Das Institut ist weder für Erklärungen noch für Meinungen verantwortlich, die in Beiträgen dieser Zeitschrift enthalten sind.

Artikel werden in der oder den Amtssprachen (deutsch, englisch, französisch) wiedergegeben, in der bzw. denen diese Artikel eingereicht wurden.

The Institute as a body is not responsible either for the statements made, or for the opinions expressed in this publication.

Articles are reproduced in the official language or languages (English, French or German) in which they are submitted.

L’Institut n’est pas responsable des opinions exprimées dans cette publication.

Les articles sont publiés dans celle ou celles des trois langues officielles (allemand, anglais ou français) dans laquelle ou lesquelles ils ont été proposés.
EDITORIAL

On 24th July this year Greece and Spain ratified the European Convention and their membership of the Convention takes place on 1st October 1986. This means that Greece and Spain can be designated in European patent applications filed on or after 1st October 1986. Both of these countries have entered reservations to the effect that European patents in their countries are not effective for pharmaceutical products and in addition Spain also excludes cover for all chemical products as such.

In this issue you will find a note from our Examination Board that the next European Qualifying Examination is to be held from the 22nd to 24th April 1987. Please bring this to the attention of any members of your staff who may wish to sit this examination.

The EPO Golf Club have approached us to tell us that any members of the EPI who like to play golf and who find themselves in Munich (permanently or temporarily) are welcome to play with the European Patent Office Golf Club. There are about fifty EPO Club members and they play at a golf course about an hours drive from Munich. Any EPI member interested should contact Mrs. Brigitte Rotteveel-Kley at the EPO. Her telephone number is 2399-2429.

As we are going to press, we have just learned from WIPO of the sudden death of their Deputy Director, Dr. Klaus Pfanner. We have expressed our regrets to WIPO.

Jean Brullé . Ernst J. Schônhöfer . Ken Veryard

RICHTLINIEN FÜR DIE BERUFSÄUßÜBUNG

Änderung der Richtlinien für die Berufsausübung des Instituts der beim Europäischen Patentamt zugelassenen Vertreter, die vom fünften Rat des Instituts am 5. November 1985 in München genehmigt wurde:

Ergänzung des Artikels 1), Allgemeines, mit einem neuen Absatz d):

deutsch (d) Ein Mitglied soll Maßnahmen treffen zur Sicherung der Interessen seiner Mandante für den Fall, daß es an der Ausübung seines Berufes gehindert würde.

Es folgen die bisherigen Paragraphen (d) - (h), abgeändert nur als (e) - (i), ansonsten mit dem bisherigen Wortlaut.


+++++++
Amendment to the Code of Conduct of the Institute of Professional Representatives before the European Patent Office approved by the fifth Council of the Institute on 5 November 1985 at Munich:

Add to Article 1), General a new paragraph d):

English (d) A member shall take measures to safeguard his client's interests in the event he would be prevented from exercising his profession.

This would be followed by the present paragraphs (d) to (h), being changed to follow as paragraphs (e) to (i) of Article 1.

(The amended Code in its entirety has been published in the EPO Official Journal 9/1986).

+++ +++++

---

Modification du Code de Conduite Professionnelle des manda-taires agréés près l'Office européen des brevets, approuvée par le cinquième Conseil de l'Institut le 5 novembre 1985 à Munich:

Adjonction d'un nouveau paragraphe d) à l'article 1), Généralités :

français (d) Un membre prendra des mesures pour sauvegarder les intérêts de ses clients pour le cas où il serait empêché d'exercer ses fonctions.

Suivent ensuite les paragraphes (d) - (h) valables jusqu'alors, transformés en paragraphes (e) - (i) dont le texte reste inchangé.

(Le Code modifié a été publié intégralement au Journal Officiel de l'OEB 9/1986.)

+++ +++++
MITTEILUNG DER PRÜFUNGSKOMMISSION
FÜR DIE EUROPÄISCHE EIGNUNGSPRÜFUNG


Außerdem wird die Prüfung an einem oder mehreren der Orte abgehalten werden, die Sitz der nationalen Zentralbehörde für den gewerblichen Rechtsschutz eines Vertragsstaates des Europäischen Patentübereinkommens sind, sofern für den jeweiligen Ort sich mindestens fünf Bewerber anmelden, und der Leiter der betreffenden nationalen Zentralbehörde bereit ist, die Prüfung zu dem genannten Termin am Sitz seiner Behörde durchzuführen.

