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Application No. 09 170 574.9 - 1853	Ref. P338984EP-DIV1	Date 05.10.2017
Applicant APPLE INC.		

## Communication under Rule 71(3) EPC

### 1. Intention to grant

You are informed that the examining division intends to grant a European patent on the basis of the above application, with the text and drawings and the related bibliographic data as indicated below.

A copy of the relevant documents is enclosed.

#### 1.1 Main Request

##### In the text for the Contracting States:

AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LI LT LU LV MC NL PL PT RO SE SI SK TR

##### Description, Pages

2-26	as originally filed	
1	received on	05-10-2010 with letter of
1a	filed in electronic form on	22-01-2016

##### Claims, Numbers

1-10	filed in electronic form on	18-08-2017
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##### Drawings, Sheets

1/15-15/15	as originally filed
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With the following amendments to the above-mentioned documents proposed by the division

Description, Pages 1, 1a, 2, 3, 7, 10, 11, 23-26

Delete Previous: 27-33

## Comments

### DESCRIPTION

Pages 1, 7: Expressions containing "incorporated by reference" should be removed from the description (Guidelines F-III, 8).

Page 1(a): Mention of relevant prior art in the description (Rule 42(1) EPC)

Pages 2, 3: Description adapted to amended claims (Art. 84 EPC)

Pages 10, 11, 23-25: Inconsistency between claim and description removed (Art. 84 EPC)

Page 26: Clarity of the scope of the claims in the light of the description (Article 84 EPC).

Pages 27-33: (PAGE DELETED) - Removed general statements in the description which imply that the extent of protection may be expanded in some vague and not precisely defined way (Guidelines F-IV 4.4).

Pages 34-40: (PAGE DELETED) -

## 1.2 Bibliographic data

The title of the invention in the three official languages of the European Patent Office, the international patent classification, the designated contracting states, the registered name(s) of the applicant(s) and the other bibliographic data are shown on **EPO Form 2056** (enclosed).

## 2. Invitation

You are invited, **within a non-extendable period of four months** of notification of this communication,

### 2.1 to EITHER approve the text communicated above and verify the bibliographic data (Rule 71(5) EPC)

(1) by filing a translation of the claim(s) in the other two official languages of the EPO

	Fee code	EUR
(2a) by paying the fee for grant including the fee for publication:	<b>007</b>	925.00
minus any amount already paid (Rule 71a(5) EPC):		0.00
Total amount:		925.00

(3) by paying additional claims fees under Rule 71(4) EPC;		
number of claims fees payable: 0	<b>016</b>	0.00
minus any amount already paid (Rule 71a(5) EPC):		0.00
Total amount:		0.00

**Important:** If the translations of the claims and fees have already been filed and paid respectively in reply to a previous communication under Rule 71(3) EPC, e.g. in the case of resumption of examination after approval (see Guidelines C-V, 6), **agreement as to the text to be granted** (Rule 71a(1) EPC) must be expressed within the same time limit (e.g. by approving the text and verifying the bibliographic data, by confirming that grant proceedings can go ahead with the documents on file and/or by stating which translations of the claims already on file are to be used).

Note 1: See "Important notes concerning fee payments" below.

Note 2: Any overpaid "minus" amounts will be refunded when the decision to grant (EPO Form 2006A) has been issued.

Note 3: For the calculation of the grant fee under Article 2(2), No. 7, RFees (old fee structure), the number of pages is determined on the basis of a clean copy of the application documents, in which text deleted as a result of any amendments by the examining division is not shown. Such clean copy is made available via on-line file inspection only.

**2.2 OR, in the case of disapproval, to request reasoned amendments or corrections to the text communicated above or keep to the latest text submitted by you (Rule 71(6) EPC).**

In this case the translations of the claims and fee payments mentioned under point 2.1 above are NOT due.

The terms "amendment(s)" and "correction(s)" refer only to amendments or corrections of the application documents and not of other documents (e.g. bibliographic data, the designation of the inventor, etc.).

If filing amendments, you must identify them and indicate the basis for them in the application as filed. Failure to meet either requirement may lead to a communication from the examining division requesting that you correct this deficiency (Rule 137(4) EPC).

**2.3 Bibliographic data**

Where you request a change or correction of bibliographic data in response to the Rule 71(3) communication, this will **not** cause the sending of a further communication under Rule 71(3) EPC. You will still have to pay the fees and file translations in reply to the Rule 71(3) communication in the case of 2.1 above, unless you also file a reasoned request for amendments or corrections in response to the Rule 71(3) communication (see case 2.2 above).

**3. Loss of rights**

If neither of the two possible actions above (see points 2.1 or 2.2) is performed in due time, the European patent application will be deemed to be withdrawn (Rule 71(7) EPC).

