

NATIONAL INSTITUTE OF INDUSTRIAL PROPERTY (PORTUGAL)

AS
DESIGNATED (OR ELECTED) OFFICE

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List of abbreviations:

Office: National Institute of Industrial Property (Portugal)

PTL: Industrial Property Code

APL: Administrative Procedures Law

SUMMARY**Designated
(or elected) Office****SUMMARY****PT****NATIONAL INSTITUTE OF INDUSTRIAL
PROPERTY (PORTUGAL)****PT****Summary of requirements for entry into the national phase**

Time limits applicable for entry into the national phase:	Under PCT Article 22(1): 30 months from the priority date Under PCT Article 39(1)(a): 30 months from the priority date									
Translation of international application required into:	Portuguese									
Required contents of the translation for entry into the national phase: ¹	Under PCT Article 22: Description, claims (if amended, as amended only), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts has been amended, only as amended by the annexes to the international preliminary examination report)									
Is a copy of the international application required?	No									
National fee: ¹	Currency: Euro (EUR) <table border="1"> <thead> <tr> <th></th> <th><i>Online</i></th> <th><i>On paper</i></th> </tr> </thead> <tbody> <tr> <td>For patent:²</td> <td>EUR 53.30</td> <td>EUR 106.61</td> </tr> <tr> <td>For utility model:³</td> <td>EUR 53.30</td> <td>EUR 106.61</td> </tr> </tbody> </table>		<i>Online</i>	<i>On paper</i>	For patent: ²	EUR 53.30	EUR 106.61	For utility model: ³	EUR 53.30	EUR 106.61
	<i>Online</i>	<i>On paper</i>								
For patent: ²	EUR 53.30	EUR 106.61								
For utility model: ³	EUR 53.30	EUR 106.61								
Exemptions, reductions or refunds of the national fee:	None									
Special requirements of the Office (PCT Rule 51 <i>bis</i>): ⁴	Name and address of the inventor if they have not been furnished in the "Request" part of the international application ⁵ Deed of assignment or transfer if the applicant is not the inventor ⁵ Appointment of an agent if the applicant is not resident in Portugal ⁶									
Who can act as agent?	An official industrial property agent, an appointed lawyer, or a registered representative									
Does the Office accept requests for restoration of the right of priority (PCT Rule 49 <i>ter.2</i>)?	Yes, the Office applies the "due care" criterion to such requests									

¹ If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the applicant may still file the translation and/or pay the fee within one month from the expiration of the applicable time limit, subject to the payment of a surcharge equal to 50% of the filing fee.

² Includes publication and examination.

³ Includes publication only.

⁴ If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

⁵ This requirement may be satisfied if the corresponding declaration has been made in accordance with PCT Rule 4.17.

⁶ Unless an e-mail address or facsimile number is furnished.

THE PROCEDURE IN THE NATIONAL PHASE

PT.01 TRANSLATION (CORRECTION). Errors in the translation of the international application can be corrected with reference to the text of the international application as filed (see National Phase, paragraphs 6.002 and 6.003).

PT.02 FEES (MANNER OF PAYMENT). The manner of payment referred to in the Summary and in this Chapter is outlined in Annex PT.I.

PT.03 POWER OF ATTORNEY. An agent must be appointed by filing a power of attorney. A model is given in Annex PT.II.

PTL Art. 94
349.2
and 3

PT.04 RENEWAL FEES. Annual fees for the first two years are included in the filing fee. They are payable for the third and each subsequent year following the international filing date, even when the corresponding rights have not yet been granted. For the third and fourth annual fees the Office applies a discount of 100% (the applicant does not pay any fee). However, the applicant must indicate to the Office that the patent should be renewed for the third and fourth years. The first payment must be made within three months from the first anniversary of the application filing date following the date of filing the Portuguese translation of the international application. Subsequently, annual fees become due each year during the six months preceding the anniversary of the international filing date. Late payment can be made within six months from that anniversary together with 50% surcharge. The amounts of the annual fees are shown in Annex PT.I.

PT.05 DEED OF ASSIGNMENT. Where the applicant claims the priority of an earlier application under which he is not the applicant, a deed (or deeds) of assignment must be furnished. For details, see the sample of such deed (not an official form) in Annex PT.III. Legalization is not required. For time limits, see the Summary. Where the applicant is not the inventor, it is sufficient to designate the inventor and to state how the applicant acquired the right to the patent.

PCT Art. 28
41

PT.06 AMENDMENT OF THE APPLICATION. The applicant may amend or correct the international application up to the grant of a patent, provided the scope of the subject matter of the application is not broadened thereby. Requests for amendments may be subject to payment of a fee.

PTL Art. 17
66

PT.07 PUBLICATION OF THE APPLICATION. After the international publication, the Office publishes in the Industrial Property Bulletin a notice that the application has entered the national phase, with all the elements which are relevant for the identification of the application. An opposition may be filed by a third party within two months from the date of publication of the notice and is subject to a fee, whose amount is shown in Annex PT.I. If no opposition is filed, the application is subject to a substantive examination.

PT.08 SUBSTANTIVE EXAMINATION. All patent applications are subject to substantive examination, but no special request has to be made.

PTL Art. 68

PT.09 PUBLICATION OF GRANT. If the examination concludes that the patent can be granted, a notice of acceptance of grant shall be published in the Industrial Property Bulletin.

PCT Art. 25
PCT Rule 51
APL Art. 158
et seq.