Anmeldungen zur Prüfung, die die Erfordernisse des Artikels 16 der Vorschriften über die europäische Eignungsprüfung zu erfüllen haben (ABl. 7/1983, Seite 287), können ab sofort beim Sekretariat der Prüfungskommission (Europäisches Patentamt München) eingereicht werden; sie müssen spätestens am 15. Januar 1987 beim Europäischen Patentamt eingehen. Es wird empfohlen, für die Anmeldung das Formblatt zu verwenden, das beim Sekretariat der Prüfungskommission angefordert werden kann.

Eine möglichst frühzeitige Anmeldung wird empfohlen, um der Prüfungskommission hinreichend Zeit zur Prüfung der Zulassung zu geben.


NOTICE FROM THE EXAMINATION BOARD FOR THE
EUROPEAN QUALIFYING EXAMINATION

The eighth European Qualifying Examination will be held from 22 to 24 April 1987 at the European Patent Office, Munich, and at its branch in The Hague.

In addition, the examination will be held in one or more centres where the national central industrial property offices of Contracting States to the European Patent Convention are located if at least five candidates opt for a given centre and the Head of the national central office in question agrees to holding the examination on the above-mentioned date at his Office.

Applications for enrolment, which must meet the requirements of Article 16 of the Regulation on the European Qualifying Examination (OJ 7/1983, page 287), may be submitted as of now to the Secretariat of the Examination Board (European Patent Office, Munich); they must be received at the European Patent Office not later than 15 January 1987. It is recommended that the application form obtainable from the Secretariat of the Examination Board be used.

Applications should be submitted as early as possible to give the Examination Board sufficient time to check whether the conditions for enrolment have been fulfilled.

The fee for sitting the examination is DM 600. The application for enrolment will not be deemed to have been received until the date on which the payment of the fee is considered to have been made (Article 8 of the Rules relating to Fees). If that date is later than 15 January 1987, the application will be refused.

For further details please see the EPO Official Journal 6/1986, page 161.
COMMUNICATION DU JURY D'EXAMEN POUR L'EXAMEN EUROPÉEN DE QUALIFICATION

Le huitième examen européen de qualification aura lieu du 22 au 24 avril 1987 à l'Office européen des brevets à Munich ainsi qu'à son département de La Haye.

En outre, les épreuves se dérouleront dans un ou plusieurs des lieux où se trouve le siège du service central national de la propriété industrielle d'un État partie à la Convention sur le brevet européen pour autant qu'au moins cinq candidats s'inscrivent pour un même lieu et que le directeur du service central national concerné soit disposé à organiser l'examen à la date prévue, au lieu du siège de son administration.

Les demandes d'inscription à l'examen, qui doivent satisfaire aux dispositions de l'article 16 du règlement relatif à l'examen européen de qualification (JO n° 7/1983, page 287), peuvent être adressées dès maintenant au secrétariat du jury d'examen (Office européen des brevets à Munich); elles doivent parvenir à l'Office européen des brevets au plus tard le 15 janvier 1987. Pour l'inscription, il est recommandé d'utiliser le formulaire qu'il est possible de se procurer auprès du secrétariat du jury d'examen.

Les demandes d'inscription gagneront à être présentées le plus tôt possible en vue de laisser au jury d'examen suffisamment de temps pour vérifier les conditions d'inscription.

Le droit d'examen s'élève à 600 DM. La demande d'inscription ne sera réputée reçue qu'à la date à laquelle le paiement du droit d'examen sera réputé effectué conformément à l'article 8 du règlement relatif aux taxes. Si cette date est postérieure au 15 janvier 1987, la demande sera rejetée.


NOTICE CONCERNING SEMINARS ON THE EUROPEAN PATENT

**********

CEIPI

UNIVERSITÄT STRASBOURG

Die jährlichen Kurse über das europäische Patent finden zu folgenden Zeitpunkten statt:


**********

CEIPI

UNIVERSITY OF STRASBOURG

The annual seminars dealing with the European patent will take place on the following dates:

The first seminar concerning the practical drafting of claims and of oppositions from 1 to 5 December 1986.

The second seminar concerning legal problems from 26 to 30 January 1987.

**********

CEIPI

UNIVERSITE DE STRASBOURG

Les séminaires annuels sur le brevet européen auront lieu aux dates suivantes :

Le premier séminaire concernant la rédaction de revendications et d'actes d'opposition, du 1er au 5 décembre 1986.

IS A PERIOD OF IMMUNITY DESIRABLE?

By Robert Gaumont, French member of the EPI

In a recent issue of an industrial property journal (IIC 16 (5) 580 (1985)), my distinguished colleague and friend Dr. A. Hani presented his arguments in favour of the introduction of a "period of grace". His views being not shared by the majority of experts from the European industry, I should like to present arguments opposing the introduction of a "period of grace".

