



Selected aspects of the patent application procedure before the EPO

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What is a patent?

(19)  (11)  EP 1 741 472 A2

(12) EUROPEAN PATENT APPLICATION

(43) Date of publication: 10.01.2007 Bulletin 2007/02 (51) Int. Cl.: A62B 17/00 (2006.01) A41D 13/00 (2006.01)

(21) Application number: 06122228.5 (22) Date of filing: 15.02.2001

(84) Designated Contracting States: DE FR GB IT	• Taylor, Frank, P Dayton, OH 45409 (US)
(30) Priority: 03.03.2000 US 517919	(74) Representative: Asquith, Julian Peter Marks & Clerk, 4220 Meach Court, Oxford Business Park South Oxford OX4 2JU (GB)
(60) Document number(s) of the earlier application(s) in accordance with Art. 76 EPC: 01912744.8 / 1 259 294	<u>Remarks:</u> This application was filed on 16 - 10 - 2006 as a divisional application to the application mentioned under INID code 82.
(71) Applicant: LION APPAREL, INC. Dayton, OH 45413-0576 (US)	
(72) Inventor: • Aldridge, Donald New Carlisle, OH 45344 (US)	

(54) **Firefighting garment**

(57) A protective garment comprises an outer shell of an abrasion, flame and heat resistant material; a thermal barrier/moisture barrier composite positioned between the outer shell and a weaver of the garment; the thermal barrier/moisture barrier composite including a substantially liquid-impermeable membrane bonded to one surface of a heat and flame resistant fabric substrate, and a first layer of heat and flame resistant insulating material attached to an opposite surface of the fabric substrate; a face cloth positioned between the thermal barrier/moisture barrier composite and a weaver of the garment; and a second layer of heat and flame resistant insulating material attached to the face cloth and positioned between the thermal barrier/moisture barrier composite and face cloth.

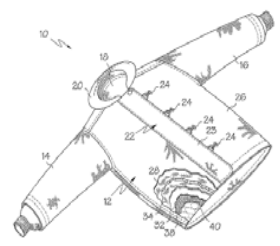


FIG. 1

Printed by name: 72607/FIN/15 (7/1)

EP 1 741 472 A2

- A patent is a legal title granting its holder the right to prevent third parties from commercially using an invention without his authorisation.
- In return for protection, the holder has to fully disclose the invention to the public.
- Protection is granted:
 - for a limited period, generally 20 years
 - for a specific geographic area

What is patentable?

- **To be patentable, an invention must:**
 - have a technical character (e.g. comprise a product, process or apparatus)
 - be new
 - involve an inventive step
 - be industrially applicable
- **Some innovations are not patentable under the EPC:**
 - for example, mathematical methods or formulae, computer programs and business methods are **not regarded as inventions**
 - new plant or animal varieties and inventions whose commercial exploitation would be contrary to "ordre public" or morality (e.g. the cloning of human life) are examples of **inventions excluded from patentability**

