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Adjusted proposals for Unitary Patent fees considered by Select Committee

The Select Committee has considered a revised proposal submitted by the president of the EPO, in which some of the proposed renewal fees have been significantly reduced.

As discussed in a previous update, the first indication of the level of renewal fees being considered for the forthcoming Unitary Patent was revealed in March 2015. The Select Committee of EU Participating Member States has now been discussing a revised proposal submitted by the president of the European Patent Office (EPO), in which some of the proposed renewal fees in respect of earlier years in the patent's life have been significantly reduced.

In the initial March 2015 proposal, Unitary Patent renewal fees in respect of years 3 to 5 were to be set at the same level as the fees currently payable to the EPO in respect of pending European patent applications. For year 10 onwards, the fees would be set to a level equivalent to the sum of the national renewal fees payable in the four states in which European patents are most frequently validated (the so-called 'TOP 4' level, based on fee levels in Germany, France, United Kingdom and the Netherlands), and for years 6 to 9 the fees were to be set at a transitional level between these two schemes. In an alternative proposal, the fees for year 10 onwards were to be based on the sum of renewal fees in the five most frequently validated states ('TOP 5', including the fee levels for Sweden in addition to the 'TOP 4' countries), but with a reduction of 25% up to year 10 for certain categories of patentees, including SMEs and universities.

However, it appears that the suggestion of basing the renewal fees for the earlier years on the level of fees currently charged by the EPO was not supported during

the initial discussions, and that this view was echoed in written comments received from external parties, which widely considered these proposed fees to be too high.

The revised proposals now being considered present a simplified fee structure in which the fees are based entirely on the sum of renewal fees paid today for the four most frequently validated countries, from year 2 through to year 20 (the so-called 'true TOP 4 level'). As before, an alternative proposal also under consideration is based instead on the sum of renewal fees currently paid in the five most frequently validated countries ('true TOP 5'), but with a 25% reduction in years 2 to 10 for certain categories of patentees.

The resulting fees, in accordance with the two alternative versions of the latest proposals, are set out across the page.

While these revised proposals provide a welcome reduction in some of the anticipated renewal fees compared with the initial proposal, particularly in the first 7 or so years of the patent's life, it should be noted that these renewal fees for the Unitary Patent itself will only apply after the patent is granted; up to this point, the existing renewal fees in respect of a pending European application will still be payable to the EPO. In view of significant delays at the EPO, particularly in some technology areas, many patentees are unlikely to benefit from the reductions brought by the adjustments to the

original proposals, since their patents may not yet be granted in those early years.

For this reason, the fees under the revised proposals may still be considered by many to be too high to make the Unitary Patent an attractive proposition.

The revised proposals were discussed at the 14th meeting of the Select Committee on 26 and 27 May 2015, with the Select Committee subsequently reporting that some member states were still not yet able to take a concrete position on the proposals. There is likely to be a significant amount of further discussion, both among the member states and in the wider patent community, before the fees are finalised.

Fee proposals

Year	True TOP 4 (€)	True TOP 5 (€)	True TOP 5 with SME Discount (€)
2	35	85	63.75
3	105	165	123.75
4	145	255	191.25
5	315	455	341.25
6	475	645	660.00
7	630	825	483.75
8	815	1,050	618.75
9	990	1,225	787.50
10	1,175	1,475	1,106.25
11	1,460	1,790	1,790
12	1,775	2,140	2,140
13	2,105	2,510	2,510
14	2,455	2,895	2,895
15	2,830	3,300	3,300
16	3,240	3,740	3,740
17	3,640	4,175	4,175
18	4,055	4,630	4,630
19	4,455	5,065	5,065
20	4,855	5,500	5,500
Total	35,555	41,955	40,403

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