Introduction

Industrial property knows the new heated debate and lively controversies among the experts who are divided on the "period of grace" problem (1, 2, 3).

The debate originates from the fact that some consider that the patent system is no longer adapted to certain new technologies - particularly biotechnology - the evolution of which is very rapid and in which collaboration between industry and universities is becoming more and more frequent. In fact the "period of grace" problem is not unique to this field but of a general nature. This is the reason why the Association Internationale pour la Protection de la Propriété Industrielle (AIPPI) has made proposals as early as 1982 in order to introduce a general grace period system for all acts of publication by written or oral disclosure, by use or by any other means made by the inventor (4).

This proposal is the basis of the various studies made by the World Intellectual Property Organization (WIPO) and other official organisations as the Organization for Economic Co-operation (OECD).

If several professional organisations are supporting the AIPPI proposal, it must be emphasised that the European industry is divided; if an active and non negligible minority (as it is composed by most of the industries of the Federal Republic of Germany and Switzerland) is in favour of the introduction of a "period of grace", the majority is totally opposed or at least reluctant towards such a provision. This position was clearly
expressed by the Union des Industries de la Communauté Européenne (UNICE) - the official "porte parole" of the European industry - as early as December 1984 and continuously repeated since then.

1 The Fundamental Goal of the Patent System

In its modern conception the patent system sets in place various incentives to invest in research and development aiming to reserve for the investor the exclusive benefit of his investments. In exchange for this exclusivity conferred by the patent, it collectivity sets the disclosure of the results of the research as a preliminary and compulsory condition in order to promote the technical development. To promote more rapidly this technical development, most industrialised countries - except the USA and Canada - introduced some 20 years ago - the automatic publication of the patent applications. The newest knowledge so disclosed before the grant of any patent can be used by the third parties for being extended, developed, enlarged, in other words used as a starting basis for further research which will contribute to further technical developments.

The above principles are practically unchallenged, at least in the industrialised countries: the part of the patent as an incentive to research is recognised even in the countries having a socialist economic system. But starting from this basic principle two different philosophies have been developed.

According to the first, the exclusivity conferred by the patent is granted to whom, in the frame of the patent system, is the first to disclose the new knowledge, i.e. the invention. According to this approach the right to the patent belongs to the "first to file". When a same invention is realised by two independent inventors, the patent is granted to whoever was the first to file a patent application claiming the said invention. As for being patentable the invention must be new, its novelty must be an absolute novelty; that means that the invention must not have been disclosed anywhere in the world, at any time and by anybody - the inventor included - before the date of filing of the patent application.

According to the second philosophy, the exclusivity conferred by the patent is granted to whoever was the first to make the invention. This is the "first to invent" system in which, when two patent applications are filed by two different inventors and claim the same invention, the patent is granted to whoever was the first to effectively realise the invention. In such a system it is logical to grant the award represented by the patent to the first inventor even when he has disclosed the invention prior to the filing of his patent application - at least when the disclosure occurred a relatively short while before the date of filing the application. The period in which the disclosure of the invention by the inventor himself took place without losing novelty in patent terms is called "grace period" even if it should more appropriately be called "period of immunity".

The combined "first to invent" and period of immunity system presently prevails in Canada and the USA where the period of immunity is respectively two years and one year.

Except when the disclosure occurred within a fixed term and is due to an evident abuse to the disadvantage of the inventor or the applicant, the first to file system combined with the absolute novelty system prevails in the great majority of industrialised countries, particularly in Europe.

2 Arguments Advanced in Favour of a Period of Immunity

Without challenging the first to file system in itself, voices have been advocating for several years the introduction of a general period of immunity, particularly in Europe (5, 6, 7, 8).

The main arguments presented in favour of the period of immunity are the following:

a) sometimes experimental works are carried out on their behalf by others than the inventor or his employer. These must be protected against disclosures occurring in this manner.

If this case is theoretically possible, it must be noted that until
now no concrete illustrating example has been reported in support of this thesis. That comes from the fact that precautionary measures - generally of a rudimentary character - suffice to avoid damaging disclosures.

b) In quickly moving and highly competing scientific fields - i.e. biotechnology - the publication - as rapidly as possible - of initial results is difficult to avoid because it constitutes one of the elements curving to give the author a name; that is true as well when these results are obtained by scientific people or when they are obtained by a joint research of industry and universities or scientific institutes, or when they are obtained by in-house research of the firm. Without a period of immunity such publications are a bar to the grant of later filed patent applications relating to the same matter; they are also a bar to the patentability of later non-inventive developments.