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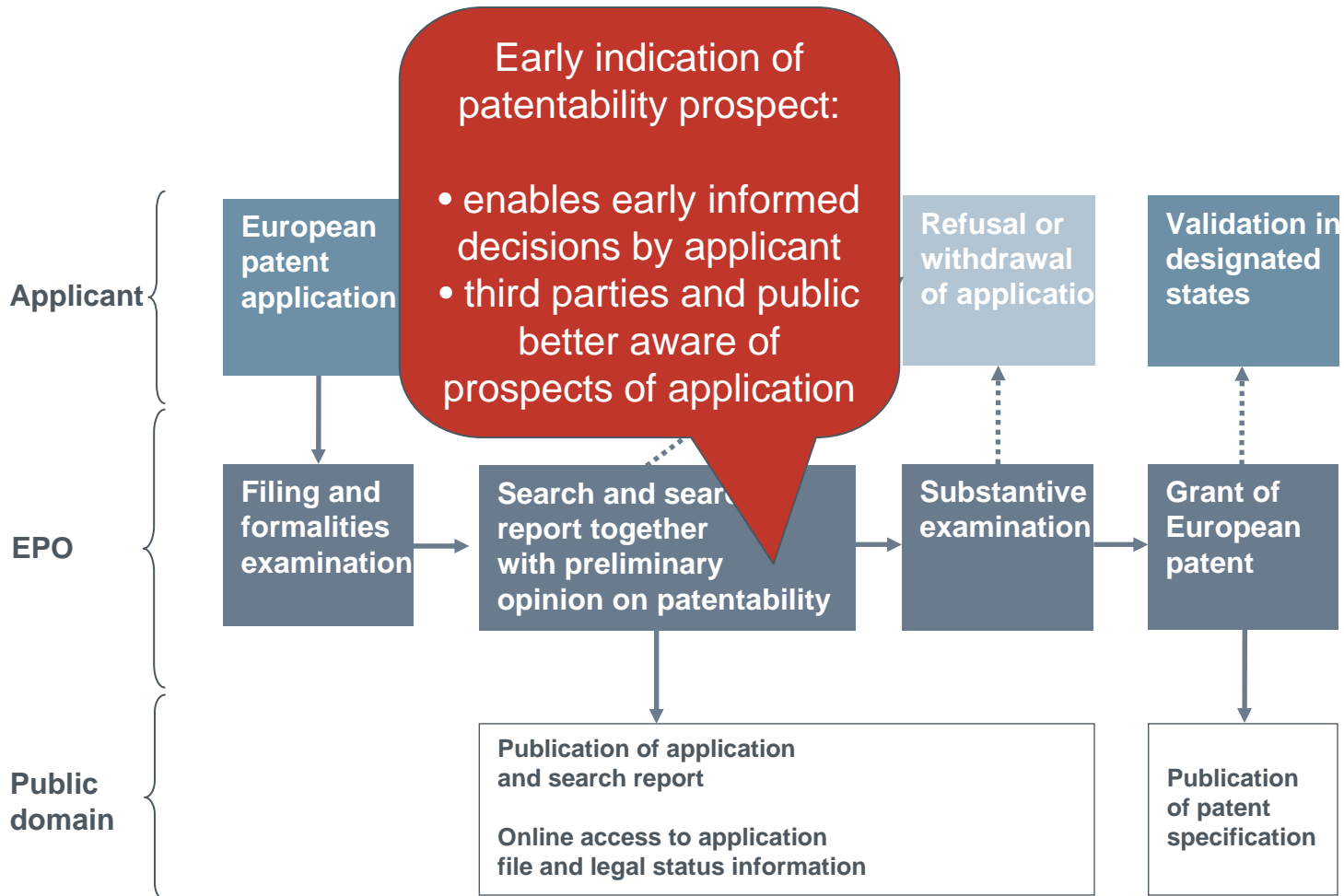
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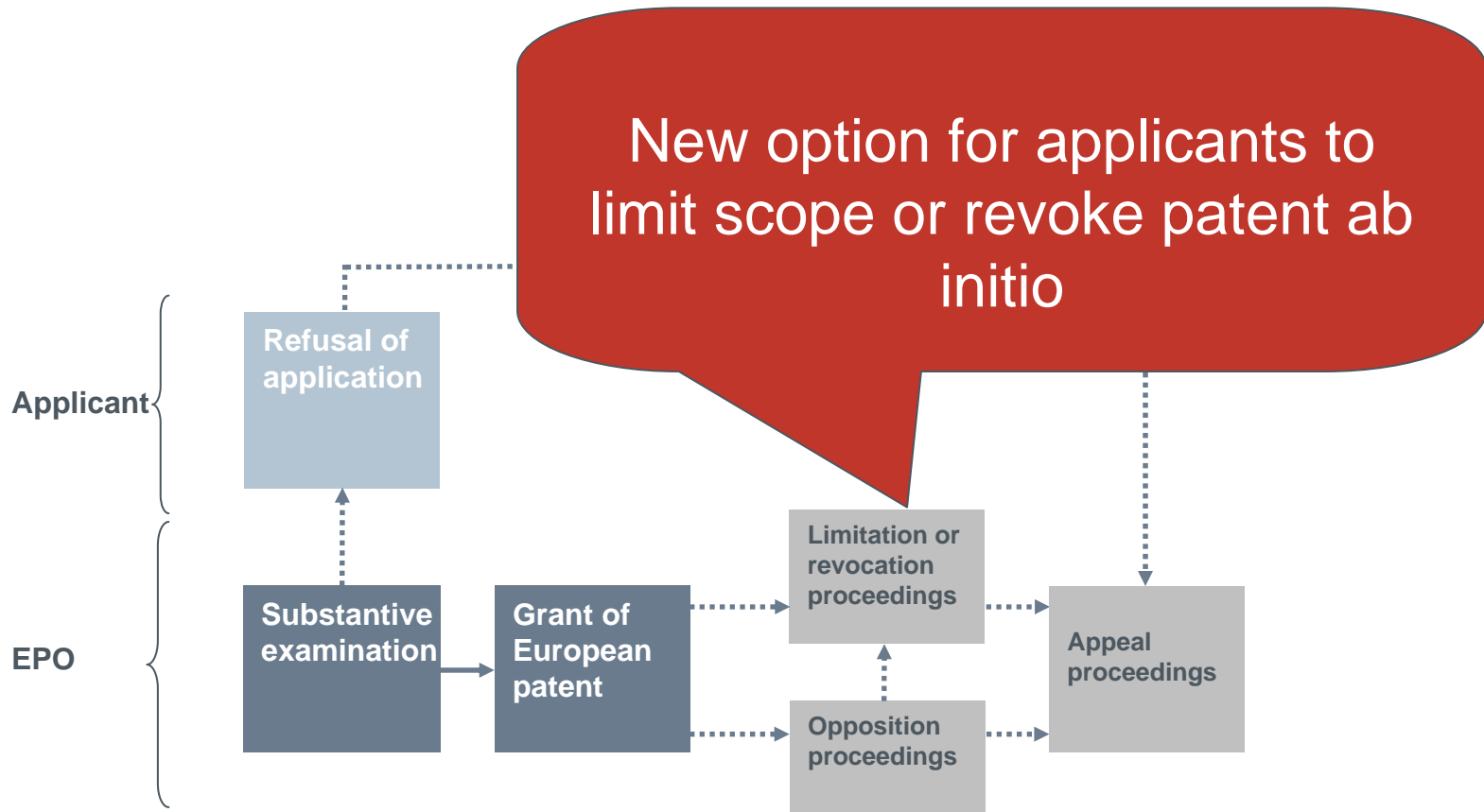
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- Term, scope of protection and binding text are the same for all contracting states

