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Institut der beim Europäischen Patentamt
zugelassenen Vertreter

Institute of Professional Representatives
before the European Patent Office

Institut des mandataires agréés près
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EPI
Postfach 26 01 12
D - 8000 München 26
Tel. (089) 201 70 80
Fax (089) 202 15 48

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Editorial

Members will be aware that the European Patent Office has a backlog of both search and examination.

These backlogs not only delay the granting of rights, but also create uncertainty for Industry as they do not know, sometimes for a considerable time, the extent of protection likely to be afforded a competitor in their product filed.

These difficulties are unwelcome to say the least. It is to the E.P.O.'s credit that it recognizes these difficulties and has taken steps - the so-called »7 Measures« programme, to accommodate applicants desiring a rapid search and/or examination and to reduce the time for processing applications where rapid handling is specifically requested. We are therefore pleased to note that the »7 Measures« were published in full in Official Journal No. 12/1991 and we commend them to our readers as worthy of their attention, particularly as the time to issuance of the first examination report (by the Examining Division) has been reduced (see Measure 5) and the Examining Division undertakes to reply within three months to a bona fide response made by an applicant to a report on substantive Examination (Measure 6).

We are indebted to President Braendli for drawing the publication of the notice to our attention via our own President David Votier, who incidentally, has a letter published in this issue.

Jean Brullé, Joachim Herzog, Terry Johnson

Letter from the President

27 January 1992

One of the nice things about our Profession is that there is always something new happening, with which we must perforce become involved. We enter 1992 with several hundred new members of our Institute, from the former German Democratic Republic, Monaco and Portugal. President Braendli, in his address to the Munich Council Meeting, mentioned the possibility of further States ratifying the EPC, and thus further additions to our membership.

We also enter 1992 with an amended Convention. It is a tribute to the original draftsmen of the Convention that it has remained relevant to the needs of our clients and employers for so long. It is also a tribute to the custodians of the Convention that they are prepared to propose amendments to it when circumstances show that the needs of the users require them. Article 63 EPC was amended in Munich in December 1991. It remains to be seen how many of the Contracting States take advantage of the amendment and introduce amending legislation into their national systems. However, now that it has been established that the Convention is not immutable, further amendment must follow. The EPO, through its links with the SACEPO and other bodies, are aware of the provisions which need changing. They must continue to be made aware of necessary changes. We can rely on them to bring forward the appropriate proposals for amending legislation, at the appropriate times.

I was privileged to be asked to participate in the EPO's Conference on the Use of Patent Information. Strenuous efforts are being made by the leading Patent Offices, either by themselves or through other organizations, to make all the information which the user could reasonably require, available to him.

Members will know that the decision was taken two years ago to organize a Trilateral Users' Meeting to follow the regular Trilateral Meetings in which the EPO, USPTO and JPO take part. The first Users' Meeting was held in Munich towards the end of 1990, and the second will be held in Tokyo in February 1992. Such meetings offer a unique opportunity to discuss matters of concern and interest not only with our fellow United States and Japanese Practitioners but also with senior members of the three Offices.

The Institute, with the help of the EPO, organized a most successful Exhibition of works of art, submitted by our members, in the European Patent Office last Spring. The prime mover in organizing the Exhibition was Klaus Hoffmann, and, although small, the Exhibition featured works of considerable merit and was a great success. I very much hope that we can make this a regular event. I know that there are many artists among our members, and I hope that the next Exhibition will be very well supported. Details will be announced in due course.

The Exhibition was, as I have mentioned, held in the European Patent Office. This is just one area in which the EPO supports the activities of the Institute. It is good to know that relations between the members of the EPO and the members of this Institute are so cordial and friendly. It makes communication between us so much easier. The Institute is pleased that the Office is keen to involve us in its workings, and to seek our assistance and comments on changes which it proposes making. It was typical of the President to spare time on the occasion of our Munich Council Meeting to share with us some of his thoughts and hopes for the future, and also to let us have a report of current happenings in the Office.

Yours faithfully,
S. D. Votier

Review of 1st EPI Artists Spring Exhibition in the European Patent Office

(21st March to 19th April 1991)

The invitation of former President of the EPI, Mr Dieter Speiser, in EPI Bulletin No. 2-1990, initially attracted only 7 artists from 4 different countries, namely Germany, England, the Netherlands and Sweden. The Dutch and Swedish submissions were withdrawn at more or less the last minute before the opening of the Exhibition, much to the regret of the Institute.

Following a meeting with the Secretariat of the EPI, it was extremely frustrating for me, as instigator of the Exhibition, to have to admit that my colleagues' response to the President's invitation had been extraordinarily weak. In this context, we had to address ourselves to 2 main questions:

- (1) Whether it was worth staging the Exhibition at all in the light of such poor response (particularly at a time when the Secretariat was already heavily burdened preparing the election results for the new Council and adapting to a changeover of the EPI Secretary); and
- (2) Whether or not relatives (essentially husbands/wives and/or children - but where do you draw the line?) should also be allowed to participate, as is the case with the European Patent Office Summer Exhibition.

