

Memorandum Concerning the Publication of European Patent Applications

The publication of a European patent application is generally effected 18 months after either the date of application or the earliest priority date. As of the publication date, third parties can examine the file and follow examination proceedings. The application is now in the public domain and this is taken into account during examination proceedings.

The publication includes the patent specification at least in its originally submitted form, any patent claims amended to take into account relevant prior art and filed at a later date, and the search report if issued. The 6 month term for filing a request for examination and definitely designating the states of interest begins on the date of publication. However, if the search report has not issued, it will be published separately at a later date, with the effect that the term for filing the request for examination and designating the states starts later. We will inform you separately in this regard.

Publication of the European patent application results in temporary protection for the applicant. Accordingly, in those contracting countries covered by the European patent application, the applicant can demand appropriate compensation from a party that has used the subject-matter of the application so that it represents a culpable infringement.

However, prerequisite for commencement of temporary protection in each of the contracting countries is the requirement to submit a translation of the patent claims into the appropriate national language. Meanwhile, all the contracting countries have exercised their right to require such translations of the patent claims. The compensation claim is cancelled retroactively, however, if the application is later withdrawn, officially rejected, or is considered as being withdrawn.

Details on this subject can be found in the respective national legal regulations of the contracting states, which we will gladly forward upon request.