specifies.
- R. 46
Guid. B-VII
- If you do not respond to this invitation, and if the examining division considers the search division's objection justified, you are deemed to want the application to proceed in respect of the invention for which the search report has been drawn up. The application must not include claims for subject-matter for which a further search fee has not been paid. You may however file a divisional application for such subject-matter (see points 199-203).
- Guid. C-III, 7.10
Guid. C-VI, 3.2a
- Any further search fees paid will be refunded on request if it emerges during examination proceedings that the search division's payment demand was not justified.
- 146** Upon drawing up the European search report, the search division determines the definitive content of the abstract and transmits it to you together with the search report.
- R. 47
Guid. B-X, 7
Guid. B-XI, 4-6

III. Publication of the European patent application

- 147** The European patent application is published without delay once eighteen months have elapsed since the date of filing or the earliest priority date. You may however request that it be published earlier.
- Art. 93
Guid. A-VI
- The publication contains the description, the claims and any drawings, all as filed, plus the abstract. If the European search report is available in time, it is annexed; if not, it is published separately.
- Guid. A-VI, 1.3; 1.5
- If you amend the claims after receiving the European search report but before completion of the technical preparations for publication (see point 171), the amended claims will be published in addition to the claims as filed. The technical preparations are deemed to have been completed seven weeks before expiry of the eighteenth month after the date of filing or, if priority is claimed, after the date of priority.
- R. 49(3)
OJ 1993, 55
- 148** The European patent application is not published if it has been finally refused or withdrawn or deemed withdrawn before completion of the technical preparations for publication.
- R. 48(2)
Guid. A-VI, 1.2
OJ 1993, 56
- 149** The EPO informs you of the date on which the European Patent Bulletin mentions publication of the European search report, and it draws your attention to the time limit for filing the request for examination, which begins on that date (see point 152). It also informs you that the designation fees must be paid within six months of the date on which the European Patent Bulletin mentions publication of the European search report. You are not entitled to base any claims on the omission of this communication.
- R. 50
Guid. A-VI, 2.1
- 150** Refer to the third paragraph of point 5 for the provisional protection that the application confers.
- Art. 67
- A contracting state not having the language of the proceedings as an official language may prescribe that provisional protection does not take effect until a translation of the claims in one of its official languages at your option or, where that state has prescribed the use of one specific official language, in that language:
- Art. 67(3)
- (a) has been made available to the public in the manner prescribed by national law, or
- (b) has been communicated to the person using the invention in that state.
- The contracting states all make provisional protection conditional upon a translation of the claims. The same applies to the extension states (see point 26). For more information you are referred to **"National law relating to the EPC"** (see point 4).
- 151** Once the European patent application has been published, files relating to it are available for public inspection (see also point 80).
- Art. 128(1)-(4)
R. 93
OJ 2003, 370
- From that time, too, the public has access via the European Patent Register to the application's bibliographic data and to information about the state of the proceedings (see Annex VIII).
- Art. 127, R. 92
Guid. A-XII
OJ 2001, 249
OJ 2003, 23, 69
- Additional information about the form in which European patent applications and patents are published and about periodical EPO publications is given in Annex VIII.
- Art. 129

IV. Examination procedure

Request for examination

- 152** You can file the request for examination up to the six months after the European Patent Bulletin mentions publication of the European search report. The request, which you must submit in writing, is one of the elements of the Request for Grant form (see Supplement, Section 5); but it is not deemed to be filed until you have paid the examination fee. Once filed, it cannot be withdrawn (see point 149).
- 153** If you do not perform the two acts of filing the written request for examination and paying the examination fee within the above period, you can still validly complete them within a grace period of one month after you have been notified of your failure to observe the time limit, provided you pay a surcharge within the grace period.
- If you do not validly file the request for examination within the grace period, the application is deemed to be withdrawn.
- Note that re-establishment of rights is expressly excluded in respect of the time limit for filing the request for examination (see point 218).
- 154** You always have the option of paying the examination fee when you file the application. No disadvantages can accrue from this, as the examination fee is refunded in full if the application is withdrawn, refused or deemed to be withdrawn before the examining divisions have assumed responsibility, and at a rate of 75% after that date but before substantive examination has begun.
- 155** If you validly file the request for examination before receiving the European search report, pursuant to Article 96(1) the Receiving Section invites you to indicate, within six months of the date when the European Patent Bulletin mentions publication of the search report, whether you wish to proceed further with the application. If you do not reply to this invitation in due time, the application is deemed to be withdrawn. The examination fee shall be refunded in full.
- In this case, however, you have recourse to the legal remedies provided for in both Article 121 (Further processing) and Article 122 (Restitutio in integrum) (see points 216 and 217).
- 156** To speed up proceedings, you can also simply waive your right to the invitation under Article 96(1). In that case, when you receive the search report you are deemed to have indicated that you wish to proceed further with the application, and the examining division then assumes responsibility for the procedure (see Annex II, point 5).

Art. 94-98
R. 51-54

Art. 94(1), (2)
Guid. A-VI, 2.2
Guid. C-VI, 1.1

R. 85b
Guid. A-VI, 2.2
Art. 2, item 7, RFees

Art. 94(3), R. 85b
Guid. A-VI, 2.3
Guid. C-VI, 1.1
Art. 122(5)

Art. 10b RFees
Guid. A-VI, 2.2, 2.5
OJ 1988, 354

Art. 96(1), (3)
Guid. A-VI, 2.3
Guid. C-VI, 1.1.1

Art. 96(1), 18(1)
Guid. C-VI, 1.1.2
OJ 2001, 459

Stages of the procedure

- 157** Once you have filed the request for examination, the EPO examines in the light of the search report whether the application and the invention to which it relates meet the requirements of the Convention, and in particular whether the invention is patentable (see points 27-37).
- 158** After receiving the search report and before receiving the examiner's first communication, you can file substantive observations on the search report and amend the description, claims and drawings (see point 171). This will speed up the processing of the application at the examination stage (see Annex II, point 6).

Art. 94(1)
Guid. C-VI

R. 86(2)
Guid. C-VI, 3.1
OJ 2001, 459

- 159** If the examiner responsible within the examining division has objections to the application, he sends you a first reasoned communication inviting you to file your observations and, if necessary, to submit amendments to the description, claims and drawings (see points 170-175).
If your actions are clearly indicative of an interest in speedy substantive examination, the examiner will make every effort to issue the first communication within three months of the examining division's receipt of the application or the request for accelerated examination (see Annex II, point 4).
If you fail to reply in due time to this or any further communication, the application is deemed to be withdrawn (but see point 216).
- Art. 96(2)
R. 51(2), (3), 86(3)
Guid. C-VI, 2.4, 3.3-3.11
Guid. E-I, II
OJ 2001, 459
Art. 96(3)
- 160** You must try to deal with all the examiner's objections, the guiding principle of the examination procedure being that the decision to grant a patent or refuse the application should be reached in as few actions as possible.
If, after examining your response, the examiner considers that the application is not yet grantable, he will continue with the examination procedure by issuing a further written communication or talking to you in person or on the telephone.
You may at any time request oral proceedings.
- Guid. C-VI, 2.5
Guid. C-VI, 4, 6
Art. 116, Guid. E-III
- 161** The examiner may seek the advice of other members of the examining division whenever he sees fit. At the latest he will refer the application to them when a decision has to be taken.
- Guid. C-VI, 4.4, 7
- 162** If the examining division is of the opinion that a European patent cannot be granted, it will refuse the application. The decision is issued by the examining division as a whole, and the grounds of refusal must be stated; refusals may be based only on grounds on which you have had an opportunity to comment.
- Art. 97(1)
Guid. C-VI, 4.4, 7.7
Art. 113(1)
Guid. C-VI, 7.6
- 163** If the application and the invention to which it relates meet the requirements of the Convention, the examining division will decide to grant a European patent provided that the requisite fees have been paid in due time and a translation of the claims in the other two official languages of the EPO has been filed in due time.
- Art. 97(2)
R. 51(4)-(6)
Guid. C-VI, 15
- 164** The examining division first informs you of the text in which it intends to grant the European patent, and invites you to pay the fees for grant and printing and to file a translation of the claims in the two official languages of the EPO other than the language of the proceedings within a period which it specifies (currently four months). If you pay the prescribed fees and file the necessary translations of the claims in due time, you are deemed to have approved the text intended for grant. If you fail to file the translations and/or to pay the fees for grant and printing, the application is deemed to be withdrawn. The above period will be extended once by no more than two months if you so request before the period expires. You need give no reasons for this request.
The procedure up to grant of the European patent can be shortened significantly if you request immediate grant under Article 97(6). For such a request to be valid, you must have:
- Art. 97(3), (5)
R. 51(4), (8)
Guid. C-VI, 15.1, 15.3
Art. 97(6)
Guid. C-VI, 15.2
OJ 2001, 459
- filed a translation of the claims in the other two official languages of the EPO,

- paid the fees for grant and printing and any additional claims fees,
- where necessary filed the translation of the priority document or the declaration referred to in Rule 38(5), and
- paid the renewal fees and/or any additional fees already due

(see Annex II, point 7).

- 165** Upon reviewing the proposed text for grant, you may wish to make minor amendments, and/or you may discover mistakes. In that case you have an opportunity to file amendments or corrections within the period set under Rule 51(4) (see point 164). If the examining division consents to the amendments or corrections, it can immediately proceed to grant, as you are obliged to file translations of the claims as amended or corrected, provided you have also paid the fees for grant and printing within the time limit set. If you file amendments or corrections and translations of the claims in due time, but do not pay the fees, the application is deemed to be withdrawn.
- Art. 97(3)
R. 51(5), (8)
R. 86(3), 88
Guid. C-VI, 4.9, 15.4
OJ 2002, 114
- 166** If the examining division does not consent to the requested amendments or corrections, you are given an opportunity to comment, and either to withdraw or again to amend the amendments or corrections. In the latter case, amended translations of the claims need to be submitted once more to reflect the grantable text. As such amendments are generally of a minor nature, this should involve no substantial burden for you.
- R. 51(6)
Guid. C-VI, 15.4
- If you fail to meet the objections raised, the examining division will refuse the application under Article 97(1) because it does not meet the requirements of the Convention. As you always have to pay the fees for grant and printing and any claims fees within the time limit set under Rule 51(4), any fees you have paid will be refunded if no patent is granted. After you have received the communication under Rule 51(4), the above procedure does not take place until you have paid these fees. If you fail to pay them, the application is deemed to be withdrawn.
- Art. 97(1)
R. 51(6), (7), (8)
Guid. C-VI, 15.7
- 167** You are also requested to file, within the same period, either a translation of the application whose priority you claim or a declaration that the European patent application is a complete translation of the previous application, if you have not yet done so (see point 55).
- R. 38(5)
Guid. C-VI, 15.1
OJ 1999, 296, 571
- Before a patent can be granted, you must also have paid any renewal fee and additional fee due (see point 204 et seq.). If a renewal fee falls due before the expected date of publication of the mention of grant of the European patent, you will be informed accordingly. Mention of grant will not be published until you have paid the renewal fee. If you fail to pay the renewal fee and any additional fee in due time, the application is deemed to be withdrawn.
- Art. 86(3)
R. 51(9)
Guid. C-VI, 15.2
- 168** If you overrun the time limit set under Rule 51(4) or (6), you may request further processing under Article 121 (see point 216).
- Art. 121
Guid. C-VI, 15.6
- 169** The grant does not take effect until the date on which it is mentioned in the European Patent Bulletin. At the same time as it publishes this mention, the EPO publishes a European patent specification containing the description, the claims and any drawings. The patent proprietor also receives a certificate for the European patent, with the specification annexed.
- Art. 97(4), 98
R. 54
Guid. C-VI, 15.8-10