I recall, for example, a telephone call, a few days before the opening of our Exhibition, from a colleague in Munich, who was enquiring as to whether his wife, a professional artist, might also be permitted to take advantage of the fine facilities at the EPO to exhibit some of her work. I personally would have welcomed one or two professional works to enhance our 1st Exhibition, since by that time only a handful of exhibits had been submitted to the EPI Secretariat. However, it was not to be, as this would most probably have led to a flood of complaints from other colleagues, whose spouses had not been permitted to exhibit, since, from the very beginning, membership of the European Register of Patent Attorneys had been stipulated as a requirement for eligibility.

Thus, time went by. You may have heard that, in spite of such teething troubles, the relatively small Exhibition turned out to be a great success. Organizers measure the success of an exhibition either by viewing numbers or by the number of paintings sold. I think the viewing figures - in the region of between 150 to 200 people - speak for themselves, and we can safely say that the Exhibition was a success!

At this point I should like to express my gratitude to the Secretary of the EPI, Mr Mohr, and to Ms Moneger and Ms Anwender for their kind assistance in the preparations for and organization of the 1st Exhibition. Even the question of financing the evening's catering arrangements was speedily and satisfactorily answered; thanks also to the Institute for carrying the costs of the hot buffet and refreshments.

Last but not least, our heartfelt thanks to the President of the EPO, Dr Braendli, for introducing each individual artist, following the official opening of the Exhibition

by Donald Drummond (President of the EPO Cultural Club). Dr Braendli went on to say he was very pleased to see how well the EPI Exhibition for users of the EPO complemented the now well established Summer Exhibition for EPO Officers and their families, and hoped that the EPI Artists Spring Exhibition would in future become a regular feature in the EPO calendar.

In the absence of EPI President, Mr Dieter Speiser, who unfortunately had a prior commitment to a Council Meeting in London, hospitality was provided by patent attorney Mr Heinz Bardehle, and he too expressed the hope that this fine Exhibition would be repeated in the future. I then thanked the EPO Administrator, the Cultural Club and the EPI Secretariat, whose combined efforts made this 1st Exhibition possible. I confessed to Dr Braendli that I myself never before had the opportunity to exhibit my paintings in such fine surroundings and that this was probably also true of my brave colleagues, without whose pioneering spirit this first Exhibition would not have been possible.

It is worth mentioning that Dr Braendli purchased several paintings from the 1st Exhibition, and these will be hung in the new EPO building. I very much hope that colleagues who as yet have not wished to show their artistic works publicly, will be able to cross this boundary and help us to give next spring's Exhibition the creative impetus and variety necessary to build on this year's achievement.

Klaus Hoffmann

Bilan de la 1ère exposition de printemps des artistes de l'EPI à l'Office Européen des Brevets

(21 mars au 19 avril 1991)

L'invitation de l'ancien Président de l'EPI, M. Dieter Speiser, parue dans l'EPI information No. 2-1990, n'a trouvé tout d'abord écho qu'auprès de sept artistes de quatre pays différents, l'Allemagne, l'Angleterre, les Pays-Bas et la Suède. La Suède et les Pays-Bas se sont retirés, au grand regret de l'Institut, pratiquement à la veille de l'inauguration.

En tant que promoteur de cette exposition, j'ai été moi-même très déçu de constater, à la suite d'une réunion avec le Secrétariat de l'EPI, que si peu de collègues avaient répondu à l'invitation du Président. Deux questions se posaient alors:

Tout d'abord cela valait-il la peine d'organiser une exposition avec une aussi faible participation (le Secrétariat était à cette époque très occupé par le dépouillement des votes pour l'élection du nouveau Conseil et le changement de direction du Secrétariat); la deuxième question était de savoir si la participation de parents (essentiellement maris/femmes et/ou enfants - mais où mettre la limite?) devrait être acceptée comme c'est le cas pour l'exposition d'été de l'Office Européen des Brevets.

Je me souviens de l'appel téléphonique d'un collègue munichois quelques jours avant l'inauguration de l'exposition, qui me demandait si sa femme, artiste professionnelle, pouvait profiter de cette occasion pour exposer quelques-unes de ses oeuvres. J'aurais personnellement été heureux d'accepter une ou deux oeuvres professionnelles pour notre première exposition mais cela aurait probablement attiré de nombreuses plaintes de la part de collègues dont les épouses n'avaient pas été autorisées à exposer puisque, dès le tout début, le privilège en avait été réservé exclusivement aux mandataires agréés près l'Office Européen des Brevets.

