

## Grant Stage of European Patents

Once the European Patent Office (EPO) Examiner and his co-examiners are content that an application satisfies all the requirements of the European Patent Convention (EPC), the applicant is notified of the intention of the EPO to grant a patent and a series of events are triggered off.

The notification will invite the applicant within four months a) to approve the specification and claims (or suggest any further minor amendment of them); b) to pay the official Grant and Printing Fees; and c) to file a translation of the finally approved claims in French and German.

We would inform our client of this and set out all the options and deadlines now faced. This is only the start of the formalities that now have to be completed before the European patent will be effective or valid in all the designated countries in which the patentee wishes to have protection. These are known as the European national phase formalities. The deadline by which these have to be completed in each country varies but many countries require everything to be completed within three months from the date of Grant. It is not necessary to validate the patent in all countries; we would enquire as to the countries in which our client wished to proceed and provide estimates, if required, of the likely cost.

Assuming that a client wished his patent to proceed to grant, and was happy with the text as proposed to be granted, we would first attend to all the EPO formalities on his behalf. We would obtain the claim translations from patent attorneys in France and Germany.

Once these formalities had been attended to, the EPO would issue its "Decision to Grant", which would give details of the effective date of grant, this being the actual date that grant would be published in the European Patent Bulletin.

Shortly after this, the European Certificate of Grant would be issued and sent to the client.

In terms of the individual national validation formalities, there are still many EPC countries - at least sixteen - that require a translation of the complete European Patent to be filed at their Patent Office before the patent will be effective in that country. At least nine further countries require a translation in their own language of the claims. A majority of countries require a local patent attorney to be appointed for whom a local Power of Attorney to act on the patentees' behalf may be required. Validating a European Patent in all thirty-four EPC Contracting States - assuming all were originally designated - can therefore be a very expensive procedure and for this reason a great many patentees are quite selective in their choice of countries. Once these formalities are concluded, the European patent effectively becomes a national patent in each of the chosen designated states, and requires separate annual renewal fees to be paid in each country.

If the specification of the patent is lengthy, translation where necessary often needs to be started early to assure compliance with local deadlines and so a patentee cannot delay too long in his choice of countries for validation. We would usually instruct the patent attorney appointed locally to obtain the required translation for his country, save for when two or more countries share a common official language, thus enabling some saving in cost.

### Further advice

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



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