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RE: Application number **2003248601**
in the name(s) of **Zhem-man Lin**

Your Ref:

Dear Sir/Madam

Thank you for your letter dated 15 September 2008.

In response I would like to clarify several points you make.

Firstly, PCT Article 27(1) refers to the "form and contents of the international application" and makes no reference to the paying of prescribed fees. The purpose of this article is to ensure that the applications "form and contents" can enter national phase within the designated states as outlined by the PCT guidelines. The Designated States are unable to impose additional requirements regarding the content and form of the application, ie the format of text etc, if it complies with the treaty and regulations. Your statement, "So your extra charges of PCT national fee from the web-pages was feigned" is incorrect as Article 27(1) does not relate to the charging of fees.

Secondly, I wish to clarify AU.05 on page 5 of the PCT Applicants Guide- Vol II- National Chapter-AU. You comment that our interpretation of AU.05 is incorrect, unfortunately you are mistaken in stating that. Section AU.05 refers to Australian Patent Act Section 142(2)(d) which states:

(2) A complete application for a standard patent lapses if:
(d) the applicant does not pay a continuation fee for the application within the period prescribed for the purposes of this paragraph

You must understand when a PCT application enters National Phase in one of the designated states, it must comply with the legislation within that state regarding payment of fees and timeframes etc. As I have stated in previous letters, you have been taking the PCT Applicants Guide out of context without referring to the relevant National legislation which is referred to in section AU.05. In the Applicant guide it clearly states:

"A continuation (renewal) fee must be paid to maintain the application. The first continuation fee falls due five years from the international filing date (fifth anniversary fee); thereafter a continuation fee becomes due on each anniversary of the international filing date."

The international filing date of your PCT application was 12 June 2003. Under the requirements outlined in section AU.05, a continuation (renewal) fee is due on the 5th Anniversary of the international filing date, that being 12 June 2008. As has been previously stated in letters to you dated 27 August 2008 and 8 July 2008, that fee is now overdue. Please refer to the previous letters outlining the fees which are due and the methods of payment. The fees are also available on the IP Australia Website at: www.ipaustralia.gov.au or available in Annex AU.1 of the PCT Applicant's Guide- Vol II-National Chapter-AU.

Furthermore, regarding the paying of exam response fees, I refer you to our letter dated 27 August 2008 explaining the circumstances surrounding the balance outstanding. I have found the 3rd and 4th paragraph of your most recent letter dated 15 September 2008 difficult to follow and I am unsure what your question is. The information that has been previously supplied to you in the correspondence of 27 August and 8 July 2008 is correct.

Due to the volume of correspondence regarding this matter, I suggest you seek the advice of a patent attorney as there still seems to be a lot of confusion on your account regarding the requirements to keep a patent in force. They will be able to explain the legislation for you so you become better informed on these matters.

If you need any further information please contact 1300651010. Alternatively, you may contact us by email at assist@ipaustralia.gov.au.

Yours faithfully

KIERAN POWER
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