PT.10 REVIEW UNDER PCT ARTICLE 25. The applicable procedure is outlined in paragraphs 6.018 to 6.021 of the National Phase. If, upon review under PCT Article 25, the Office denies an error or omission on the part of the receiving Office or the International Bureau, an appeal may be filed with the President of the Office against the decision of the Director of Services. If the Office confirms its decision, another appeal may be filed with the competent Minister and ultimately with the Lisbon Administrative Court which will decide on the appeal. The amount of the appeal fee is shown in Annex PT.I.

- PCT Art. 24(2)
48(2) PT.11 **EXCUSE OF DELAYS IN MEETING TIME LIMITS.** Reestablishment of rights may be requested where the applicant was unable, for legitimate reasons, to observe a time limit during the international phase or before the Office. A request for reestablishment must be filed with the Office in writing and the omitted act must be performed. The request must state the grounds on which it is based and set out the facts to which it refers.
- PCT Art. 4(3)
43
PCT Rule 49bis.1
(a), (b)
76.5
PTL Art. 117 PT.12 **UTILITY MODEL.** If the applicant wishes to obtain a utility model in Portugal, on the basis of an international application
- (i) instead of a patent or
 - (ii) in addition to a patent,
- the applicant, when performing the acts referred to in Article 22 or 39, shall so indicate to the Office.
- PTL Art. 117.5
142 PT.13 If the international application is for a utility model instead of a patent, the requirements are basically the same as for patents, except that the examination fee is only required if the applicant wishes the invention to be examined. The maximum term of protection for a utility model is 10 years. Any utility model is no longer valid after a patent has been granted for the same invention.
- PT.14 If the international application is for both a utility model and a patent, the applicant must, within the time limit applicable for entry into the national phase, comply with the same requirements as for a patent application except that he has to:
- (i) pay two filing fees for both the patent and the utility model,
 - (ii) where the international application was not filed in Portugal, to furnish a translation in duplicate into Portuguese.
- PTL Art. 131 PT.15 **SUBSTANTIVE EXAMINATION.** Utility models applications are subject to substantive examination only if it is requested by the applicant. In this case, this option should be marked in the application form or, if the examination is requested later, a form should be filled in for this purpose and the corresponding fee should be paid.
- PTL Art. 130 PT.16 **PROVISIONAL GRANT FOR THE UTILITY MODEL.** The utility model is provisionally granted if it was not subject to substantive examination and no opposition was filed.
- PT.17 Where, in the case referred to in paragraph PT.13, the international application does not contain drawings, the applicant must furnish the drawing(s) within the time limit applicable under PCT Article 22 or Article 39(1). Where the applicant does not furnish the drawing(s) within the applicable time limit, the Office will invite him to furnish the drawing(s) within a time limit fixed in the invitation. Where an international application is converted into a utility model application (see next paragraph), the drawing(s) must be submitted with the request for conversion.
- PT.18 **CONVERSION.** An international application for a patent may be converted into a utility model application after the applicant has complied with the requirements for entry into the national phase for a patent application as mentioned in the Summary. The conversion is subject to payment of a fee for conversion shown in Annex PT.I and may be requested up to the grant of the patent.
- PT.19 An international application for a utility model may be converted into a patent application after the applicant has complied with the requirements for entry into the national phase for a utility model application, as shown in the Summary. The conversion is subject to the payment of a fee for conversion shown in Annex PT.I and may be requested up to the grant of the utility model.

FEES

(Currency: Euro)

Patents	<i>Online</i>	<i>On paper</i>
Filing fee (includes publication and examination)	53.30	106.61
Amendment fees:		
— corrections of the applicant or patentee details	—	—
— claims, description, drawings, abstract, title or other elements	26.66	53.30
Fee for conversion of a patent into a utility model	106.61	213.21
Annual fees:		
— for the 1 st year to the 4 th year	—	—
— for the 5 th year	52.57	52.57
— for the 6 th year	78.84	78.84
— for the 7 th year	105.14	105.14
— for the 8 th year	157.71	157.71
— for the 9 th year	315.40	315.40
— for the 10 th year to the 11 th year, per year	367.98	367.98
— for the 12 th year	420.54	420.54
— for the 13 th year	473.11	473.11
— for the 14 th year	525.69	525.69
— for the 15 th year to the 16 th year, per year	578.24	578.24
— for the 17 th year to the 18 th year, per year	683.38	683.38
— for the 19 th year to the 20 th year, per year	735.95	735.95
Opposition fee	53.30	106.61
Appeal fee (for each level)	159.91	319.83
Fee for reestablishment of rights	159.91	319.83
Utility models		
Filing fee (includes publication only)	53.30	106.61
Examination fee ¹	79.97	159.91
Amendment fees:		
— corrections of the applicant or patentee details	—	—
— claims, description, drawings, abstract, title or other elements	26.66	53.30
Fee for conversion:	106.61	213.21
Annual fees:		
— for the 1 st year to the 4 th year	—	—
— for the 5 th year to the 7 th year, per year	31.99	47.97
— for the 8 th year to the 10 th year, per year	37.30	53.30
— for the 11 th year to the 14 th year, per year	47.97	63.96
— for the 15 th year	63.96	63.96

¹ Whenever examination is requested.

	<i>Online</i>	<i>On paper</i>
Opposition fee	53.30	106.61
Appeal fee (for each level)	159.91	319.83
Fee for reestablishment of rights	159.91	319.83

How can payment of fees be effected?

Payment of fees by nationals may be effected in cash, by check, by ATM or by postal order for paper filings. For online filings, payment of fees should be made by ATM.

For non-nationals, online payments should be made by credit card (Visa or MasterCard).

Payment of fees by bank transfer is only permitted under very exceptional conditions. Please contact the Office at servico.publico@inpi.pt for further details.

All payments must give the application number (national, if already known; international, if the national application number is not yet known), the name of the applicant and the category of fee being paid.