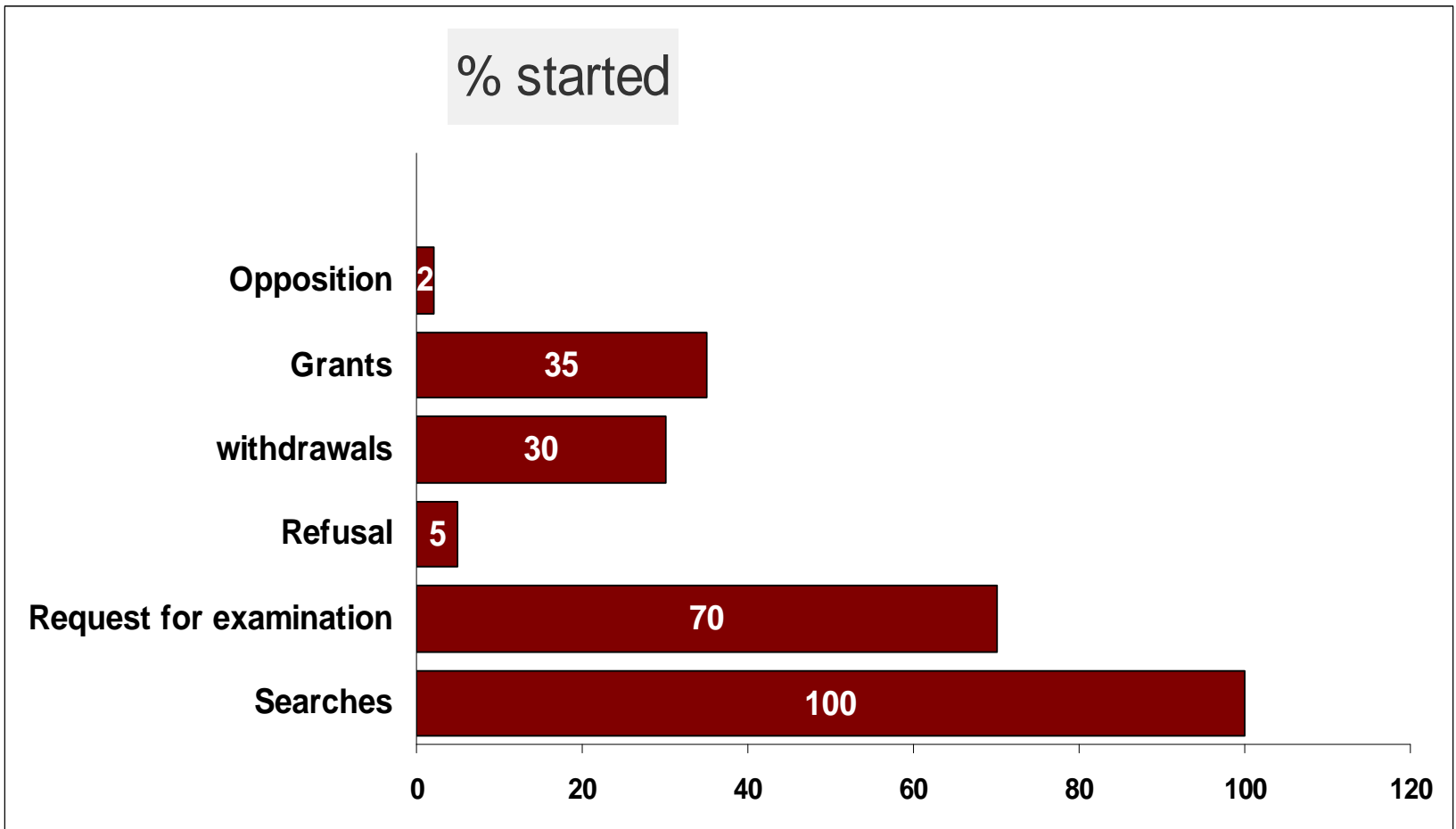
Overview of European patent grant procedure (I)



