

DECISION OF THE SELECT COMMITTEE
OF THE ADMINISTRATIVE COUNCIL
of 15 December 2015
adopting the Rules relating to Fees
for Unitary Patent Protection

THE SELECT COMMITTEE OF THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN
PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Part IX (Special
Agreements) thereof,

Having regard to Regulations (EU) No 1257/2012 and No 1260/2012,

Having regard to Rule 2(1)(b) relating to Unitary Patent Protection,

HAS DECIDED AS FOLLOWS:

Article 1

The Rules relating to Fees for Unitary Patent Protection as set forth below are adopted.

Article 2

These Rules shall enter into force on the date of application of Regulations (EU)
No 1257/2012 and No 1260/2012 in accordance with Article 18, paragraph 2, of
Regulation (EU) No 1257/2012 and Article 7, paragraph 2, of Regulation (EU)
No 1260/2012.

Done at Munich, 15 December 2015

For the Select Committee of the
Administrative Council
The Chairman



Jérôme DEBRULLE

Rules relating to Fees for Unitary Patent Protection (RFeesUPP)

Article 1 General

The fees due to be paid to the European Patent Office, the compensation for translation costs to be paid to proprietors of a European patent with unitary effect by the European Patent Office, as provided for in the Rules relating to Unitary Patent Protection, and the fees and expenses which the President of the European Patent Office lays down pursuant to Article 5 shall be levied or paid in accordance with the provisions contained in Articles 2 to 6.

Article 1 – General

1. The Rules relating to Fees for Unitary Patent Protection (hereinafter "RFeesUPP") provide for the payment of different fees to the EPO. They also provide for the payment, by the EPO, of compensation for translation costs to the proprietor of a European patent with unitary effect (see Rule 8(1) relating to Unitary Patent Protection, hereinafter "UPR").
2. The RFeesUPP moreover determine the ways in which said fees are to be paid and lay down the amounts of the fees to be paid to the EPO. They also lay down the amount of the compensation for translation costs to be paid by the EPO.
3. The RFeesUPP furthermore apply to the fees the amount of which is to be laid down by the President of the EPO pursuant to Article 5 RFeesUPP (for example, the administrative fees to be paid for the registering of transfers, licences and other rights under Rule 20(2)(b) UPR; see the explanatory remarks under Article 5 RFeesUPP for further details).

Article 2 Fees provided for in the Rules relating to Unitary Patent Protection

(1) The fees due to be paid to the European Patent Office shall be as follows:

1. Renewal fees for the European patent with unitary effect (Rule 13, paragraph 1, Rules relating to Unitary Patent Protection), calculated in each case from the date of filing of the application

	EUR
- for the 2 nd year	35
- for the 3 rd year	105
- for the 4 th year	145
- for the 5 th year	315
- for the 6 th year	475
- for the 7 th year	630
- for the 8 th year	815
- for the 9 th year	990
- for the 10 th year	1 175
- for the 11 th year	1 460
- for the 12 th year	1 775
- for the 13 th year	2 105
- for the 14 th year	2 455
- for the 15 th year	2 830
- for the 16 th year	3 240
- for the 17 th year	3 640
- for the 18 th year	4 055
- for the 19 th year	4 455
- for the 20 th year	4 855
2. Additional fee for belated payment of a renewal fee (Rule 13, paragraph 3, relating to Unitary Patent Protection)	50% of the belated renewal fee

(2) The fee for re-establishment of rights (Rule 22, paragraph 2, relating to Unitary Patent Protection) shall be payable in the amount laid down in Article 2, paragraph 1, item 13, of the Rules relating to Fees under the EPC, as amended.

Article 2 – Fees provided for in the Rules relating to Unitary Patent Protection

1. Article 2(1), item 1, RFeesUPP lays down the amount of the renewal fees to be paid for the European patent with unitary effect for the 2nd year until the 20th year respectively, calculated in each case from the date of filing of the European patent application.
2. Article 2(1), item 2, RFeesUPP lays down the amount of the additional fee for belated payment of a renewal fee in accordance with Rule 13(3) UPR. Where a renewal fee is reduced in accordance with Article 3 RFeesUPP, the 50% additional fee is to be calculated on the basis of the reduced renewal fee.
3. Article 2(2) RFeesUPP provides that the amount of the fee for re-establishment of rights (see Rule 22(2) UPR) shall correspond to the amount of the equivalent fee laid down in the EPC Rules relating to Fees (hereinafter "RFeesEPC"). This ensures full alignment with the fee for re-establishment of rights to be paid under the EPC. A biennial adjustment of the fees to be paid under the EPC would thereby also apply to the fee under Article 2(2) RFeesUPP.

Article 3 Reduction of renewal fees

The reduction of the renewal fees for the European patent with unitary effect laid down in Rule 12, paragraph 1, relating to Unitary Patent Protection shall be 15%.

Article 3 – Reduction of renewal fees

1. The proprietor of a European patent with unitary effect may file a statement with the EPO that he is prepared to allow any person to use the invention as a licensee in return for appropriate consideration (see Rule 12(1) UPR). In that case, the renewal fees for the European patent with unitary effect which fall due after receipt of the statement will be reduced by 15% in accordance with Article 3 RFeesUPP.

Article 4 Compensation for translation costs

- (1) The amount of the lump sum provided for in Rule 11 relating to Unitary Patent Protection shall be EUR 500.
- (2) The administrative fee provided for in Rule 10, paragraph 4, relating to Unitary Patent Protection shall be 50% of the lump sum referred to in paragraph 1.

