

## Grant stage of European Patents

### Grant formalities

The responsibility for examining European patent applications rests with an Examining Division, which is typically composed of three Examiners. Thus, although the initial stages of examination are carried out by the primary Examiner, a decision whether to grant an application must be taken jointly by the three members of the Examining Division. Once the Examining Division is satisfied that an application complies with all the requirements of the European Patent Convention (EPC), the applicant is notified of the intention of the European Patent Office (EPO) to grant a patent.

The notification includes the version of the patent specification that the EPO intends to grant, which may include amendments and/or corrections proposed by the examiner. Issue of the notification triggers a period for response of four months.

Provided that the Applicant is happy with the patent specification, he can approve the patent specification and complete the grant formalises. Alternatively, the Applicant may request amendments and/or corrections to the patent specification.

If changes are requested and accepted by the EPO, then a further notification of the EPO's intention to grant a patent will issue. To speed up the process, the Applicant may complete the grant formalities at the time of requesting the changes and waive his right to receive a further notification.

However, if the requested changes are significant, then substantive examination may resume.

When approving the patent specification, the Applicant must complete the grant formalities, which include payment of the grant and printing fees, as well as filing a translation of the finally approved claims in French and German.

At Dehns, we carefully review the version of the patent specification that the EPO intends to grant to check for any changes that the EPO may have introduced and we explain the relevant options and deadlines to our clients before handling the grant formalities. Completing these formalities results in grant, which is published in the Official Journal of the EPO.

## National validation

At present, the procedure before the EPO does not yield a single European patent. Rather, grant gives rise to a bundle of national patents which need to be validated to take effect in the European states designated in the patent. Therefore, once the grant formalities have been completed, further steps have to be taken to validate the European patent in the designated states of interest.

The deadline by which national validation must be completed in each country varies, but in many countries it is three months from the date of grant. In many countries, national validation requires the filing of a translation of the claims or the entire patent specification into the local language. This can be expensive, although arrangements such as the London agreement have been made to try to reduce these costs (see our information sheet on Translation costs for granted European Patents).

It is important to appreciate that it is not necessary to validate the patent in all of the countries designated. At Dehns, we would enquire as to the countries in which our client wished to proceed and provide estimates, if required, of the likely cost before handling the national validation formalities in the desired countries.

Once the national validation formalities are concluded, the European patent effectively becomes a national patent in each of the chosen designated states. Separate annual renewal fees must be paid in each country.

## Further advice

If you would like any further advice please contact us at Dehns using the details below.



### Contact Dehns

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