It is also submitted that the inadvertent disclosure of knowledge at congresses, symposia, seminars and other scientific meetings and before the filing of a patent application often prevents the industrially exploitation of this knowledge because of lack of patent protection. In many cases the existence of a period of immunity would provide a remedy to this situation.

These arguments are not convincing. There is as much prestige to appear as an inventor in a patent protecting a major invention as being the author of an article in a scientific periodical, more especially as it remains possible to make the invention known by the scientific community through publications after the filing of the patent application. It can even be said that greater is the prestige, since the disclosure resulting from the published patent application is not a simple result of research but an industrially workable invention. As for inadvertent disclosures, these are easily avoidable by all those who have understood they must "hold their tongue" before having filed their patent application.

c) The advantages of the period of immunity prevailing in the USA benefit the American applicants because they may disclose their inventions without losing their right to get a patent protecting them in their domestic market which very often is their most important selling area. Conversely, after a disclosure of their invention the European applicants have at the present time no possibility to get patent protection in their traditional European markets because of lack of a period of immunity in the European countries. Consequently, they are - it is said - in a defavours situation compared to that of their American competitors.

This argument is only an incomplete presentation of the reality as it does not take into account the fact that after having disclosed his invention an American inventor is prevented to get protection in the European countries. In fact this explains why the American applicants wishing to get a protection outside the US refrain from disclosing their inventions prior to the filing of a patent application.

3 Arguments Opposed to a Period of Immunity

The reality of some of the above-mentioned difficulties is not questionable. But the actual question is to determine whether the introduction of a period of immunity is the true remedy to these difficulties and if on the contrary, it would not be the source of presently inexistant problems.

1 - Preliminary Observations

Before examining from the practitioner side the consequences of a period of immunity, some preliminary remarks should be presented. In the first place it is absolutely necessary to avoid any kind of confusion between the abusive disclosure of the invention by a third party, which under certain conditions is not a novelty bar to the later patent application filed by the inventor himself. The legal provisions enacted in favour of the inventor and the applicant aim to protect them against acts of piracy from third parties and are but measures of equity. On the contrary the disclosure of the invention by the inventor himself is an act for which he is solely and entirely responsible.
In second place it should be noted that the provisions of articles 8(4) of the French Law and 54(5) of the Munich Convention on the European Patent (EPC) in matter of drugs does not represent in fact an exception to the absolute novelty principle. These articles stipulate that the patentability is recognised on condition that the use of the substance or composition for any method of treatment or diagnosis "is not contained in the state of the art". Thus, for being patentable, the drug must be really new.

2 - The Absolute Novelty Concept Adopted by the International Conventions

At the time of the various negotiations which led to the signatures of the Strasbourg Convention in 1963, the Patent Co-operation Treaty (PCT) in 1970 and the EPC in 1973, the national laws of the Federal Republic of Germany, Canada, USA and Japan included provisions regarding the period of immunity. Nevertheless, the absolute novelty concept was adopted for these three Conventions (with the restriction of the disclosure resulting of an abuse referred hereinbefore). Here is the unchallengeable proof that, contrarily to what is now said by some, the period of immunity does not really present the need and manifestly evident advantages emerging after a serious thinking on the problem. It can even be said that the needs and advantages have not been discerned at that time by some of the distinguished experts who are now advocating in favour of the period of immunity.

It should also be stressed that more recently, when harmonising its national law with the EPC, Germany removed its previous provisions regarding the period of immunity. Undoubtedly this abandonment was absolutely voluntary and determined, since neither the harmonisation with the EPC nor the ratification of the Strasbourg Convention made it compulsory. As some European countries retained in their national laws the existence of certificates or patents of addition, it was perfectly possible for Germany to derogate to the absolute novelty concept in order to advantage its national applicants.

3 - The Japanese Situation

Amongst the most industrialised countries Japan is the only one having adopted the "first to file" system coupled with a period of immunity (article 30(1) of the Japanese law). But it should be emphasised that the Japanese practice includes very strict rules aiming to insure the security of the third parties: thus, at the time of filing his patent application the applicant must submit a written statement to the effect that he desires to apply an exception to the lack of novelty and give the reference of the scientific publication concerned. According to the Japanese Patent Office itself the benefit of this provision is but exceptionally used. Consequently the Japanese law cannot be compared to the system of a general period of immunity as proposed by AIPPI.

It should be noted that the very new Chinese Patent Law includes (Law, art. 24; Regulations, art. 31) similar provisions.

