
Kluwer Patent Blog

New deadlines for European Divisional Applications

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The IP deadline management system should ensure that the system is noting the new deadlines for European Divisional Applications properly.

According to revised Rule 36(1) and Rule 36(2) being effective on April 1st, 2010 all divisional applications must be filed within 24 months from either the issuance of the first communication from the Examining Division for the parent application or the issuance of a lack of unity objection. Therefore a deadline of 24 months has to be noted for all new applications from the very beginning.

For the pending European patent applications the same two dates have to be checked retrospectively:

1. when the first examination report issued on the parent application (in the case of a sequence of divisionals, the first examination report in any application of the sequence will trigger the time limit for all of them);
2. when the application firstly faced a non-unity objection

The 24 month deadline is triggered by the most recent event (either 1. or 2.).

For patents which under the new Rules would have expired before April 1st or between April 1st and October 1st, 2010, the 2-years deadline does not yet apply but is exceptionally extended to October 1st, 2010.

We recommend to automatically track current critical dates and try to map all relevant pending patents for divisional applications until at least mid September. This allows relevant parties to make decisions relating to voluntarily filing a divisional application by the transitional deadline of October 1st. This deadline is final and not extendable if the first examination report was issued on the earliest application of the sequence on or before April 1st 2008.

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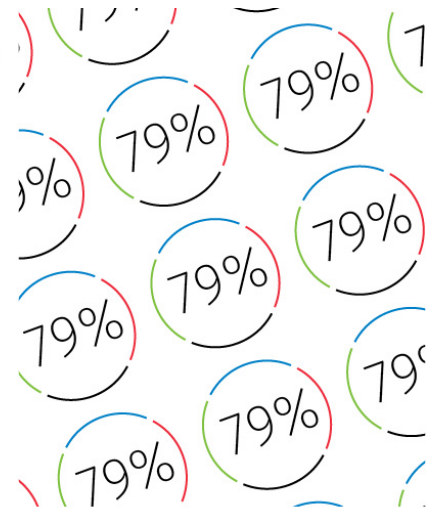
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