Le temps a passé. Vous savez peut-être qu'en dépit de tous les problèmes, notre petite exposition a été une réussite. Un organisateur évalue le succès d'une exposition au nombre des invités ou des peintures vendues. A en juger par le nombre des invités, qu'on peut estimer de 150 à 200, il ne fait aucun doute que l'exposition a été un vrai succès!

Je voudrais ici exprimer ma reconnaissance au directeur du Secrétariat de l'EPI, M. Mohr, ainsi qu'à Mme Monéger et Mme Anwender pour leur aimable collaboration et leur aide dans la préparation et l'organisation de cette première exposition. La question du financement du buffet et des boissons avait pu être également résolue rapidement. Merci à l'Institut d'avoir bien voulu prendre les frais à sa charge.

Je tiens à remercier ici également le Président de l'OEB, M. Braendli, représenté par M. Donald Drummond, Président du Club culturel de l'OEB, qui après l'ouverture officielle de l'exposition a présenté chaque artiste personnellement. Il a ajouté combien il était heureux de trouver dans l'exposition de l'EPI un complément de l'exposition d'été des employés de l'OEB et de leurs familles, exposition sérieusement établie depuis plusieurs années déjà, et qu'il espérait que cette exposition de printemps des artistes de l'EPI fasse partie à l'avenir des événements culturels du calendrier de l'OEB.

Le Président de l'EPI, M. Dieter Speiser, retenu par une réunion à Londres, était représenté par M. Heinz Bardehle, Conseil en Brevets d'Invention. Celui-ci souhaita la bienvenue aux invités et exprima aussi le souhait que cette exposition soit renouvelée. J'ai remercié ensuite le Président de l'OEB, le Club culturel et le Secrétariat de l'EPI à qui l'on doit d'avoir pu réaliser cette première exposition. J'ai dit à M. Braendli que je n'avais encore jamais exposé dans un cadre aussi beau et que cela était probablement vrai aussi pour mes collègues grâce auxquels il a été possible de présenter cette première exposition.

Il faut mentionner encore que M. Braendli a acheté quelques peintures de cette première exposition pour les nouveaux bâtiments de l'OEB. J'espère que les collègues qui jusqu'à maintenant n'ont pas osé présenter leurs œuvres en public oseront cette fois-ci faire le pas et nous aideront par leurs contributions à présenter l'année prochaine une exposition encore plus belle et plus variée.

Klaus Hoffmann

Life and Patents or the story of a little mouse (following)

by Alain Gallochat, Paris

In the issue of EPI-Information 2-1991, the decisions of the Examining Division and the Board of Appeal (T 19/90) concerning the European Patent Application 85 304 490.7, in the name of Harvard, for a transgenic mouse, were examined.

The Board of Appeal before sending back the case to the Examining Division decided among others that:

- Article 53b) EPC: animals are not excluded from patentability, the only issue to be envisaged by the Examining Division being to determine whether a mutant animal (transgenic animal) is or is not an animal variety;
- Article 83 EPC: the extrapolation from the mouse, supported by actual examples, to mammals in general is allowable, hence considering the disclosure as sufficient;
- Article 53a) EPC: the Examining Division must determine whether such Article is applicable giving as a basis of reflexion the balance between animal suffering and environmental risks, and the benefits that humanity might reap from the invention.

One year after Harvard's case was sent back to the Examining Division, this latter decided finally to grant a patent in that case; due to the importance of the case, more especially because of the involvement of public order and morality, the Examining Division commented largely its decision, which is a quite exceptional procedure, giving some light to the issues of the case.

By applying Article 111(2) EPC, the Examining Division was bound by the decision T 19/90 of the Board of Appeal as far as Articles 53(b) (patentability of animals) and 83 (sufficiency of disclosure) EPC were concerned.

Consequently, the comments of the Examining Division are only directed to unresolved problems:

- 1 - Is a mutant animal an animal variety?
- 2 - Is the present invention contrary to public order and morality?
- 1 - Is a mutant animal an animal variety?

In this respect, the answer of the Examining Division is clear: rodents or even mammals constitute a taxonomic classification unit much higher than species; on the other hand, an animal variety is a sub-unit of a species, of even lower ranking than a species.

Consequently, a claim directed to a mammal is patentable; it may be induced by this answer that claims directed to an animal having an equivalent rank (i.e. insects, birds, fishes ...) are also patentable, the subject matter of these claims not being covered by the three terms («Tierart», «Race animale», «Animal variety») of Article 53(b) EPC.

In this respect at least the decision of the EPO is of the higher importance.

- 2 - Is the present invention (Harvard's transgenic mouse) contrary to public order and morality?

The Examining Division largely comments its position concerning the application of Article 53(a) EPC. Among those comments, some of them are parameters, specific to the present invention, others are of a very broad scope.

