

## European Patent Office Implements Disclosure Requirements

October 22, 2010

The European Patent Office (EPO) has announced rule changes, effective January 1, 2011, that require all applicants claiming priority to another earlier filed application to submit the search results from the patent office of first filing (the priority application) at the time of filing or upon entering the European regional phase of application. A translation of the search results is not required and copies of the cited documents do not need to be submitted.

According to the rule changes, if an applicant claims priority to a previous application, the search results carried out by the authority where that previous application was filed are now to be submitted to the EPO. If the application at hand claims priority to multiple priority applications, search results for each priority application are required to be submitted. If the search results are not available at the time of filing or upon entry into the European regional phase, the results must be submitted without delay when they do become available. European divisional applications will not require the search results to be submitted again as long as they were filed in the parent application. New divisional applications where the search results were not filed in the parent application will have to comply with these new rules.

Although the changes to the rules create an obligation to submit the search results, failing to do so does not trigger sanctions. If it is noted during prosecution that search results have not been filed, the EPO will invite the applicant to do so within a nonextendible two-month period. The applicant can then respond with a copy of the search results or with a statement of nonavailability of the search results. Failing to respond to this invitation will result in withdrawal of the application, which can be revived within a short period per standard further processing steps.

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