

Presidential Decree 16/1991

"Implementing regulations of the Patent Cooperation Treaty as ratified by law No. 1883/1990"

THE PRESIDENT OF THE HELLENIC REPUBLIC

Having regard to Article 4 of Law No. 1883/1990 on the Ratification of the Patent Cooperation Treaty done at Washington on June 19, 1990 and modified on October 20, 1979 and February 3, 1984 (Official Journal - FEK No. 45, A').

Having regard to the provisions of Law No. 1558/1985 on "Government and Governing Bodies" (Official Journal - FEK No. 137, A').

Having regard to the opinion No. 619/1990 of the Council of State following proposal from the Minister of Industry,

HEREBY DECIDES:

CHAPTER ONE

GENERAL PROVISIONS

Article 1

Scope

This Presidential Decree shall be implemented in applications filed in accordance with the regulations under the Patent Cooperation Treaty (PCT) which may result in the grant of a patent in or for one of the Contracting States.

Article 2

Definitions

For the purposes of this Decree:

- a. "Cooperation Treaty" shall mean the convention on the Patent Cooperation Treaty (PCT) done at Washington on June 19, 1970 and modified on October 2, 1979 and February 3, 1984 together with the Regulations thereof and ratified in Greece by Law No. 1883/1990 (Official Journal - FEK No. 45 A'/29.03.1990).
- b. "international application" shall mean the application filed under this Treaty.
- c. "certified translation" shall mean the translation done by a lawyer or any authority entitled to certify translations.

d. "EPO" shall mean the European Patent Office as defined in the European Patent Convention (Convention on the Grant of European Patents) ratified in Greece by Law No. 1607/1986 (Official Journal - FEK No. 85 A').

CHAPTER TWO

RECEIPT OF THE INTERNATIONAL APPLICATION BY THE O.B.I.

Article 3

Filing of the Application

1. The international application may be filed either at the Athens - seated Offices of the Industrial Property Organisation (O.B.I.) or at the branches thereof, if any, or alternatively with the European Patent Office in Munich or the Branch thereof at the Hague.
2. The international application must be filed with the O.B.I. if the applicant is a Greek citizen and provided that no priority for an earlier Greek application is claimed (art. 1 and 2 of Law No. 4325/1963 on "inventions concerning the national defense").
3. An international application may be also filed through a registered letter upon receipt as provided for in Article 4, paragraph 3 of the Minister's Decision No. 15928/EFA/1253 on the filing of national applications.

Article 4

Language of the Application

1. Any international application must be filed in one of the working languages of the EPO as the authority competent for the international searching pursuant to Article 16 and Rule 12 of the Treaty and Article 12 of this Decree. The working languages of the EPO are English, French, and German.
2. If the application must be filed with the O.B.I. pursuant to Article 3, paragraph 2 of this Decree, the international application must be also filed in Greek.

Article 5

Contents of the Application

1. The international application shall contain at least the elements defined in Article 11, paragraph 1, iii of the Treaty, namely:
 - a. an indication that the application is intended as an international application,
 - b. the designation of at least one Contracting State,
 - c. the name or the corporate name, the nationality, and the home or seat address of the applicant in a way that his identity may be established,

- d. a part which on the face of it appears to be a description,
 - e. a part which on the face of it appears to be a claim or claims.
2. The international application shall have attached thereto the drawings to which refer the claims or the description, the title of the invention, the abstract and the documents of legitimation of the applicant in the case of a legal person or in the case of a natural person if he is not the inventor.
 3. The particulars of the international application must be completed on a printed form furnished by the O.B.I. free of charge to the applicant(s). The form is accompanied by a check list stating the item(s) contained in the application. The check list shall be completed either by the applicant himself or by the O.B.I. in accordance with Rule 3, paragraph 3 of the Treaty.
 4. The international application and the documents contained therein must meet the physical requirements pursuant to Rule 11 of the Treaty.
 5. The international application and the documents referred to in the check list, except the receipt for the fees paid, shall be filed in three copies of which the one shall be the record copy. If the copies are less than those required, they are completed ex officio by the O.B.I.

Article 6

Designation of Inventor

The provisions concerning the national applications for the grant of a patent shall apply to the designation of inventor.

