

## **CHANGES IN FEES AND PAYMENT SYSTEMS DUE TO THE ENTRY INTO FORCE OF LAW 24/2015 ON PATENTS ON 1 APRIL 2017.**

Law 24/2015 on Patents from 24 July 2015 will enter into force on 1 April 2017. The Law presents a series of changes concerning fees. The most important changes are outlined below.

### **Fees to disappear**

- Granting rights for patents or utility models and supplementary protection certificate. The amount of this fee is included in the corresponding application fee. However, all inventions with applications prior to 1 April 2017 will have to pay the fee for granting rights.
- Application for a complementary search report for European patents valid in Spain.

### **New fees.**

- Application for substantive examination.
- Application for revocation or limitation.
- Application for the expert report provided for in art. 120.7.
- Designs: Law 24/2015 on Patents modifies the fee schedule of Law 20/2003, of July 7, on Legal Protection of Industrial Design, establishing additional fees to that of opposition formulation, according to the number of designs (from 11 to 20, from 21 to 30, from 31 to 40 and from 41 to 50).

### **Fee amounts.**

The amounts for fees featured in Law 24/2015 will be established by the Law itself. These amounts are slightly lower than those currently in force, as a result of the dates on which the Law was processed and approved.

Some fees in common with other modalities will also have a slightly lower amount, for the same reason indicated in the previous section

### **Reductions for entrepreneurs who are SMEs or individuals.**

Only for patent or utility model applications submitted after 1 April 2017: according to article 186.1 of Law 24/2015, entrepreneurs who are individuals or SMEs may request a reduction of 50% on the following fees:

- Application.
- State of the art report.
- Substantive examination.
- 3rd, 4th and 5th annuities.

In order to obtain the reduction, it will be necessary to submit, along with the Spanish patent or utility model application, the request for reduction of fees and attach the corresponding documentation. The corresponding instructions are laid out in the application models.

When several holders jointly apply for a patent or a utility model, all of them must justify entrepreneur status to obtain the reduction of fees.

### **Public universities.**

According to additional provision ten of Law 24/2015, public universities will be entitled to a subsidy of fifty percent on fees for obtaining and maintaining the industrial property titles regulated in this Law and requested after it enters into force.

When a patent or utility model is jointly requested by several holders, all of them must be public universities to benefit from the reduction.

On the other hand, from the entry into force of Law 24/2015, public universities are no longer exempt from payment of the **international search fee** under the Patent Cooperation Treaty (PCT Treaty).

### **Changes to annuity payment deadlines.**

An attached note including the instructions for payment of annuities will be available on the SPTO website and will be shown to all annuity payers when they access the payment application online. The most significant changes are highlighted.

IMPORTANT: Under transitional provision three, paragraph 2, these new deadlines will also apply to patents granted under the previous Law, whose date of accrual is on or after 1 April 2017 and which have not been paid for before said date.

### **Annuities due after the grant publication: it is not possible to pay annuities before they are due.**

Law 24/2015 on Patents does not allow invention annuities to be paid before they are due. The due date corresponds to the last day of the anniversary month of the application filing date. From the date of accrual, for three months, the corresponding annuity can be paid without a surcharge; after this period it can be paid with a 25% surcharge over the next three months; with 50% over the next three months, and with a 50% surcharge plus the I100 fee over the period up to the next accrual.

### **Automatic detection of incorrect advance payments.**

On 1 June 2016, the SPTO implemented an automatic control in its payment systems to prevent annuity payments in the following cases:

- When the file indicated by the payer in the payment application does not exist.
- When the fee they want to pay for the indicated file has already been paid.

As of 1 April 2017 the automatic detection system will also make sure that payments are not made early. In the event that the payment controls do not accept a payment that the payer considers to be admissible, they may make the payment in person in the offices of the collaborating entity (generating the corresponding document from the in-person payment application of the SPTO) and request timely clarification from the SPTO.

### **Regularisation.**

After the payment period, with a surcharge of 50%, the payment of one annuity can be regularised until the accrual of the next, paying the regularisation fee (the amount of which will be added to the 50% surcharge). In other words, payments will no longer be regularised by paying the twentieth annuity.

**Annuities due before the grant publication**

The periods to pay annuities accrued prior to the grant are unchanged; from the grant publication it is possible to pay for three months without a surcharge, for an additional three months with a 25% surcharge and for a further three months with a 50% surcharge.