Amending applications before and during examination proceedings

- 170** You are not allowed to amend the description, claims or drawings before you receive the European search report. R. 86(1)
Guid. A-V, 2
Guid. C-VI, 5
Guid. D-V, 6
Guid. E-II, 2
- 171** After receiving the European search report and before receiving the first communication from the examining division, you may of your own volition amend the description, claims and drawings (see points 147, 158 and 174). R. 86(2)
Guid. C-VI, 3.1, 3.2
- 172** After receiving the examiner's first communication, you may of your own volition amend the description, claims and drawings once, ie when replying to the communication. No further amendments are allowed without the examining division's consent. Amended claims may not relate to unsearched subject-matter which does not combine with the originally claimed invention to form a single general inventive concept. In deleting subject-matter from an application, you should avoid any statement which could be interpreted as abandonment of that subject-matter. Otherwise the subject-matter cannot be reinstated. R. 86(3), (4)
Guid. C-VI, 4.7, 4.8, 5.2
- 173** The Guidelines set limits on the amendments that you can make to the description, claims and drawings after receiving the communication under Rule 51(4). Once you have approved the text communicated to you pursuant to Rule 51(4) (including minor amendments and/or corrections of errors, see point 165) by filing the translations and paying the fees, further amendments will only exceptionally be allowed under the discretionary power given to the examining division by Rule 86(3). Guid. C-VI, 4.9
Guid. C-VI, 4.10
- 174** The application may on no account be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (which does not include the priority document). However, subsequently filed examples or statements of advantage may be considered by the examiner as evidence in support of the invention's patentability. Art. 123(2)
Guid. C-II, 4.3
Guid. C-VI, 5.3-5.3.9
- This technical information is generally added to the part of the file that is open to public inspection (see point 151). From the date on which it is added, it forms part of the state of the art within the meaning of Article 54(2) EPC (see point 32). A note is printed on the cover page of the patent specification to alert the public that information submitted after the application was filed is not included in the specification (see point 169). R. 93(d)
Guid. C-VI, 5.3.6
- 175** You can make amendments to the European patent application in one of the following ways: Guid. E-II
- (a) by filing replacement pages. You should use this method only if the amendments are extensive and complicated. If it is not immediately clear how or why an amendment is to be made, you should provide explanatory notes in the margin of the replacement pages or on separate sheets. You must comply with the provisions governing application document presentation (see point 70).
 - (b) by annotating a copy of the relevant page(s) of the application. This is the preferred method if the amendments are not too extensive, as it simplifies checking. The amendments may be handwritten or typed; handwritten amendments must be clearly legible so as to avoid printing errors.

- (c) by indicating the changes in a letter. This method is suitable if, for example, you wish to delete whole pages, paragraphs or drawings.

National requirements governing translations of European patents

- 176** Any contracting state may make the protection conferred by a European patent not granted in one of its official languages contingent upon your filing a translation in one of its official languages or its prescribed official language. It may also require you to bear some or all of the cost of publishing the translation. The same applies to extension states.

Art. 65

For more details refer to "**National law relating to the EPC**" (see point 4 above).

You should take great care to comply with these requirements, especially those governing time limits for filing translations, so as not to undermine the protection conferred by the patent in the designated contracting states.

Art. 65(3)

V. Opposition procedure

Art. 99-105
R. 55-63
Guid. D
OJ 2001, 148

Opposition period

- 177** Up to nine months after publication of the mention that a European patent has been granted, anyone may give the EPO notice of opposition to the patent, except that the proprietor is not allowed to oppose his own patent.

Art. 99
OJ 1994, 891

Notice of opposition is not deemed to have been filed until the opposition fee has been paid.

Art. 99(1)

Grounds for opposition

- 178** Opposition may only be filed on the grounds that:
- the patent's subject-matter is not patentable within the terms of Articles 52-57
 - the patent does not disclose the invention clearly and completely enough for it to be carried out by a skilled person
 - the patent's subject-matter extends beyond the content of the application as filed.

Art. 100
R. 55
Guid. D-III, 5

Form and content of the notice of opposition

- 179** Notice of opposition must be filed within the opposition period in a written reasoned statement. That means that the opponent must state at least one ground for opposition under Article 100 and indicate the facts, evidence and arguments presented in support of the ground(s). Otherwise the notice of opposition will be rejected as inadmissible. It is advisable to use the EPO opposition form, which provides all the information needed to ensure that an opposition is admissible. This form is available free of charge from the EPO and the central industrial property offices of the contracting states and can also be downloaded from the EPO website (www.european-patent-office.org).

Art. 99(1)
R. 55
Guid. D-III, 3, 6

- 180** Notice of opposition may also be filed by telegram, telex or fax (see points 123-128). R. 36(5)
Guid. D-III, 3.2

Examining the notice of opposition for admissibility

- 181** Immediately after receiving the notice of opposition, the EPO communicates it to the proprietor and checks that it is admissible. Deficiencies in the notice are communicated to the opponent. Deficiencies under Rule 56(1) must be remedied within the opposition period. Other remediable deficiencies must be corrected within a period specified by the EPO (generally two months). If the deficiencies noted are not corrected in due time, the notice of opposition is rejected as inadmissible. R. 56, 57(1)
Guid. D-IV, 1.2

Documents cited in support of the opposition or as evidence should be filed in duplicate together with the notice of opposition. If this is not done, the Office invites the opponent to file them within a period that it specifies (generally two months). If the opponent fails to do so in due time, the opposition division may decide not to take any arguments based on them into account. R. 59
Guid. D-IV, 1.2.2.1

- 182** Immediately after expiry of the opposition period or the period laid down for remedying deficiencies or presenting evidence, the patent proprietor is invited to file observations and, where appropriate, amendments within a period specified by the EPO (generally four months). Amendments are allowed only if they are occasioned by grounds for opposition under Article 100, including grounds not invoked by the opponent. R. 57(1)
Guid. D-IV, 5.2
R. 57a
Guid. D-IV, 5.3

Substantive examination of the opposition

- 183** Once these preliminaries have been completed, the opposition division examines whether the grounds for opposition prejudice the maintenance of the European patent. If necessary it will invite the parties to file observations on its or other parties' communications within a period which it specifies. Art. 101
R. 58(1)-(3)
Guid. D-V, VI

In any communication sent to him in this way, the proprietor will where appropriate be invited to file the description, claims and drawings in amended form where necessary. Late-filed proposals for amendment need not be considered. R. 58(2)
Guid. D-VI, 4.2

If oral proceedings have to be arranged at the request of a party or at the instance of the EPO where it considers them expedient, the parties are summoned to them as quickly as possible. Art. 116(1),
R. 71
Guid. D-VI, 1, 3.2

In a note annexed to the summons, the opposition division lists and explains the points that in its view need to be discussed for the purpose of the decision that has to be taken. The note generally also includes the opposition division's provisional and non-binding opinion on the positions adopted by the parties, and in particular on amendments to the patent filed by its proprietor. At the same time, the opposition division fixes a final date for filing written submissions or amendments in preparation for the oral proceedings. New facts and evidence presented after that date need not be considered, unless admitted on the grounds that the subject of the proceedings has changed. R. 71a
Guid. D-VI, 3.2 Guid.
E-III, 8.6

- 184** If the opposition division finds that the grounds for opposition prejudice the maintenance of the European patent, it revokes the patent. Art. 102
R. 58(4)-(7)
Guid. D-VIII

If it finds that the grounds do not prejudice the maintenance of the patent as granted, it rejects the opposition.

- 185** If it finds that the patent can be maintained in amended form, it delivers an interlocutory decision stating that, with the amendments made by the proprietor, the patent and the invention to which it relates meet the requirements of the EPC.

Art. 113
Guid. D-VI, 7.2

An interlocutory decision of this nature, against which a separate appeal is allowed, is delivered whenever a patent is maintained in amended form.

- 186** Once the interlocutory decision becomes final, the proprietor is given three months in which to pay the fee for printing a new specification and file a translation of any amended claims in the two official languages other than the language of the proceedings.

Art. 102(3)(b), (5)
R. 58(5)
Guid. D-VI, 7.2.3

- 187** If these acts are not performed in due time, they may still be validly performed within two months of notification of a communication pointing out the failure to observe the time limit, provided that a surcharge equal to twice the fee for printing a new specification is paid within this period.

R. 58(6)

If either of the acts is not performed within this grace period either, the patent is revoked.

Art. 102(4), (5)

- 188** The contracting states make the amended text subject to the same translation requirements as the patent specification (see point 176 and Annex V).

Art. 65

VI. Appeals procedure

Art. 106-112
R. 64-67
Guid. E-XI

Filing an appeal

- 189** Appeals may be filed against decisions of the Receiving Section, the examining divisions, the opposition divisions and the Legal Division. An appeal has suspensive effect, which means that the contested decision does not yet become final (no formal *res judicata*) and its effects are suspended.

Art. 106

- 190** Notice of appeal must be filed in writing within two months after the date of notification of the contested decision. It is not deemed to have been filed until the appeal fee has been paid. Within four months after the date of notification of the decision, a written statement setting out the grounds of appeal must be filed. The above time limits cannot be extended.

Art. 108
R. 78

- 191** The notice of appeal and the statement of grounds may also be filed by telegram, telex or fax. The Registry of the boards of appeal as a rule requests written confirmation only if the quality of the document filed is deficient.

R. 36(5)
OJ 2003, 419

- 192** The notice of appeal must contain:

Art. 107
R. 64, 65

(a) the name and address of the appellant (see Rule 26(2)(c))

(b) a statement identifying the contested decision and the extent to which amendment or cancellation is requested.

- 193** The statement of grounds should give a succinct but full account of the appellant's arguments. As appeal proceedings are in practice mostly conducted by written procedure, arguments should always be presented in writing and not reserved for possible oral proceedings.

The Registry gives each appeal its own reference number, which must be used throughout the appeal proceedings.

Interlocutory revision

- 194** If the department whose decision is contested considers an appeal to be admissible and well founded, it must rectify its decision within three months of receiving the statement of grounds. If the appeal is not allowed within that period, it must be remitted to the board of appeal without delay.

Art. 109
Guid. E-XI, 7

Interlocutory revision is not possible where the appellant is opposed by another party to the proceedings (ie in opposition proceedings).

Stages of the procedure before the boards of appeal

- 195** The boards decide on appeals at second and final instance. Their members are independent. In their decisions they are not bound by any instructions, and they must comply only with the EPC. The procedure before the boards is laid down in their Rules of Procedure.

Art. 23(3)
OJ 2003, 89

The technical boards of appeal are responsible for appeals against decisions of the examining divisions concerning the refusal of European patent applications or the granting of European patents and for appeals against decisions of the opposition divisions.

Art. 21(3)(a), (4)

The technical boards normally consist of three members (two technically qualified and one legally qualified). This is increased to five (three technically qualified and two legally qualified) if a legally qualified member was added to the department of first instance or if the board considers that the nature of the appeal so requires (enlarged composition – Art. 21(3)(a) and (b)).

In other cases, when technically and legally qualified members are not expected to sit at the same time, the boards consist of three legally qualified members (Art. 21(3)(c)). A Legal Board of Appeal deals with such procedures, and in particular with appeals against decisions of the Receiving Section and the Legal Division.

- 196** To ensure uniform application of the law or if an important point of law arises, referrals may be submitted to the Enlarged Board of Appeal. During proceedings on a case and either of its own motion or following a request from a party, a board of appeal may refer any question to the Enlarged Board if it considers that a decision is required for the above purposes. The Enlarged Board's decision is binding on the referring board. The President of the EPO may refer a point of law to the Enlarged Board if two boards of appeal have given different decisions on the issue.

Art. 22, 112
OJ 2003, 83

- 197** The provisions relating to proceedings before the department which took the appealed decision are essentially applicable *mutatis mutandis* to appeal proceedings. After examining the case for the appeal and any observations of the other parties, the board of appeal gives the appellant directions for adding further submissions.