4 - The Period of Immunity seen by a Practitioner

As seen by a practitioner the introduction of a period of immunity risks to lead to the emergence of juridical situations at one and the same time ambiguous and dubious for third parties and finally unpropitious to promote research. Hereinafter are given some examples illustrating these situations.

a) The period of immunity confers but an illusory immunity. In fact this immunity acts only for the strict novelty of the invention claimed in a patent application filed within the period of immunity; but this immunity does no longer act for a patent application filed after the term of said period but within the time limit of priority of the first filed application; consequently when the second application claims an improvement or a broadening of the initial invention, the disclosure will be cited by virtue of the inventiveness requirements. The same reasoning applies when the initial invention and its improvement are the subject firstly in time of a French national patent application for the initial invention
and later on (and within the priority) of European application designating France and claiming both the initial invention and its improvement: the disclosure is citable against the part of the invention which does not benefit from the priority of the initial French application.

b) It is often argued that the inventor might publish what he considers as a mere discovery of which he has not appreciated the possible industrial possibilities: The immunity period, it is said, gives the possibility to the inventor to subsequently and validly patent his invention, when he has better delimited the invention, has carried out works and got confirmation of the interest and the value of it. In fact, these assertions are only true in the extent where an appropriately drafted patent application (that means having good chances to lead to a valid patent) can be filed within the period of immunity, which is not established in advance.

c) In any case any disclosure prior to the filing of a patent application has the consequence of waiving by anticipation the possibility of subsequently withdrawing and refiling it. Such a freedom is often used by the applicants when at the term of priority, they have not the necessary elements in hands to arrive at a correctly argued decision regarding filing overseas. Such a situation is not uncommon; it appears, for example, in pharmaceutical chemistry when the products of the invention prove to have an insufficient solubility for the intended use and when the inventor has not yet had time or has not succeeded in preparing efficient and soluble derivatives.

d) A third party is absolutely free to make use of the subject matter disclosed by a publication to start his own research. Because of the period of immunity this third party may later on be confronted with a patent application in the name of the author of the disclosure or his successor in rights, and by the way be prevented to benefit entirely from the inventions he has possibly realised. And this unfortunate situation is let out to the third party only two and a half years after the disclosure itself. Here is an inadmissible insecurity which risks paralysing research in place of promoting it.

e) A successor in right of the original inventor may file in his own name a patent application on the subject matter disclosed by the inventor. In such a case it will be extremely difficult, not to say impossible, for third parties to find out the relation between the publication and the patent application. How can the patent offices practising an examination of patentability and third parties interested in the value of the patent application become aware that the initial disclosure is not a bar to the validity of the patent?

f) The disclosure by the inventor prior to the filing of his patent application makes possible for third parties to also make disclosures on the same subject without referring to the original disclosure by the inventor. If the inventor is not able to prove an unquestionable dependency between his own disclosure and that of the third party, he will be deprived of obtaining a valid patent at each time the disclosure by the third party occurs prior to the filing of his own patent application; in such a case the disclosure by the third party is a prior art citable against the patentability of the patent application of the initial inventor.

If an inventor discloses his invention and subsequently files a patent application (within the period of immunity) it is quite possible - more particularly in the very fast moving scientific fields like biotechnology - that a third party independently realises the same invention and files (without prior disclosure) a patent application before the first inventor files his own patent application. In such a situation neither the first inventor nor the second applicant will get a patent: the first inventor's disclosure is a prior art to the second patent application, and the second application is a prior right to the first inventor's patent application. It cannot be said that such consequences are in favour of any kind of promotion of research.
These considerations having their source in daily practice are clearly sufficient to reject the principle itself of the period of immunity as proposed for example by AIPPI; more general considerations lead to the same conclusions.

5. General Considerations

AIPPI recommends a period of immunity for all acts of publication by written or oral disclosure, by use or by any other means. Taken in its strict wording such a provision would have the following consequences. A French applicant files a patent application on January 1, 1966; as the patent application will be automatically published it can be considered that the inventor has manifested his willingness to disclose his invention (independently of the other consequences of this publication), and consequently to equate the application published on July 1, 1987 to a written disclosure of the invention by the inventor himself. By virtue of a six months period of immunity the inventor could validly file patent applications abroad before December 31, 1987. Third parties would get knowledge of these patent applications only by the automatic publication of these applications, that means only after July 1, 1989. Here also is an inadmissible source of insecurity for third parties.