**4. Further procedure**

**4.1 In the case of point 2.1 above**

- 4.1.1** The decision to grant the European patent will be issued, and the **mention of the grant** of the patent will be published in the European Patent Bulletin, if the requirements concerning the translation of the claims and the payment of all fees are fulfilled and there is agreement as to the text to be granted (Rule 71a(1) EPC).

**Note on payment of the renewal fee:**

If a renewal fee becomes due before the next possible date for publication of the mention of the grant of the European patent, publication will be effected only after the renewal fee and any additional fee have been paid (Rule 71a(4) EPC).

Under Article 86(2) EPC, the obligation to pay renewal fees to the European Patent Office terminates with the payment of the renewal fee due in respect of the year in which the mention of the grant of the European patent is published.

**Note on payment of the designation fee(s):**

If the designation fee(s) become(s) due after the communication under Rule 71(3) EPC, the mention of the grant of the European patent will not be published until these fees have been paid (Rule 71a(3) EPC).

- 4.1.2** After publication, the **European patent specification** can be downloaded free of charge from the EPO publication server <https://data.epo.org/publication-server> or ordered from the Vienna sub-office upon payment of a fee (OJ EPO 2005, 126).

#### 4.1.3 Filing of translations in the contracting states

As regards translation requirements prescribed by the contracting states under Article 65(1) EPC, please consult the website of the European Patent Office

[www.epo.org](http://www.epo.org) → Law & practice → Legal texts, National law relating to the EPC

[www.epo.org](http://www.epo.org) → Law & practice → All Legal texts → London Agreement

#### In the case of a valid extension or validation

As regards translation requirements prescribed by the extension or validation states, please consult the website of the European Patent Office

[www.epo.org](http://www.epo.org) → Law & practice → Legal texts, National law relating to the EPC

**Failure to supply a prescribed translation in a contracting state, or in an extension or validation state may result in the patent being deemed to be void *ab initio* in the state concerned (Art. 65(3) EPC).**

#### 4.2 In the case of 2.2 above

If the present communication under Rule 71(3) EPC is based on an auxiliary request and, within the time limit, you maintain the main request or a higher ranking request which is not allowable, the application will be refused (Art. 97(2) EPC).

If the examining division gives its consent to the requested amendments or corrections, it will issue a new communication under Rule 71(3) EPC; otherwise, it shall resume the examination proceedings (Rule 71(6) EPC).

#### 5. Filing of a divisional application

Any divisional application relating to this European patent application must be filed directly with the European Patent Office in Munich, The Hague or Berlin and will be in the language of the proceedings for the present application, or if the latter was not in an official language of the EPO, the divisional application may be filed in the language of the present application as filed (see Article 76(1) and Rule 36(2) EPC). Any such divisional application must be filed while the present application is still pending (Rule 36(1) EPC; Guidelines A-IV, 1.1.1).

#### 6. Important notes concerning fee payments

**6.1** For all payments, please refer to the relevant **fee code(s)**.

#### **6.2 Automatic debiting procedure**

The fee for grant, including the fee for publication, and any additional claims fees due under Rule 71(4) EPC will be debited automatically on the date of filing of the translations of the claims, or on the last day of the period of this communication. However, if the designation fee(s) become(s) due as set out in Rule 71a(3) EPC and/or a renewal fee becomes due as set out in Rule 71a(4) EPC, these should be paid separately by another permitted way of payment in order not to delay the publication of the mention of the grant. The same applies in these circumstances to the payment of extension and validation fees. For further details see the Arrangements for the automatic debiting procedure (AAD) and accompanying information from the EPO concerning the automatic debiting procedure (Annexes A.1 and A.2 to the Arrangements for deposit accounts (ADA) in Supplementary publication - OJ EPO 3/2015).

Note: If a waiver is expressed in response to a Rule 71(3) communication (see OJ EPO 2015, A52), the fee for grant, including the fee for publication/printing, and any additional claims fees will not be debited automatically. These fees must be paid separately by another means of payment allowed under the Rules relating to Fees.

#### **6.3 Important information relating to fee amounts**

Following any amendment to the Rules relating to Fees, the amount(s) mentioned in this communication may be different from the amount(s) **actually due on the date of payment**. The latest version of the Schedule of

fees and expenses, published as a Supplement to the Official Journal of the EPO, is also available on the EPO website ([www.epo.org](http://www.epo.org)) and can be found under [www.epo.org/schedule-of-fees](http://www.epo.org/schedule-of-fees), which allows the viewing, downloading and searching for individual fee amounts, both current and previous.

Please note that procedural fees are usually adjusted every two years, on even years, with effect from 1 April.

**Examining Division:**

<b>Chairman:</b>	Ströbeck, Anders
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**For the Examining Division**

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**Branch at The Hague**

Enclosures: Text intended for grant

EPO Form 2056