Art. 110(2)
R. 66(1)

Oral proceedings may be held at the request of a party or at the instance of the EPO. Art. 116

- 198** In deciding on the appeal, the board may either exercise any power within the competence of the department which took the appealed decision or remit the case to that department for further prosecution. In the latter case, the department is bound by the board's *ratio decidendi*, in so far as the facts are the same. Art. 111

VII. Divisional applications

- 199** The usual reason for filing a European divisional application is that the parent application does not satisfy the requirements as to unity of invention (see point 69) and the applicant is not content with limiting it. Art. 82, 76
R. 25
Guid. A-IV, 1
Guid. C-VI, 9.1

- 200** A divisional application may be filed only for subject-matter which does not extend beyond the content of the parent application as filed. If it complies with this provision and with the formal requirements for according a date of filing (see point 135 et seq.), it is deemed to have the same date of filing and priority date as the parent application. Art. 76(1), second sentence;
Art. 80
Guid. A-IV, 1.2
Guid. C-VI, 9.1.1

The divisional application may only designate contracting states which, at the time of its filing, are still effectively designated in the parent application. Art. 76(2); R. 25(2);
Guid. A-IV, 1.3.4;
G 4/98, OJ 2001, 131

- 201** A divisional application may be filed in respect of any pending earlier European patent application. An application is pending up to (but not including) the date that the European Patent Bulletin mentions the grant of the European patent. R. 25(1)
Guid. A-IV, 1.1.1
OJ 2002, 112

- 202** Divisional applications must be filed directly with the EPO. The divisional application itself, or its translation in the case referred to in Article 14(2) (see point 44), must be filed in the language of the proceedings for the parent application. The translation must be filed within the time limits indicated in point 44, with the proviso that it may still be filed within a period of one month after the filing of the divisional application if that period expires later. Art. 76(1)
R. 4, 6(1)
Guid. A-IV, 1.3.3
Guid. A-VIII, 1.3

- 203** See points 119-122 for the fees payable in respect of a European divisional application, and also for the time limits for payment and the legal consequences of missing them. R. 25(2)

The search fee is refunded in full or in part if the search can be based on the search report for the parent application. Art. 10 RFees

If the divisional application is filed more than two years after the parent application, the applicant must pay outstanding renewal fees (see points 204-207) no more than four months after filing the divisional application. If these are not paid in due time, they may still be validly paid within six months of the due date, provided that the additional fee is paid at the same time. R. 37(3)
Art. 86(2)

VIII. Renewal fees

- 204** You are required to pay the EPO renewal fees in respect of your European patent application. These are due in respect of the third and each subsequent year, calculated from the date of filing. Art. 86
R. 37
OJ 1984, 272

- 205** Renewal fees in respect of the coming year are due on the last day of the month in which the anniversary of the date of filing falls. For fee levels and payment methods see points 121 and 122. R. 37(1)
- 206** Payment may still be validly made up to six months after the due date, provided that an additional fee equal to 10% of the belated renewal fee is paid within the same period. The EPO will normally send you a reminder; but you are not entitled to base any claims on the omission of this courtesy service. Art. 86(2)
R. 37(2)
Art. 2.5 RFees
Guid. A-XI, 4.2.4
- 207** If you fail to pay the renewal fee and any additional fee in due time, the application is deemed to be withdrawn. Art. 86(3)
- 208** The last renewal fee payable in respect of a European patent application covers the year in which mention of the grant of the patent is published (see point 167). Art. 86(4)
- 209** Renewal fees for subsequent years during the term of the European patent (see point 5, last paragraph) are payable to the central industrial property offices of the designated states. For more details refer to **"National law relating to the EPC"** (see point 4 above). Art. 63, 141

IX. General provisions governing time limits

- 210** Annex VI contains charts illustrating actions applicants have to take within time limits laid down in the EPC. Art. 120-122
R. 83-85b
Guid. E-VIII
- The principle is that a time limit is calculated from the day after the date on which the relevant event occurred. In the case of a notification, the event considered is the receipt of the document notified, subject to the provisions governing notification, the generally applicable procedure for which is indicated below. Time limit expiry is regulated in Rule 83(3)-(5). In certain special cases a time limit may be extended in accordance with Rule 85. R. 83
Guid. E-VIII, 1.4
- A time limit will be deemed to have been observed if a document received late was posted, or delivered to a delivery service recognised by the President of the EPO (Chronopost, Deutsche Post Express, DHL, Federal Express, LTA, TNT, SkyNet or UPS), at least five calendar days before the relevant time limit expired, unless the document was received later than three months after the time limit expired. R. 84a
OJ 2003, 283
- 211** A time limit set by the EPO may also be extended under Rule 84 provided that a request for extension is submitted before it expires. However, a request for extension which would make the total period over six months long will be allowed only in exceptional circumstances. R. 84
Guid. E-VIII, 1.6
OJ 1989, 180
OJ 1994, 229
- 212** All decisions, summonses, notices and communications from which a time limit is reckoned are delivered as notifications. Art. 119
R. 77-82
Guid. E-I
- As a rule, notification is effected by registered letter, which is deemed to be delivered on the tenth day following its posting unless it fails to reach the addressee or reaches him at a later date. R. 78(2)
- Missed time limits*
- 213** By missing a time limit, the applicant makes himself liable to legal sanctions, such as refusal of the application or loss of rights occurring without the Office taking a decision. Cases where the latter applies include loss of the right of priority due to late filing of the priority Guid. E-VIII, 1.8

document, or the application being deemed withdrawn due to failure to reply to a communication from the EPO in due time.

- 214** Whenever the EPO finds that rights have been lost without taking a decision, it communicates this to the applicant. R. 69(1)
Guid. E-VIII, 1.9.1, 1.9.2

If the applicant considers that the EPO's finding is inaccurate, he may, within two months after receiving the communication, apply for a decision on the matter. A decision will be taken only if the EPO stands by its opinion, and any decision taken is subject to appeal. If no decision is taken, the EPO informs the applicant that the loss of rights is cancelled.

R. 69(2)
Guid. E-VIII, 1.9.3

Completion of an omitted act

- 215** The EPC makes provision for omitted acts to be completed, depending on the nature of the missed time limit. Guid. E-VIII, 2

- 216** The easiest missed time limits to make good are those imposed on the applicant during the grant procedure by departments of the EPO such as the Receiving Section or the examining divisions, ie not those laid down by the EPC itself. Art. 121
Guid. E-VIII, 2.1

If a time limit set by the EPO is missed, it is generally sufficient for the applicant to request further processing of the application. The request must be filed in writing within two months of the date on which either the decision refusing the application or the communication that it is deemed withdrawn is notified. The omitted act must be completed within that period. The request is not deemed to have been filed until the fee for further processing has been paid. No reasons need be given for the request.

- 217** If any time limit other than those mentioned in point 218 is missed, the applicant or proprietor may apply to have his rights re-established (*restitutio in integrum*); but this application will be granted only if he was unable to meet the time limit despite taking all due care. Art. 122
Guid. E-VIII, 2.2

If the applicant or proprietor acts through a representative, an application for re-establishment will be granted only if the representative has taken the care demanded of the applicant in Article 122(1).

- 218** Re-establishment of rights is expressly excluded in respect of failure to comply with time limits for filing fee, search fee and designation fee payment (allowing for the grace period under Rule 85a, see point 116), with the priority period, and with the time limit for filing the request for examination (allowing for the grace period under Rule 85b, see point 153) or the application for re-establishment of rights (see point 219). Art. 122(5)
Guid. E-VIII, 2.2.4

- 219** The application for re-establishment of rights must be filed in writing within two months from removal of the cause of non-compliance. The omitted act must be completed within the same period. The application is admissible only within the year immediately following the missed time limit. In the case of non-payment of a renewal fee, the grace period specified in Article 86(2), with its attendant additional fee, is included in the one-year period. Art. 122(2), (3)
Guid. E-VIII, 2.2.5

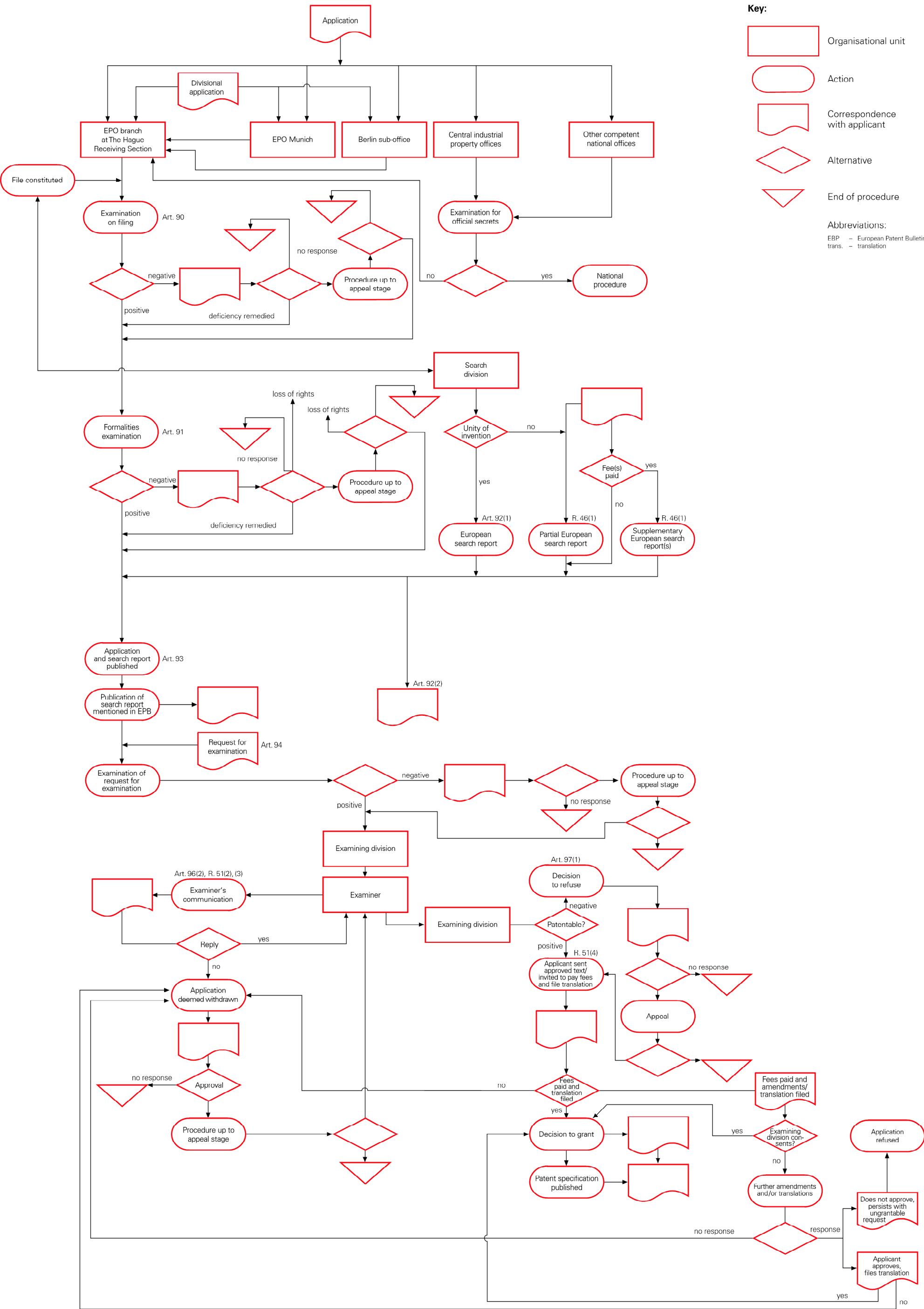
The application must state the grounds on which it is based, and must set out the facts on which it relies. It is not deemed to have been filed until the fee for re-establishment of rights has been paid.

ANNEX I

Chart showing the procedure for the grant of European patents

Flowchart of the European patent grant procedure

Annex I



Notice from the President of the European Patent Office dated 1 October 2001 concerning the programme for accelerated prosecution of European patent applications – "PACE" *

Over the last five years, the number of applications filed annually with the European Patent Office has more than doubled. The Office has therefore taken numerous steps to cope with this enormous increase in its workload and thereby minimise delays in grant proceedings. One such step has been to further improve and simplify the PACE programme for accelerated prosecution of European patent applications.

PACE ensures that applicants who want their applications processed rapidly obtain the search report, the first examination communication and any ensuing European patent as soon as possible. Taking flexible account of applicants' specific needs, the programme thus reduces processing time considerably compared with the average.