The specific parameters are those already mentioned by the Board of Appeal:

- *basic interest of mankind*: in the present case the fact that the transgenic mouse is clearly related to the treatment of cancers constituting one of the major causes of death cannot be discussed («The present invention's usefulness to mankind cannot be denied»);
- *protection of the environment*: according to the Examining Division, the risk for the environment is limited, the invention being basically intended to be used in laboratories «under controlled conditions by qualified staff». This position must be approved, bearing however in mind that still exists the possibility of accidental or intentional release of such animal test models in the nature, hence a risk which cannot be excluded for the environment. Finally the Examining Division in a very clear statement confirms that «the mere fact that such uncontrollable acts are conceivable cannot be a major determinant for deciding whether a patent should be granted or not»; here also the Examining Division's position must be approved;
- *animal suffering*: the Examining Division concluded that the invention contributes to a reduction of the overall extent of animal suffering based upon the assertion of the applicant that, by using the invention, the number of animals being required is smaller than the number of conventional animals to be used.

Apart from these three above cited specific parameters, the Examining Division's comments include some general considerations on which it is worthwhile to insist on. Even if such considerations are well known, it is good, sometimes, to remind them; for instance:

- The general principle of patentability (Article 52(1) EPC) can be only denied if other provisions in the law exclude certain subject matter, such exclusions being to be interpreted narrowly;
- Inventions which are made in connection with a new technology and which are to be patented under the EPC have to satisfy the requirements of Article 53(a) EPC.

However, the Examining Division has to be criticized when this latter, probably in order to reinforce its argumentation, asks the question as to whether «there exist alternatives to animal testing in the given context which are as reliable as the animal tests». Such a question is not appropriate and should be avoided in this field of the biotechnology as well as in other fields; there is nothing in the EPC stating that, there must be no alternative to an invention in order for this latter to be patentable.

Finally, the Examining Division makes a comment which is of the highest importance and which reflects exactly the characteristic of a patent:

«A patent does not give a positive right to its proprietor to use the invention, but rather only confers the right to exclude others from using the invention for a limited period of time».

Following this clear statement, the Examining Division continues as follows:

«If the legislator is of the opinion that certain technical knowledge should be used under limited conditions only, it is up to him to enact appropriate legislation».

This reminder must be appreciated, because it is clear that since the beginning of this case, there is a confusion between the granting of a patent, according to specific rules contained in patent laws, such as the EPC and the use of a patented invention which may be subject to an administrative authorization and thus may be prohibited: until there is a clear prohibition of patenting a product, the patent office must grant a patent covering this product even if said product cannot be used provided of course the corresponding invention fulfils all remaining patentability criteria; the mere fact that a product cannot be used must not be a bar to patenting said product. Until now, the testing of animals is not prohibited by law, provided said testing follows precise rules.

As a conclusion the comments of the Examining Division are welcome as clarifying the situation of patenting animals; in this respect, it was superfluous to state that «the above considerations apply solely to the present case and that other cases of transgenic animals are conceivable for which a different conclusion might be reached in applying Article 53(a) EPC». It is obvious that detrimental effects and risks of an invention have to be balanced against the merits and advantages of said invention on a case by case basis.

Most probably, oppositions will be filed against the patent granted to Harvard for its transgenic mouse, but whatever the final decision is, this story is not finished since there is still an unresolved question: what are the rights of a patentee obtaining a patent covering an animal, and what is the scope of such a patent?

But this is another story ...

Harmonization of regulations governing representation and the professional code applicable to European patent attorneys

Dietrich Bernecker, European Patent Office

1. Introduction

At the FICPI Congress¹ in Cannes in June 1988, a 12-page (interim) report by a group of FICPI members was submitted concerning a number of fundamental questions relating to the law applicable to patent attorneys in private practice. The authors, under the chairmanship of Peter Kirby (CA), had set themselves the task of tabulating in a highly simplified form for the purposes of comparison various aspects of the law governing the profession in a number of countries, for example the requirements for admission to the profession, its organization and entitlement to represent clients in court (Kirby report). The 28 countries surveyed include all the existing 16 EPC Contracting States except the Principality of Monaco. The group had been asked by the FICPI Executive Committee to propose improvements. At the end of the group's report the reader was asked: »Is there a need for some measure of harmonization of the provisions relating to the powers, duties and qualifications of industrial ... property practitioners among countries?«

As far back as 1961 Kurt Haertel turned his thoughts to the idea of harmonizing the national provisions governing representation before the patent offices. The »Preliminary Draft Convention relating to a European Patent Law« produced by a committee of experts of the Six (EEC) under his chairmanship contained only the »grandfather clause«, as it is now known (Article 163 EPC) but not the European solution of Article 134 EPC. The latter was first mentioned in the discussions on the European Patent Convention in the form of a suggestion from FICPI in 1970. Commenting in 1961 on the first draft of a »grandfather clause«, Haertel said he thought it advisable for the time being merely to reflect the existing position under national law at the European level. He felt it was conceivable that harmonizing the relevant national provisions might be considered at a later stage. This caution is interesting, especially when one considers that the debate was confined to the possibility of harmonizing the provisions governing representation in only six countries (Benelux, France, Germany, Italy). In the EPO of 1992, harmonization would involve 16 Contracting States not to mention - all the countries likely to accede to the EPC in the coming years.

