

PRESIDENTIAL DECREE 46/23.04.2012 (GG A' 95)

“Amendment of Presidential Decree 77/1988 (GG A' 33) in application of the Act revising the Convention on the Grant of European Patents of 29 November 2000 that was ratified with Law 3396/2005 (GG A' 246)”

Having regard to:

1. The provisions of paragraph 10 of article 23 of Law 1733/1987 on the 'Transfer of technology, inventions and technological innovation and establishment of the Atomic Energy Commission' (Government Gazette A' 171),
2. The provisions of paragraph 1 of article 8 of Presidential Decree 189/2009 on the 'Definition and re-distribution of the competencies of Ministers' (Government Gazette A' 221), as it was replaced with article 4 of Presidential Decree 24/2010 on the 'Re-definition of the competencies of Ministers and amendments of Presidential Decree 189/2009' (Government Gazette A' 56),
3. The provisions of article 90 of the Code on Government and Government Bodies that was ratified with the first article of Presidential Decree 63/2005 (Government Gazette A' 98),
4. Presidential Decree 22/2012 on the 'Appointment of Ministers and Deputy Ministers' (Government Gazette A' 47),
5. The fact that the provisions of the present Presidential Decree do not burden the federal budget,
6. Opinion Nos 236/2009 and 261/2011 of the Council of State with a proposal of the Minister of Education, Lifelong Learning and Religious Affairs, we hereby decide:

Article 1

Article 2 of Presidential Decree 77/1988 is replaced as follows:

“Article 2 Definitions

For the application of the present Presidential Decree, the following terms shall have the meanings provided for herein below:

- a. 'OBI' means the Industrial Property Organisation, which has its registered offices in Athens (article 1 of Law 1733/1987).
- b. 'Convention' means the Convention on the Grant of European Patents that was ratified by Greece with Law 1607/1986 (Government Gazette A' 85).
- c. 'Revision Act' means the Act revising the Convention on the Grant of European Patents (European Patent Convention of 5 October 1973, which was amended on 17 December 1991) of 29 November 2000 that was ratified by Greece with Law 3396/2005 (Government Gazette A' 246).
- d. 'EPO' means the European Patent Organisation as it is defined in the Convention, as said convention was amended with the Revision Act.
- e. 'EPO' means the European Patent Office as it is defined in the Convention, as said convention was amended with the Revision Act.

- f. 'European application' means an application for the grant of a European patent.
- g. 'Bulletin' means the Industrial Property Bulletin that is issued by the OBI (article 4 of Law 1733/1987).
- h. 'Certified translation' means the translation that was done by a lawyer or authority that has the right to ratify translations."

Article 2

Article 4 of Presidential Decree 77/1988 is replaced as follows:

"Article 4
Language of the application

1. The application for the grant of a European patent may be completed in any language. If the application is not completed in one of the official languages of the EPO, in other words German, English or French, it must be translated into one of said official languages, pursuant to the provisions of the Convention, as said convention was amended with the Revision Act.

2. Natural or legal persons who have their place of residence or registered offices in Greece, as well as Greek citizens who reside abroad, and file certain documents with the EPO in Greek are entitled to a refund of the fees that are due pursuant to the provisions of the Convention, as said convention was amended with the Revision Act."

Article 3

Article 5 of Presidential Decree 77/1988 is replaced as follows:

"Article 5
Documents of the application

The European application must include at least the following documents:

- a. A statement with which the grant of a European patent is requested.
- b. Particulars that confirm the applicant's identity or particulars that contain the applicant's contact information.
- c. A description of the invention or reference to a previously submitted application for the grant of a European patent."

Article 4

Article 5a is inserted after article 5 of Hellenic Presidential Decree 77/1988 as follows:

"Article 5a
Priority Right

1. Pursuant to article 87 of the Convention, as said article was amended with paragraph 34 of article 1 of the Revision Act, within the framework of the procedure for the grant of a European patent, the priority right that the applicant or his successor in title enjoys concerns all prior regular filings, regardless of whether these were filed in a state party to the Paris Convention for the Protection of Industrial Property of 20 March 1883 (as said

convention has been revised) that was ratified with the first article of Law 213/1975 (Government Gazette A' 258) on the ratification of the Paris Convention of 1883 for the Protection of Industrial Property, as said convention was revised in Stockholm on 14 July 1967, or in a Member of the World Trade Organisation.

2. In application of articles 1 and 3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights that is contained in Law 2290/1995 on the 'Ratification of the final act concerning the results of the multilateral commercial negotiations carried out in the framework of the Uruguay Round' (Government Gazette A' 28), paragraph 1 of the present article, for reasons of reciprocity and equal treatment, also applies in the case the priority right is invoked during the procedure for the filing of applications for the grant of a patent or utility model with the OBI pursuant to Law 1733/1987."

Article 5

Paragraph 3 of article 9 of Presidential Decree 77/1988 is replaced as follows:

"3. The translation and the documents that are attached thereto shall be accepted by the OBI provided they meet the typical conditions of presentation of designs and documents of articles 8 and 9 of decision No. 15928/EΦA/1253/24.12.1987 of the Minister of Industry, Energy and Technology on the 'Filing of applications for the grant of a patent or utility model certificates with the OBI and keeping of record books' (Government Gazette A' 778)."

Article 6

Article 10a is inserted after article 10 of Presidential Decree 77/1988 as follows:

"Article 10a
Limitation or revocation of the provisional protection

The provisional protection that is provided for under article 10 of the present Presidential Decree does not produce results if the European patent has been revoked or limited in accordance with opposition, limitation or revocation proceedings before the EPO."

