

The London Agreement

The London Agreement aims to reduce translation costs incurred after the grant of a European patent. It entered into force on 1 May 2008. It applies to all patents granted after the entry into force in those member states of the EPC which have signed up to the London Agreement.

PREVIOUS LAW

When an application is allowed, it is necessary to file a translation of the claims into French and German (assuming that the application is in English). This has not changed under the London Agreement.

After grant, most member states of the European Patent Convention (EPC) required the filing of a translation of the

whole patent specification into the national language of the state in order for the patent to have effect in that state.

The preparation of these necessary translations could account for up to around 40% of the total cost of obtaining a European patent.

The London Agreement

Under the London Agreement, the member states of the EPC are divided into two types:

1. Countries having English, German or French as an official language

These countries will no longer require a translation of the patent specification in order to validate the granted patent in that country.

2. Countries having a language other than English, French or German as an official language

These countries will select one of these three languages (English, French or German) and will only require a translation of the patent specification into the selected language (assuming the patent has not been granted in that language). They may require a translation of the claims of the patent into their national language.

For all countries

As previously, when an application is allowed it is still necessary to file a translation of the claims into French and German (assuming that the application is in English) prior to grant.

It may be necessary to file a translation of the whole patent specification into the national language of a country should the patent become the subject of a dispute in that country.

Countries signed up to the London Agreement

Signing up to the London Agreement is optional. For countries not signing up, the previous law remains i.e. they may require translation of the whole patent specification into their national language in order for the patent to take effect in their country.

So far, the following countries have approved the Agreement:

United Kingdom	Iceland	Monaco
Germany	Latvia	Netherlands
France	Liechtenstein	Slovenia
Croatia	Lithuania	Sweden
Denmark	Luxembourg	Switzerland

Of these, UK, France, Germany, Liechtenstein, Luxembourg, Monaco and Switzerland fall under type 1, having either English, German or French as an official language and therefore will require no translation of the specification for validation of the patent in their country.

Denmark, Iceland, Latvia, Lithuania, Netherlands, Slovenia, Croatia and Sweden fall under type 2 as they do not have English, French or German as an official language. Denmark, Iceland, Netherlands, Croatia and Sweden have selected English as their language for translation but require translation of the claims into their national language. Latvia, Lithuania and Slovenia have not selected a particular language, but again require translation of the claims into their national language.

Potential Cost Reductions

The potential translation cost reduction varies depending on which countries are selected for validation.

Of course, cost reductions will be greatest where the validation countries include those which have signed up to the London Agreement although these savings may be negated by inclusion of validation countries having German/French as an official language and which have not signed up (see Example 4).

Examples are given below for an English language specification:

Example 1 – Validation in UK, France and Germany only

At allowance – translation of claims into French and German.
At grant – no further translations needed.

Cost savings – significant since translation of whole specification into French and German no longer needed.

Example 2 – Validation in UK, France, Germany, Italy and Spain

At allowance – translation of claims into French and German.
At grant – translation of whole specification into Italian and Spanish.

Cost savings – significant since translation of whole specification into French and German no longer needed.

N.B. Italy and Spain are not expected to join the London Agreement.

Example 3 – Validation in UK, Germany, Denmark, Sweden, Finland

At allowance – translation of claims into French and German.
At grant – translation of claims into Danish and Swedish, translation of whole specification into Finnish.

Cost savings – significant since translation of whole specification into German, Danish and Swedish no longer needed.

N.B. Finland may join the London Agreement in due course

Example 4 – Validation in UK, Germany and Austria

At allowance – translation of claims into French and German.
At grant – translation of whole specification into German (for Austria).

Cost savings – none since translation of whole specification into German still required

Example 5 - Validation in UK, France, Belgium, Germany and Austria

At allowance - translation of claims into French and German.
At grant - translation of whole specification into German (for Austria and Belgium)

Cost savings - since translation of whole specification into French no longer needed.

N.B. Belgium and Austria are not expected to join the London Agreement in the near future

Entry into Force

The London Agreement entered into force on 1 May 2008 and applies to all patents granted on or after that date.

Patents amended post-grant

European patents may be amended post-grant, in opposition, appeal or limitation proceedings. The situation may arise where a patent was granted **before** entry into force of the London Agreement on 1 May 2008, but amended **on or after** that date.

In UK, France, Liechtenstein, Luxembourg, Monaco, Switzerland, Iceland, Latvia, Netherlands, Slovenia and Sweden the new rules under the London Agreement apply in such situations, such that the translation requirements for the amended patent specification are reduced.

In contrast, in Germany and Denmark the previous translation requirements continue to apply for the amended patent specification in such situations.

Please ask your usual contact for advice on specific cases.

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London

33 Gutter Lane
London
EC2V 8AS

Tel: 020 7776 5300

Fax: 020 7776 5399

Bristol

22-24 Queen Square
Bristol
BS1 4ND

Tel: 0117 945 1234

Fax: 0117 926 5692

Manchester

Bridgewater House
Whitworth Street
Manchester M1 6LT

Tel: 0161 247 7722

Fax: 0161 247 7766

Cambridge

Newnham House
Cambridge Business Park
Cambridge CB4 0WZ

Tel: 01223 420383

Fax: 01223 423792