The Kirby report was read with interest at the EPO and, back in September 1989, the Examination Board for the European Qualifying Examination under the chairmanship of Norman Wallace (GB) reacted by instructing its secretariat to liaise with the EPI Professional Qualifications Committee in producing a table containing information on the examinations for patent attorneys in the EPC Contracting States. The exercise was primarily intended to indicate whether and how national examination requirements could be relaxed or dropped altogether for candidates who had passed the European Qualifying Examination. It was felt that something needed to be done in order to tackle the acute shortage of suitably qualified young

people joining the patent examiner and patent attorney professions. Two years ago many potential candidates were put off becoming patent attorneys by the length of post-graduate training required and because in many EPC Contracting States they have to sit a national examination on patents as well as the European one (see Table 3 below). Today it seems that more, perhaps now even enough young people with good, relevant university qualifications are taking an interest in this profession. The table produced by the Examination Board secretariat was discussed in May 1989 at a joint meeting of the Examination Board and the EPI Professional Qualifications Committee. At that meeting, Elisabeth Thournet-Lemaître (FR), chairman of the EPI Committee, welcomed the idea of having less rather than more national examinations for patent attorneys and said that the obvious course seemed to be to obtain greater recognition for success in the European Qualifying Examination in the EPC Contracting States. The Examination Board then referred the paper to EPI and asked for its views on the question of whether the EPO should do something to promote this idea and if so what.

The matter was given new impetus by the President of the European Patent Office, Paul Braendli, when he instructed the author to carry out, in co-operation with EPI, a survey of the conditions for entry to the patent attorney profession in the EPC Contracting States, setting out the results in the form of a comparative table, and to make proposals for harmonization. The fact is that European patent attorneys have been exercising their profession for over 14 years now under two different codes (European and national). Comparing some of the essential features of these regulatory systems with a view to harmonization would certainly seem to be worthwhile. Insofar as harmonization affects the level of performance of the European and national profession it should be dedicated to the professional ideal signified in the German regulation on patent agents by the term »Organ der Rechtspflege«, which institutionalises the position of patent agent as part of the machinery of the administration of justice. In other words, the aim is not to lower existing standards under the guise of harmonization. Qualified and well-informed patent attorneys are crucial to the EPO's constant efforts to make the European patent grant procedure as efficient as possible. The EPO therefore sees the goal as being to aim for high quality and hence bolster the competitive position of all European patent attorneys - both those in private practice and their colleagues in industrial patent departments.

This initiative by the President of the European Patent Office was discussed by the EPI Council, which referred the matter to its Professional Qualifications Committee. It was discussed by the Committee at a meeting on 17 September 1991 in Munich. The discussion was based upon the terms of reference issued by the President of the European Patent Office and a first comparative table (an earlier version of the one reproduced here in Tables 1-3).

Even a cursory look at the table prompts the question what should be harmonized and with what objective. Whilst amendments to EPC provisions should by no means be ruled out, there are certain limits to what the EPO can do in this area and these need to be clarified from the outset.

a) EPC

Articles 133, 134 and 163 EPC can only be amended by the revision procedure. This would call for a broad consensus at a diplomatic conference (Article 172 EPC) and subsequent ratification in 16 or more Contracting States. The relevant rules in the EPC Implementing Regulations and the 3 regulations governing the profession (regulations on the European Qualifying Examination, the EPI and disciplinary provisions for professional representatives, Arts. 33[1] [b], 35[2], 134[8] EPC), on the other hand, can be amended by the Administrative Council with a two thirds majority on a proposal from the President of the European Patent Office. The Examination Board for the European Qualifying Examination can amend the provisions which it has enacted (implementing provisions and instructions, see OJ EPO 1991, 88).

b) EPC Contracting States

Here the EPO with the help of EPI can publicise the existing position, promote discussion of objectives and changes, initially at EPI level and later perhaps in the form of a symposium. Whilst the EPO can certainly make its own contributions to the debate, proposals emanating from the patent attorneys themselves would be of greater value. After all, harmonization is not art for art's sake. There has to be a felt need to cast off some of the shackles of tradition. The possibility of being able to compare one's position with that of attorneys in other countries is intended to help those concerned to recognise their own problems and find solutions which may already have been tried out elsewhere. The professional bodies in the various Contracting States must persuade their national legislators to implement those harmonization proposals requiring amendments to national law or at least voice their support for them. For that reason, those concerned must feel the need to do something about the existing situation, and the EPO must largely confine itself to providing inspiration. It is however conceivable that, in the course of the discussion, concerns might emerge which are common to the profession in all or almost all the Contracting States and which can be discussed by the Administrative Council of the European Patent Organization and lead to recommendation to the legislators of all the EPC Contracting States.