As explained in more detail below, accelerated processing of European patent applications is carried out on written request. The EPO does not publish requests for accelerated search and/or examination and, by decision of the President dated 7 September 2001¹, they are excluded from file inspection, provided they are made using EPO Form 1005 (see p. 463)² or on a separate sheet of paper.

Unless otherwise stated, PACE is also available for international applications entering the European phase before the EPO ("Euro-PCT applications").

Search

1. For European patent applications claiming **no priority (first filings)**, the Office ensures that as a rule applicants obtain their search reports **within six months** of the filing date. In such cases, accelerated search is automatic; no separate request need be filed.
2. For European patent applications which do claim priority, **accelerated search** can be requested in writing when the application is filed. In such cases, the Office makes every effort to issue the search report as soon as possible.

Examination

3. **Accelerated examination** can be requested in writing at any time: when filing the application, in response to the search report, or subsequently.

* Revised and expanded version of the notice last published in OJ 1997, 340.

1 See OJ EPO 2001, 458.

2 EPA/EPO/OEB Form 1005 11.01 is obtainable free of charge from the EPO (**preferably from Vienna**, but also from Munich, The Hague and Berlin) and the central industrial property offices of the contracting states. An editable version in pdf and Word for Windows formats will be available on the Office's Web site at <http://www.european-patent-office.org>.

For Euro-PCT applications, it can be requested on or after entry into the European phase before the EPO³. If requested on entry, accelerated prosecution covers formalities examination, drawing up the supplementary search report, and substantive examination. Where no supplementary search report is necessary⁴, it covers formalities and substantive examination.

4. When accelerated examination is requested, the Office makes every effort to issue the **first examination communication within three months** of receipt by the examining division of the application or the request for accelerated examination (whichever is the later).

All subsequent examination communications are issued within three months of receipt of the applicant's reply, provided this is received within the time limit set by the examining division in its previous communication and deals with all the points raised.

Other ways of accelerating the European grant procedure

5. The applicant may **request examination early** (Article 96(1) EPC). He may also unconditionally waive his right to receive an invitation from the EPO to confirm that he desires to proceed with the application⁵. This waiver allows the application to reach the examining division more quickly, and may be made when filing the European patent application, or later by separate communication to the EPO.
6. The applicant may file a substantive response to the search report, or – in the case of a Euro-PCT application entering the European phase before the EPO as elected Office – to the international preliminary examination report, without waiting for the first examination communication. A "substantive" response means reasoned observations or appropriate amendments to the application.
7. If the application is ready for grant and the applicant has received the communication under Rule 51(4) EPC, the subsequent procedure can be shortened significantly if the applicant approves the text without delay and requests **immediate grant under Article 97(6) EPC**⁶.

For such a request to be valid, the applicant must, when filing it (if not before):

- pay the fees for grant and printing
- file the translations of the claims
- pay any additional claims fees and
- file any translation of the priority document required or the corresponding declaration (Rule 38(5) EPC).

3 With Euro-PCT applications, the applicant can speed up entry into the European phase by expressly requesting early processing under Article 23(2) or 40(2) PCT. However, this does not automatically lead to accelerated examination in the European phase; that requires a separate request under the PACE programme.

4 This is the case if the international search report was drawn up by the EPO or the Austrian, Spanish or Swedish patent offices.

5 This applies mutatis mutandis to Euro-PCT applications entering the European phase and for which a supplementary European search report must be drawn up.

6 See OJ EPO 1995, 841.

The request will be processed only if the designation fees (Article 79(2), Rule 51(8a) EPC) and any renewal fee (plus surcharge) already due have been paid. If the request is made less than three months before the due date of the next renewal fee, applicants are advised to pay that fee too together with the request⁷.

⁷ Applicants using the automatic debiting procedure may have to pay these fees separately, ie outside that procedure, to ensure rapid grant (see point 12 of the Arrangements for the automatic debiting procedure and the EPO's explanatory notes – Supplement to OJ EPO 6/1994).

ANNEX III

Examples of European patent applications

A typical European patent application (description, claims, any drawings and abstract) has been selected from each of the three principal technical fields, namely

1. chemistry
2. electricity/physics
3. mechanics.

These examples comply with the provisions governing applications, except that the need to include explanatory notes meant that the margins could not be left blank (see Rule 35(6) EPC and point 71). For the requirements governing disclosure of the invention see points 67 and 68. The content of the examples is not necessarily patentable.

1. Chemistry example

Art. 78, 83; R. 27
Description of
invention

[Spaghetti-type pasta]

Title of invention
(designation in
Request for Grant
suffices)

The present invention relates to the field of long
alimentary pasta, in particular of the spaghetti
type, and more particularly still to an alimentary
pasta of the type mentioned above which, although
5 retaining all the typical organoleptic aspects of
similar commercial products, is characterised by
surprisingly rapid cooking due to the formation of
specific longitudinal grooves, extending the whole
of its length.

R. 27(1)(a)
Technical field to
which invention
relates

10

Various types of spaghetti with longitudinal
grooves are already known from the state of the
art which allow the cooking process to be effected
in less time than that necessary for the same
15 process using similar hollow cylindrical products
(bucatini) or solid products. However, said
products are not entirely without disadvantages,
regarding above all the homogeneity of cooking.

R. 27(1)(b)
Relevant prior art

20 In fact, spaghetti have been produced having a
star-shaped cross-section, in which, when cooked,
an excessive softening of the parts forming the
points is seen relative to the central core,
whereas in other more successful types, in which
25 a structure having three grooves placed at 120° to
each other has been adopted, giving the spaghetti
a clover-shaped cross-section, the spaghetti have
tended to tangle together during cooking, with a
consequent "sticking", so that, at the end of the

Assessment of
prior art

cooking time, they are undercooked at the centre and overcooked on the outside.

The object of the present invention is to provide
5 an alimentary pasta of the spaghetti type provided
with longitudinal grooves shaped in such a way as
to create a product formed with a central nucleus
and three longitudinal angularly equidistant
lobes, in which the balance between the forms and
10 dimensions of the structural components is such as
to permit notable advantages, both from a produc-
tion point of view, and from the point of view of
use during and after cooking, compared with the
traditional products existing on the market, and
15 furthermore such as to avoid the problems mentio-
ned above with reference to similar grooved
products known from the state of the art.

R. 27(1)(c)
Disclosure of
invention

R. 27(1)(c)
Advantageous
effects of invention

The advantages of the product that is the object
20 of the present invention, noted following the
performance of tests, are the following:

- cooking time of approximately 2 minutes using
the traditional method (boiling water), that
is to say reduced by over 65% with respect to
25 the time needed to cook solid cross-section
spaghetti of the same diameter (cooking time
6-7 minutes);
- possibility of reducing said cooking time even
further to approximately 1 minute using special
30 automatic cooking machines for the cooking of
pasta, in which the water reaches a temperature
of 140°C and a pressure of 10 atm;
- noticeably greater productivity compared with
similar forms of fast-cooking long pasta;

- reduction of the drying time in comparison with the solid cross-section versions, due to the particular shape of the product, which facilitates the evaporation of water from within;
- a low amount of defective finished products due to the absence of phenomena of instability and curling, with a consequent reduction in production rejects, along with a greater adaptability when used in said automatic cooking machines without causing flooding on introduction of the product into the cooking chamber;
- external aspect of the cooked product on the plate similar to traditional spaghetti, and better than that of the similar fast-cooking forms as, during cooking, said longitudinal grooves close up, leaving only narrow external slits;
- good chewability, similar to that of traditional spaghetti of equal diameter;
- sauce-absorbing capacity superior to that of the traditional shapes, due to the presence of said longitudinal slits;
- possibility of avoiding the above-mentioned tangling, due to accurate study of the shapes of the product's structure, with consequent perfect homogeneity of cooking.

The present invention is further described hereinafter with reference to one of its preferred embodiments shown in the accompanying drawings, in which:

R. 27(1)(d) and (e)
Description of at least one way of carrying out invention with reference to drawings

Fig. 1 is a perspective view, on enlarged scale, of an alimentary pasta of the spaghetti type according to the invention; and

Fig. 2 is a cross-section view, on a still
5 more enlarged scale, of the product according to Fig. 1.

As can be seen from the above figures, the spaghetti according to the invention comprises a solid central core 1, of a substantially circular
10 cross-section, forming a single piece with three parallel longitudinal lobes, generically indicated by numeral 2, said lobes being spaced 120° from each other and separated by grooves 3.

15 The shape of the lobes 2 and of the corresponding grooves 3 has been the object of intense study, in order to give the product of the invention the advantages described above as compared with the traditional products of the same type and with
20 similar known grooved products.

In particular, each lobe 2 has in cross-section an outline comprising a convex head portion 4 in the form of an arc of a circle, with a radius R1 substantially equal to that of a conventional solid
25 spaghetti of the same diameter, the ends of said head portion being joined to first ends of convex side portions 5, substantially semicircular in shape, having a radius R2 much smaller than R1
30 (approximately $1/6$), the second ends of which are connected by concave portions 6 having a small radius R3 (approximately $1/30$ of R2), to the first ends of concave stems 7 in the form of an arc of a circle having a radius R4 greater than R2 (approximate-

mately 1.5 times) but less than R1 (approximately 1/4). The second ends of the stems are connected to the second ends of stem portions 7 of adjacent lobes 2.

5

As stated above, the lobes 2 are separated from each other by grooves 3, each of which, according to the arrangement described above, is defined by the opposite edges of the convex side portions 5, 10 the concave stem portions 7, along with the concave curved portions 6, joining the preceding two, of adjacent lobes 2, from which results a shape wider in the internal area and narrower in the outer, mouth area, thus affording the advantages 15 of preventing tangling of the spaghetti and of closing of the grooves 3 during cooking.

Solely by way of non-limiting example, in a preferred embodiment of the spaghetti according to 20 the invention the measurements of the radii of the parts forming the outline of the cross-section of each lobe 2 are the following:

R1 = 0.765 mm, R2 = 0.135 mm, R3 = 0.045 mm,
R4 = 0.207 mm, while the radius R5 of the circular 25 cross-section of the solid central core is 0.270 mm.

It is clearly possible to produce forms with dimensions different from those indicated above, 30 taking care, however, to keep the proportions of shapes and dimensions unchanged.

Claims

Art. 84; R. 29

1. Pasta of the "spaghetti" type comprising a solid central core of circular cross-section integral with three parallel longitudinal lobes spaced at angles of 120° from one another and separated by grooves, the cross-section of each of the lobes having an outline with a convex head portion which is in the form of a circular arc with a radius of curvature (R1) substantially equal to that of conventional solid spaghetti of the same diameter and which is joined at its ends to the first ends of substantially semicircular convex lateral portions which have a much smaller radius of curvature (R2) than (R1) and of which the second ends are joined by concave curved portions with a small radius of curvature (R3) to the first ends of respective concave stem portions which are in the form of a circular arc with a radius of curvature (R4) greater than (R2) but smaller than (R1) and which are joined at their second ends to the respective second ends of stem portions of adjacent lobes.

2. A pasta of the "spaghetti" type as claimed in claim 1, where (R2) is approximately one sixth of (R1), (R3) is approximately one thirtieth of (R2), (R4) is approximately 1.5 times (R2) and approximately one quarter of (R1) and where the radius (R5) of the circular cross-section of said solid central core is approximately twice (R2).

R. 29(1)(a)
Independent claim

R. 29(3), (4)
Dependent claim

3. A pasta of the "spaghetti" type as claimed in claims 1 and 2, where $(R1) = 0.765 \text{ mm}$, $(R2) = 0.135 \text{ mm}$, $(R3) = 0.045 \text{ mm}$, $(R4) = 0.207 \text{ mm}$ and $(R5) = 0.270 \text{ mm}$.

5

4. A pasta of the "spaghetti" type as claimed in any of claims 1 to 3, where each of the grooves separating the longitudinal lobes is defined by the opposite outlines of the convex lateral portions, the concave stem portions and the concave curved portions - joining the first two - of the adjacent lobes, resulting in a shape which is wider in the lower part and wider in the outer part of the opening.

