

January 2008

London Agreement finally enters into force

The London Agreement will come into force on 1 May 2008 and will apply to European patents granted on or after that date. This results from France having deposited its instrument of ratification on 29 January 2008.

Readers will know that, when granted, European patents must be validated in countries where the patent is to enter into force, and that validation in most countries requires translation into an official language of the country. This requirement will no longer apply in member countries of the London Agreement. In the case of European applications in English, the member states of the Agreement will have the following requirements:

- (a) United Kingdom, France, Germany, Switzerland, Liechtenstein and Monaco:
No translation required;
- (b) Iceland, Latvia, Netherlands and Slovenia: These countries require:
 - (i) a translation of the claims (only) into their national languages;
 - (ii) the description to be available in one of the official languages of the EPO (English, French or German), in addition to the availability of the claims in all three languages in the granted patent specification. The Netherlands and Iceland have opted for English. Slovenia and Latvia (at least in the case of extensions of European patents) already do not require the description to be translated and it seems unlikely that this will change.

Sweden and Denmark have both amended their laws to enable ratification of the agreement. Both countries have specified that English will be the EPC language in which the description must be available.

In other countries, the requirement will remain to provide a translation of the entire granted patent specification into the local language, until such time as they join the London Agreement.

Practical Tip: In the case of pending European patent applications where the deadline for responding to a communication under Rule 51(4) EPC 1973 (now Communication under Rule 71(3) EPC 2000) is approaching or has recently passed, it may be possible to delay grant until 1 May 2008 or later by filing an application for amendment or correction.

If you have any queries regarding the above please contact Jonathan Couchman on + 44 (0) 113 2330100 or email jcouchman@hgf.com

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