

New rules for the filing of divisionals in Europe

March 2014

As announced in our Patent Alert of October 2013, on April 1st, 2014, new Rules shall apply to the filing of divisional applications at the European Patent Office.

New Rule 36(1) EPC will enter into force, according to which:

“The applicant may file a divisional application relating to any pending earlier European patent application.”

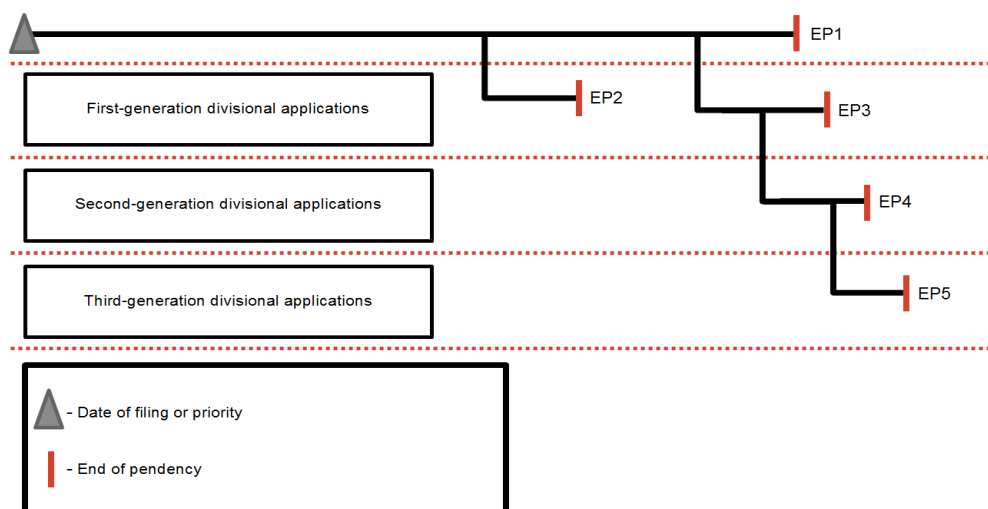
Therefore, effective April 1st, **any European patent application can be divided provided it is still pending** (not granted, not definitively refused nor lapsed), **even if the 24 months time limit currently applicable (up to 31 March 2014) has already expired.**

Please note that according to amended Rule 38 EPC **an additional fee forming part of the filing fee will be payable** for divisional applications filed in respect of any earlier application which is itself a divisional application, i.e. **for divisional applications of second or subsequent generations.**

The amounts of the additional fee are the following:

- for a divisional application of second generation: EUR 210
- for a divisional application of third generation: EUR 420
- for a divisional application of fourth generation: EUR 630
- for a divisional application of fifth and any subsequent generation: EUR 840

Example:



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In this example, no additional fee shall be due in respect of EP2 and EP3. The additional fee for second-generation divisional applications would be payable for EP4, and that for third-generation divisional applications for EP5.

We remain at your disposal for any advice you may need.

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