

France

In France, there are currently three options to request expedited examination of a patent application. The National Institute of Industrial Property (INPI) allows applicants to request PPH accelerated examination, or one of the following dedicated expedited examination programs: (i) the standard accelerated process for patent applications; or (ii) the accelerated examination of COVID-19-related applications.¹

Accelerated Patent Grant

Grounds/Qualification: Any applicant can aspire to request accelerated examination under the above-stated grounds. To be considered for accelerated examination status, the application must concern French patents or utility certificates.²

Conditions & Fees: The request must be submitted to INPI by the applicant or the agent, within ten months from the filing of the patent or utility certificate application. No additional fees need to be paid. The request for accelerated examination must be submitted electronically, *via* the online service provided by INPI.

In order to ensure accelerated delivery, INPI makes it necessary to bring forward the publication of the patent application or utility certificate, which would otherwise normally occur after a period of 18 months after the filing or the claimed priority date. At the request of the applicant, INPI will therefore publish the application in advance, in accordance with the provisions of Article R. 612-39 of the French Intellectual Property Code. The advanced publication will take place 10 months from the filing,³ excluding those applications filed under foreign or internal priority.⁴

INPI will not proceed with the early publication, if the patent or utility certificate application is no longer considered for accelerated examination. After approving expedited examination of the application, INPI can take away this status, placing the application to the regular examination procedure, in the following limited cases:

- (i) when the application does not give rise, within ten months of its filing, to an authorization for disclosure and exploitation of the national defense (article L. 612-9 CPI);
- (ii) when the application concerned is irregular;
- (iii) when the applicant modifies the documents of their application or request an extension of the deadline for responding to the search report;
- (iv) when a third party submits written observations on the patentability of the invention;
- (v) when the applicant does not pay the fee for issuing and printing the patent specification within the period of two months as granted by INPI; or

¹ See INPI's website, available at: <https://www.inpi.fr/en/services-and-benefits/accelerated-patent-grant>.

² Which is available in the e-procedures area of INPI's website.

³ This specific procedure will be taken into account for advance publication requests made for the purposes and within the request for accelerated examination. It in no way affects the possibility that applicants have of obtaining the immediate publication of the patent application or utility certificate. For this, the applicant can in fact separately submit a request for advanced publication in writing to INPI, which will be subjected to the applicable procedure.

⁴ In these cases, the applications will be published normally, at the end of a period of 18 months from the earliest priority date claimed.

- (vi) when the preliminary search report partially cites prior art or could not be established within ten months of filing.⁵

Reduce Pendency: INPI commits to issue the patent within twenty months from the date of filing for these applications.

Accelerated granting of patents related to COVID-19

Objectives & Goals: This expedited examination program is aimed at accelerating innovations related to COVID-19, which have given rise to marketing authorization by a competent authority.

Grounds/Qualification: Any applicant can request expedited examination under this program. The application needs to pertain to subject matter related to COVID-19 and to be filed exclusively *via* the online service provided by INPI.

Conditions & Fees: The request must be submitted to INPI by the applicant or the agent, within ten months from the filing of the patent or utility certificate application. The request must be submitted electronically, *via* the online service provided by INPI. No additional fees are required.

In order to ensure accelerated delivery, INPI makes it necessary to bring forward the publication of the patent application or utility certificate, which would otherwise normally occur after a period of 18 months after the filing or the claimed priority date. At the request of the applicant, INPI will therefore publish the application in advance.⁶ In the interest of the applicant, this publication will only be advanced to the extent necessary for expedited issuance.

Other applicable conditions are the same as the standard Accelerated Patent Grant procedure.

Reduced Pendency: INPI processes these applications in a maximum of 24 months, which includes the preliminary search reports that need to be issued, even in the case of those that quote prior art which might lead to the rejection of the application.

⁵ See Articles L. 612-14 and R. 612-58 of the French Intellectual Property Code.

⁶ In accordance with the provisions of Article R. 612-39 of the French Intellectual Property Code.