Overview of European patent grant procedure (II)



Fate of the biotech applications from search to grant



Filing a patent application

a) National Patent Offices (Art. 75(1)b) and 77 EPC)

- advantage: entry to the procedure is relatively cheap and applicants can use their own language
- period of 12 months to file applications for the same invention elsewhere (priority of the date of first filing for subsequent applications)

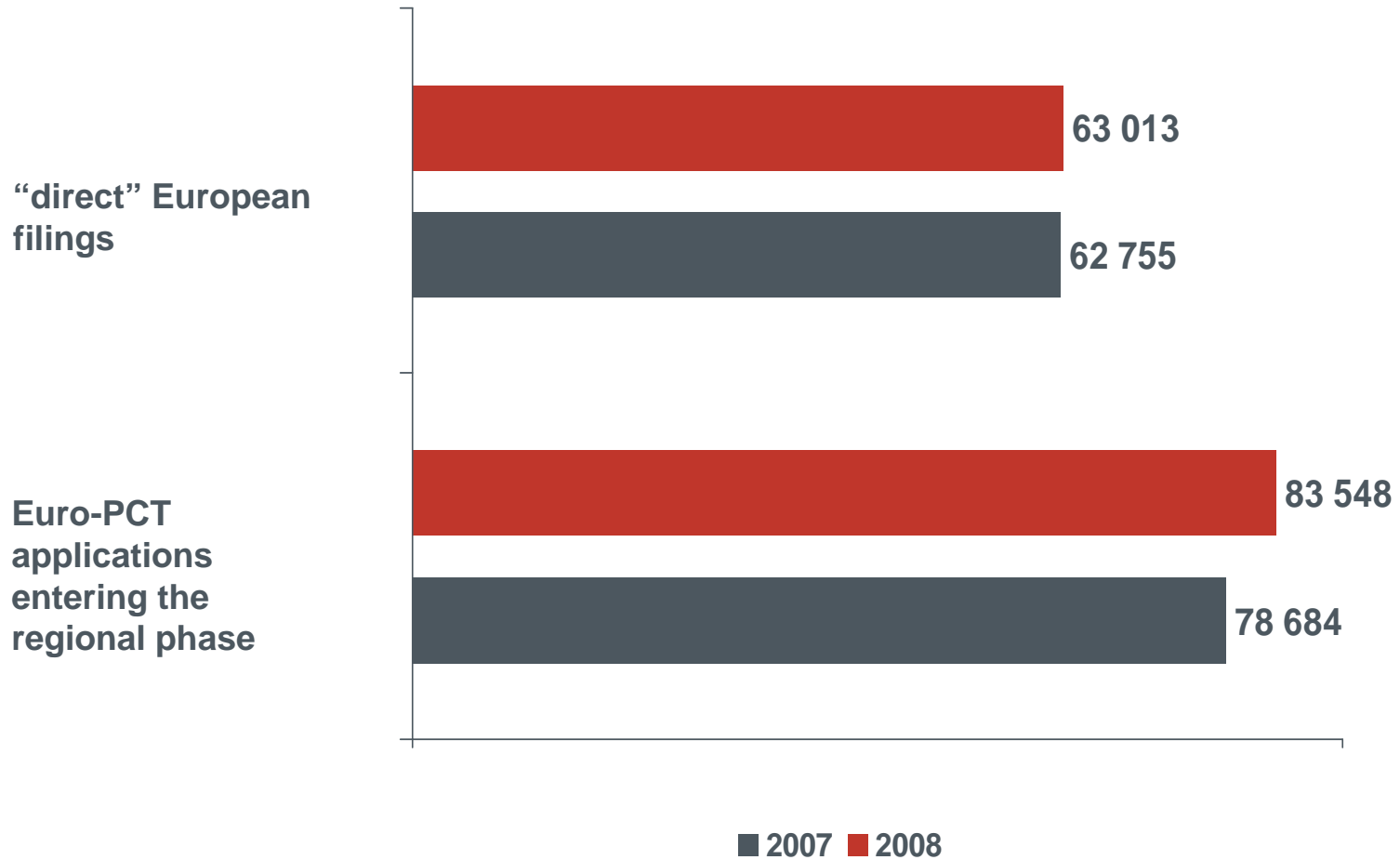
b) EPO (Munich, The Hague, Berlin) (Art. 75(1)a) EPC)

