

Applying for a European Patent

November 2022

Purpose

A European patent application can, by means of a single granting procedure, impart a bundle of national protective rights within the Contracting States and Extension States covered by the European Patent Convention. The acquisition of such national rights only requires certain formalities and the provision of a translation. This means that the activity of foreign attorneys is confined to the latter, *i.e.* no national granting procedures are required. As a rule, such European patent application occurs as **subsequent application, claiming priority of a former national patent application**.

Contracting States of the EPC

Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Republic of North Macedonia, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom.

Extension States:

Bosnia and Herzegovina, Montenegro.

Costs and Time Line for Obtaining a European Patent

Years	Time Months	Information on actions and costs (official fees, net attorneys' fees)
		<i>All information indicated herein relates to a "normal" application, as are from 80 to 90 % of all applications. Attorney's fees incurred by applications and nationalizations are governed by the effort involved.</i>
		If there is a national prior application for a patent or utility model, the application for a European Patent should be filed not later than 11 months after filing the national application (12 months is the deadline!) claiming the priority of the national application. However, a European Patent can also be applied for directly, if desired, in which case the granting procedure takes less time. For the costs of drafting an application see the information notes entitled "Costs and Time Line for Obtaining a German Patent".
	0	A European Patent Application, claiming a national priority, is filed together with a Search Request (obligatory). The costs ^{*)} , not including the cost of adjusting the application , are at least 3.600 € (for an application with not more than 15 patent claims and not more than 35 pages. Additional claims till the 50 th cost 300 € each, from the 51 st 730,- € each, additional pages cost 16 € each). The costs ^{*)} of adjusting an application (claims and description) vary depending on the first office action of the national proceeding and are from 0 to about 2.000 €.
	4 to 18 (7 on average)	Receipt of the Search Report . This, too, is published (usually together with the specification). It will be forwarded to you with an opinion letter. The resultant costs depend on the work involved and are usually from about 300 to 1.500 €.
	6 to 18	after priority date the European specification is published and provides provisional protection
	10 to 24	Request for Examination and payment of the designation fee must be made not later than 6 months following publication of the European Search Report. Cost factor ^{*)} 3.980,- €. If modification of the application required, further cost up to about 2.000 €
	on average 29	Receipt of the first Examiner's Action. If necessary, this will be answered with a Response followed, possibly, by another Official Action or a Personal Hearing. Then fit-for-grant documents will be finally drafted. The resultant costs ^{*)} depend on the work involved and are from 0 to about 5,000 €.

^{*)} including net attorney's fees

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2/3		<p>Annuities are due from the end of the second year after filing the application until it is converted to national patents. Costs:</p> <table border="0"> <tr><td>for the 3rd year</td><td>705 €^{*)}</td></tr> <tr><td>for the 4th year</td><td>855 €^{*)}</td></tr> <tr><td>for the 5th year</td><td>1.130 €^{*)}</td></tr> <tr><td>for the 6th year</td><td>1.400 €^{*)}</td></tr> <tr><td>for the 7th year</td><td>1.545 €^{*)}</td></tr> <tr><td>for the 8th year</td><td>1.695 €^{*)}</td></tr> <tr><td>for the 9th year</td><td>1.845 €^{*)}</td></tr> <tr><td>for the 10th year and each subsequent year</td><td>2.065 €^{*)}</td></tr> </table>	for the 3rd year	705 € ^{*)}	for the 4th year	855 € ^{*)}	for the 5th year	1.130 € ^{*)}	for the 6th year	1.400 € ^{*)}	for the 7th year	1.545 € ^{*)}	for the 8th year	1.695 € ^{*)}	for the 9th year	1.845 € ^{*)}	for the 10th year and each subsequent year	2.065 € ^{*)}
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3 to 4	46 on average	<p>Grant and publication of the European patent. Cost factor^{*)}: from about 1,790 € at minimum (depending on the translation efforts) for official fees, attorney's fees and fees for translation of the patent claims into the other two official languages.</p> <p>Validation for national patents will be effected within 3 months after publication of the grant. For timely instructing national attorneys and commissioning translations, where applicable, the decision concerning nationalization should be met immediately after the grant. Cost factor^{*)} per country: from approximately 1,000 € to 2,500 € (attorney's fees, official fees and translation expenses). The variation in costs being substantially governed by the translation fees.</p> <p>Annuities are then due for payment to the National Patent Offices. The costs vary from country to country. They are a combination of the official fees and the fees charged by the attorney and the counterpart attorney abroad.</p> <p><i>In April 2023, the Unitary Patent is expected to enter into force.</i></p> <p><i>From the date of entry into force, a request for unitary patent protection for all participating states <u>can</u> be filed with the EPO within 1 month of the publication of the grant (currently 17, later up to 25 of the 38 contracting states, see below). This will eliminate the validation requirements for selected states and the associated costs. Instead, only a complete translation into English will be required in the next few years.</i></p> <p><i>However, there are also disadvantages: Not all EPC contracting states are covered. The patent cannot be dropped for individual countries, e.g. to save costs in maintenance. Infringement proceedings must be conducted centrally for the entire territory of protection before the Unified Patent Court. This results in a correspondingly higher amount in dispute (cost risk!) and opens the risk of central (partial) destruction.</i></p> <p><i>Already determined participating states are: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Sweden. Later, the Czech Republic, Greece, Hungary, Ireland, Poland, Romania, Cyprus and Slovakia will be added.</i></p> <p><i>Validation is additionally possible for all other EPC contract states.</i></p> <p>During the 9 months following the grant, opposition against the grant can be filed by all parties. An opposition suit incurs additional costs, but each party must pay their own expenses.</p>																
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