10

Abstract*

Art. 85

Spaghetti-type pasta

R. 33(1)

Title of invention

Spaghetti-type pasta provided with a solid central core 1, forming a single piece with three parallel longitudinal lobes 2 which are equidistant angularly, by 120°, relative to one another and separated by grooves 3.

R. 33(2), (3), (5)

Content of abstract

The balance between the shapes and the sizes of the various elements makes it possible to obtain a rapid cooking time with good chewing qualities.

R. 33(4)

* In this example the applicant will suggest in the Request for Grant (see Supplement, Section 39) that Fig. 2 should accompany the published abstract (see point 99).

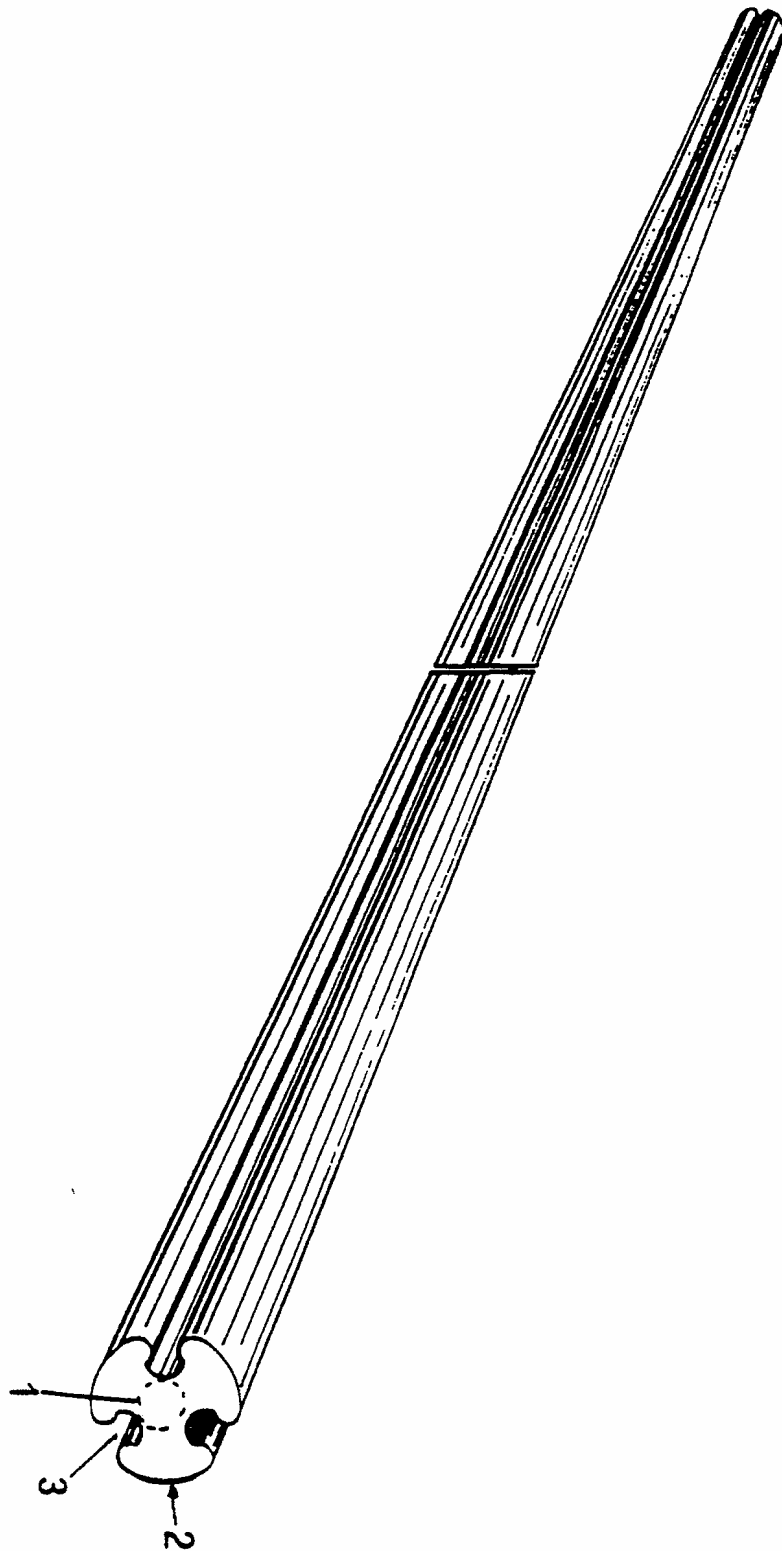
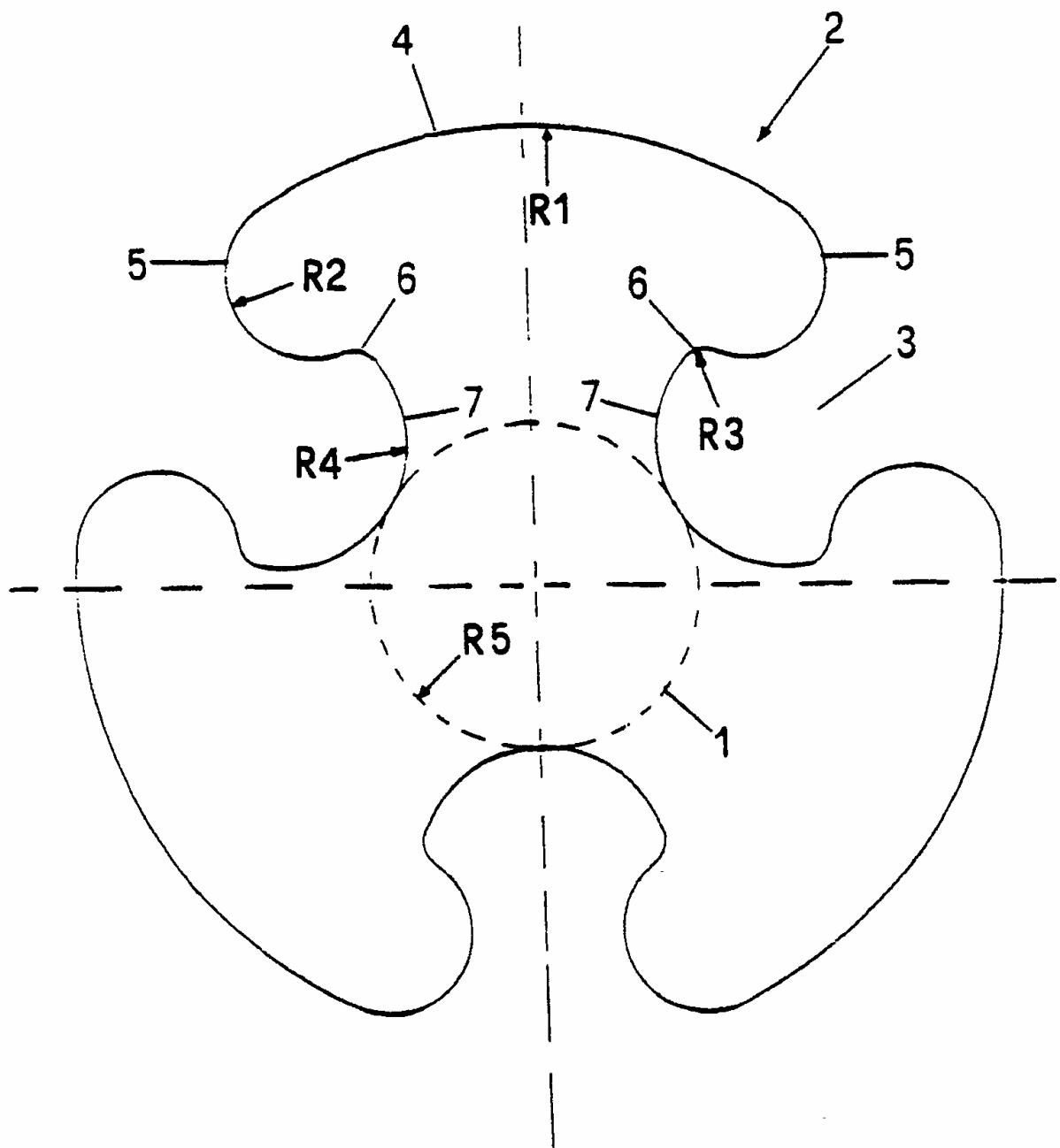


FIG.1

FIG. 2



2. Electricity/physics example

Art. 78, 83; R. 27
Description of
invention

[MOSFET switch for an inductive load]

Title of invention
(designation in
Request for Grant
suffices)

The present invention relates to a circuit arrangement having a power MOSFET and an inductive load that is connected, first, to the source terminal of the MOSFET and, second, to a terminal having a fixed potential, and a series circuit composed of a Zener diode and of a controllable switch connected between the gate terminal of the MOSFET and the terminal.

R. 27(1)(a)
Technical field to
which invention
relates

Such a circuit arrangement has, for example, been disclosed by European Patent No. x xxx xxx. For an activated inductive load, deactivation of the inductive load is initiated by turning on the controllable switch. The latter discharges the gate-source capacitance of the power MOSFET that thus begins to turn off. The current through the inductive load initially continues to flow and builds up a voltage in a non-conducting direction at the Zener diode that can reach the Zener voltage. The driving voltage at the inductive load is therefore the Zener voltage plus the voltage drop across the controllable switch plus the gate-source voltage at the power FET. The driving voltage at the inductive load can therefore essentially be set on the basis of the selection of the Zener voltage. The magnetic energy is then quickly reduced for a high Zener voltage.

R. 27(1)(b)
Relevant prior art
with citations

When the power MOSFET is operated by an electronic switch, its gate terminal lies at zero volts in a turned-off condition. When the voltage at the inductive load is reversed, the power MOSFET can begin to switch on when its emitter potential has fallen below zero by the threshold voltage. The driving voltage at the inductive load is therefore limited to a value that corresponds to the threshold voltage of the power MOSFET. The magnetic energy in this case is therefore only slowly reduced.

The object of the present invention is to improve a circuit arrangement of the type set forth such that a turn-on of the power MOSFET is reliably prevented as long as the voltage across the Zener diode in a non-conducting direction lies below the Zener voltage.

R. 27(1)(c)
Technical problem
to be solved

This object is achieved by a controllable resistor connected between the gate terminal and the source terminal, the value of resistance thereof being controlled such that it has a first, high value given a current flowing upon breakdown of the Zener diode and has a second, lower value below this current.

R. 27(1)(c)
Disclosure of
invention

Further developments of the invention are the subject-matter of the dependent claims.

30

The invention is elucidated by reference to an embodiment in conjunction with FIG 1 and FIG 2. FIG 1 is a circuit diagram of the present invention; FIG 2 is a graph depicting the U/I characteristic of a controllable resistor.

R. 27(1)(d), (e)
Description of at
least one way of
carrying out
invention with
reference to
drawings

The circuit arrangement of FIG 1 contains a power MOSFET 1 to which an inductive load 2 is connected in series at the source side. Via two terminals 12, 13, the series circuit is connected to an operating voltage V_{DD} . The terminal 13 lies at a fixed potential, for example at ground. A series circuit composed of a MOSFET 3 and a Zener diode 4 is connected between the gate terminal of the power MOSFET 1 and the terminal 13. The Zener diode 4 is polarised such that it is loaded in a non-conducting direction by the driving voltage that arises from deactivation of the inductive load 2. The gate terminal of the power MOSFET is connected to a terminal 10, and the gate terminal of the MOSFET 3 is connected to a terminal 11.

An n-channel depletion MOSFET 5 is connected between the gate terminal and the source terminal of the power MOSFET 1. The source terminal of the depletion MOSFET 5 is connected to its substrate. Its gate terminal is connected to the tap of a voltage divider 6 that is connected in parallel with the inductive load 2. The voltage divider 6 is composed of a Zener diode 7 and of a resistor 8. The Zener diode 7, however, can also be replaced by a resistor.

For activating the inductive load 2, a positive voltage that is higher than the operating voltage V_{DD} is applied to the terminal 10. It can be supplied for example by a known pump circuit.

