

Our Comments to "Public Consultation on the Rules on Court fees and recoverable costs"

1. Regarding "A. an amendment of Rule 370 of the Rules of Procedure"

<Comments>

Alternative 1 is better than Alternative 2.

<Reason>

According to Alternative 1, all users can get a reimbursement if an action is withdrawn or concluded by way of settlement in a fair manner depending on the timing at which it takes place.

However, if you adopt Alternative 2, we believe that measures to discourage abuse of the right to sue would have to be taken by adding a provision that the court shall have the discretion to deny a request for "exemption of value-based fees" when the action is filed in bad faith by a PAE (patent-assertion entity or so-called patent troll), or entity created by not an SME company for utilizing patents.

2. Regarding "B. a table of fees"

<Comments>

An application for opt-out should be free of charge.

<Reason>

The purpose of opt-out is to allow the applicant to choose the jurisdiction of the court in a designated country, because all patents will be automatically placed under the jurisdiction of the UPC regardless of the applicants' wish. Any monetary penalty should not be imposed when the application for opt-out is filed. For those patent applications filed at the EPO before the UPC system begins, in particular, the applicant should be able to file an application for opt-out gratis.

If it is necessary to recover the administrative costs, the amount should be more adequate (e.g. €10). We also hope there will be a reduction of fees if the same right holder applies for opt-out for a batch of patents at a time. For example, you might consider fixing an upper limit of the amount (e.g. €400) for a large number of patents to be opted out.