

Maintaining a Patent Once Granted

What happens once a patent application has completed examination?

When a patent application has completed examination and is to be granted, notification is provided to our client. There may well be local Publication or Grant fees to have to pay and we will arrange for these and any other local formalities to be dealt with once the client has indicated his wish to proceed.

What happens once a patent is granted?

Once granted, a patent can either be used by its owner and/or act as a deterrent to others, or it can be licensed to third parties under terms to be agreed, or all of these. However, in order to remain as an enforceable right, practically all jurisdictions require fees to be paid locally in order to keep the patent in force. The very great majority of countries require these renewal fees to be paid annually on the anniversary of the filing date, often on a scale which increases annually, up to the maximum patent life, usually of 20 years. This is to encourage patentees to keep in force only those patents which are considered to be of commercial value to them. Because the cost of annual renewal fees for patentees with substantial portfolios can mount up alarmingly, it is always recommended that a patentee has an active policy of patent review.

What happens if the renewal fee is not paid on time?

If a renewal fee is not paid by the deadline, (and some leeway is usually given for late payment within a few months with a surcharge), the patent ultimately lapses and its contents (subject to any other rights that may exist) fall into the public domain. Once a patent has lapsed, it is usually quite difficult to restore it unless action is taken quickly and it can be shown that the lapse was both unintentional and occurred as a result of circumstances beyond the patentee's control. The law often varies from country to country in this respect and so specific advice should be sought if this situation arises.

How Dehns helps to maintain its clients' patents

It can be seen therefore that the expense of patenting does not cease once a patent in a particular country is granted! In order to assist patentees, we operate our own sophisticated records and renewals system in-house, by which we remind our clients in good time of renewal fee deadlines on any granted patents for which we have been asked to be responsible in any jurisdiction. An estimate of the cost of renewing a particular patent will always be provided. Once instructions to pay a renewal fee have been received, we will then either pay the fee ourselves where we are able to do so, or instruct trusted local agents to do so on your behalf.

Further advice

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



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