

SPANISH PATENT AND TRADEMARK OFFICE

AS
DESIGNATED (OR ELECTED) OFFICE

CONTENTS

THE ENTRY INTO THE NATIONAL PHASE—SUMMARY

THE PROCEDURE IN THE NATIONAL PHASE

ANNEXES

Fees	Annex ES.I
Power of attorney	Annex ES.II
Deed of assignment	Annex ES.III

List of abbreviations:

Office: Spanish Patent and Trademark Office

SPL: Spanish Patent Law

SRD: Royal Decrees Nos. 2245/1986, 441/1994 and 1123/1995

STL: Spanish Trademark Law, of 7 December 2001, in force as from 31 July 2002

SUMMARY**Designated
(or elected) Office****SUMMARY****ES****SPANISH PATENT AND
TRADEMARK OFFICE****ES****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: ¹	Spanish
Required contents of the translation for entry into the national phase: ¹	Under PCT Article 22: Description, claims (if amended, both as originally filed and as amended, together with any statement under PCT Article 19), 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, both as originally filed and as amended by the annexes to the international preliminary examination report)
Is a copy of the international application required?	No
National fee:	Currency: Euro (EUR) For patent or utility model: Filing fee: EUR 89.89 Electronic filing fee: EUR 76.41
Exemptions, reductions or refunds of the national fee:	None
Special requirements of the Office (PCT Rule 51bis): ²	Name of the inventor if it has not been furnished in the "Request" part of the international application ³ Instrument of assignment of the priority right where the applicants are not identical ³ Instrument of assignment of the international application if the applicant has changed after the international filing date Appointment of an agent if the applicant is not resident in Spain or in another country of the European Union Translation of the priority document into Spanish ⁴

[Continued on next page]

¹ Must be furnished within 30 months from the priority date.

² 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.

³ This requirement may be satisfied if the corresponding declaration has been made in accordance with PCT Rule 4.17.

⁴ Such a translation may be required regardless of whether the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable (see *PCT Gazette* No. 05/2001, page 2024).

SUMMARY**Designated
(or elected) Office****SUMMARY****ES****SPANISH PATENT AND
TRADEMARK OFFICE****ES***[Continued]*

Who can act as agent?

Any patent attorney whose name appears on a list maintained by the Office

Does the Office accept requests for restoration of the right of priority (PCT Rule 49ter.2)?

No

THE PROCEDURE IN THE NATIONAL PHASE

- ES.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). If the translation furnished to the Office contains only the description, the Office will invite the applicant to furnish the missing part and will excuse the late furnishing provided that the scope of the disclosure contained in the translation furnished to the Office is not broadened thereby.
- SRD Art. 31(2)
81 ES.02 **FEES (MANNER OF PAYMENT).** The manner of payment of the fees indicated in the Summary and in this Chapter is outlined in Annex ES.I.
- SPL Art. 155 ES.03 **POWER OF ATTORNEY.** An agent must be appointed by filing a power of attorney if the applicant is not resident in Spain or in a country of the European Union. A model is given in Annex ES.II.
- SPL Art. 161
SRD Art. 82 ES.04 **ANNUAL FEES.** After a patent has been granted, a fee must be paid for maintaining the patent in force. Payment must be made for the third, and each following year after the international filing date which has expired at the time of granting the patent, within three months after publication in the Industrial Property Bulletin of a mention of the grant of the patent. Payment of the subsequent annual fees must be made three months before the expiration of the month containing the anniversary of the international filing date, and one month after that date. Payment can still be made within one month after the due date or, together with a 25% surcharge, within three months or, together with a 50% surcharge, before the expiration of the sixth month after the due date. Once the sixth month has expired, the patent may still be maintained in force by paying, before the due date for the next annual fee, the annual fee for the 20th year. The amounts of the annual fees are indicated in Annex ES.I.
- SRD Art. 4.1(d)
21(2) ES.05 **DEED OF ASSIGNMENT.** When the applicant claims the priority of an earlier application filed by an applicant who is not identical with the applicant of the international application, a deed (or deeds) of assignment must be furnished. For details, see the sample of such deed (not an official form) in Annex ES.III. Legalization is not required. For time limits, see the Summary. When the applicant is not the inventor, it is sufficient to designate the inventor and to indicate how the applicant acquired the right to the patent.
- SPL Art. 41
PCT Art. 28
41 ES.06 **AMENDMENT OF THE APPLICATION.** The applicant may amend or correct the international application before the grant of a patent according to the provisions of the law, provided the scope of the subject matter of the application is not broadened thereby. Any request for amendment is subject to the payment of a fee for modification indicated in Annex ES.I.
- SPL Art. 47
48
PCT Art. 25
PCT Rule 51 ES.07 **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, a petition against this decision may be lodged within one month from the date of publication of the decision in the Industrial Property Bulletin. Within the same one-month time limit, a fee for petition must be paid (for the amount, see Annex ES.I). If the Office confirms its decision, an administrative appeal may be lodged with the competent court.

