

Date

Reference	Application No./Patent No.
Applicant/Proprietor	

Decision to refuse a European patent application pursuant to Article 90(5) EPC and Rule 30(3) EPC, Rule 163(3) EPC

The above-mentioned European patent application is refused for the following reason:

- The deficiency (deficiencies) relating to the sequence listing noted by the communication pursuant to Rule 30(3) EPC/Rule 163(3) EPC (EPO Form 1128) was (were) not corrected in due time or not properly remedied

Reasons:

- The prescribed late furnishing fee was not paid/was not paid in due time.

Means of redress

Appeal

This decision is open to appeal. Attention is drawn to the attached text of Articles 106 to 108 EPC and Rules 97 and 98 EPC.

Further processing (Art. 121 EPC)

The legal consequence of the failure to observe the time limit shall be deemed not to have ensued if, within a (non-extendable) period of **two months** after notification of this communication, further processing is requested by payment of the fee prescribed under Article 2(1)12 of the Rules relating to Fees and the omitted act(s) is (are) completed (R. 135(1) EPC).

If the applicant has failed to remedy both the deficiency (deficiencies) pursuant to Rule 30(3) EPC/Rule 163(3) EPC (EPO Form 1128) and to pay the late furnishing fee in due time, further processing must be requested by paying both the flat-rate amount of the fee (Art. 2(1)12, third indent, RFees) and 50% of the unpaid fee (Art. 2(1)12, first indent, RFees).

Important note to users of the automatic debiting procedure

The fee(s) for further processing will be debited automatically on the day on which the above-mentioned omitted act(s) is (are) completed (see Arrangements for the automatic debiting procedure, Supplementary publication 5 - OJ EPO 2017).

Receiving Section

Annex: Text of Articles 106 - 108 and Rules 97 - 98 EPC (EPO Form 2019)

Article 106
Decisions subject to appeal

- (1) An appeal shall lie from decisions of the Receiving Section, Examining Divisions, Opposition Divisions and the Legal Division. It shall have suspensive effect.
- (2) 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 a separate appeal.
- (3) The right to file an appeal against decisions relating to the apportionment or fixing of costs in opposition proceedings may be restricted in the Implementing Regulations.

Rule 97
Appeal against apportionment and fixing of costs

- (1) The apportionment of costs of opposition proceedings cannot be the sole subject of an appeal.
- (2) A decision fixing the amount of costs of opposition proceedings cannot be appealed unless the amount exceeds that of the fee for appeal.

Rule 98
Surrender or lapse of the patent

The decision of an Opposition Division may be appealed even if the European patent has been surrendered in all the designated Contracting States or has lapsed in all those States.

Article 107
Persons entitled to appeal and to be parties to appeal proceedings

Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.

Article 108
Time limit and form

Notice of appeal shall be filed in accordance with the Implementing Regulations, at the European Patent Office within **two months** of notification of the decision. Notice of appeal shall not be deemed to have been filed until the fee for appeal has been paid. Within **four months** of notification of the decision, a statement setting out the grounds of appeal shall be filed in accordance with the Implementing Regulations.

Further information concerning the filing of an appeal

- (a) Notice of appeal can be filed in accordance with Rule 1 and Rule 2(1) EPC, by delivery by hand, by post, or by technical means of communication. The filing has to comply with the details and conditions and, where appropriate, any special formal or technical requirements laid down by the President of the European Patent Office (R. 99(3) EPC).
- (b) The addresses of the filing offices of the European Patent Office are as follows:

(i) European Patent Office D-80298 Munich Germany Fax : +49 89 2399-4465	(ii) European Patent Office Postbus 5818 NL-2280 HV Rijswijk (ZH) The Netherlands Fax : +31 70 340-3016	(iii) European Patent Office D-10958 Berlin Germany Fax : +49 30 259 01-840
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- (c) The notice of appeal must contain the name and address of the appellant in accordance with the provisions of Rule 41(2)(c) EPC, an indication of the decision impugned, and a request defining the subject of the appeal. In the statement of grounds of appeal the appellant shall indicate the reasons for setting aside the decision impugned, or the extent to which it is to be amended, and the facts and evidence on which the appeal is based (R. 99(1) and (2) EPC). The notice of appeal and any subsequent submissions stating the grounds for appeal must be signed (R. 50(3) EPC).
- (d) The fee for appeal is laid down in the Rules relating to Fees. The schedule of fees and expenses of the EPO or a reference to the current version is regularly published in the Official Journal of the European Patent Office under the heading "Guidance for the payment of fees, expenses and prices". Fee information is also published on the EPO website under www.epo.org/fees.