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EPO's Turnaround for Divisional Applications

On October 16, 2013, the European Patent Office's Administrative Council adopted amendments to the rules for divisional applications. It repealed the 24-month time limit for the filing of divisional applications in Rule 36 EPC.

The rule change will apply to all pending applications, and the current requirement that divisionals be filed within a two-year window will cease on April 1, 2014. On or after April 1, 2014, a divisional may be filed as long as the earlier application is still pending. Note that the EPO may charge progressively higher fees for each subsequent generation of divisionals that are filed from existing divisionals (up to a certain limit that has not yet been determined).

Where the two-year window for filing divisionals has already passed, applicants may wish to consider delaying grant of applications so that they may have a further opportunity to file divisionals and conduct an audit for possible divisionals.

For more information, please contact:

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