The above hypothesis is not of a purely academical nature. Thus, when an inventor is a national of a country which, in a given technological field represents a major part of the potential market for his invention and when moreover in this country the patent applications are maintained in security until grant, this inventor may well run the risk of seeing a foreign competitor patenting the same invention in his own country; if this fact does not occur, the first inventor will benefit abroad from a protection extending beyond the expiry date of patents having benefit of priority of his initial national patent application. Consequently, it is self-evident that a possible period of immunity must not have as a consequence to question the priority right and its duration as presently existing.

Non-American applicants have been rightly considering for many years that the "first to invent" system in force in the US and the resulting interference procedure put them in a discriminatory situation compared with their American competitors who supplementarily benefit from a period of immunity in their country. On the other hand the American applicants cannot benefit from a period of immunity for their filings in Europe. This situation counterbalances, but only in part, the disadvantages the non-American applicants are suffering because of the American "first to invent" system. If at the present time the non-American applicants are disadvantaged compared with their American competitors, this is basically because of the American "first to invent" system: in the very great majority of cases they can only rely on the date of their national priority application while their American competitors can rely on facts having taken place, even several years ago, on the US territory (where their laboratories and plants are located). By giving new advantages to the American applicants for their filings in Europe, a period of immunity of a general broadness such as proposed by AIPPI would increase the factual discrimination that foreign applicants are suffering in the US, at least as long as the US does not adopt the "first to file" system. And at the present time there is neither a commitment nor even an actual and concrete sign of a possible change in the US practice.

6) The Period of Immunity and the International Conventions

The right of priority is a basic principle of the Paris Convention; this right originates from the filing of a regular patent application and its duration is as from the date of this filing.

The introduction of a period of immunity as proposed by AIPPI equates to the introduction of a right of priority of a new type and of an original duration: despite the disclosure of the invention it remains possible to validly file a first patent application within the period of immunity and subsequently, within the twelve following months, to file patent applications abroad. This is in fact an extension of the priority right as provided by article 4 of the Paris Convention. Such a reform risks shaking the Paris Convention itself.
Should provisions regarding a period of immunity be introduced in the Paris Convention or the matter of an international treaty in the framework of said Convention, their coming into force will not take place simultaneously in the totality of the countries. The past experience has demonstrated that the ratification of the successive texts of the Paris Convention by the totality of the state members needs many years. As long as all the major industrialised countries will not have ratified the Convention or Treaty, there will exist a disparity of law between the states which will lead the applicants to act as if the absolute novelty concept were maintained.

Greater is the difficulty in Europe because of the EPC. The European Organisation of Patents not being a state, it was necessary to introduce in EPC specific provisions granting to the applicants the benefit of the priority of a former national patent application. Similarly, introducing a period of immunity in the EPC, even if such a period should be introduced in the Paris Convention, should necessitate a revision of the Munich Convention. The conditions and effects of a revision are stipulated in article 172 EPC which reads:

"(1) this Convention may be revised by a Conference of the Contracting States
(2) ... the Conference shall not be deemed to be validly constituted unless at least three-quarters of the Contracting States are represented at it. In order to adopt the revised text there must be a majority of three-quarters of the Contracting States represented and voting at the Conference. Abstentions shall not be considered as votes.
(3) the revised text shall enter into force when it has been ratified or acceded to by the number of Contracting States specified by that Conference and at the time specified by that Conference.
(4) Such States as have not ratified or acceded to the revised text of the Convention at the time of its entry into force shall cease to be parties to the Convention as from that time."

The report of the first session of the "Expert's Committee on the harmonisation of certain legal provisions protecting inventions" held in Geneva, 8 to 12 July 1985 (9) outlines in paragraph 33 that among the present ten Contracting States of EPC only three official delegations (Germany, Switzerland and the United Kingdom) were in favour of a period of immunity while four were opposed (Belgium, France, the Netherlands and Sweden) and three were not attending the session. This clearly shows in first place that under the present conditions the article 72 EPC required majority cannot be secured. Secondly it is evident that even if such a majority but not the unanimity were secured, nobody would run the risk of splitting the Convention by one or several states ceasing to be parties. Lastly and in contradiction to what is affirmed by some, it is clear that the introduction of a period of immunity is not desired by the majority.

From the above developments it can be concluded that the advantages resulting from a period of immunity are essentially of an academic nature and cannot counterbalance its practical disadvantages and the insecurity so created. Enormous difficulties would have to be overcome for revising the Paris Convention and EPC. Such a task - if feasible - would need years and years of preparation.

