



Retention and Disposal Policy for Patent Related Records

1. Purpose

This document sets out the retention and disposal policy for patent related records and documents. It also ensures that we meet the requirements of the Public Records Act 1958 as amended in 1967.

2. Scope

1. The schedule in section 3 below relates to all patent-related records, whether kept electronically or on paper. It distinguishes between documents which may be destroyed and documents which must be preserved. It also indicates the periods for which documents which may be destroyed must be stored prior to disposal.
2. Where an electronic copy of an original paper document is stored on the Patents Electronic Case System (PECS), the electronic copy is considered to be the record copy for the purposes of the schedule in section 3. The corresponding paper document must be processed in accordance with the schedule in section 4 which indicates the periods after which original paper documents that have been scanned into PECS may be destroyed.

3. Schedule for Determining Retention and Disposal Periods for Patent-Related Records

<u>Class of documents</u>		<u>Period after which documents may be destroyed</u>
1	Patent case-files bearing U.K. application and/or specification numbers:-	
(a)	Case-files of applications under the 1949 or 1977 Patents Acts, either published or unpublished, which have been irrevocably abandoned, withdrawn, deemed to be withdrawn, refused, voided or otherwise terminated before acceptance (Patents Act 1949) or grant (Patents Act 1977)	7 years from the date of termination

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	(b)	Case-files containing published specifications but precluded from acceptance or grant by reasons other than being irrevocably abandoned, withdrawn, deemed to be withdrawn, refused, voided or otherwise terminated (e.g. specifications laid open to public inspection under Sections 91(3)(a) of the 1907 Act, or Section 91(4) of the Patents and Designs Acts 1907-46, or Section 5 of the Patents and Designs Act 1946)	27 years from the date of publication of the specification (all of these documents are due for disposal but some remain in storage at NMP)
	(c)	Case-files of patents (including European patents with UK designation) which have irrevocably ceased to be effective (due, e.g. to expiry of term, revocation, surrender, failure to renew) but for which no Supplementary Protection Certificate has been issued	7 years from the date on which the patent ceased
	(d)	Case-files of patent applications (including European and PCT patent applications) subject to secrecy directions under either Section 18(1) Patents Act 1949 or Section 22 Patents Act 1977	As advised by the Ministry Of Defence.
	(e)	Case-files of patents (including EP(UK)s) in respect of which a Supplementary Protection Certificate has been issued	Whichever is the latest of the following periods:- (a) 7 years from the date on which the patent ceased; (b) 7 years from the date on which the Supplementary Protection Certificate ceased (including any extension if applicable)
	(f)	Any case-file deemed to be worthy of permanent preservation (e.g. providing a legal precedent)	Preserve (either within this office with the Lord Chancellor's approval renewable every 5 years; or by transfer to the National Archives)
2		Files not bearing application or specification numbers, i.e. those concerning policy matters, legal matters, and litigation under the Patents Acts where no United Kingdom application has been made	These files will be registered in Policy Section, Legal Section, Litigation Section or the Office of the Director of Patents and disposed of in accordance with the review procedures for such files

3	Printed and electronic patent applications and specifications kept for sale (by photocopying or printing if necessary) to the public, including amended or corrected UK applications and specifications and EP(UK) specifications		To be retained
4	Miscellaneous correspondence and requests for information received under the Freedom of Information Act		5 years
5	(a)	Renewal fee payments (Forms 12)*	3 years from the due date of payment (i.e. from the relevant anniversary of the filing date of the application)
	(b)	Fee sheets connected with renewal fee payments*	7 years from the date of receipt of the fee sheet
6	Patent Registers		For preservation at the National Archives 29 years from the date of publication of last entered application
7	Assignees etc card index* (no longer in use but archive copies remain)		29 years from the date of registration of the last action entered on the card
8	(a)	Classification files	(CS series): 10 years with the Examiner in charge of Classification and Documentation Section having discretion to retain for a longer period (with Lord Chancellor's approval if kept more than 30 years)
	(b)	Search and Advisory Service (SAS) files ⁺	10 years with the head of SAS Section having discretion to retain for a longer period (with Lord Chancellor's approval if kept more than 30 years)
9	Patent Cooperation Treaty (PCT) patent applications received by this Office as PCT Receiving Office		10 years from the filing date
10	Files relating to applications for Supplementary Protection Certificates or extensions to the duration of Supplementary Protection Certificates		Whichever is the latest of the following periods:- (a) 7 years from the date on which the patent ceased; (b) 7 years from the date on which the Supplementary Protection Certificate ceased (including any extension if applicable)
11	Audit records		10 years

* Owned by Finance Directorate.

