

Kluwer Patent Blog

One extra day of SPC term in Sweden

Oswin Ridderbusch (Vossius & Partner) · Tuesday, December 17th, 2024

As we are approaching the holiday season, Sweden has a special gift for SPC applicants and proprietors. This comes in the wake of the recent decision [PMÅ 7804-24](#) of November 11, 2024, in which the Swedish Patent and Market Court endorsed a change of practice regarding the manner in which the SPC term is calculated.

So far, the term of a Swedish SPC that is shorter than the maximum of 5 years used to expire at the end of the day preceding the anniversary of the notification date of the relevant marketing authorization. Thus, for example, an SPC based on a patent filed on January 1, 2001 and a marketing approval having a notification date of January 10, 2010 would have been set to remain effective (at most) until January 9, 2025.

Following the new practice established by decision PMÅ 7804-24, the above-mentioned exemplary SPC can remain effective until January 10, 2025 – i.e., until the anniversary of the MA notification date (rather than the day preceding said anniversary).

This new practice is now applied by the Swedish Patent Office in all pending SPC examination proceedings. The term of already granted SPCs can be corrected to gain one additional day upon written request, as confirmed by a [notice published by the Swedish Patent Office today \(PDF\)](#).

The expiry date of SPCs having the maximum term of 5 years is not affected by this change of practice. Such 5-year-term SPCs remain effective until the end of the anniversary of the filing date of the basic patent – e.g., an SPC based on a patent filed on January 1, 2000 and having a 5-year term can remain in force until January 1, 2025.

This new practice brings the SPC expiry dates in Sweden into line with those in many other European countries, including Nordic neighbors Denmark, Finland and Norway as well as Austria, Germany, Spain and various others.

Despite this apparent harmony regarding SPC expiry dates, the infamous one-day difference between SPC terms across Europe remains, which results from national differences in how the patent term is calculated (alas, one and the same European patent expires on different dates in different countries, as explained [here](#) and [here](#)).

The author wishes to thank **Michael Byström** of Zacco for having successfully taken up this matter with the Swedish Patent Office and the Patent and Market Court.

ADDENDUM:

A copy of the above-mentioned decision PMÄ 7804-24 rendered by the Swedish Patent and Market Court as well as a rough English machine translation have been added to this blogpost.

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