When the inductive load is to be deactivated, the controllable switch 3 is turned on by a voltage applied to the terminal 11. The gate-source

capacitance of the power MOSFET 1 is thus discharged and the power MOSFET begins to turn off. A voltage having the indicated polarity builds up at the inductive load 2. The voltage at the source terminal of the power MOSFET 1 (node 9) thus becomes negative relative to its gate voltage since its gate lies at zero volts via the terminal 10. The power MOSFET 1 could thus be switched on again.

This is prevented by the depletion MOSFET 5. This is connected as a current source; its source terminal is connected to the substrate. It is dimensioned such that its saturation current I_{sat} (FIG 2) is higher than the reverse current that flows through the Zener diode 4 when the latter has not yet broken down. The saturation current, however, is lower than a current that would flow given breakdown of the Zener diode 4.

The voltage across the inductive load 2 after the activation of the MOSFET 3 and the turn-off of the power MOSFET 1 initially drives a current through the Zener diode 4, the MOSFET 3 and the depletion MOSFET 5 that is lower than the saturation current of the depletion MOSFET 5. Only a slight drain-source voltage drop occurs. The gate terminal and the source terminal of the power MOSFET 1 are thus situated at practically the same potential, so that it remains turned off. When the voltage at the inductive load 2 continues to rise, the Zener voltage U_z of the Zener diode 4 is reached and the Zener diode breaks down. The current driven through the Zener diode 4, the MOSFET 3 and the depletion MOSFET 5

thus increases until the saturation current of the depletion MOSFET is reached. The drain-source voltage of the depletion MOSFET thus increases and the power MOSFET 1 is activated when its cut-off voltage is reached. The current of the inductive load 2 can thus flow through the operating voltage source and the power MOSFET 1. The driving voltage is thereby defined by the voltage U_z plus the drain-source voltage of the controllable switch 3 plus the drain-source voltage of the depletion MOSFET 5. It can be set by an appropriate selection of the Zener diode 4.

In order to reliably turn off the depletion MOSFET 5 when the load 2 is activated, it must have a high resistance when a control voltage is applied at the terminal 10. This is achieved in that its gate terminal is negatively biased in comparison with its source terminal via the voltage divider 6. The depletion MOSFET 5 is thus turned off as long as the voltage at the node 9 is more positive than at the terminal 13.

The MOSFET 3 can be replaced by some other controllable switch, for example by a bipolar transistor. The depletion MOSFET 5 can also be replaced by some other controllable resistor, for example by a bipolar transistor.

Claims

Art. 84, R. 29

1. Circuit arrangement having a power MOSFET (1) and an inductive load (2) which is connected, on the one side, to the source connection and, on the other side, to a terminal (13) which is at a fixed potential, having a series circuit, consisting of a Zener diode (4) and a controllable switch, which is connected between the gate connection and the terminal,
- 5
- 10 **characterised by** a controllable resistor between the gate connection and the source connection, the resistance of which is controlled such that it has a first, high value when a current flows at breakdown of a Zener diode and, below this current, a second, lower value.
- 15
2. Circuit arrangement according to claim 1, **characterised in that** the controllable resistor is a current source, the current of which is smaller than the current flowing at Zener breakdown.
- 20
3. Circuit arrangement according to claim 2, **characterised in that** the current source is a depletion FET (5), the saturation current of which is smaller than the current flowing at Zener breakdown.
- 25
- 30 4. Circuit arrangement according to claim 3, **characterised in that** the gate connection of the depletion FET (5) is connected to the tap of a voltage divider (6) which is connected in parallel with the inductive load (2).
- R. 29(1)(a)
Prior art portion of
independent claim
wherever
appropriate
- R. 29(1)(b)
Characterising
portion
- R. 29(3), (4)
Dependent claim

Abstract *

Art. 85

MOSFET switch for an inductive load

R. 33(1)

Title of invention

In order to rapidly reduce the magnetic energy of an inductive load (2), the driving voltage must be high. When the load (2) is disconnected via a MOSFET (3) operating as a source follower, then a premature activation of the MOSFET (3) given reversal of the voltage at the inductive load (2) must be prevented. In a known manner, a series circuit of a Zener diode and of a controllable switch (3) is connected between the gate and the load (2). According to the present invention, a current source whose current is lower than the current that would flow upon Zener breakdown is connected between the gate and the source. The MOSFET (3) then becomes conductive upon Zener breakdown and the energy is quickly reduced by a high voltage, essentially by the Zener voltage.

R. 33(2), (3), (5)

Content of abstract

R. 33(4)

* In this example the applicant will suggest in the Request for Grant (see Supplement, Section 39) that Fig. 1 should accompany the published abstract (see point 99).

FIG 1

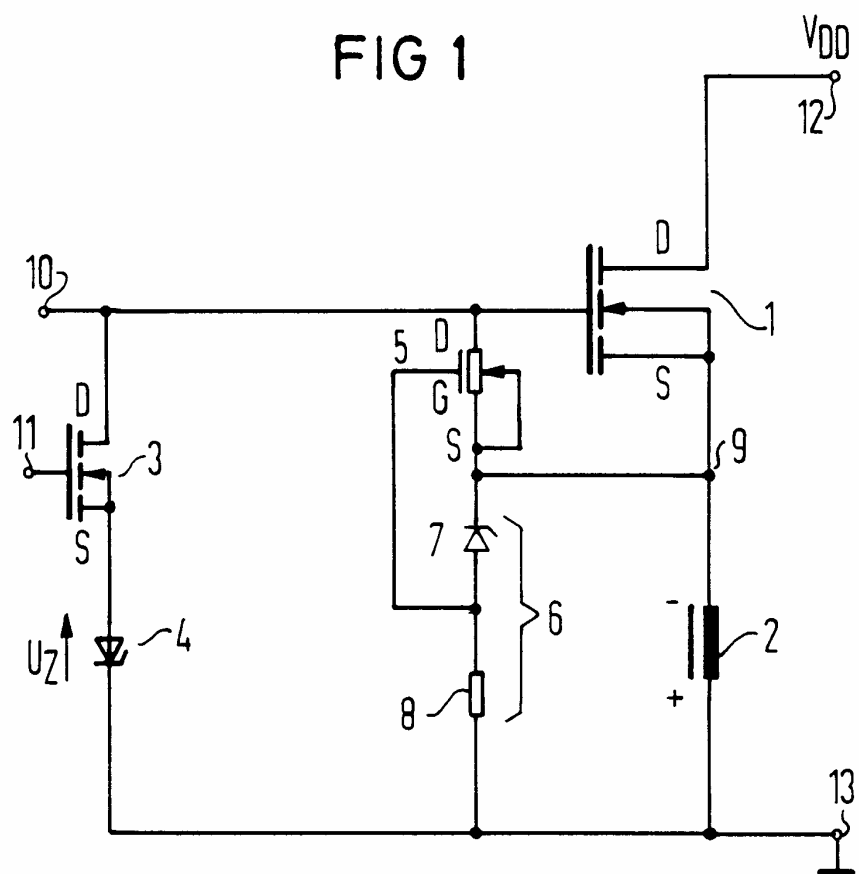
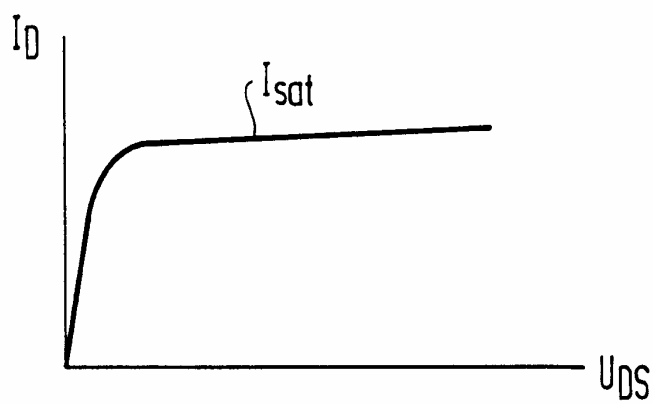


FIG 2



3. Mechanics example

Art. 78, 83; R. 27
Description of
invention

[Trailable switch machine]

Title of invention
(designation in
Request for Grant
suffices)

The present invention relates to a trailable switch machine with a thrust rod which shifts the switch-point tongues, and also with a coupling device which is disposed between a driving unit
5 and the thrust rod and has a retaining roller which, in the coupled condition, engages in a spring-loaded manner in a recess in the thrust rod.

R. 27(1)(a)
Technical field to
which invention
relates

10 Arrangements of the above type are known for example from DE-B2 xx xx xxx, DE-B1 xx xx xxx or DE-B2 xx xx xxx and allow trailing of the switch as required for many switch machine applications, even with generally required locking of the
15 switch drive in the end positions of the switch-point tongues. For that reason the coupling device is slidably mounted on the thrust rod and contains a retaining roller which is pressed by a retaining spring into a trough-shaped depression
20 in the thrust rod. Thus spring force and the shaping of the depression and the retaining roller defines a threshold force beyond which the otherwise practically rigid connection of the thrust rod to the coupling device and hence
25 to the drive unit is released. This form of automatic coupling functions very reliably, and its only significant disadvantage is the relatively large amount of space it takes up, which limits its usability for various

R. 27(1)(b)
Relevant prior art
with citations

applications and has unwanted consequences in terms of restricting flexibility in the disposition of other components of the switch machine.

5 The object of the present invention is to improve a switch machine of the above type such that the said disadvantages of the known arrangements are avoided and that in particular the coupling device can be disposed in a simple and space-
10 saving fashion between the drive unit and the thrust rod, with reliable operation also guaranteed.

R. 27(1)(c)
Technical problem
to be solved

The invention achieves this object for a switch
15 machine of the above type by providing two counter-rollers which are disposed substantially symmetrically with respect to the direction of movement of the retaining roller and are mounted so as to be displaceable essentially perpendicu-
20 larly to the direction of movement of the said retaining roller and which are loaded by at least one retaining spring in the direction of abutment against the retaining roller. In that way it is possible in a very simple fashion to circumvent
25 the previously existing need to dispose the retaining spring loading the retaining roller in the direction of movement of the retaining roller, ie normally standing out perpendicularly from the thrust rod. There is great flexibility
30 as regards the disposition of this retaining spring, as it now acts on the retaining roller only indirectly via the counter-rollers, allowing for a very compact design for the coupling device while keeping essentially the same function.

R. 27(1)(c)
Disclosure of
invention

In further embodiments of the invention, the retaining spring - as hitherto in most cases - is constructed as a helical compression spring, but it may now be disposed essentially parallel
5 to the thrust rod, which is optimal with regard to the above-mentioned space-saving design.

According to an especially preferred further development of the invention, the retaining
10 roller is mounted, at least on one side, in a sliding block which is guided, perpendicularly to the thrust rod, in a housing belonging to the coupling device, and the two counter-rollers are disposed on counter-roller housings which are
15 displaceable, parallel with the thrust rod, in the housing of the coupling device and are loaded against one another via the retaining spring. This produces a very simple and reliably functioning construction, as the spring force
20 acting on the counter-rollers is directly transmitted to the loading of the retaining roller.

Although two or even more retaining springs may of course also be provided if necessary to load
25 the counter-rollers relative to the retaining roller, a further embodiment of the invention that has proved particularly advantageous is one in which a single retaining spring acts, on the one hand, directly on one of the counter-roller
30 housings and, on the other hand, on the other counter-roller housing via a tensioning piece with an adjusting screw and via transmission bars. Although the design is very simple, it also provides for adjustability of the desired

threshold force for releasing the rigid coupling between the thrust rod and the drive unit.

The invention will now be elucidated by reference to the embodiment partially illustrated schematically in the drawings. Fig. 1 shows a partial cross-section through a switch machine according to the invention in the area of the coupling device between the drive unit (not shown) and the thrust rod, while Fig. 2 shows a partial plan view of the arrangement according to Fig. 1 from above.