Article 7

Receipt for International Application

1. The formalities officer of the O.B.I. shall receive the application intended as an international, shall write down on it and on any accompanying document the filing date and the international application serial number provided by the World Intellectual Property Organization (WIPO) and shall issue a receipt for the enclosed documents.
2. The receipt for documents contains the application number, the accompanying items and the date of receipt. A signed copy of the check list referred to in Rule 3, paragraph 3 of the Treaty shall be good as a receipt for an international application.

Article 8

Filing date of the International Application

1. The O.B.I. shall accord a filing date to the international application provided that it has found that the following requirements are met on a cumulative basis:
 - a. the applicant does not lack, for reasons of residence or nationality, the right to file an international application with the O.B.I.

b. the international application is in the languages prescribed in Article 4, paragraphs 1 and 2 of this Decree.

c. the international application contains the elements prescribed in Article 5, paragraph 1 of this Decree.

2. If the O.B.I. finds that the requirements listed in the above paragraph are fulfilled at the time of receipt, the O.B.I. shall accord as the international filing date the date of receipt.

3. If the international application fulfills the requirements listed in paragraph 1 of this Article, the formalities officer of the O.B.I. shall mark the margin of the applications form with the seal of the Organization and shall write down the words "PCT International Application". The so-sealed copy of the application shall thereafter be considered the true copy of the international application.

Article 9

Registration of the International Application

The international application shall be recorded in the Patents Register as prescribed in the national legislation and the rules concerning the secrecy of the national patents.

Article 10

Transmittal of the International Application

Following expiry of the deadlines set out by Articles 3 and 4 of Law 4325/1963 on "inventions concerning the national defence" and provided that the international application shall have been deemed to be of no interest to the national defense of the country, the O.B.I. shall immediately transmit:

a. the record copy of the international application and the accompanying documents to the WIPO.

b. a copy of the international application and the accompanying documents to the EPO as the Searching Authority.

c. a communication to the applicant informing him of the filing date accorded by the O.B.I. for the international application.

Article 11

Correction of Defects in the International Application

1. If the O.B.I. finds that:

a. the accompanying documents of the international application referred to in Article 5, paragraph 2 of this Decree are not completed, or

b. the international application is not signed, or

- c. the documents of the application do not comply with the prescriptions of Rule 11 of the Treaty, or
- d. the name of the applicant or the reference to his address clearly state his identity but are not complete, invites the applicant to correct the application within a month from the invitation date. If the completion is made within the prescribed time limit, the international filing date shall be the date accorded under Article 8, paragraph 2 of this Decree. Otherwise, the application shall be considered withdrawn and the O.B.I. shall accordingly notify the applicant, the WIPO, and the EPO.
2. If the international application refers to drawings which, in fact, are not included in that application, the O.B.I. shall notify the applicant accordingly and he may furnish them within 30 days from the date of receipt of the application and, if he does, the international filing date shall be the date on which the drawings are received by the O.B.I. Otherwise, any reference to the said drawings shall be considered non-existent.
3. If the requirements listed in paragraph 1 above are not complied with, the O.B.I. invites the applicant to correct and complete the application within 30 days from the invitation for correction and, if he does within the prescribed time limit, the filing date shall be the date of receipt of the corrections by the O.B.I. Otherwise, the international application shall be considered to be withdrawn and the applicant is so notified.

CHAPTER THREE

DESIGNATION OF GREECE - TRANSLATIONS

Article 12

Designation of Greece

1. If the international application contains a designation of Greece as a Contracting State of the PCT and protection is sought in its territory, this application shall be considered as a European Patent application intended for protection in Greece.
2. Following its transmittal to the EPO, the international application with designation of Greece shall be subjected to the provisions of Law No. 1607/1986 on the “ratification of the European Patent Convention” (Official Journal - FEK No. 85 A’) and of the Presidential Decree No. 77/1988 “implementing regulations on the grant of European Patents” (Official Journal - FEK No. 33 A’).

Article 13

Filing of the Translation

The filing of the translation of the claims of the international application and the manner of claiming shall be subjected to the provisions of Article 9 of the Presidential Decree No. 77/1988 “implementing regulations on the grant of European Patents”.