Article 7

Paragraph 2 of article 12 of Presidential Decree 77/1988 is replaced as follows:

"2. The translation and the documents that are attached thereto shall be accepted by the OBI provided they meet the typical conditions of presentation of designs and documents of articles 8 and 9 of decision No. 15928/EΦA/1253/24.12.1987 of the Minister of Industry, Energy and Technology."

Article 8

Article 12a is inserted after article 12 of Presidential Decree 77/1988 as follows:

“Article 12a

Filing of a translation of a text for limitation or revocation of a European patent

1. Within three (3) months of the date of publication of the announcement of the decision on the limitation or revocation of a European patent in the European Patent Bulletin, the proprietor of the European patent is required to file the certified translation of the text on the basis of which the EPO limited or revoked the European patent designating Greece with the OBI
2. If the deadline set out in paragraph 1 of the present article lapses without effect, the European patent is deemed to be void ab initio within the territory of Greece.
3. The translation provided for under paragraph 1 of the present article is filed with the OBI only if the European patent has effect in Greece, in application of paragraph 4 of article 23 of Law 1733/1987 and article 11 of the present Presidential Decree, and an act for forfeiture has not been published, pursuant to article 16 of Law 1733/1987.
4. For the filing of the translation provided for under paragraph 1 of the present article with the OBI, as well as for the publication of said translation in the Bulletin, the provisions of articles 12 and 13 of the present Presidential Decree, respectively, shall apply.
5. For the authenticity of the text provided for under paragraph 1 of the present article, articles 14 and 15 of the present Presidential Decree shall apply.
6. If an act for forfeiture is published, pursuant to article 16 of Law 1733/1987, prior to the date of publication of the announcement of the decision on the limitation or revocation of a European patent in the European Patent Bulletin, the OBI shall record ex officio the announcement of the decision of the EPO on the limitation or revocation of the European patent in the Register of Patents, Volume B', with the indication 'European'. Particulars of this announcement are published in the Bulletin.
7. The decision on the limitation or revocation of a European patent enters into effect from the date of publication of the announcement of the decision in the European Patent Bulletin.
8. The European patent is deemed as not having ab initio the rights, in part or in whole, provided for under article 64 of the Convention, as said convention was amended with the Revision Act, if for said patent a decision for limitation or revocation has been published pursuant to paragraph 7 of the present article.
9. In all other cases, the provisions provided for hereunder shall apply.”

Article 9

Article 18a is inserted after article 18 of Presidential Decree 77/1988 as follows:

“Article 18a

Retroactive payment of annual fees

1. In the case of acceptance by the Enlarged Board of Appeal of the European Patent Office of a petition for review of a prior decision of the Board of Appeal of the party adversely affected pursuant to article 112a of the Convention, as said article was completed with paragraph 55 of article 1 of the Revision Act, and reinstatement of a revoked European

patent with a subsequent decision of the Board of Appeal of the EPO, the annual fees of the previous years of protection that are due, together with the surcharges provided for under the law, shall be paid to the OBI

2. The above fees shall be paid in accordance with the terms and procedure provided for under sub-paragraph (g) of paragraph 10 of article 2 and article 24 of Law 1733/1987 and the amounts that correspond to those amounts that are paid in the case of late payment are paid in accordance with the last clause of paragraph 2 of article 24 of Law 1733/1987.

3. The OBI shall record in the Register of Patents, Volume B', with the indication 'European', the announcement of the decision of the EPO on the reinstatement of the European patent. Particulars of this announcement are published in the Bulletin".

Article 10

Sub-paragraph (b) of article 20 of Presidential Decree 77/1988 is replaced as follows:

"b. The European application was filed in Greek and its translation, pursuant to paragraph 2 of article 14 of the Convention, as it was amended with paragraph 3 of article 1 of the Revision Act, was not filed with the EPO within a deadline of two (2) months of the date of filing of the application for the grant of a European patent."

Article 11

The second clause of the first paragraph of article 21 of Presidential Decree 77/1988 is replaced as follows:

"Articles 135 and 137 of the Convention, as said articles were amended with paragraphs 72 and 74, respectively, of article 1 of the Revision Act, apply accordingly."

Article 12

Paragraph 1 of article 23 of Hellenic Presidential Decree 77/1988 is replaced as follows:

"1. The OBI shall record in the Register of Patents, Volume B', with the indication 'European', the particulars that concern European patents and that are recorded in the Register of European Patents, pursuant to article 127 of the Convention, as said article was amended with paragraph 65 of article 1 of the Revision Act."

Article 13

Article 23a is inserted after article 23 of Presidential Decree 77/1988 as follows:

"Article 23a
Confirmation of registration in the Register

1. The OBI shall grant the proprietor of the certificate of filing of a translation of a European patent a ratified copy of the filing and of all possible changes in the ownership status of the certificate from the Register of Patents, Volume B', with the indication 'European', that the

Organisation keeps. The ratified copy shall be accompanied by the corresponding publications in the Bulletin.

2. The ratified copy provided for under paragraph 1 of the present article, which bears the title 'Confirmation of registration in the Registers of the OBI', is provided on the same day for use before the EPO within the framework of the proceedings for the limitation or revocation of a European patent.

3. The ratified copy provided for under paragraph 1 of the present article is accompanied by its translation into English by the Services of the OBI".

Article 14 **Entry into force**

Without prejudice to the transitional provisions of article 7 of the Revision Act, the present Presidential Decree is valid from the date the Revision Act enters into force, in other words from 13 December 2007.

We hereby assign the publication of the present Presidential Decree in the Government Gazette and its execution to the Minister of Education, Lifelong Learning and Religious Affairs.