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Austria – Requirements for Documents for Recordals of Changes and Licenses

As a general rule, all documents that are filed with the Austrian Patent Office have to be originals and have to be clearly identifiable as originals, i.e. by a signature and/or official seal. Simple database printouts or the like are not accepted by the Austrian Patent Office.

All documents have to be filed in the original language as issued by the respective authorities. The Austrian Patent Office accepts original documents in German, English and French without translation. All documents issued in other languages have to be translated by a sworn Austrian court translator. Other translations are not accepted by the Austrian Patent Office. If you let us have a translation for information purposes, please make sure it is not attached to the original document.

Documents issued by Austrian, Belgian, Bosnian, German, Finnish, French, Italian, Croatian, Liechtenstein, Macedonian, Montenegrin, Norwegian, Polish, Swedish, Serbian, Slovak, Slovenian, Czech, Turkish and Hungarian authorities (e.g. excerpts from the Commercial Register) do not need further legalization due to bilateral agreements between these countries and Austria. Documents issued by authorities from any other country have to be legalized with Apostille, if this country is a member of the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents. Documents issued by authorities of any other country have to be legalized up to the competent Austrian consulate. The same applies to duly notarized private documents.

If no original document can be spared for filing with the Austrian Patent Office, a copy can be filed. The underlying original of this copy has to be an original living up to the formal requirements (notarized or official seal and, if applicable, legalized with Apostille or up to an Austrian consulate). Also the copy has to be notarized. The notary's signature has to be legalized with Apostille or up to the competent Austrian consulate. However, no legalization of the notary's signature is required for Austrian, German, French, Italian and Swedish notaries.

Documents filed with the Austrian Patent Office remain with the Austrian Patent Office and are not returned after their recordal. They will be publicly accessible. If information that shall remain confidential is contained in these documents (as sometimes is the case with assignment or license documents), a simple confirmatory document can be filed with the Austrian Patent Office.

Recordal of a Change of Name

A document issued by the Commercial Register has to be filed. This document has to evidence the change, i.e. it has to show both the former name and the new name. As regards legalization requirements, see above.

Recordal of a Merger

A document evidencing the merger issued by the Commercial Register has to be filed. As regards legalization requirements, see above.

Recordal of an Assignment

An assignment document has to be filed stating the former owner of the IP rights (assignor) and their new owner (assignee) as well as the rights that are assigned in an unambiguously identifiable form. In cases of European patents and international marks, it has to be stated clearly that the Austrian portion of these rights are assigned, either by listing the relevant countries, or by using a phrase like "for all designated countries".

A simple confirmatory assignment form is available for download from our Internet website www.sonn.at. When completing the form with the assignee's data, please note that the Austrian Patent Office does not accept P.O. box addresses. Therefore, please use a street address.

It is a legal requirement that on the assignment document, the assignor's signature is done before a notary public who has to confirm not only the authenticity of the signature but also the fact that the undersigned, the day he/she signed the document, was entitled to sign on behalf of the assignor's company. In this connection, please, pay attention to the fact that the attestation clause "Subscribed and sworn to before me" as frequently used by U.S. notaries is not taken as sufficient proof in Austria of the authority to sign. A suitable notarization clause e.g. would be:

I, Notary Public in ..., hereby confirm that the signature for ... is that of Mr./Ms. ... and that it has been shown to me that Mr./Ms. ..., the day he/she signed the document, was authorized to validly sign alone such an assignment on behalf of said company.

(In case of two or more persons binding the firm, their joint authorization to sign has to be confirmed.)

If the notary is from Austria, Germany, France, Italy or Sweden, no further legalization is necessary. Signatures from notaries from any other country have to be legalized, either with Apostille or up to the competent Austrian consulate.

The assignee's signature on the assignment document needs neither notarization nor legalization, i.e. a simple signature will suffice.

Recordal of a License

A license document has to be filed stating the owner of the IP rights (licensor) and the licensee as well as the rights that are licensed in an unambiguously identifiable manner, and whether the license is exclusive, simple or sole. The amount of the license fee needs not be stated. In cases of European patents and international marks, it has to be stated clearly that the Austrian portion of these rights are licensed, either by listing all relevant countries, or by using a phrase like "for all designated countries". A license can also be granted for parts of countries only, e.g. "for all duty free shops on airports of all designated countries" or "for Upper and Lower Austria".

A simple confirmatory license form is available for download from our Internet website www.sonn.at. When completing the form with the licensee's data, please note that the Austrian Patent Office does not accept P.O. box addresses. Therefore, please use a street address.

It is a legal requirement that on the license document, the licensor's signature is done before a notary public who has to confirm not only the authenticity of the signature but also the fact that the undersigned, the day he/she signed the document, was entitled to sign on behalf of the licensor's company. In this connection, please, pay attention to the fact that the attestation clause "Subscribed and sworn to before me" as frequently used by U.S. notaries is not taken as sufficient proof in Austria of the authority to sign. A suitable notarization clause e.g. would be:

I, Notary Public in ..., hereby confirm that the signature for ... is that of Mr./Ms. ... and that it has been shown to me that Mr./Ms. ..., the day he/she signed the document, was authorized to validly sign alone such a license document on behalf of said company.

(In case of two or more persons binding the firm, their joint authorization to sign has to be confirmed.)

If the notary is from Austria, Germany, France, Italy or Sweden, no further legalization is necessary. Signatures from notaries from any other country have to be legalized, either with Apostille or up to the competent Austrian consulate.

The licensee's signature on the assignment document needs neither notarization nor legalization, i.e. a simple signature will suffice.

Recordal of a Change of Address

No documents have to be filed for evidencing a change of address. However, please note that the Austrian Patent Office does not accept P.O. box addresses.

Power of Attorney

A Power of Attorney form can be downloaded from our Internet website www.sonn.at. A Power of Attorney is required from the new owners of the IP rights. The signature needs neither notarization nor legalization. However, we need the Power in the original.

The Power can be limited to certain IP rights, if desired, by simply adding a (hand)written note on the Power. However, if the Power is limited to the recordal of the change, we will not be in a position to take

over the representation before the Austrian Patent Office. Please instruct us whether the representation of the right shall be taken over by our firm or shall remain with the representatives standing on the Register.

In cases of a change of name or change of address, where the right remains with the same legal entity, the registered representative (if any) will remain in the Register if we do not take over the representation of the right.

In cases of an assignment or a merger, where a right is transferred from one legal entity to another, the registered representatives represent the former owner. If the representation is neither taken over by our firm nor again taken over by the former representatives in the name of the new owners after the recordal of the assignment, the right will stand unrepresented on the Register. All official letters would then be sent by the Austrian Patent Office in German directly to the holder of the rights as standing on the Register.