- direct filing at the EPO (less common)

c) International: PCT (Patent Cooperation Treaty) (Art. 150 and ff. EPC)

- simplified patent application procedure for over 140 countries worldwide
- **international phase**: international search report (ISR) and - upon request - international preliminary examination report (IPER)
- **national or regional phase**: patent granting procedure carried out by relevant national or regional patent offices (e.g. EPO)

Applications filed



Components of a European patent application (Art. 78 EPC)

- Request for grant (R. 41 EPC)
 - Description of the invention (R. 42 EPC)
 - Claims (Art. 84, R. 43 und R. 45 EPC)
 - Drawings (R. 46 EPC)
 - Abstract (Art. 85, R. 47 EPC)
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- in any language (a translation into English, French or German needs to be filed within two months, if applicable)

Filing and formalities examination (Art. 90 EPC)

Requirements for the accordance of a date of filing (R. 40 EPC):

- indication that a European patent is sought
- information identifying the applicant
- a description or reference to a previously filed application

Formal requirements:

- Form and content of application
- Representation (Art. 133-134 EPC)
- Priority (Art. 87-89 EPC)
- Designation fee (Rule 39 EPC)
- Designation of inventor (Art. 81 EPC)

Search

The Search (Art. 92 EPC)

- To discover the state of the art
- Prepares for substantive examination and is relevant for the purpose of determining whether the invention is new and involves an inventive step

The Search Documents

- Internal and external documents; Patent and non-patent literature

The Search Report (R. 61 EPC)

- **Contains results** of the search
- Opinion whether the application and the invention to which it relates meet the requirements of the EPC (R. 62 EPC)

Publication

- 18 months after date of filing or priority date
- File inspection (online) <http://www.epoline.org/portal/public>
- A- and B-Publications (Articles 93, 98, 103 EPC) available via Publication-Server

<http://www.epo.org/patents/patent-information/european-patent-documents/publication-server.html>

- Provisional protection (Art. 67 EPC)
- Observations by third parties (Art. 115 EPC)

6 months from publication of the Search Report

- Confirmation of the request for examination (Art. 94 EPC)
- Payment of the designation fee (Art. 79(2) EPC)
- Payment of extension fees

Substantive Examination

Determination by the EPO whether or not the subject-matter of a European patent application meets the requirements of the European Patent Convention

Basic requirements:

- **Patentable invention in any field of technology** (Art. 52-53 EPC)
- **Novelty** (Art. 54 EPC)
- **Inventive step** (Art. 56 EPC)
- **Industrial application** (Art. 57 EPC)

Novelty (Art. 54(1) EPC)

An invention shall be considered to be new if it does not form part of the **state of the art**.

The “state of the art”

comprises everything made available to the public by means of written description, oral description, use, in any other way before the date of filing (or date of priority) of the European patent application.