R. 27(1)(d) and (e)
Description of at least one way of carrying out invention with reference to drawing(s)

A thrust rod 1 which, when required, displaces the switch-point tongues (not shown) is movable in the direction of double-headed arrow 2, the actual drive unit (not shown) acting on the thrust rod 1 via a coupling device 3. In the left-hand end position of the thrust rod 1 shown in Fig. 1, a left-hand locking bar 5 held by spring force against the housing 4 of the coupling device 3 is engaged in a catch 6 on the housing base 7, thereby fixing the associated end position of the switch-point tongues actuated by the thrust rod 1. Numeral 8 is a right-hand locking bar which in turn is held by spring force against the housing 4 and in the right-hand end position of the thrust rod 1 engages in an equivalent catch (not shown) on the housing base 7.

Of no further interest here are the mechanisms which, when drive unit actuation begins, result first in release of the locking bar 5 or 8 and only then in a corresponding displacement of the coupling device 3 or the thrust rod 1.

To enable trailing of the switch actuated by the thrust rod 1 even in the end positions locked by the appropriate locking bars 5 and 8 without damaging the switch machine, the coupling
5 device 3 has a retaining roller 10 which, in the illustrated coupled condition, engages in a spring-loaded manner in a recess 9 in the thrust rod 1 and here is mounted on either side in a sliding block 11 which is guided, perpendicularly
10 to the thrust rod 1, in the housing 4 of the coupling device 3. Also, two counter-rollers 12, 12' are provided which are disposed substantially symmetrically with respect to the direction of movement of the retaining roller 10 imparted by
15 the sliding blocks and are mounted so as to be displaceable essentially perpendicularly to the direction of movement of the retaining roller 10 and which are loaded by a retaining spring 13 in the direction of abutment against the retaining
20 roller 10.

The retaining spring 13 is here constructed as a helical compression spring and is disposed essentially parallel with the thrust rod 1,
25 producing a very compact construction while ensuring reliable operation of the coupling device 3.

The two counter-rollers 12, 12' are disposed
30 on counter-roller housings 14, 15 which are displaceable, parallel with the thrust rod, in the housing 4 of the coupling device 3 and are loaded against one another via the retaining spring 13. For this purpose the single retaining spring 13
35 here acts at one end directly on the counter-

roller housing 14 and at the other end on the other counter-roller housing 15 via a tensioning piece 16 with an adjusting screw 17 and via transmission bars 18 - here essentially formed by the two threaded rods 19 and the caps 20 - which enables the effect of the spring force to be diverted in a very simple manner to the loading of the retaining roller 10.

When the switch is trailed, the thrust rod 1 (with the coupling device and retaining roller 10 locked by locking bar 5 or 8) with its recess 9 moves out of the engagement area of the retaining roller 10, pushing the retaining roller 10 back against the effect of the spring-loaded counter-rollers 12, 12', which in turn are pushed apart along with the counter-roller housings 14, 15. The thrust rod 1 is thus freely displaceable relative to the coupling device 3 and the drive unit until coupling takes place again when the position of the retaining roller 10 aligns with the recess 9.

Instead of the illustrated single retaining spring 13 constructed as a helical spring, it would of course also be possible to use two or more springs, also constructed for example as disk springs or similar, possibly also disposed on both sides of the retaining roller 10; another possibility would be an arrangement, differing in terms of angle from that illustrated, of the degrees of movement of the retaining roller 10 and/or of the counter-rollers 12, 12', enabling allowance to be made where necessary for specific local conditions.

Claims

Art. 84; R. 29

1. Trailable switch machine with a thrust rod which shifts the switch-point tongues, and also with a coupling device which is disposed between a driving unit and the thrust rod and has a retaining roller which, in the coupled condition, engages in a spring-loaded manner in a recess in the thrust rod,
- 5
- characterised in that** two counter-rollers (12, 12') are provided which are disposed substantially symmetrically with respect to the direction of movement of the retaining roller (10) and are mounted so as to be displaceable essentially perpendicularly to the direction of movement of the said retaining roller (10) and which are loaded by at least one retaining spring (13) in the direction of abutment against the retaining roller (10).
- 10
- 15
2. Switch machine according to claim 1,
- 20
- characterised in that** the retaining spring (13) is constructed as a helical compression spring and is disposed essentially parallel with the thrust rod (1).
- 25
3. Switch machine according to claim 1 or 2,
- characterised in that** the retaining roller (10) is mounted, on at least one side, in a sliding block (11) which is guided, perpendicularly to the thrust rod (1), in a housing (4) belonging to the coupling device (3), and that the two counter-rollers (12, 12') are disposed on counter-roller housings (14, 15) which are displaceable, parallel with the thrust rod (1),
- 30

R. 29(1)(a)
Prior art portion of
independent claim
wherever
appropriate

R. 29(1)(b)
Characterising
portion

R. 29(3), (4)
Dependent claim

in the housing (4) of the coupling device (3)
and are loaded against one another via the
retaining spring (13).

- 5 4. Switch machine according to claim 3,
characterised in that a single retaining spring
 (13) acts, on the one hand, directly on one of
 the counter-roller housings (14) and, on the
 other hand, on the other counter-roller housing
10 (15) via a tensioning piece (16) with an
 adjusting screw (17) and via transmission bars
 (18).

Abstract*

Art. 85

Trailable switch machine

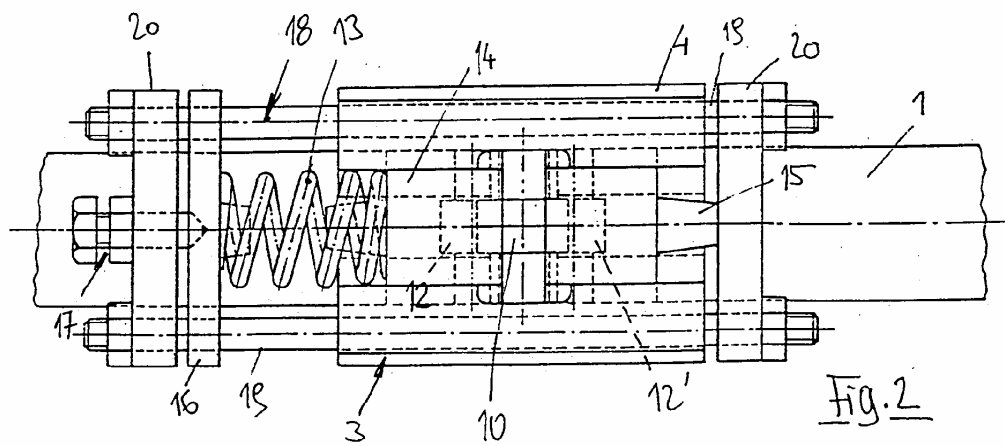
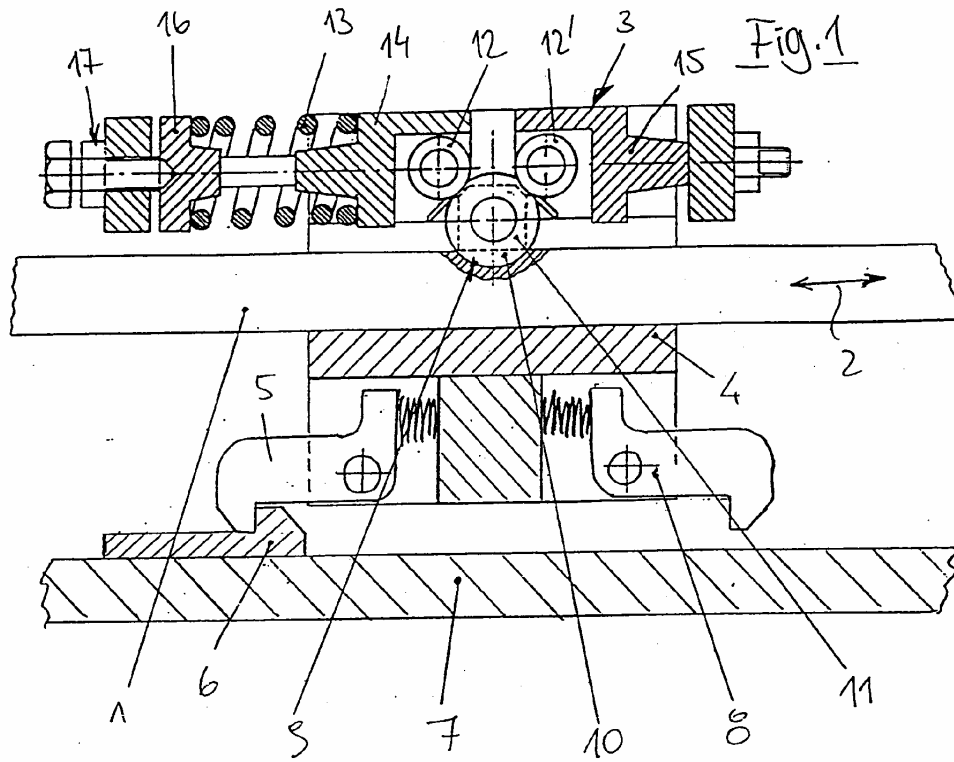
R. 33(1)
Title of invention

In a trailable switch machine a coupling device (3) is arranged between a drive unit and the thrust rod (1) and has a retaining roller (10) which is spring-loaded in the coupled-end state and engages in a depression (9) of the thrust rod (1). In order to be able to realise such a coupling device even when the space available is very restricted, two counter-rollers (12, 12') are provided which are arranged essentially symmetrically with respect to the direction of movement of the retaining roller (10) and are mounted so as to be capable of moving essentially perpendicularly with respect to the direction of movement of the retaining roller (10) and are loaded by at least one retaining spring (13) in the direction of abutment against the retaining roller (10).

R. 33(2), (3), (5)
Content of abstract

R. 33(4)

* In this example the applicant will suggest in the Request for Grant (see Supplement, Section 39) that Fig. 1 should accompany the published abstract (see point 99)



ANNEX IV

Authorities with which European patent applications may be filed

I. European Patent Office

a) Munich headquarters

European Patent Office
Erhardtstrasse 27
D-80331 Munich
Germany
Tel. (+49-89) 2399-0
Fax (+49-89) 2399-4465

✉ *Postal address:*
European Patent Office
D-80298 Munich
Germany

b) Branch at The Hague

European Patent Office
Branch at The Hague
Patentlaan 2
NL-2280 HV Rijswijk
Netherlands
Tel. (+31-70) 340-2040
Fax (+31-70) 340-3016

✉ *Postal address:*
European Patent Office
P.O.Box 5818
NL-2280 HV Rijswijk
Netherlands

c) Berlin sub-office

European Patent Office
Gitschiner Strasse 103
D-10969 Berlin
Germany
Tel. (+49-30) 25901-0
Fax (+49-30) 25901-840

✉ *Postal address:*
European Patent Office
D-10958 Berlin
Germany

II. National authorities

You are referred to Table II in "**National law relating to the EPC**" (see point 4 above) for a summary of the contracting states' chief national provisions governing compulsory and optional filing of patent applications with central industrial property offices and other competent authorities. There you will also find the addresses of the central industrial property offices.

We remind you that European divisional applications must always be filed with the EPO (see point 199 et seq.).

ANNEX V

Requirements of contracting states regarding translations of European patent specifications

I. Article 65 EPC

Under Article 65(1) EPC, any contracting state may prescribe that if the text in which the European Patent Office intends to grant a European patent or maintain a European patent as amended for that state is not drawn up in one of its official languages, the applicant for or proprietor of the patent must supply its central industrial property office with a translation of this text in one of its official languages at his option or, where that state has prescribed the use of one specific official language, in that language.

II. Requirements of the contracting states

The legal position in the contracting states is indicated in **"National law relating to the EPC"**, Table IV (see point 4 above).

Please note that all those states which require a translation of the European patent specification have prescribed that, in the event of failure to observe the relevant national provisions, the European patent will be deemed to be void *ab initio*.

ANNEX VI

Time limits

Charts showing time limits to be met by applicants

The EPC provides for three types of time limit:

1. time limits computed from the actual or deemed date of filing or the date of priority
2. time limits of a duration laid down in the EPC which are computed from an event other than the date of filing or priority
3. time limits laid down by the EPO in the course of the grant procedure.