Harmonization of the regulations governing patent attorneys is by no means a radically new departure. Belgium has closely aligned its provisions governing attorneys on the European Patent Convention. Attorneys who have passed the European Qualifying Examination and take up residence in Luxembourg are eligible for entry in one of the Luxembourg lists of patent attorneys. In the Netherlands and the United Kingdom they are given partial exemptions for the national examinations. In Germany, section 172 of the Regulation on Patent Attorneys gives candidates who have passed the European Qualifying Examination two years' dispensation for admission to the national examination. But the European profession has also learnt from national models. For example, the partial pass provision of Article 12(3) REE (see footnote 10[a]) is based on a similar

Dutch provision. The dropping as from 1 October 1991 of the provision requiring professional representatives to file an authorization is based on UK practice.

c) Future EPC Contracting States

Here a distinction has to be made between:

- West European States, especially Ireland, Finland, Norway and Cyprus, and
- Central and Eastern European States, especially Czechoslovakia, Hungary and Poland.

The opportunity presented by a country's accession to the European Patent Convention is sometimes taken to carry out a review of the law relating to patent attorneys. In such cases the EPO can draw on its experience with regulation of the activities of professional representatives to provide advice and work towards harmonization with the EPC professional code. In the countries of Central and Eastern Europe, suitable models have considerable attraction, because they are aiming to build a market economy on the ruins of communism whilst perhaps preserving some elements of their own traditions and making due allowance for the special circumstances of their own economies. For these countries the system which has been tested at the EPO has a particular appeal. At a symposium in Budapest from 18 to 20 November 1991 on the theme of patent protection in a market economy, organized jointly by the EPO and WIPO in conjunction with the patent offices of Czechoslovakia, Hungary and Poland, it emerged that each of these three countries had created a uniformly regulated patent profession. The EPO's experience with the single profession under the mantle of EPI clearly point up the advantages of a single profession. The 14 years of EPI's existence have merely confirmed the truth of the remarks made by a representative of COPRICE² at the fifth meeting of the Luxembourg Inter-Governmental Conference at the end of January 1972 and which were quickly followed up by the creation of the appropriate legal basis (Art. 134[8] [b] EPC) when he stressed how valuable it would be for the EPO to be able to deal with a professional institution in private practice and those employed in industry. The success of the EPO would be unthinkable without EPI and the accumulated know-how of its membership.

2. The tables

The tables juxtapose certain principles which are important when it comes to practising as a representative before the EPO with the corresponding provisions of the 16 Contracting States as at 1 January 1992. The aspects included are drawn from those dealt with in the EPC under the heading »representation« which have proved to be of practical significance. The yes/no technique, used to good effect in the information brochure »National law relating to the EPC«³, has been adopted for the purposes of the comparison. The abbreviations used for most of the items of legislation are also taken from the brochure (see its Section A I, Column). The tables have been drawn up in close co-operation with the members of the EPI (Professional Qualifications Committee). Other professional representatives and patent office officials in the Contracting States have supplied additional informa-

tion. In many cases no legal basis could be found, as the points in question were a matter of administrative practice. I would like to thank all those who provided information. No responsibility can be accepted for the completeness and accuracy of the data in the tables. In any case, the legal position can change at short notice. Readers should not hesitate to bring any errors to the author's attention (EPO, extension 5110).

3. Concluding remarks

The author has not at this stage advanced any ideas of his own on harmonization and its objective. Here the initiative should come from the patent attorneys. In an area so deeply rooted in tradition, as professional codes in particular tend to be, it might be beneficial and indeed timely - this being the decade of the European internal market - to look beyond the frontiers and combine one's own established practices with unfamiliar ones tried and tested by others (for example in connection with the training and examination of young recruits) and thereby improve one's competitive position. The author would be very interested to hear the views of individual readers or associations. Please do not hesitate to write to me if you feel that you have something to contribute (European Patent Office, Erhardtstr. 27, W-8000 München 2).

This article will also be published in German in March 1992 in the special edition of the »Mitteilungen der Deutschen Patentanwälte« to mark the 25th anniversary of the »Patentanwaltsordnung« which lays down the code for members of the profession in Germany.