(Articles 54(3),(4), (5) and 55 EPC)

Inventive step (Art. 56 EPC)

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

Problem and solution approach

(Guidelines for Examination in the EPO C-IV, 11)

Industrial applicability (Article 57 EPC)

An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

Refusal or grant (Art 97 EPC)

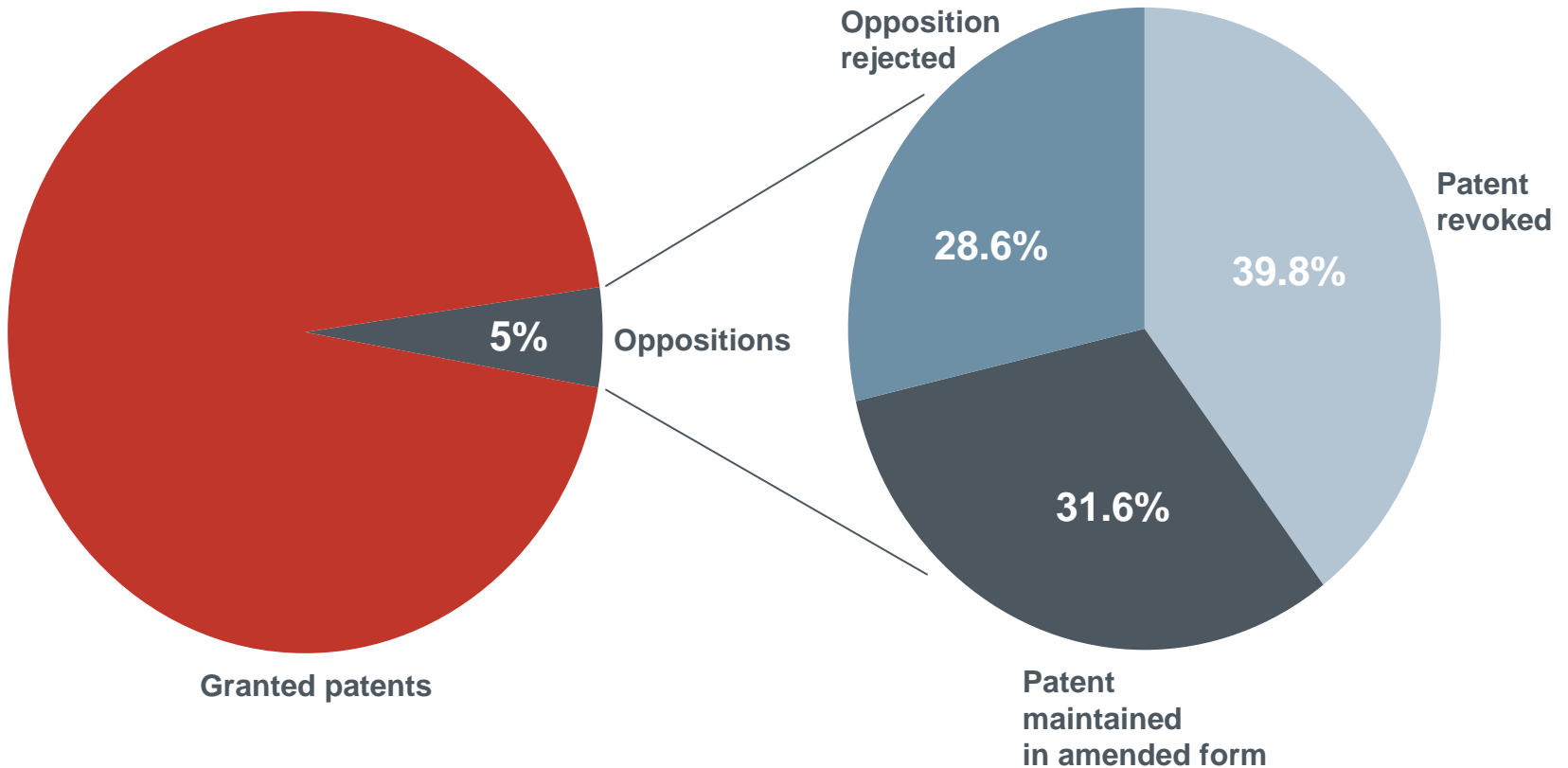
- The application meets the requirements of the EPC: **grant**
 - translation of the claims
 - payment of fee for grant and publication
 - Opposition period begins (9 months)
 - Administration goes over to the national offices (+ 'Validation')
- The application does not meet the requirements of the EPC: **refusal**
(possibility of appeal)

Opposition procedure

- Within 9 months from the publication of the mention of the grant of the European patent any person may give notice of opposition to the European patent granted.
- Opposition procedure leads either to the maintenance of the patent, maintenance of the patent in amended form or the revocation of the patent.

Oppositions in 2008

Oppositions were filed against 5% of granted European patents.
Over one third of all opposed patents were revoked.