It has been hereinafore demonstrated that the period of immunity does not represent the miraculous solution to the difficulties encountered by the universities, independent inventors and small entities which are very often newcomers in the "patent game". They must realise they cannot benefit both from early disclosure of their inventions and patent protection. Getting a patent implies having accepted the rules of the "game". Industry has been playing the "patent game" for many years without suffering from it; on the contrary a large part of the universal technological development results from the efficiency of the patent system. Thus nothing must be done which risks endangering this system. Any initiative which could result in an erosion of the patent system should be avoided. Finally, educating new partners still remains the best way for them to surmount their difficulties.
Note: The author sincerely thanks his French and foreign colleagues who, through private discussions and papers, gave him a large part of the substance of this article.

EPI - AUSSCHÜSSE / EPI COMMITTEES / COMMISSIONS DE L’EPI

<table>
<thead>
<tr>
<th>FINANZ</th>
<th>STANDESREGELN</th>
<th>EUROPÄISCHE EIGNUNGSPRÜFUNG</th>
<th>EPCC</th>
<th>DISZIPLINARARRAT</th>
<th>GESCHÄFTSORDNUNG</th>
</tr>
</thead>
<tbody>
<tr>
<td>FINANCE</td>
<td>PROFESSIONAL CONDUCT</td>
<td>EUROPEAN QUALIFYING EXAMINATION</td>
<td>EPCC</td>
<td>DISCIPLINARY BYLAWS</td>
<td>REGLEMENT INTERIEUR</td>
</tr>
<tr>
<td>FINANCE</td>
<td>CONDUITE PROFESSIONNELLE</td>
<td>EXAMEN EUROPEEN DE QUALIFICATION</td>
<td>EPCC</td>
<td>DISCIPLINE</td>
<td></td>
</tr>
</tbody>
</table>

G. Arena
A. Braun (Sen.)
J. Cagneaux
J. Feldmann
S. Gasslander
J. Neukom
H. Pawloy
H. Vanderborghen
C. Weening
H. Bode
G. Boelsma
J. de Muys
W. Ernest
D. Grisar
A. Krause
J. Lecca
E. J. Mebus
M. Micheli
A. Perani
G. Severi
R. Sgarbi
D. Vincent
N. Waddleton
R. Wildi
W. Ernest
J.C. D'haemer
A.H. Duncan
V. Farraglina
C. Genestie
E. Jung
J.F. Léger
L. Sjöb
E. Thoret-Lemaître
G.F. van der Beek
W. Vandevelde
J.L. Beton
A. Casalonga
A. Catherine
P. Claeyss
U. Dreiss
F. Gibler
D.G.R. Grundy
S. Hansson
A.V. Huygens
F.A. Jenny
A. Josif
R. Kropeveld
P. Leitz
K.H. Meyer-Dulheuer
C.L. Ramon
Z. Schöld
G. Werner
G. Widmann
Special Committee for Micro-organisms
G. Bressand
A. Casalonga
R.S. Crespi (GB)
W. Dost
A. Gallochot
A.V. Huygens
F.A. Jenny
H. Meyer
K.H. Meyer-Dulheuer
G. Staub
G. Tasset
M. Bellenghi
K. Büchel
B. Dousse
G. Edgren
G. Edmunds
E. Fobe
H. Fritel
W. Holzer
C. Madauf
G. Mannucci
A. Molin
P. Révy von Belward
M. Ruff
R. Sieders
H.A. Troesch
H.G. Urbach
J. van Buitenen
G. van der Beek
H. Vanderborghen
J. Maxweller
C.E. Eder
G. Edmunds
M. Lemoine
E. Schönbäffer

8 September 1986
<table>
<thead>
<tr>
<th>AD-HOC AUSSCHUß</th>
<th>SCHRIFTLEITUNG</th>
</tr>
</thead>
<tbody>
<tr>
<td>BERUFSCHE HAFTUNG</td>
<td>---</td>
</tr>
<tr>
<td>DER MITGLIEDER</td>
<td>---</td>
</tr>
</tbody>
</table>

**AD HOC COMMITTEE ON QUESTION OF MEMBERS' PROFESSIONAL LIABILITY**

**COMMISSION AD-HOC RESPONSIBILITE PROFESSIONNELLE**

<table>
<thead>
<tr>
<th>DATIMTEX</th>
<th>EDITORIAL BOARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>H. Bardehle</td>
<td>M. Guérin</td>
</tr>
<tr>
<td>G. Bloch</td>
<td>D.K. Speiser</td>
</tr>
<tr>
<td>K. Büchel</td>
<td>F. Schouten</td>
</tr>
<tr>
<td>F. Cavatoni</td>
<td>A. van der Auweraer</td>
</tr>
<tr>
<td>M. de Beaumont</td>
<td>K.B. Weatherald</td>
</tr>
<tr>
<td>L.C. de Bruijn</td>
<td></td>
</tr>
<tr>
<td>E. Fobe</td>
<td></td>
</tr>
<tr>
<td>D. Mohnhaupt</td>
<td></td>
</tr>
<tr>
<td>J. Nordén</td>
<td></td>
</tr>
<tr>
<td>E. Piso</td>
<td></td>
</tr>
<tr>
<td>N. Waddleton</td>
<td></td>
</tr>
<tr>
<td>J. Weyland</td>
<td></td>
</tr>
</tbody>
</table>

