

Subject : Notice to the attention of patent attorneys and European patent holders - Implementation of the provisions of the Law of 29 June 2016 laying down various economic provisions in relation with the validation of European patents in Belgium.

your message of

Dear Madam or Sir,

your reference

The Belgian Intellectual Property Office (IPO) wishes to inform you about the new rules regarding the validation of European patents in Belgium which will enter into force on 1 January 2017.

our reference
E3.PIIE/PIIE.77/BDT

2016-008340
enclosures

Articles 22, 48 and 60 of the Law of 29 June 2016 laying down various economic provisions modify the relevant provisions of the Code of Economic Law (CEL), the Law of 8 July 1977 approving various international acts and the Law of 21 April 2007 on various provisions relating to the procedure for filing European patent applications and to the effects of such applications and of European patents in Belgium. Article 94 of the abovementioned Law of 29 June 2016 determines the scope of Articles 22, 48 and 60.¹

The new rules provide that as from 1 January 2017 the validation in Belgium of a European patent granted in English will no longer require a translation in a national language, in so far as the mention of the grant of this European patent or the mention of its maintenance in amended form or after limitation is published in the European Patent Bulletin as from 1 January 2017. In practice, this means that from that date, the same rules will apply to all European patents irrespective of the language of the proceedings (grant, opposition or limitation).

It must be emphasised that for the validation in Belgium of European patents granted in English, of which the mention of its grant or the mention of its maintenance in amended form or after limitation is published before 1 January 2017 in the European Patent Bulletin, a translation in Dutch, in French or in German still needs to be provided to the Belgian IP Office, within three months from the publication of the abovementioned mentions. In case this translation has

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Directorate-General for Economic Regulation – Intellectual Property Office

Monday to Friday: 9.00am – 4.00pm. Tuesdays & Fridays: by appointment until 8.00pm.

not been filed within the described term, the patent holder can still invoke the restoration procedures as before, provided that the conditions set out by these procedures are met.

While the amended article XI.83 of the CEL, the amended article 5 of the aforementioned Law of 8 July 1977 and the amended article 3 of the aforementioned Law of 21 April 2007 will enter into force on 1 January 2017, thus abolishing the respective restoration of rights procedures, these provisions will remain applicable in their previous wording with regard to European patents granted in English, of which the mention of grant or the mention of maintenance in amended form or after limitation are published before 1 January 2017.

Please also note that the Belgian IP Office will no longer accept the filing of translations of European patents for which the validation in Belgium does not require a translation.

Finally, the Belgian IP Office will continue to accept translations of the claims of European patent applications into one of the national languages, filed pursuant to Article XI.82, § 3, of the CEL.²

Yours faithfully,



Jérôme Debrulle,
Advisor-General

¹ Article 94 of the Act of 29 June 2016 laying down various Economic provisions: “§ 1^{er}. The provisions of Article 22 apply to European patents granted as from the entry into force of Article 22 on the basis of patent applications filed as from 22 September 2014, and to European patents which have been maintained as modified or limited, as from the entry into force of Article 22, on the basis of patent applications filed as from 22 September 2014.

§ 2. The provisions of Article 48 apply to European patents granted as from the entry into force of Article 48 on the basis of patent applications filed before 13 December 2007, and to European patents which have been maintained as modified by the European Patent Office, as from the entry into force of Article 48, on the basis of patent applications filed before 13 December 2007.

§ 3. The provisions of Article 60 apply to European patents granted as from the entry into force of Article 60 on the basis of patent applications filed between 13 December 2007 and 21 September 2014, and to European patents which have been maintained as modified or limited by the European Patent Office, as from the entry into force of Article 60, on the basis of patent applications filed between 13 December 2007 and 21 September 2014.”

² Article XI.82, § 3, CEL: “§ 3. The European patent application does not ensure the protection referred to in Article 64 of the European Patent Convention. However, a reasonable compensation, determined according to the circumstances, may be required from any person who has used in Belgium the invention subject of the application, from the date on which the claims were made accessible to the public at the Office or were provided to that person in one of the national languages.”