- 1 Fédération Internationale de Conseils en Propriété Industrielle
- 2 Comitato per la protezione della proprietà industriale nella Comunità Economica Europea, like FICPI one of the 13 nongovernmental international organisations involved in the preparatory work for the EPC at the Luxembourg Inter-Governmental Conference from 1969 to 1973. The statement is recorded in Inter-Governmental Conference document BR/169/72 of 15 March 1972, point 159, p. 67.
- 3 Seventh edition July 1991. The brochure also indicates whether a domestic representative has to be appointed at the interface between national law and the EPC (see Section III B Column 1, IV Column 1, VI Column 1, VII Column 4, VIII Column 3 BE and ES).
- 4 See Table 5 regarding the powers of associations of patent attorneys to represent clients.
- 5 Décret relatif à la qualification et à l'organisation professionnelle en matière de propriété industrielle in the June 1991 version, which is expected to come into force in the first quarter of 1992. Regarding the new rules governing the profession in FR see Dreier, GRUR Int. 1991, 710, 712, No. IV. See footnote 11.
- 6 No in the case of representation before the Patents County Court.
- 7 The information concerning the legal position in PT is drawn from the draft law on industrial property (Código da Propriedade Industrial) in the August 1991 version, Part IV, Chapter IV, Article 276 et seq. The law is expected to enter into force in 1992.
- 8 As used here, the word »employee« means a person, who
 - a) is not a patent attorney, and
 - b) where the employer is a legal person, is not entitled to sign on behalf of the legal person under the law or the company's articles of association.
- 9 The training period
 - before the examination is a requirement for enrolment,
 - before or after the examination is a requirements for entry on the list of patent attorneys.

For the EPO and some of the Contracting States more than one figure appears in Table 3 under training period/years; these are explained below:

- a) EPO Three years for candidates with a university-level scientific or technical qualification (List A). Six years for candidates with lower-level diploma such as the British Higher National Diploma or a Bachelor of Science pass degree (List B). In both cases the Examination Board may shorten the training period by up to one year (Art. 8 REE).
- b) DE
 - i) For candidates with EPO List A qualifications, 1 year of practical experience in a technical discipline plus 3 years' training in industrial property (2 years with a »Patentanwalt« or »Patentassessor« in a company patent department plus 4 month at the Patent Office plus 8 month at the Federal Patent Court).
 - ii) For candidates with EPO List A or B qualifications, 10 years' experience as an industrial property consultant or representative, usually in a company patent department. The period is 8 years for candidates who have passed the European Qualifying Examination.
- c) GB Two years under the supervision of a registered patent agent, barrister or solicitor. The latter must deal with patent agency work in GB or have sufficient experience. 4 years without such supervision.
- d) NL
 - i) For candidates with EPO List A qualifications, 3 years' training with a Dutch patent attorney.
 - ii) For candidates with EPO List B qualifications, 7 years' experience in patents and interview with candidate.
 - iii) For candidates with a qualification lower than those in EPO List B, 10 years' patent activity and interview with candidate.

In cases ii) and iii) the training period is a requirement for enrolment in the examination, in case i) only for entry on the list of patent attorneys.
- 10 If the examination can be taken in more than one part, in how many?
 - a) Regarding the position for the European Qualifying Examination, see OJ EPO 1991, 88(89) No. IX.
 - b) In GB the candidate must pass all 10 papers, which means that he must obtain more than 50% of the total marks for each paper. The results for each paper are independent of the results for the other papers (Section 5.2, Regulations for the Examinations for the Registration of Patent Agents and Trade Mark Agents 1991).
- 11 Décret portant modification du décret no. 79-822 du 19 septembre 1979 relatif aux demandes de brevet d'invention et de certificat d'utilité, à la délivrance et au maintien en vigueur de ces titres in the 14 March 1991 version, which is expected to come into force in the first quarter of 1992. See Footnote 5.
- 12 A most informative and up-to-date (September 1991) source text concerning the profession in GB is a submission by the Chartered Institute of Patent Agents to the Lord Chancellor's Advisory Committee on Legal Education and Conduct in CIPA, November 1991, 59-81. It reveals for example that 2/3 of registered patent agents are in private practice.
- 13 Patent attorneys in industry may only represent their employer or firms belonging to the same group, Art. 4(3) Dec. of 3.4.81.
- 14 A distinction has to be made between:
 - a) the individual sub-authorization (1), which is kept in the file of the relevant application, and
 - b) the general sub-authorization (2), granted on the bases of a general authorization and authorizing the person sub-authorized to act in all matters on behalf of the client before the Office.
- 15 Associations of legal practitioners, as there are no patent attorneys in GR.

