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Improved procedure for Euro-PCT applications

Derk Visser (EIP) · Friday, November 12th, 2010

European patent practitioners are welcoming the news that the EPO Administrative Council reached a decision on 26 October 2010 to extend the period for responding to a communication under Rule 161 EPC from one month to six months as of 1 May 2011. Since 1 April 2010, practitioners have been put under considerable pressure as a result of the recently introduced requirement to respond to PCT Written Opinions or International Preliminary Examination Reports issued by the European Patent Office as International Searching Authority within the one-month time period for responding to a Rule 161 communication that is issued shortly after entry to the European regional phase. This issue has been particularly problematic in the case of applicants who have made last-minute decisions to enter the European regional phase without reviewing a related Written Opinion or International Preliminary Examination Report in any detail. Further complications arise when the applicants are based in a jurisdiction outside that of the European practitioner and time delays are introduced by a lengthy client-representative reporting chain. It is thought that the extension of the time period for dealing with issues raised in PCT Written Opinions or International Preliminary Examination Reports from one month to six months will considerably ease pressure on practitioners and applicants.

The changes to Rule 36 of the Implementing Regulations to the EPC effected by a further decision of the EPO Administrative Council on 26 October 2010 have also been received favourably by European practitioners. In particular, the clarification of the specific communications from the EPO Examining Division that will trigger the start of a twenty-four month period for filing voluntary divisional applications is welcomed.

Paula Flutter, EIP

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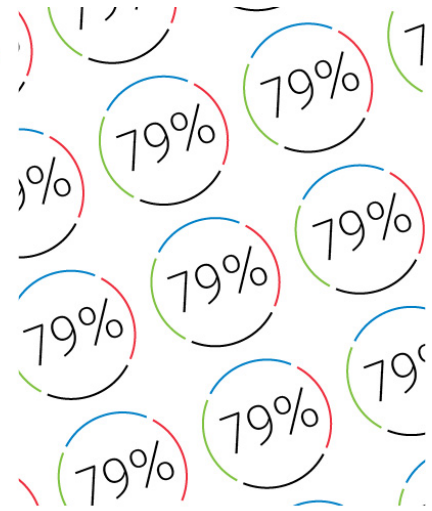
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