

CMS Patent Formalities Guide: Renewal Fees in Europe

European Patent Applications

- Renewal fees for a European patent application are payable annually while the application is pending at the European Patent Office (EPO).
- The renewal is due at the end of the month containing the anniversary of the filing date¹.
- The first renewal is payable to the EPO for the 3rd year at the end of the month containing the 2nd anniversary of the filing date.
- For Euro-PCT applications, if the renewal fee for the 3rd year would have fallen due earlier, it does not fall due until expiry of the 31-month period for European Regional Phase entry.
- The renewal fee for the 3rd year may be paid up to 6 months before it falls due. All other renewal fees may not be validly paid more than 3 months before they fall due.
- The obligation to pay renewal fees to the EPO terminates with the payment of the renewal fee due in respect of the patent year in which the mention of the grant of the European patent is published.
- There is a six month grace period for late payment of a renewal fee which incurs a 50% surcharge in official fees.
- An exemplary timeline is below:



- Failure to attend to the payment by the final deadline at the end of the six month grace period will result in a loss of patent rights. Restoration is possible. However, any request must meet the EPO threshold of “all due care” which must indicate that the applicant failed to meet the deadline in spite of all due care required by the circumstances. Typically, this involves proving, in writing and with evidence filed, an isolated failure of a well-functioning process including double checks.

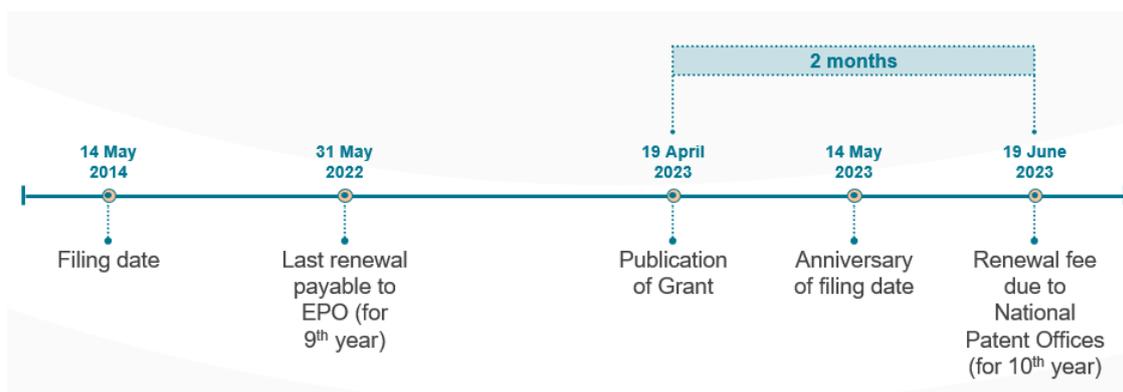
¹ For a first filing (non-convention) and convention application (claiming priority) the filing date is the date on which the European application was filed. For a European application derived from an International (PCT) application, this will be the date on which the PCT application was filed. For a divisional application, this will be the filing date of the parent application.

Granted Patents

- Upon grant, renewal fees become payable annually to the national patent offices in countries where the European patent is validated.
- The renewal due date is the same date as when the application was pending, although note that for some countries payments are due on the anniversary of the filing date and not at the end of the month. As such, after grant, the safest approach is to work to the anniversary of the filing date.
- There is a six month grace period for late payment of a renewal fee post grant. The amount of the surcharge will differ dependant on the country.
- Failure to attend to the payment by the final deadline at the end of the six month grace period will result in a loss of rights. Any possibility for restoration will depend on national law.

Grant of the European application occurs soon after the anniversary of the filing date

- There is one exception to the calculation of renewal fee deadlines post grant, and that is where the grant of the European application occurs soon after the anniversary of the filing date.
- In such a scenario the date of the first renewal fee falls due two months from the date of grant. Certain countries provide additional time for payment of the first renewal after grant, but not all countries are the same and so working to the two month deadline across Europe will ensure late-payment surcharges are not incurred.
- An exemplary timeline is below:



- Of note, the first renewal due after grant may fall due a month before the 3 month validation deadline. In a scenario such as this, it is advisable to accelerate any country selection for European validation to ensure late-payment surcharges are not incurred. Should this not be possible, upon validation, a renewal fee may still be paid validly along with payment of the relevant surcharge according to the national law.

EPO Guidelines on renewal fees can be found [here](#)

This guide is for general information only. Please contact your usual CMS contact for advice regarding any specific patent or patent application.