

## Reducing the fees payable for European patent applications – micro-entity status

The European Patent Office's micro-entity scheme provides eligible entities with 30% discounts on the following European patent application fees:

- the **filing** fee, including any additional 'excess page' or 'multiple-generation divisional' charges
- the **search, examination, designation and grant** fees
- **renewal fees payable to the EPO** whilst the application is pending (but not following grant)

In addition, the examination may be discounted by a further 10-30% if the European patent application is based on a PCT application that was searched by the EPO during the 'international phase'.

### *Determining whether an applicant may be eligible*

To be eligible for the scheme, each applicant must be one of the following:

- (a) an **individual**
- (b) a **microenterprise**, namely a business that "employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million" taking into account any "partner" and "linked" enterprises – please see [this guidance](#) for further information
- (c) a **non-profit organisation**, namely an organisation that is not permitted under law or the organisation's constitution (e.g. articles of association) to be "a source of income, profit or other financial gain for their owners" and where any profits are required to be reinvested "in the interest of the organisation"
- (d) a **university** or "comparable institution" (e.g. "secondary or higher education establishments")
- (e) a **public research organisation** "organised under public law" that has as its primary goal "the conduct of fundamental research, industrial research or experimental development and the dissemination of the results by way of teaching, publication or technology transfer" and that reinvests all profits "in carrying out these activities, in the dissemination of the results or in teaching"

The scheme is open to applicants of all nationalities, regardless of their country of residence or place of business.

### *The cap on eligible applications*

In addition, an application can only be enrolled into the scheme if each applicant has, individually, submitted fewer than five *other* European patent applications in the five year period immediately preceding the submission date of the new application. For this purpose, the submission date for each application is:

- (a) the filing date, for a direct European patent application
- (b) the regional phase entry date, for a European patent application based on a PCT application, or
- (c) the receipt date, for a divisional European patent application.

Earlier applications that have been abandoned or withdrawn, or that were never enrolled in the scheme, will count towards the cap. If an application is transferred to a new owner, then it will count towards the new owner's cap, potentially causing *another* application within the new owner's portfolio to stop being eligible for discounted fees.

The status of each applicant, and whether the application falls within the cap, needs to be checked and reassessed whenever a fee is paid. The EPO will treat any fees incorrectly paid at a discounted rate as not having validly been paid at all, with the consequence that the application may be 'deemed abandoned'. In some cases it will be possible to recover the application by paying the remaining amounts together with a surcharge of up to 50% of the undiscounted total, resulting in significant extra costs. As such, it is important to be vigilant and inform your HGF attorney whenever there is a change in your circumstances that might affect your eligibility for any reduced fees.

If you have any questions about the scheme, or would like to discuss whether you or your client may be eligible, then please contact your usual HGF attorney.