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Regulations on Litigation Costs at the Federal Patent Court

(CostR-PatC)

of 28.09.2011

The Federal Patent Court,

on the basis of Article 20 paragraph 3 letter a and Article 33 of the Patent Court Act of 20 March 2009¹ (PatCA),

hereby enacts the following Regulations:

Section 1: Court fees

Art. 1 Court fees according to the value in dispute

¹ The following amounts shall serve as a guideline for calculating court fees:

Value in dispute in francs	Court fees in francs
up to 50,000	1,000–12,000
50,000–100,000	8,000–16,000
100,000–200,000	12,000–24,000
200,000–1,000,000	20,000–66,000
1,000,000–3,000,000	60,000–120,000
3,000,000–5,000,000	80,000–150,000
over 5,000,000	100,000–150,000

² In the amounts according to paragraph 1, the court fees are governed by the extent and difficulty of the matter in dispute, the form of the proceedings, and the financial circumstances of the parties.

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¹ SR 173.41

³ Exceptions may be made from the amounts according to paragraph 1, where this is justified by special reasons.

Art. 2 Summary proceedings

¹ In summary proceedings fees may be reduced by up to half.

² For the filing and receipt of a protective brief, the fee amounts to 1,000–2,000 francs.

Section 2: Compensation of Representation Costs

Art. 3 Compensation of representation costs

The compensation of representation costs to which the prevailing party is entitled according to Article 32 PatCA comprises:

- a. reimbursement of necessary expenses;
- b. compensation for professional legal representation costs;
- c. in justified cases: an appropriate compensation where a party does not have professional representation.

Art. 4 Compensation for professional legal representation costs

The compensation for professional legal representation costs is generally governed by the value in dispute. It is calculated within the ranges as defined in Article 5 according to the significance, difficulty and extent of the dispute and the attorney's time-spent for services rendered.

Art. 5 Tariff

Value in dispute in francs	Compensation for professional legal representation costs in francs
up to 50,000	2,000–16,000
50,000–100,000	10,000–24,000
100,000–200,000	12,000–32,000
200,000–1,000,000	24,000–70,000
1,000,000–3,000,000	40,000–110,000
3,000,000–5,000,000	70,000–150,000
over 5,000,000	100,000–300,000

Art. 6 Summary proceedings

In summary proceedings, the compensation for professional legal representation costs is generally reduced to 30–50 per cent.

Art. 7 Appeal and interpretation proceedings

For revision and interpretation proceedings, the compensation for professional legal representation costs generally amounts to 2,000–20,000 francs.

Art. 8 Special cases

Where there is a manifestly disproportionate relation between the value in dispute and the requisite time-spent for professional legal representation, the compensation according to Article 5 may be increased or reduced.

Art. 9 Legal representation by patent attorneys

¹ Where patent attorneys appear as party's counsel as provided for in Article 29 paragraph 1 PatCA, their compensation shall be calculated accordingly as defined in Article 3 letter b.

² Where patent attorneys act exclusively in an advisory capacity, their expenses shall be claimed as necessary expenses as defined in Article 3 letter a.

Art. 10 Officially appointed attorneys

The compensation of officially appointed attorneys is governed by Article 5.

Art. 11 Establishment of compensation

¹ The Court shall establish compensation as a total amount on the basis of the case records. The total amount shall be inclusive of value-added tax.

² The parties and the officially appointed attorneys may submit an invoice.

Section 3: Compensation of Witnesses**Art. 12** General principles

Witnesses are entitled to a witness fee and reimbursement of evidenced necessary expenses.

Art. 13 Witness fee

¹ Witnesses shall receive a witness fee of:

- a. 50–150 francs where availment of the witness including necessary travel time does not last longer than a half day;
- b. 100–200 francs per day where the availment lasts longer.

² For loss of income the compensation shall generally amount to 25–150 francs per hour. Where justified by special circumstances, compensation may be effected for the actual income lost. Any extraordinary loss of income shall not be considered.

Art. 14 Compensation of testifiers

Testifiers or other third parties affected by evidentiary measures shall be compensated like witnesses.

Section 4: Compensation of Experts, Interpreters and Translators**Art. 15** Compensation of experts

¹ Experts appointed by the Court shall be compensated on a time-spent basis. Necessary expenses shall be additionally reimbursed.

² The rate shall be governed by the requisite expertise and the difficulty of the services rendered, in the case of self-employed experts in accordance with the rates that are customary in the respective sector or as set by agreement.

³ The compensation shall be set in accordance with the invoice submitted by the expert.

⁴ Where the expert is subject to a tax liability, value-added tax shall be disbursed in addition to the compensation.

⁵ Prior to commissioning an expert the Court may request that the expert submit a cost estimate.

Art. 16 Compensation of interpreters and translators

¹ The compensation of interpreters shall generally amount to 60–120 francs per hour. The rate is governed by the interpreter's education and training and professional experience. Necessary expenses shall be additionally reimbursed.

² The parties shall have the option of engaging an interpreter for proceedings at their own expense. The course of the proceedings may not be impeded as a result.

³ Translators shall be compensated in accordance with the rates as are customary in the sector.

⁴ Where the interpreter or translator is subject to a tax liability, value-added tax shall be disbursed in addition to the compensation.

Section 5: Final Provisions**Art. 17**

These Regulations shall enter into force on 1 January 2012.

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In the name of the Federal Patent Court

The President: Dieter Brändle
The Second Ordinary Judge: Tobias Bremi