**COMITE REDACTION**

<table>
<thead>
<tr>
<th>SACEPO</th>
<th>ARTICLE 25</th>
</tr>
</thead>
<tbody>
<tr>
<td>V. Balass</td>
<td>V. Balass</td>
</tr>
<tr>
<td>V. Faraggiana</td>
<td>H. Bardehle</td>
</tr>
<tr>
<td>W. Holzer</td>
<td>C. Bertschinger</td>
</tr>
<tr>
<td>F.A. Jenny</td>
<td>T. Burman</td>
</tr>
<tr>
<td>E. Jung</td>
<td>W. Holzer</td>
</tr>
<tr>
<td>H. Mulder</td>
<td>G. Modiano</td>
</tr>
<tr>
<td>B. Urmann</td>
<td>H. Mulder</td>
</tr>
<tr>
<td>B. Phélip</td>
<td>B. Phélip</td>
</tr>
<tr>
<td>J. Pirson</td>
<td>C. Riederer</td>
</tr>
<tr>
<td>W. Weston</td>
<td>G. Tasset</td>
</tr>
<tr>
<td></td>
<td>W. Weston</td>
</tr>
<tr>
<td></td>
<td>J. Weyland</td>
</tr>
</tbody>
</table>

Rechnungsprüfer
Auditors
Commissionaires aux comptes

K. Büchel
E. Jung

Stellvertreter
Deputés
Suffrants

M. Micheli
J. Pirson

8 September 1986
<table>
<thead>
<tr>
<th>VORSTAND</th>
<th>BOARD</th>
<th>BUREAU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Präsident</td>
<td>President</td>
<td>Präsident</td>
</tr>
<tr>
<td>Vize-Präsidenten</td>
<td>Vice Presidents</td>
<td>Vice Présidents</td>
</tr>
<tr>
<td>Generalsekretär</td>
<td>Secretary General</td>
<td>Secrétaire Général</td>
</tr>
<tr>
<td>Schatzmeister</td>
<td>Treasurer</td>
<td>Trésorier</td>
</tr>
<tr>
<td>Stellvertr. Sekretär</td>
<td>Deputy Secretary</td>
<td>Secrétaire Adjoint</td>
</tr>
<tr>
<td>Stellvertr. Schatzmeister</td>
<td>Deputy Treasurer</td>
<td>Trésorier Adjoint</td>
</tr>
<tr>
<td>Mitglieder</td>
<td>Members</td>
<td>Membres</td>
</tr>
<tr>
<td></td>
<td>Manfred Beer · Axel Casalonga · Engbert Mebius</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Richard Petersen · Renato Sgarbi · Dieter Speiser</td>
<td></td>
</tr>
<tr>
<td></td>
<td>André van der Auweraer</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AUSSCHÜSSE</th>
<th>STANDING COMMITTEES</th>
<th>COMMISSIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finanz</td>
<td>Finance</td>
<td>Finances</td>
</tr>
<tr>
<td>Standesregeln</td>
<td>Professional Conduct</td>
<td></td>
</tr>
<tr>
<td>Europäische Eignungsprüfung</td>
<td>European Qualifying Examination</td>
<td>Examen Européen de Qualification</td>
</tr>
<tr>
<td>Europäische Patentpraxis</td>
<td>European Patent Practice (EPPC)</td>
<td>Pour la Pratique du Brevet Européen</td>
</tr>
<tr>
<td>Geschäftssordnung</td>
<td>By-Laws</td>
<td>Règlement Intérieur</td>
</tr>
<tr>
<td>Disziplinarrat</td>
<td>Disciplinary</td>
<td>Discipline</td>
</tr>
<tr>
<td></td>
<td>Chairman: Sten Gasslander</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Chairman: Donald Vincent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vorsitzender: Angus Duncan</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vorsitzender: Felix A. Jenny</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Président: Michel Lemoine</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Chairman: René Sieders</td>
<td></td>
</tr>
</tbody>
</table>