
(04/2008_1) Information from the European Patent Office:

Amendment of the Swiss Patent Law

07/2008

The Swiss Federal Institute of Intellectual Property has informed us that as from 1.7.2008 onwards, there will be new regulations for the patenting procedure and the publication practice of the Swiss Patent Office, including the early publication of patent applications 18 months after the date of the first priority.

The amended federal law on patents for inventions, which will come into force 1 July, 2008, aims to adapt the Swiss patent law to technological progress and new international developments which have intervened during the past years.

The amendment introduces numerous substantial modifications which essentially concern the protection of inventions in the field of biotechnology. It also creates important changes in the procedure for granting Swiss patents; these are summarized below.

1. Publication of patent applications

One of the main changes in procedure concerns the publication of patent applications. Up until now, only the assignation of a patent resulted in the patent document being published in Switzerland, thus disclosing the invention. This meant that inventions with pending patents were not made public and the object for which a patent was finally granted was often disclosed after a significant time lapse from the date of filing, a lapse which could be several years.

In order to assure a more rapid distribution of technical knowledge and to improve the position of the applicants as well as third parties, Switzerland decided to conform to the international standards and introduce **the publication of a patent application 18 months after the date of filing or date of priority.**

The amendment will apply only to patent applications which are filed after the revised law enters into force.

2. Prior Art Search for Swiss Patent Application

Under Swiss law, patent applications are not examined for novelty or inventive step as part of the examination procedure. However, the amended law introduces the option for the applicant to request **a prior art search for a Swiss patent application** from the Institute. This optional search, which must be requested within 14 months of the date of filing or priority and which has a fee (CHF 500) results in a search report which is published with the patent application.

In place of this optional search, the applicant can always request an **international search** within six months from the date of filing. The resulting search report is likewise published with the patent application.

The revised law also allows third parties to request a prior art search report for a published patent application or a granted Swiss patent. In this case, the search report is not published.

The report compiled by the Institute as part of the search for a Swiss patent application may only be requested for patent applications filed after the amended law has entered into force.

3. Filing opposition

The amended law provides the right to oppose a patent granted under the new law. However, it is limited to questions of exclusion for patentability, notably for inventions in the domain of biotechnology. Filing opposition, which costs CHF 800, must be done with the Institute within nine months of the patent assignment. The procedure may result in the patent being upheld, modified, or cancelled.

4. Miscellaneous

- In applying the **Patent Convention Treaty** ratified by Switzerland, the new law eases requirements for filing an application for a Swiss patent in regards to language and filing formalities. It will be possible, for example, to file an application in a language other than French, German, or Italian and to submit a translation in an official language later.
- As of 1 July 2008, data concerning Swiss protective rights titles as well as Swiss patent documents will be **published exclusively in electronic form**. Additionally, only the information published in the data-base www.swissreg.ch, which is accessible online free of cost and which replaces the current paper-copy publication, will be binding.
- As of the date when the amended law enters into force, the Institute will no longer give out **information** regarding applications for Swiss patents which have not been published. After publication, all useable information will be available free of charge at the website address www.swissreg.ch.
- In consideration of new publications, all the **codes identifying various types of Swiss patent documents** have been completely revised according to the World Intellectual Property Organization (WIPO) Standard ST. 16.

The new codes which will be applied when the amendment enters into force are as follows:

New codes	Current codes	Description (INID 12)	Type of publication
A1		PATENT APPLICATION	Patent application including search report
A2		PATENT APPLICATION	Patent application without search report
A3		PATENT APPLICATION	Separate search report with first page of patent application
A8		PATENT APPLICATION	Rectified first page of A document
A9		PATENT APPLICATION	Rectified A document
B1	A5	PATENT SPECIFICATION	Assigned patent
B2		PATENT SPECIFICATION	Modified patent
B8	A8	PATENT SPECIFICATION	Rectified first page of B document
B9	A9	PATENT SPECIFICATION	Rectified B document

C1	C1	PATENT SPECIFICATION	Partial withdrawal of Swiss patent
C2	C2	PATENT SPECIFICATION	Partial annulment of Swiss patent
C3	C3	PATENT SPECIFICATION	Second partial withdrawal of Swiss patent
H1	H1	PATENT SPECIFICATION	Partial withdrawal of European patent granted for Switzerland
H2	H2	PATENT SPECIFICATION	Partial annulment of European patent granted for Switzerland
H3	H3	PATENT SPECIFICATION	Second partial withdrawal of European patent granted for Switzerland
H9	H9	PATENT SPECIFICATION	Rectified H document

- Except for the regulations concerning the publication of applications and the prior art search for a Swiss patent application, **the new legislative provisions will have effect for all Swiss patent applications which are pending on the day the law enters into force.**