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CORRIGENDUM TO WORKING DOCUMENT

from: Commission services
to: Working Party on Intellectual Property (Patents)
No. prev. doc.: 9465/08 PI 25
No. Cion prop. 10786/00 PI 49
Subject: Distribution of Annual Renewal Fees from the Community Patent

Pages 4 and Annex I to document 13752/08 are replaced by the new pages annexed to this corrigendum.

In addition, to evaluate the total renewal fees to be paid by the proprietor of a Community patent between the 3rd and 20th year in the above hypotheses, one of two methods could be used:

- either to add the total fees for the 6, 8, 10 or 13 Member States with the most validations² for granted European patents (method A)
- or to establish an average renewal fee for all 27 Member States and multiply by 6, 8, 10 or 13 as appropriate (method B).

Since the total cost of renewal fees for the 3rd to 20th year varies from 36 153 € and 89 902 € in the four hypotheses (see Annex II), there are important differences depending on the calculation method used and the number of Member States covered (see details in Annex I):

	Total fees - method A -	Total fees - method B -
Hypothesis (1)	45 292 €	36 153 €
Hypothesis (2)	54 336 €	48 204 €
Hypothesis (3)	73 411 €	60 254 €
Hypothesis (4)	89 902 €	78 331 €

This table indicates that the objectives set, including costs corresponding to the equivalent to the fees paid for an average European patent could best be achieved by a simulation based around hypothesis (1) method A and hypothesis (2) method B.

The table in Annex I also includes an example of renewal fees which could be paid by the Community patent proprietor (see row COMPAT) from the 3rd to 20th year based on a classic progression in levels over the lifetime of the patent, compared to the current renewal fees in Member States. This shows that the total amount of renewal fees paid for a Community Patent for 20 years would be 46 100 €.

2.2 Renewal rates and number of applications for a Community patent

a) Renewal rates

The overall amount of renewal fees will furthermore depend on the overall number of applications for a Community patent and the renewal rate. Based on current practice, the number of patents maintained in force decreases over time, the result being that between the third and twentieth year, 80 to 90% of patents granted will gradually be abandoned. In addition, the renewal rates vary between Member States. For example, in Germany, a higher proportion of patents are kept in force than France, the UK or other Member States (see Annex II), with Germany often being the final country where a patent is maintained.

² From the EPO 2007 Annual Report, the designation rates for Member States for granted European patents are as follows: 1 – DE (98.6%), 2 – FR (93.8%), 3 – UK (93%), 4- IT (76.8%), 5- ES (64.8%), 6 – NL (64.1%), 7. SE (62.3%), 8 – BE (59.7%), 9 – AT (59.3%), 10 - DK (58.2%), 11 – FI (58.1%), 12 – IE (58.0%), 13 – PT (57.4%). As these figures only represent the designations of a European patent at the time of grant and not the actual validations of patents in these Member States, they can only give an approximation of the Member States likely to have the most validations of European patents

ANNEX I : Calculation of fees

(Source : CA/50/08 p. 395)

	3e	4e	5e	6e	7e	8e	9e	10e	11e	12e	13e	14e	15e	16e	17e	18e	19e	20e	
DE	70	70	90	130	180	240	290	350	470	620	760	910	1060	1230	1410	1590	1760	1940	
FR	36	36	36	72	92	130	170	210	250	290	330	380	430	490	550	620	690	760	
GB	0	0	62	86	111	136	160	185	210	234	259	284	308	333	370	407	444	494	
IT	0	0	60	90	120	170	200	230	310	410	530	600	650	650	650	650	650	650	
ES	22	28	53	78	103	129	154	179	217	255	292	330	368	420	469	520	570	620	Total for
NL	0	40	100	160	220	280	340	400	500	600	700	800	900	1000	1100	1200	1300	1400	20 years
(A1) ⁵	128	174	401	616	826	1085	1314	1554	1957	2409	2871	3304	3716	4123	4549	4987	5414	5864	45292
SE	37	74	95	116	143	169	201	238	238	285	301	322	349	375	402	428	455	476	
BE	35	50	65	85	100	125	145	170	195	220	250	290	330	370	410	455	500	545	
(A2) ⁶	200	298	561	817	1069	1379	1660	1962	2390	2914	3422	3916	4395	4868	5361	5870	6369	6885	54336
AT	70	150	150	150	270	270	270	500	500	500	850	850	850	1400	1400	1400	1400	1400	
DK	67	148	168	188	215	242	276	309	343	376	410	444	484	524	565	605	645	686	
(A3) ⁷	337	596	879	1155	1554	1891	2206	2771	3233	3790	4682	5210	5729	6792	7326	7875	8414	8971	73411
FI	150	125	140	165	200	235	265	300	350	400	450	500	535	585	645	705	755	805	
IE	60	90	114	134	150	176	194	220	242	265	285	311	335	356	382	408	438	468	
PT	42	51	62	82	96	111	134	167	196	223	268	312	357	401	446	490	535	580	
(A4) ⁸	589	862	1195	1536	2000	2413	2799	3458	4021	4678	5685	6333	6956	8134	8799	9478	10142	10824	89902
Total 27 MS	1550	1960	2778	3323	4048	4728	5492	6546	7557	8615	10038	11091	12145	14050	15254	16475	17832	19205	
Average	57	73	103	123	150	175	203	242	280	319	372	411	450	520	565	610	660	711	
(B1) ⁹	344	436	617	738	900	1051	1220	1455	1679	1914	2231	2465	2699	3122	3390	3661	3963	4268	36153
(B2) ¹⁰	459	581	823	985	1199	1401	1627	1940	2239	2553	2974	3286	3599	4163	4520	4881	5284	5690	48204
(B3) ¹¹	574	726	1029	1231	1499	1751	2034	2424	2799	3191	3718	4108	4498	5204	5650	6102	6604	7113	60254
(B4) ¹²	746	944	1338	1600	1949	2276	2644	3152	3639	4148	4833	5340	5848	6765	7345	7932	8586	9247	78331
Annual renewal fees paid to the EPO before grant of a European patent application																			
EPO	400	500	600	700	800	900	1000	1100	1200	1350	1350	1350	1350	1350	1350	1350	1350	1350	19350
Hypothesis of renewal fees for a Community patent																			
COMPAT	400	500	600	700	800	900	1000	1100	1300	1600	2000	2500	3200	4000	4800	5900	6800	8000	46100

⁵ Total fees for the 6 most-designated Member States

⁶ Total fees for the 8 most-designated Member States

⁷ Total fees for the 10 most-designated Member States

⁸ Total fees for the 13 most-designated Member States

⁹ Fees corresponding to 6 times the average renewal fee for an EU Member State

¹⁰ Fees corresponding to 8 times the average renewal fee for an EU Member State

¹¹ Fees corresponding to 10 times the average renewal fee for an EU Member State

¹² Fees corresponding to 13 times the average renewal fee for an EU Member State