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Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

Luxembourg, 26 November 1969
BR/GT I/29/69

- Secretariat -

WORKING PARTY I

WORKING DOCUMENT

PRELIMINARY DRAFT
CONVENTION FOR A
EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles 114 to 152, 113a, c, d and e

(Text drawn up by the Drafting Committee)

CHAPTER IV

CONVERSION OF A EUROPEAN PATENT APPLICATION INTO A NATIONAL APPLICATION

Articles 114 to 118

Note :

The Working Party has postponed the examination of this Chapter until after the provisions in respect of the procedure for the granting of the European patent have been settled.

CHAPTER I

RENEWAL OF EUROPEAN PATENT APPLICATIONS

Article 119

Renewal fees for European patent applications

(1) The renewal fees to be paid to the European Patent Office in respect of European patent applications shall be those prescribed by the Rules relating to fees adopted pursuant to this Convention. These fees shall be due in respect of the third year and each subsequent year, calculated from the date of filing of the application.

(1a) The obligation under paragraph 1 shall terminate at the end of the year, calculated from the anniversary of the date of filing of the application, in which the grant of the European patent has become final.

(2) Applications for European patents of addition shall not be subject to the payment of renewal fees. In respect of applications for European patents of addition converted into independent patent applications or deemed to be independent patent applications in accordance with Article 88, paragraph 3a, the renewal fees shall be payable retrospectively and for the future in the same manner as for originally independent patent applications.

Article 120

Payment of renewal fees

(1) Renewal fees shall be due on the last day of the month containing the anniversary of the date of filing of the European patent application.

(2) When a renewal fee has not been paid before the term indicated in paragraph 1, the fee may be validly paid within six months of the aforesaid term, provided that the additional fee prescribed by the Rules relating to fees adopted pursuant to this Convention is paid at the same time.

(3) If a renewal fee has not been paid by the end of the time limit referred to in paragraph 2, the European patent application shall be deemed to be withdrawn.

Article 121

Proof of payment

The competent bodies of the European Patent Office shall alone be competent to decide whether the fees provided for in Articles 119 and 120, paragraph 2, have been paid in due time, and to decide on appeals against such decisions.

Article 122

Extension of time for the payment of renewal fees

- deleted -

Article 123

Failure to effect payment within the extended period

- deleted -

Article 123a

Consequence of failure to effect payment

- deleted ; this Article has been incorporated as paragraph 3 of Article 120 -

CHAPTER II
RENEWAL OF EUROPEAN PATENTS

Article 123b

Renewal fees for European patents

The authorities competent under the national law of a Contracting State or by virtue of an agreement concluded pursuant to Article 8a may only impose renewal fees in respect of a European patent for the years which follow that referred to in Article 119, paragraph 1a.

Article 123c

Translation of specifications

(1) If the specification of a European patent has not been drawn up in one of the official languages of a Contracting State for which the European patent has been granted, that State may prescribe that the proprietor of the European patent must send to the national central industrial property office, within a period of not less than three months after the date of publication of the grant of the patent in the European Patent Bulletin,

- (a) a translation of the specification into an official language of that State, or
- (b) a fee for the preparation of an official translation of the specification into an official language of that State.

(2) Any Contracting State which has adopted provisions pursuant to paragraph 1 may further prescribe that the proprietor of the patent must pay all or part of the costs of publication of such translation within the period referred to in paragraph 1.

(3) Any Contracting State may prescribe that, in the event of failure to observe a provision adopted in accordance with paragraph 1 or 2, the European patent shall be deemed to have been void in that State ab initio.

PART VII

SURRENDER, LAPSE AND REVOCATION
OF THE EUROPEAN PATENT

CHAPTER I

SURRENDER AND LAPSE

Articles 124 to 126

- deleted -

CHAPTER II

REVOCATION

Articles 127 to 135

- deleted -

PART VIII
COMPULSORY LICENCES

Articles 136 to 152

- deleted -

CHAPTER III^{bis}
INTERNATIONAL APPLICATION PURSUANT TO
THE PATENT CO-OPERATION TREATY

Article 113a

Application of the Patent Co-operation Treaty

(1) The Patent Co-operation Treaty of ..., hereinafter referred to as "the Co-operation Treaty", shall be applied in accordance with the provisions of this Chapter.

(2) In proceedings before the European Patent Office in respect of international applications made under the Co-operation Treaty, the provisions of that Treaty shall be applied, supplemented by the provisions of this Convention.

(3) Where reference is made in this Convention to the Co-operation Treaty, such reference shall include the Regulations under the Patent Co-operation Treaty.

Article 113c

The European Patent Office as a receiving Office

(1) The European Patent Office may act as a receiving Office within the meaning of Article 2(iv) of the Co-operation Treaty if the applicant is a national of a Contracting State to this Convention, in respect of which the Co-operation Treaty has entered into force. The same shall apply if the applicant has his registered place of business or his residence in such State.

(2) The European Patent Office may also act as a receiving Office if the applicant is a national of a State which is not a Contracting State to this Convention, but which is a Contracting State to the Co-operation Treaty and which has concluded an agreement with the Administrative Council whereby the European Patent Office acts as a receiving Office, in accordance with the provisions of the Co-operation Treaty, in place of the national Office of that State. The same shall apply if the applicant has his registered place of business or his residence in such State.

(3) Subject to the prior approval of the Administrative Council, the European Patent Office may also act as a receiving Office, if the applicant is a national of a State in respect of which the Assembly of the International Patent Co-operation Union has appointed the European Patent Office as a competent receiving Office. The same shall apply if the applicant has his registered place of business or his residence in such State.

Article 113d

Filing and transmittal of the international application

(1) If the applicant chooses the European Patent Office as a receiving Office for his international application, he shall file it directly with the European Patent Office. Article 66, paragraph 2, shall nevertheless apply mutatis mutandis.

(2) In the event of an international application being filed with the European Patent Office through the intermediary of the competent national central industrial property office, the Contracting State concerned shall take all necessary measures to ensure that the application is transmitted to the European Patent Office in time for the latter to be able to comply in due time with the conditions for transmittal under the Co-operation Treaty.

Article 113e

The European Patent Office as a designated Office

(1) The European Patent Office shall act as a designated Office within the meaning of Article 2(ii) of the Co-operation Treaty for those Contracting States to this Convention which are designated in the international application if the applicant informs the receiving Office or, where appropriate, the International Bureau mentioned in that Treaty, within twelve months of the priority date, that he wishes to obtain a European patent for these States.

(2) In so far as any group of Contracting States has made use of the authorisation under Article 8a, such group may prescribe that it may only be designated as a whole and that the designation of some only of the States in the group shall be taken as the designation of all of these States, if the applicant has indicated that he wishes to obtain a European patent for the designated States of the group.

(3) - deleted -

(4) The fee provided for in Article 68a, paragraph 2, shall not be payable for international applications.