- SPL Art. 47
48
117
STL Art. 25
PCT Art. 24(2)
48(2)
STL 4th Additional
Provision
- ES.08 EXCUSE OF DELAYS IN MEETING TIME LIMITS.** Reestablishment of rights may be requested where the applicant was unable 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 completed. The request must state the grounds on which it is based and must set out the facts to which it refers. If the Office refuses the reestablishment of rights, an administrative appeal may be lodged within one month after the publication of the final decision of the Office in the Industrial Property Bulletin. Nevertheless, certain matters are excluded from the reestablishment of rights. Time limits may be extended by half by the Office provided that the request for extension is made before the expiration of the time limit. Any proceeding whose time limit falls on a Saturday will be considered fulfilled in due time if it is done on the first working day following that Saturday.
- SPL Art. 147(2)
PCT Art. 4(3)
43
PCT Rules 49*bis*.1
(a), (b)
76.5
- ES.09 UTILITY MODEL.** If the applicant wishes to obtain a utility model instead of a patent in Spain, on the basis of an international application, for international applications filed before 1 January 2004, this must have been indicated in the international application (in Box No. V of the request) when filed; for international applications filed on or after 1 January 2004, since the request form no longer provides for the furnishing of such an indication, the applicant, when performing the acts referred to in Article 22 or 39, shall so indicate to the Office.
- SRD Art. 41
- ES.10** The requirements for the national phase are basically the same as for patents.
- PCT Art. 7(2)(ii)
PCT Rule 7.2
- ES.11** Where the international application does not contain drawings, the applicant must furnish the drawing(s) within the time limit applicable under PCT Article 22 or 39(1). Where the applicant does not furnish the drawing(s) within that time limit, the Office will invite him to furnish the drawing(s) within a time limit fixed in the invitation. Where an international patent application is converted into a utility model application (see the next paragraph), the drawing(s) must be submitted together with the request for conversion.
- SPL Art. 42
SRD Art. 35(1)
- ES.12 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 indicated in the Summary. The conversion is subject to the payment of a fee for conversion indicated in Annex ES.I and may be requested until the expiration of the time limit given to the applicant to present observations in connection with the search report. In the case that the application is handled under the substantive examination procedure, the conversion may be requested until the expiration of the time limit given to the applicant to answer the oppositions or objections formulated by the Office.
- SRD Art. 42
- ES.13** An international application for a utility model may be converted into a patent application after the applicant has complied with the requirements for the entry into the national phase for a utility model application, as indicated in the Summary. The conversion is subject to the payment of a fee for conversion indicated in Annex ES.I and may be requested before the grant of the utility model.

FEES

(Currency: Euro)

National fee for patent or utility model:	
— filing fee	89.89
— electronic filing fee	76.41
Fee for conversion	13.31
Fee for amendment	27.16
Grant fee	27.16
Annual fees:	
— for the 3 rd year counted from the international filing date	21.33
— for the 4 th year counted from the international filing date	26.63
— for the 5 th year counted from the international filing date	50.93
— for the 6 th year counted from the international filing date	75.18
— for the 7 th year counted from the international filing date	99.27
— for the 8 th year counted from the international filing date	123.59
— for the 9 th year counted from the international filing date	147.79
— for the 10 th year counted from the international filing date	172.06
— for the 11 th year counted from the international filing date	208.47
— for the 12 th year counted from the international filing date	244.78
— for the 13 th year counted from the international filing date	281.02
— for the 14 th year counted from the international filing date	317.59
— for the 15 th year counted from the international filing date	353.91
— for the 16 th year counted from the international filing date	403.42
— for the 17 th year counted from the international filing date	450.87
— for the 18 th year counted from the international filing date	499.40
— for the 19 th year counted from the international filing date	547.83
— for the 20 th year counted from the international filing date	596.34
Appeal fee	98.28
Fee for reestablishment of rights	98.28

How can payment of fees be effected?

The payment of fees must be effected in cash, in euro. All payments must indicate 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.

PODER / POWER OF ATTORNEY / POUVOIR

Yo / Nosotros / I / we / Je / Nous(1)

nombro / nombramos / do hereby appoint / nomme / nommons(2)

para encargarse en mi / nuestro nombre de los trámites para presentar una solicitud relativa a la invención intitulada(3)

to take on my / your behalf proceeding for making application for the invention entitled(3)

pour accomplir en mon / notre nom les formalités de dépôt d'une demande relative à l'invention intitulée(3)

en la Oficina Española de Patentes y Marcas(4)

before the Spanish Patent and Trademark Office(4)

auprès de l'Office espagnol des brevets et des marques(4)

de conformidad con la ley española sobre patentes / according to the Spanish Patent Law / conformément à la loi espagnole sur les brevets.

Lugar / Place / Lieu..... Fecha / Date

Firma(s) / Signature(s)

- (1) Indicar de manera completa (a) el nombre y (b) la dirección de la persona o de la empresa que ha nombrado al mandatario / Insert in full (a) the name and (b) address of the individual or corporation appointing the attorney / indiquer le nom complet (a) et l'adresse complète (b) de la personne ou de la société qui nomme le mandataire.
- (2) Nombre del mandatario / Name of the attorney / Nom du mandataire.
- (3) Título de la invención / Title of the invention / Titre de l'invention.
- (4) Otros asuntos para los cuales el mandatario ha sido nombrado / Other matters for which the attorney is appointed / Autres affaires pour lesquelles le mandataire est nommé.

ACTA DE CESIÓN / DEED OF ASSIGNMENT / ACTE DE CESSION

Yo/Nosotros el que suscribe/los que suscriben
It is hereby declared that I/we the undersigned
Je/Nous soussigné(s)

declaro/declaramos por la presente acta haber cedido mi/nuestro derecho de solicitar y obtener una patente en España relativa a la invención intitulada:
have assigned my/our right to apply for and obtain a patent in Spain in respect of the invention entitled:
déclare/déclarons par le présent acte avoir cédé mon/notre droit de demander et obtenir un brevet en Espagne en ce qui concerne l'invention intitulée:

a / to / à:

Lugar / Place / Lieu: Fecha / Date:

Firma(s) / Signature(s)

NO SE REQUIERE LEGALIZACIÓN / NO LEGALIZATION REQUIRED / AUCUNE LEGALISATION REQUISE