The EPO reminds applicants of all time limits of types 2 and 3 above, apart from those for further processing (see point 216) and re-establishment of rights (see points 217-219).

The charts below are particularly designed to help applicants keep track of **time limits of type 1**.

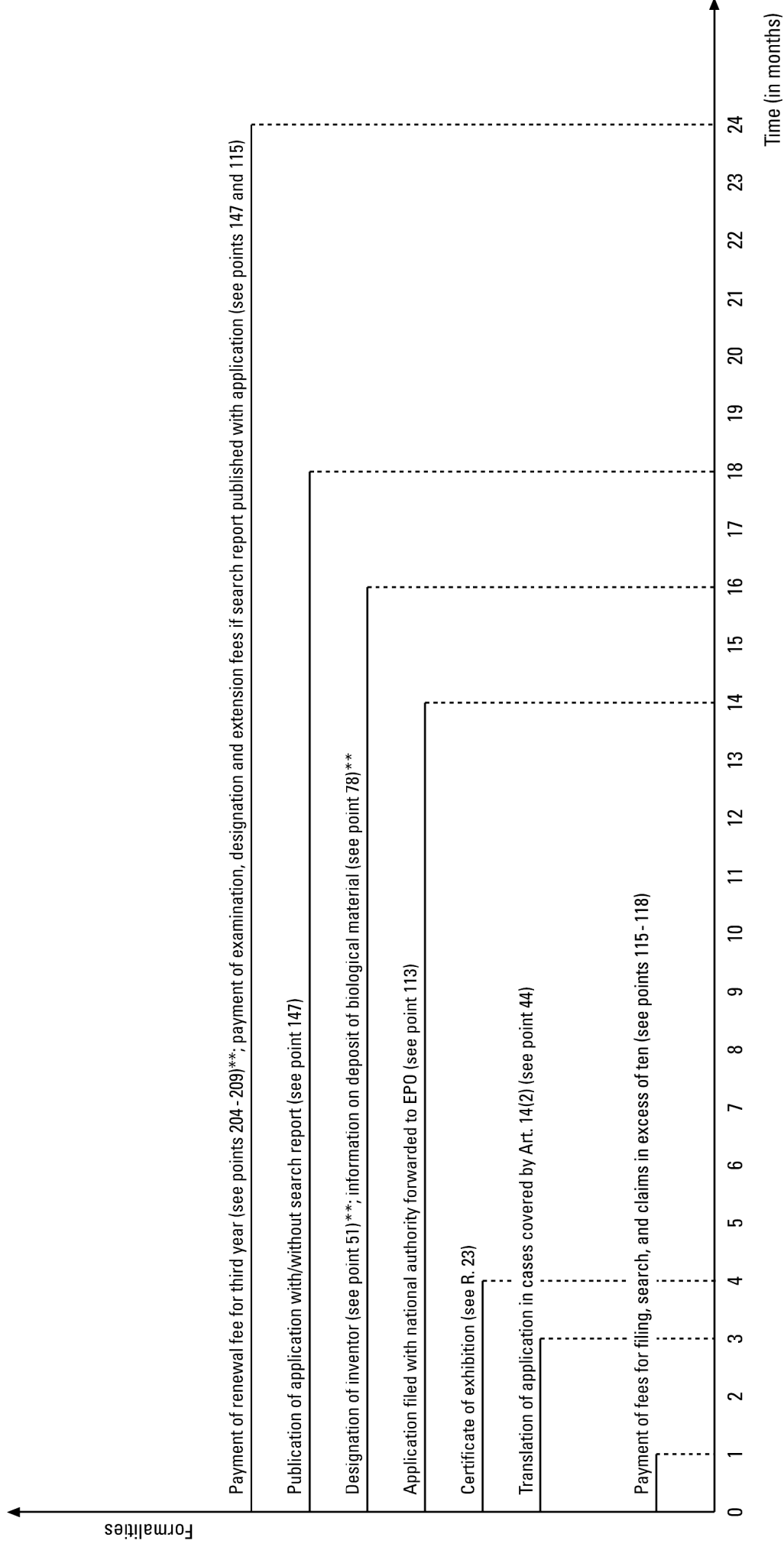
Chart A concerns the case of a European patent application which is a first filing.

Chart B concerns a European patent application which claims the priority of an earlier application and is assumed to have been filed ten months after the earlier application.

The charts do not take into account the special time limits which apply to a European divisional application and a new European patent application filed in accordance with Article 61(1)(b) (see Rules 6(1), 15(2), 25(2), 37(3) and (4) and 42(2)).

Chart A

Important time limits laid down in the EPC
where **no** priority is claimed in the European patent application*



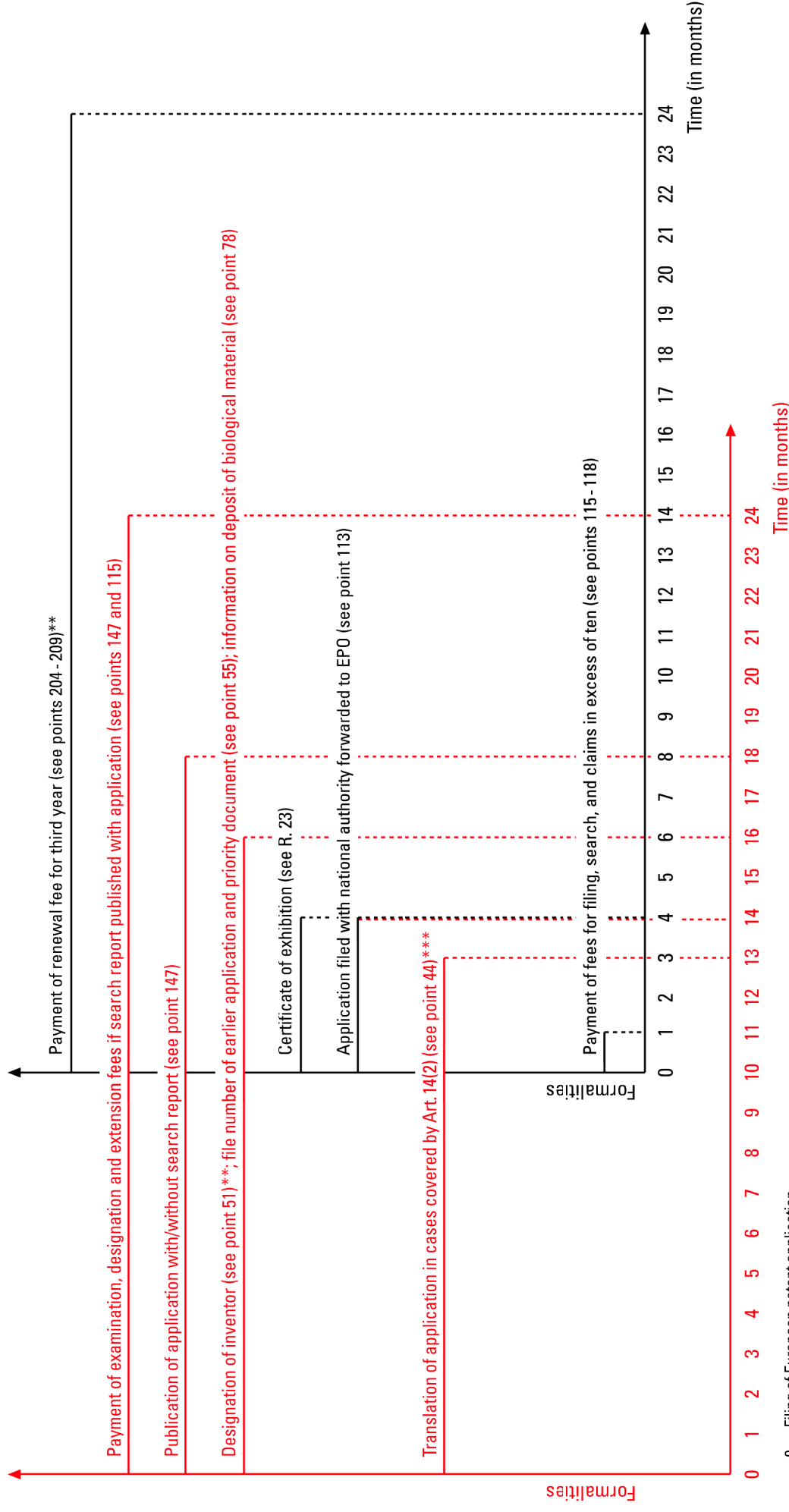
0 Filing of European patent application

* But see R. 83 and 37(1)

** Time limit computed from date of filing, possibly later than date on which application was actually filed (see Art. 80, R. 39 and 43)

Chart B

Important time limits laid down in the EPC
where **priority** is claimed in the European patent application*



0 Filing of European patent application

0 Filing of earlier application

* But see R. 83 and 37(1)

** Time limit computed from date of filing, possibly later than date on which application was actually filed (see Art. 80, R. 39 and 43)

*** Translation must be filed within three months of filing of application but no later than thirteen months after earliest priority date

ANNEX VII

Fees

I. Fees provided for in the EPC

The guidance concerning fees published periodically in the Official Journal enables you to find out at any time which rules relating to fees are currently applicable and whether any information given in this Guide has changed since it was published. The latest guidance is given in OJ 2/2004, 109.

The schedule of fees and costs of the EPO effective as from 1 April 2004 appears in the Supplement to OJ 2/2004.

II. Form for the payment of fees and costs

The form for the payment of fees and costs is one of the Supplements to this Guide.

III. Further information on fees

Further information on fees, such as the schedule of fees, costs and prices of the EPO and the list of bank and giro accounts of the European Patent Organisation, is published on the Internet at <http://www.european-patent-office.org/epo/fees1.htm>.

ANNEX VIII

Patent information services

I. File inspection and communication of information from files

The files relating to published European patent applications and patents are available for online inspection. Access to online file inspection is provided in the *epoline*[®] area of the EPO website (www.european-patent-office.org).

Art. 128 (4)
R. 94
Guid. A-XII
OJ 2000, 474;
OJ 2003, 370, 373

On request, copies of the files can be made available for inspection. This is subject to payment of a fee.

II. European Patent Register and European Patent Bulletin

The EPO offers Internet access to the Online European Patent Register. Users of the European patent system can go to <http://www.european-patent-office.org/register> to look up procedural data on European patents and patent applications.

Art. 127
R. 92
OJ 2001, 249;
OJ 2003, 23, 69

The Online Register provides bibliographic data together with procedural data from the date of publication to the grant of the patent, plus any data concerning opposition and appeal proceedings. Internet access to the Online Register is free of charge.

The data in the European Patent Register is published weekly in the European Patent Bulletin, where the bibliographic data relating to published European patent applications and granted European patents is arranged according to a number of reference criteria including

Art. 129(a)

- the International Patent Classification
- European publication numbers
- names of applicants/proprietors

III. Patent documents

The EPO also publishes:

Art. 93
OJ 1990, 81
Art. 98, 103

- European patent applications (A documents) on CD-ROM and paper
- European patent specifications (B documents) on CD-ROM and paper

Information on other EPO CD-ROM products can be downloaded from the EPO website under <http://www.european-patent-office.org/patinfo/cdrom/index.shtml>.

IV. Official Journal, Guidelines and board of appeal decisions

The EPO's other standard publications include

Art. 129(b)
Art. 10(2)(a)

- the Official Journal (OJ), containing in particular the legislative acts of the Organisation's Administrative Council, the decisions and notices of the President of the EPO, legal advice from the EPO and selected decisions of the boards of appeal, and
- the Guidelines for Examination in the European Patent Office.

V. Terms and conditions

The EPO's sub-office in Vienna is responsible for all services (document dispatch, online access, etc.).

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A-1031 Vienna
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Published and edited by

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(EPO)
Information Office
✉ D-80298 München

EPO
Branch at The Hague
Information Office
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Postbus 5818
✉ NL-2280 HV Rijswijk

EPO
Berlin sub-office
Information Office
✉ D-10958 Berlin

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Rennweg 12
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