Article 14

Provisional Protection

Whoever avails themselves of the rights deriving from the international application they shall be entitled to the provisional protection pursuant to Article 23, paragraph 2 of Law No. 1733/1987 as of the date of filing of the certified translation with the O.B.I. The publication date of the international application shall be the date of publication of the mention in the Industrial Property Bulletin.

Article 15

The implementation of Article 12, paragraph 1 of this Decree concerning the grant of a European Patent valid in Greece following the filing of an international application shall fall within the provisions of Presidential Decree No. 77/1988.

CHAPTER FOUR

FEES - REPRESENTATION

Article 16

Payment of Fees - Consequences

1. The filing of the international application with the O.B.I. shall be accompanied by the payment of a transmittal fee to it, for its own benefit, pursuant to Rule 14 of the Treaty.

The amount of the transmittal fee shall be due within one month from the receipt of the international application by the O.B.I.

2. Additionally, the filing of the international application requires the payment of an international fee for the benefit of the WIPO and of a search fee for the benefit of the EPO.

Article 17

Fees for the benefit of the O.B.I.

(The Transmittal Fee)

1. The transmittal fee for the international application shall be paid for the benefit of the O.B.I. and the amount shall be fixed in accordance with Article 24, paragraph 6 of Law No. 1733/1987 by decision of the administrative council of the O.B.I. This fee shall be refunded in full to the applicant if the international application fails to be transmitted to the WIPO within the time limit prescribed by Rule 22, paragraph 3 of the Treaty.

2. The mode of payment and the amount due for the rest of the fees to be paid for the benefit of the O.B.I. as prescribed in this Decree are as set out in the current Fee Regulations of the O.B.I.

Article 18

Fees for the benefit of the WIPO

(The International Fee)

1. The O.B.I. requires that each international application shall be subject to the payment of an international fee for the benefit of the WIPO consisting of:
 - a. a “basic fee”, and
 - b. as many “designation fees” as there are national patents and regional patents sought by the application in the international application, except that if a regional patent is selected, only one designation fee shall be due.
2. The amount of the basic fee and of the designation fee shall be paid to the O.B.I. in Greek drachmas in the equivalent of the amount in Swiss currency as set out in the Schedule of Fees of the WIPO and established by decision of the Director General of this International Organization.
3. The basic fee shall be paid to the O.B.I. within a month from the date of receipt of the international application.
4. The designation fee shall be paid:
 - a. within one year from the date of receipt of the international application where the application does not contain a priority claim, or
 - b. within one year from the priority date or within one month from the date of receipt of the international application where the application contains a priority claim.
5. The international fee shall be refunded in full to the applicant only if the O.B.I. establishes the opinion that the provisions of Article 8 of this Decree are not met and the international application is deemed to be withdrawn.

Article 19

Fees for the benefit of the EPO

(The Search Fee)

1. For each international application a search fee for the benefit of the EPO shall be paid to the O.B.I.
2. The international fee is paid to the O.B.I. in Greek drachmas in the equivalent of the amount in German currency as established by the EPO after consultation with the WIPO.
3. The search fee shall be paid to the O.B.I. within one month from the date of receipt of the international application.

Article 20

Transmittal of Fees

1. The total of fees collected by the O.B.I., either for the benefit of the WIPO or of the EPO, are transmitted directly to the respective accounting departments.
2. Where, by the time they are due, the fees under Article 16 of this Decree are not paid within the prescribed time limit, the O.B.I. shall notify the competent service of the International Bureau, shall charge the amount required, and shall consider the said amount as if it had been paid by the applicant at the due time under Rule 16a of the Treaty.

Article 21

Representation

1. The right to appearing in person or filing documents with the O.B.I. shall be conferred to the appointed beneficiaries of the international application or to their representative lawyer.
2. If the beneficiary of an international application has no residence or seat in Greece, he shall appoint an agent.

CHAPTER FIVE

FINAL PROVISIONS

Article 22

Entry into Force

This Decree shall enter into force upon publication thereof in the Official Journal (FEK).

The publication and implementation of this Decree are assigned to the Minister of Industry, Energy and Technology.