

Important information

RE: Changes to the rules relating to new divisional application as of 01 April 2014

The European Patent Office (EPO) has recently announced forthcoming changes to the rules regarding divisional applications.

The new rule is a return to the previous system, wherein a divisional application can be filed at any time, provided there is an application pending. An application is considered to be pending up until the day before mention of grant in the bulletin; or where an application is refused, until the deadline to file a notice of appeal. In the event that there are outstanding renewal fees due for the parent application, we recommend that these are paid if filing a divisional.

The new rule means that, even if you are currently unable to file a divisional application because your previous divisional deadline has expired, it will once more become possible to file divisional applications based on any pending application as of 01 April 2014. Similarly, any upcoming divisional deadlines will no longer apply.

Likewise, competitors who you have been previously advised could no longer file divisionals, may benefit from the rule change and be able to file further divisionals. We recommend that you consider the implications of this rule change on your freedom to operate.

The filing fee due for filing new divisional applications will also change on 01 April 2014. With each generation of divisional application the filing fee will increase. For example, a divisional of a divisional will cost more and so on. The amended filing fee schedule is as follows:

- fee for a divisional application of second generation EUR210
- fee for a divisional application of third generation EUR420
- fee for a divisional application of fourth generation EUR630
- fee for a divisional application of fifth or any subsequent generation EUR840

Therefore, if you are considering filing second or subsequent generation divisionals, you may prefer to file them before 01 April 2014 to avoid the fee increase.

Please contact us if these rule changes raise concerns or questions.

Yours faithfully,

Sterling IP