Appeal procedure

- The **Legal Board of Appeal** and the **Technical Boards of Appeal** give independent final rulings on appeals against decisions taken during grant and opposition proceedings.
- The **Enlarged Board of Appeal** gives decisions and opinions in order to ensure correct application of the law, or if an important point of law arises. It also gives decisions on petitions of review on the decisions of the Board of Appeal.

Relating to EP or PCT patent granting procedure:

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EPO Customer Services

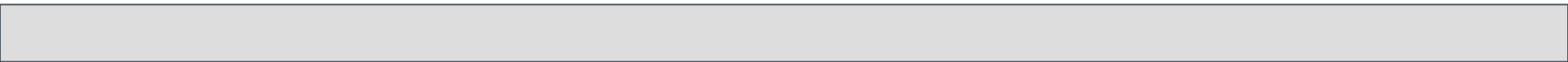
info@epo.org

Tel +49-89-2399INFO (2399 -4636)

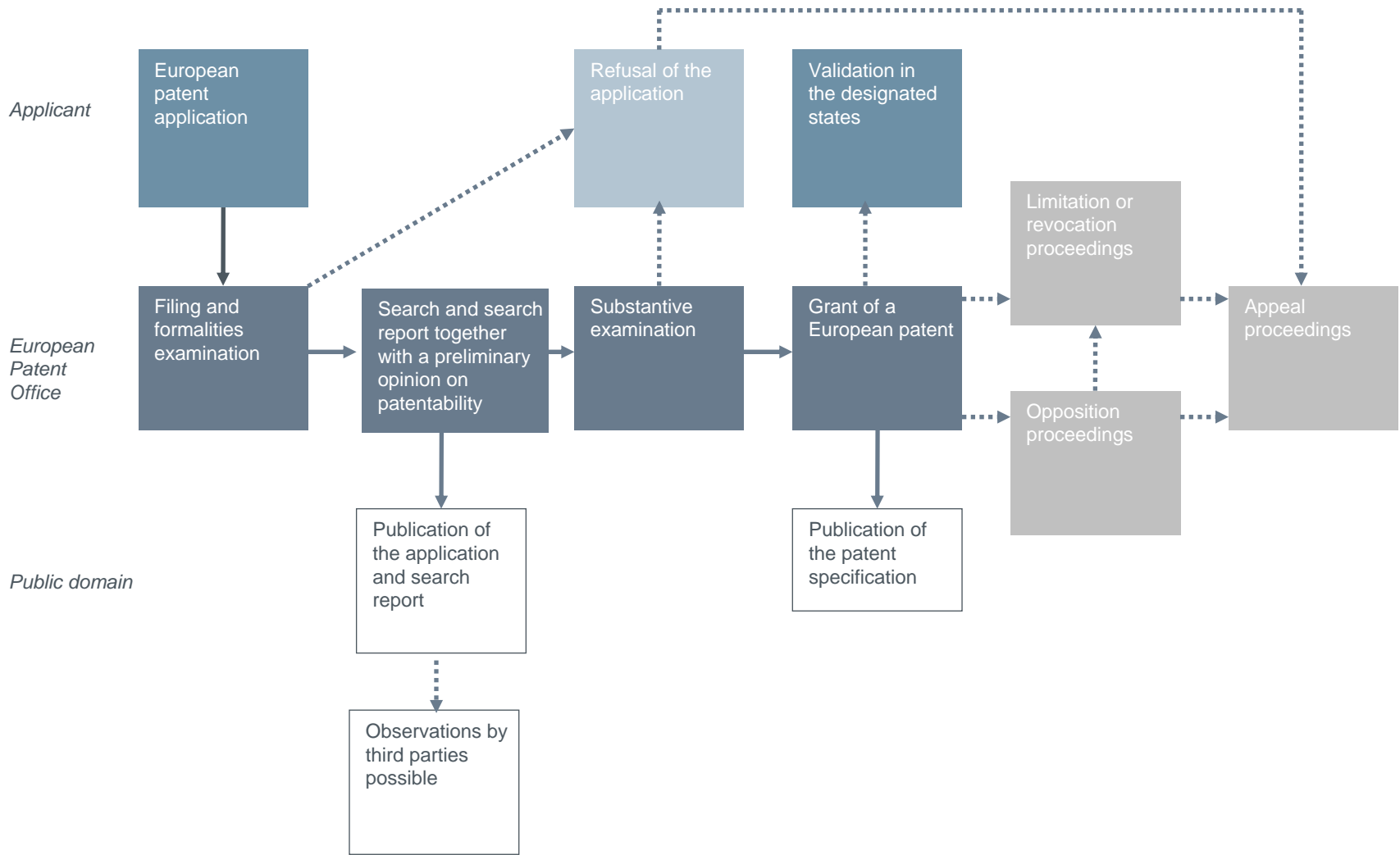
Thank you for your attention !