Article 4 – Compensation for translation costs

1. Rule 11 UPR provides that reimbursement of translation costs shall be provided up to a ceiling and paid in the form of a lump sum, in accordance with the RFeesUPP. Article 4(1) RFeesUPP determines that the amount of the lump sum provided for in Rule 11 UPR shall be EUR 500.
2. Under Rule 10(4) UPR, if the European Patent Office finds that the compensation was granted on the basis of a false declaration, it shall invite the patent proprietor to pay, together with the next renewal fee falling due, an additional fee composed of the amount of the compensation paid and an administrative fee as laid down in the RFeesUPP. If this additional fee is not paid in due time, the European patent with unitary effect shall lapse. Article 4(2) RFeesUPP provides that the aforementioned administrative fee shall be 50% of the lump sum referred to in Article 4(1) RFeesUPP, in accordance with explanatory remark 4 to Rule 10 UPR.

**Article 5 Fees, expenses and prices laid down by the President of the
European Patent Office**

The administrative fees provided for in the Rules relating to Unitary Patent Protection and the fees and expenses charged for any services rendered by the European Patent Office other than those specified in the present Rules shall be payable in the amounts laid down by the President of the European Patent Office pursuant to Article 3 of the Rules relating to Fees under the EPC.

Article 5 – Fees, expenses and prices laid down by the President of the European Patent Office

1. Pursuant to Article 3(1) RFeesEPC, the President of the Office shall lay down the amount of the administrative fees provided for in the Implementing Regulations to the EPC and, where appropriate, the amount of the fees and expenses payable by the patent proprietor for any services rendered by the Office other than those specified in Article 2 RFeesEPC. The latest decision of the President of the EPO revising the Office's fees and expenses dates from 13 December 2013 (cf. OJ EPO 2014, A13).
2. Said decision of the President contains, for example, the amounts of the administrative fees for the registering of a transfer (Rule 22(2) EPC), for the registering of a licence and other rights (Rule 23(1) EPC) and for the communication of information contained in the files of a European patent application (see Rule 146 EPC). Since under the Rules relating to Unitary Patent Protection, the above cited provisions of the EPC Implementing Regulations apply *mutatis mutandis* (see Rule 20(2) UPR), the same amounts of fees as set out in the decision of the President of the EPO revising the Office's fees and expenses, as amended, will apply pursuant to Article 5 RFeesUPP.
3. Moreover, the decision of the President of the EPO revising the Office's fees and expenses lays down some fees for services rendered by the Office other than those specified in the present Rules, for example a fee for obtaining extracts from the European Patent Register, which includes the Register for unitary patent protection pursuant to Rule 15(1) UPR.
4. Article 5 RFeesUPP thus ensures full alignment with the EPO's already applicable schedule of fees as regards both administrative fees and fees or expenses for any services rendered by the EPO.

Article 6 Common provisions governing procedure

The following provisions of the Rules relating to Fees under the EPC, as amended, shall apply *mutatis mutandis*: Articles 4 to 8, Article 12 and Article 13.

Article 6 – Common provisions governing procedure

1. Article 6 RFeesUPP sets out that some of the provisions of the RFeesEPC, as amended, shall apply *mutatis mutandis*. The legislative technique chosen, i.e. a dynamic reference to the relevant provisions, allows automatic and full alignment with the current EPO procedures and related practice.
2. The following provisions of the RFeesEPC, as amended, shall apply *mutatis mutandis*: Article 4 ("Due date for fees"), Article 5 ("Payment of fees"), Article 6 ("Particulars concerning payments"), Article 7 ("Date to be considered as the date on which payment is made"), Article 8 ("Insufficiency of the amount paid"), Article 12 ("Refund of insignificant amounts") and Article 13 ("Termination of financial obligations").
3. The applicability of some of the provisions of the RFeesEPC will imply a delegation of powers to the President of the EPO for the implementation of said rules. For example, under Article 5(2) RFeesEPC, the President of the Office may allow other methods of paying fees than those set out in Article 5(1) RFeesEPC (see also Articles 7(2) and 12 RFeesEPC). This means in particular that for the purpose of paying any fee under the present rules, the Arrangements for deposit accounts, as amended, will apply (see the supplementary publication in OJ EPO 3/2015, Arrangements for deposit accounts (ADA) and their annexes, valid as from 1 April 2015).

Article 7 Review of renewal fee level and report on specific entities

No later than five years from the date of application of Regulation (EU) No 1257/2012, and every five years thereafter,

- (a) the European Patent Office shall submit a report to the Select Committee of the Administrative Council assessing the financial impact of the European patent with unitary effect on the budget of the European Patent Organisation and on the renewal fee income of the participating Member States and, where necessary, make an appropriate proposal for adjusting the level of renewal fees;
- (b) the European Patent Office shall, after consultation of the European Commission, submit a report to the Select Committee of the Administrative Council on the use of the European patent with unitary effect by specific entities, such as small and medium-sized enterprises, and, where necessary, make proposals with a view to improving their access to the European patent with unitary effect.

Article 7 – Review of renewal fee level and report on specific entities

1. Article 7(a) RFeesUPP provides for a report to be submitted periodically by the EPO which will assess the financial impact of the European patent with unitary effect, in particular on the budget of the European Patent Organisation and on the renewal fee income of the participating Member States. Where necessary, the EPO will also make appropriate proposals for adjusting the level of renewal fees as set forth in Article 2(1) item 1 RFeesUPP. This report is without prejudice to the reports provided for in Article 16(1) and (2) of Regulation (EU) No 1257/2012 respectively.
2. Article 7(b) RFeesUPP provides for a report separate from the one provided for in Article 7(a) RFeesUPP to be submitted by the EPO to the Select Committee on the use of the European patent with unitary effect by specific entities, such as small and medium-sized enterprises. This report will in particular contain an evaluation of the impact of the European patent with unitary effect on the aforementioned specific entities and may, if appropriate, contain recommendations or proposals with a view to improving their access to the European patent with unitary effect.