⁺ Owned by Innovation Directorate.

3.1 Notes on the above schedule

1. Families of case-files of related patents (e.g. Parents and Divisionals under Section 15, or resulting from later applications made under Sections 8, 12 and 37) must be retained until the last member of the family falls due for disposal.
2. Where a number of cases are assigned, licensed or mortgaged by a single transaction, care must be taken not to prematurely dispose of the case containing the documentation used to register the transaction. The transaction documents must be transferred to the last case to remain in force.
3. Documents of classes normally selected for destruction but which are to be preserved beyond their normal disposal date for special reasons (e.g. files of cases providing legal precedents; parent/divisional and similar families; material known to be of special historic importance) must be identified and stored in such a manner (and/or flagged in any relevant disposal diary) so that they cannot be inadvertently destroyed with other records of the same kind.
4. Documents in classes designated for preservation beyond 30 years must have the Lord Chancellor's permission for retention within this Office (renewable every five years).
5. The 10 year period after which documents in class 9 may be destroyed reflects Rule 93.1 of the Regulations under the PCT.
6. The Chief Information Officer is responsible for making arrangements with the National Archives for any necessary permanent preservation, and for obtaining permission for retaining records more than 30 years old.
7. Audit records applies to BS10008 & ISO9000 standards and includes audit records and old versions of policies, standards and workbooks.

4. Schedule for Disposal of Paper Documents Scanned into the Patents Electronic Case System (PECS)

<u>Class of documents</u>		<u>Period after which documents may be destroyed</u>
1	Drawings	5 years from the date of scanning
2	Litigation documents (any documents relating to matters dealt with by Litigation Section)	10 years from the date of scanning
3	Patent Cooperation Treaty (PCT) patent applications received by this Office as PCT Receiving Office	10 years from the filing date

4	Other documents (those not falling within classes 1-3)	5 years from the date of scanning
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4.1 Notes on the above schedule

1. The 5 year period after which documents in classes 1 and 4 may be destroyed reflects the compliance period, as set out by rule 30(2)(a) of the Patents Rules 2007, plus a margin of 6 months, and is intended to ensure that documents are not destroyed until after a case has been granted or terminated. The Index & Scanning Manager is responsible for ensuring that these periods are reviewed on a biannual basis.
2. The 10 year period after which documents in class 3 may be destroyed reflects Section 705*bis*(c) of the Administrative Instructions under the PCT.
3. Where a case becomes the subject of criminal investigations or other external legal proceedings such as non-criminal fraud investigations or judicial review, the Procedure to Prevent Shredding of Scanned Documents in Legal Cases should be followed to prevent destruction of the paper documents for that case. The period for which the paper documents should be kept will normally be 10 years (as for Litigation Documents) unless otherwise determined by Legal Section.
4. Documents may be kept beyond the period set out in the above schedule if appropriate e.g. where a document relates to proceedings that are ongoing at the normal disposal date.

5. Approval and review process

This policy is to be approved by the Chief Information Officer and Director of Patents following approval by the Patents Management Board, Director of Finance and Director of Innovation.

The policy will be reviewed on a bi-annual basis by the Chief Information Officer or whenever changes are agreed to the schedule in section 4.

Approved by:

Name: Louise Smyth

Signature: Signed Copy held by Lyndon Davies GY20

Position: Chief Information Officer

Date 21.01.2011

Name: Sean Dennehey

Signature: Signed Copy held by Lyndon Davies GY20

Position: Director of Patents

Date 17.01.2011

6. Revision History

Version: 1.3