



EPO Accelerated Prosecution Procedure (PACE)

It is possible at the EPO to accelerate the search and/or examination of any application using the accelerated prosecution procedure (PACE)¹. To use the procedure, it is necessary to file a PACE request online using the appropriate form. Other than this, there are no special requirements to qualify for PACE: the request can be filed at any time, no official fee is payable and no special reasons need be given.

The EPO will accept the request for accelerated prosecution where “practically feasible and subject to the workload of search and examining divisions”. In practice, PACE requests are usually accepted. In certain technical fields, current backlogs may mean that PACE requests are in practice ineffective. In addition, applicants who routinely request PACE for all or most of their applications will be required by the EPO to select a subset of applications for acceleration.

Requests for acceleration of the search procedure and requests for acceleration of the examination procedure need to be filed separately. It is only possible to file requests for acceleration of the examination procedure after responsibility for the application has passed to the examining division.

Once PACE has been requested, the EPO aims to issue a search report within 6 months. For examination, the EPO aims to produce an examination report within 3 months, and any further examination reports within 3 months of the applicant’s response.

Applications are removed from PACE if: (i) the PACE request is withdrawn, (ii) the applicant extends a time limit, or (iii) the

application is refused, withdrawn or deemed withdrawn. It is possible to file a request for PACE only once during the search phase and only once during the examination phase. As a result, if an application is removed from PACE (for example because an extension has been requested), it is not possible to reinstate the application into PACE.

The EPO states that accelerated prosecution will be “suspended” on cases where renewal fees are not paid in due time. Although not stated, the implication is that accelerated prosecution will be resumed if the renewal fee is paid within the six-month grace period.

It is noteworthy that on applications where substantiated observations on patentability under Article 115 EPC have been filed at the EPO by a non-anonymous third party, the EPO will treat the application as if a PACE request has been filed and will accelerate prosecution. However, the filing of such third party observations does not constitute a request for PACE by the applicant, and indeed the applicant may not desire PACE at all. In such circumstances where PACE is initiated by a third party, the applicant cannot remove the application from the accelerated procedure by, for example, filing an extension request. Nor would the earlier filing of a PACE request by the applicant and subsequent removal from PACE preclude the EPO from accelerating prosecution in view of substantiated observations by a non-anonymous third party.

Footnotes

1. The EPO’s notice outlining this procedure can be found [here](#)

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