

# Expediting European Patent Prosecution at the EPO: A Practical Guide for In-House Counsel

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The European patent grant procedure typically takes about three to five years from the filing date of the European application. For U.S. companies that use the PCT route, the total elapsed time from the first filing to European grant can feel longer because entry into the European regional phase usually does not occur until about 31 months from the earliest priority date. That timing can be a real commercial issue for products with short life cycles.

The good news is that applicants have several practical levers to accelerate prosecution before the European Patent Office (EPO). The most useful are the Patent Prosecution Highway (PPH), accelerated examination under the PACE programme, and waiving the Rule 161/162 communication for Euro-PCT cases when the formal requirements for a valid waiver are satisfied.

This memorandum summarizes those tools and highlights how in-house counsel can use them strategically, while keeping expectations realistic about what can and cannot be accelerated.

## Quick Framing

<b>Standard EPO timing</b>	About 3-5 years from filing of the EP application.
<b>Euro-PCT reality</b>	Even with acceleration, total elapsed time from the first filing may exceed three years because EP regional phase entry usually occurs around month 31.
<b>Most effective tools</b>	PPH, PACE (examination stage), and Rule 161/162 waiver for qualifying Euro-PCT cases.
<b>Important caveat</b>	The nine-month opposition window is post-grant and should not be treated as part of prosecution to grant.

## 1. Patent Prosecution Highway (PPH)

The PPH allows an applicant to request accelerated examination at the EPO based on favorable examination results from another participating office. As of now, the EPO participates in the IP5 PPH programme with the USPTO, JPO, KIPO/MOIP, and CNIPA, and it also maintains bilateral PPH arrangements with certain other offices. Because programme coverage can change, counsel should confirm current eligibility before filing the request.

In practical terms, PPH can be especially useful when the applicant already has allowable claims from the USPTO or another participating office and can present a claim set that sufficiently corresponds to those allowed claims. The value is not that the EPO simply adopts the foreign office's result - it does not - but that the application receives a faster look and the examiner can evaluate work already done elsewhere.

## **Key practical points**

- Claims submitted at the EPO must sufficiently correspond to the allowable claims relied upon for the PPH request.
- PPH is most attractive where the applicant wants to capitalize on positive work already obtained in another office, especially the USPTO.
- Applicants should file the request while examination strategy is still flexible, not after the case has already become procedurally advanced at the EPO.

## **2. PACE Programme**

PACE is the EPO's acceleration mechanism for applicants that want faster prosecution without waiting for a qualifying foreign office result. As of 1 February 2026, however, the EPO has limited PACE to the examination stage. The EPO explained that this change reflects the fact that its searches are now completed within six months or less, making search-stage acceleration unnecessary.

For examination-stage PACE, the EPO states that the examining division aims to issue its next communication within three months of the applicant's latest procedural action. There is no official fee for a PACE request, but the applicant must avoid conduct that slows the case, such as extension requests or other procedural delays that can cause the application to be removed from accelerated treatment.

### **Why PACE still matters**

- It is available even when no PPH path exists.
- It can materially shorten the time between applicant action and the next EPO examination communication.
- It is often the cleanest acceleration tool for direct EP filings and for Euro-PCT cases once examination is underway.

## **3. Waiving the Rule 161/162 Communication**

This tool applies only to Euro-PCT cases. On entry into the European regional phase, the applicant can waive its right to receive the Rule 161/162 communication, but only if the relevant requirements have already been satisfied. When done correctly, the EPO states that the waiver shortens the period until search or substantive examination begins by at least six months.

This is a procedural acceleration step, not a substantive one. It does not improve patentability, but it can remove a built-in waiting period that otherwise slows the case. The waiver is therefore particularly attractive for applicants that already know the claim set they want to pursue in Europe and are prepared to coordinate closely with European counsel at the time of regional-phase entry.

### **Important cautions**

- The waiver is valid only if the Rule 161 and Rule 162 requirements have been properly satisfied on entry into the European phase.
- This tool is not available for direct EP filings.
- Because the step is front-loaded, timing and coordination with European counsel are critical.

## Combining the Tools

The most efficient strategy is often cumulative rather than exclusive. In a Euro-PCT case, the applicant may enter the EP regional phase with a valid Rule 161/162 waiver, request examination promptly, use PACE once the application is in examination, and then layer in PPH if a participating office produces allowable claims in time to support the request.

That said, acceleration is not a guarantee of grant by a fixed date. Technology complexity, claim scope, examiner concerns, and the number of examination rounds still matter. The right framing for business teams is that these tools can materially improve the odds of an earlier grant, not that they eliminate prosecution uncertainty.

## Expected Timing

Reference Point	Typical Timing	Comment
From EP filing	About 3-5 years to grant	This is the EPO's own general framing for the grant procedure.
Accelerated EP case	Potentially shorter in suitable cases to around 3 years to grant.	PACE, PPH, and case-specific facts can materially improve timing, but no uniform result is guaranteed.
Post-grant	Nine-month opposition window	Important for business planning, but it is not part of prosecution to grant.

For applicants coming through the PCT route, remember that these figures do not reset the commercial clock. Even an aggressively handled Euro-PCT application will still carry the time already spent before EP regional-phase entry, unless the applicant chooses early processing where available and strategically appropriate.

## Conclusion

European patent prosecution is not as rigidly slow as many U.S. business teams assume. With thoughtful planning, applicants can often improve timing materially by choosing the right combination of PPH, PACE, and Euro-PCT waiver practice.

For products with short commercial windows, in-house counsel should discuss acceleration strategy with European counsel at the filing stage or, at the latest, well before EP regional-phase entry. The earlier that planning occurs, the more likely it is that the available tools can be used effectively.

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