The grant procedure at a glance



EPO Fees

Filing phase	EUR	1 230
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<i>Online applications</i>	<i>EUR</i>	<i>1 150</i>
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Examination phase	EUR	2 305
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Grant phase	EUR	1 290
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Total procedural fees	EUR	4 825
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<i>Online applications</i>	<i>EUR</i>	<i>4 745</i>
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Formalities Examination (Art. 90 EPC)

- Filing fee (€180 or online filing €100) including additional fee (€12 for the 36th and each subsequent page)
- Search fee (€1050)
- Where appropriate, claims fees (€200 for the sixteenth and each subsequent claim and €500 for the 51st and each subsequent claim)
- Translation (Art. 14 EPC)
- Designation fee for one or more contracting states (€500)

Online filing



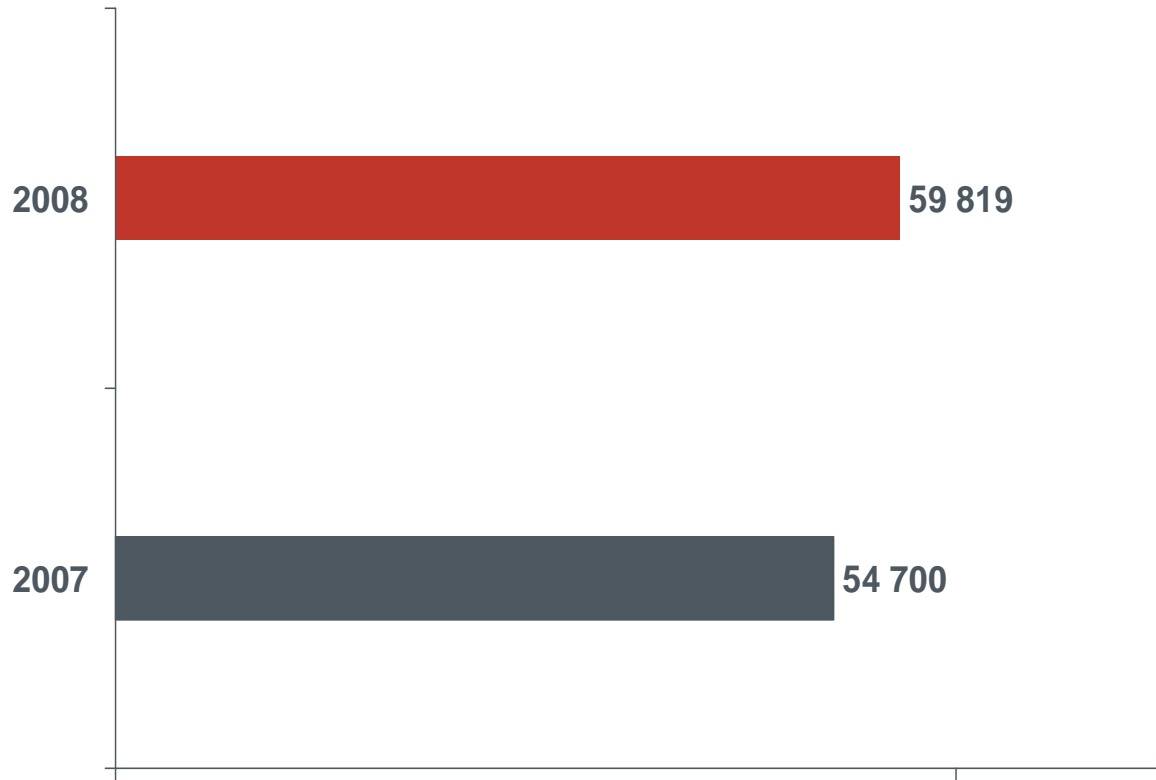
2000

Thanks to the EPO's electronic *epoline* service, applicants were able for the first time to file **patent applications** via the Internet.

Online fee payment and file inspection followed **2002**.

Since March **2009** online filing of **oppositions** and **appeals** is available.

European patents granted



Tool Kit

- Guidelines for Examination in the EPO
- Case Law of the BoA of the EPO
- Official Journal of the EPO
- Guide for applicants parts I and II
- www.epo.org

