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EPO USER CONSULTATION
CHANGES IN FEE PAYMENTS VIA DEPOSIT ACCOUNT
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RESPONSE BY THE CHARTERED INSTUTUE OF PATENT ATTORNEYS

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125 years
as a Chartered Institute

The Chartered Institute of Patent Attorneys (CIPA) is the United Kingdom professional body which represents over 2000 UK patent attorneys. Most of our UK patent attorney members are also European Patent Attorneys and play major roles in representing clients at the EPO. We also have a number of other members who are European Patent Attorneys while not fully qualified as UK patent attorneys.

Introduction Of A Validation Tool For Erroneous Batch Payments

We can see the merit of a system which prevents erroneous payments, provided that:

- Other payments in the batch must be processed as normal. It would quite wrong to reject an entire batch of payments because of one faulty record.
- The tool must flag which payment caused the problem, so that the user can investigate.
- If, upon investigation, the user believes that the EPO's records are incorrect and that the application concerned is still pending, then it must still be possible to pay the fee, perhaps as a one-off payment rather than in a batch. This will prevent the need to pay additional fees or to apply for re-establishment of rights in respect of a renewal fee paid late, after the EPO's records have been corrected.

Earlier Visibility Of Deposit Account Replenishments

We welcome this improvement.

Debit Orders To Be Filed Online Only

This is a retrograde step. We oppose it and strongly urge the EPO to re-consider.

Although the EPO acknowledges the need for an emergency payment channel in the event of a failure of internet systems, **PayPal is not an acceptable method for many users.**

This particularly applies to users who work in larger corporate environments. For example, patent departments in industrial companies and government departments are subject to rules of corporate governance. These include financial controls which must satisfy external auditors. Opening a PayPal account and transferring company funds into it would simply not be permitted as a matter of policy. Indeed, some corporate credit cards may even block payments to PayPal to prevent personal transactions.

How would the EPO's auditors react if a member of the EPO staff wanted to open a PayPal account in order to pay fees owed by the EPO to an external organisation?

For most users, the ability to send a debit order by fax is by far the most acceptable emergency payment channel. International bank transfers are not an appropriate substitute in an emergency, since they may take several days to arrive and require evidence and surcharges (Article 7(3) RRF).

This mirrors the situation for emergency filing of application documents if online systems fail. At the inaugural SACEPO-EPP meeting in The Hague on 13th January 2016, users made clear that fax filing must be retained for emergency filings, even though they generally preferred online filing.

There is also a problem with the suggestion that a PayPal account could be opened and operated by smartphone. Fees are normally paid by administrative staff, who are likely not to be provided with a smartphone by their employer. Using a smartphone owned personally by a staff member is an unsatisfactory solution.

We understand the EPO's desire to persuade users who currently use fax or paper debit orders as their normal payment channel to switch to online payment instead. We agree that online payment can benefit users as well as the EPO. However, the ability to use fax as an emergency backup is important and must still remain. We suggest that other ways be explored to incentivise switching to online payment, such as fee reductions.

Facilities for payments by credit and debit cards would be more acceptable than PayPal for many users. The EPO has been requested to provide these in the past, but to no avail. Yet if the EPO is prepared to accept PayPal (and bear the costs) then we do not understand why credit and debit cards remain unacceptable.

Even though credit/debit card payments would be very useful for many, there will remain a significant proportion of corporate users who would not be able to pay this way. As mentioned above, they are subject to corporate financial controls. These typically require that corporate credit cards be used only for travel expenses. That is why fax payments must remain as an emergency, even if other users would welcome credit/debit cards.

It is to be regretted that the EPO is shutting off the options for fee payments in emergencies, such as the administrative fee if a deposit account accidentally becomes overdrawn.