- Table 1 -

Territory	Who may act professionally before the Office in patent matters?			Compulsory representation for natural or legal persons not having either a residence or their principal place of business in the Contracting State		
	Any natural person having either a residence or principal place of business in the Contracting State	Legal attorneys ⁴⁾	Legal practitioners	For Office notifications	For procedural steps in respect of the Office	Procedural steps exempt from compulsory representation
EPO territory	No Art. 134(1) EPC	No Art. 134(1) EPC	Yes Art. 134(7) EPC	Yes Art. 133(2) EPC	Yes	(a) Filing of the application (b) All procedural steps in connection with (a) (c) Payment of fees Art. 133(2) EPC Legal advice No. 6/80, OJ EPO 1980, 303
AT	No	No	Yes §77 PA	Yes §21(3) PA	Yes	(c) as EPO
BE	No Art. 56 PA	No Art. 56 PA	Yes The patent attorneys entered on the Belgian list may have their place of business in an EEC State outside Belgium	Yes Art. 55 §2 PA	Yes	(a) + (b) as EPO Art. 55 §2 PA
CH LI	Yes Art. 9(1) PO	Yes	Yes	Yes Art. 13(1) PA Art. 8 PO	Yes	As EPO Art. 48 PO Office practice
DE	No "Patentassessoren" and "Erlaubnisschein-inhaber", both with restricted entitlement to represent §§3(2) No. 2, 155, 177, 178 PatAttReg.	No Yes, and §3(5) PatAttReg.	Yes §3(5) PatAttReg.	Yes §25 PA	Yes The represented person may, however, also act on his own	(c) as EPO Cf. ECJ C-76/90 of 25.7.91 (Säger % Soc. Dennemeyer & Co. Ltd.)
DK	Yes	Yes	Yes	Yes Art. 12, 33(2) PA	Yes	(a) - (c) as EPO
ES	No	No	Yes Art. 155(1) PL	No	Yes Art. 155(2) PL	None

FR	No Art. 2(1) Dec. No. 79-822, Art. 33, 36, 32 Law No. 90-1052, Art. 2 Draft 11 ⁵⁾	No	Yes Art. 36(1), 37 Law No. 90-1052	Yes Art. 36(2) Law No. 90-1052	Yes Art. 2(2) Dec. No. 79-822	Yes	(c) as EPO
GB	Yes ⁶⁾ With residence or principal place of business in EEC and address for service in GB Sections 274(1), 281(5) CoDePa Act 1988	Yes ⁶⁾	Yes	Yes	Yes Neither residence nor principal place of business in EEC and/or no address for service in GB Section 281(5) CoDePa Act 1988 R. 30 PR	Yes	(c) as EPO
GR	No	No	No	Yes Art. 39 Law No. 1366/83	Yes	Yes	Payment of fees: Payment must be made by the patentee or a Greek legal practitioner. Patentees with neither residence nor principal place of business in Greece must appoint a representative for service in that country. Art. 19 Pres. Dec. No. 77/88
IT	No	No	Yes Art. 94 PL Art. 1(1) Dec. of 3.4.81	Yes	No Applicants residing or established abroad must elect an address for service within Italy. They do not need however to appoint a professional representative. Art. 93, 94 PL	No	(a) as EPO, but address for service in Italy is required (c) as EPO Art. 93, 95 PL
LU	No Art. 9 bis Law of 31.10.78	No	Yes	Yes	Yes	Yes	(c) as EPO
MC	Yes with authorisation from the government	Yes	Yes	Yes	Yes	Yes	(c) as EPO
NL	No	No	Yes §1(1)(a) PatAttReg.	Yes §1(1)(b) PatAttReg.	Yes Art. 22A(4), 22G(2), 22J(2), 25(3), 290, 295(3), 29X(2), (4), 34(1) PA	Yes	As from grant of the patent, but address for service in the Netherlands is required. Art. 22A(4), second sentence, PA
pt ⁷⁾	No	No	Yes, and assistants	Yes	Yes	Yes	None
SE	Yes	Yes	Yes	Yes	Yes §§12, 33(2), 71 PA §55 PD	Yes	As EPO

Territory	Procedural steps by employees ⁸⁾		Common representation		
	May natural and legal persons having their residence or principal place of business in the Contracting State act through an authorised employee?	May the employee of a legal person also act for other legal persons having their principal place of business in the Contracting State and having economic connections with the first legal person (group representation)?	If there is more than one applicant, the applicant (or his attorney) who acts as common representative is appointed by		
			the applicants	fiction	the Office
EPO territory	Yes Art. 133(3), first sentence, EPC	No Art. 133(3), second sentence, EPC	Yes R. 26(3) EPC	Yes, first named R. 100(1), (2), first sentence, EPC	Yes, for transfer of rights R. 100(2), second and third sentences, EPC
AT	Yes §12(1) PA	No	Yes	Yes, first named §86(1) PA	No
BE	Yes Art. 55 §3, first sentence, PA	No Art. 55 §3, second sentence, PA	Yes	Yes, first named Art. 55 §4 PA Art. 6 RD of 2.12.86	No
CH LI	Yes	Yes	Yes Art. 5(1) PO	Yes, first named Art. 5(2), first sentence, PO	No
DE	Yes Art. 1 §6 Legal Consultancy Act, Office practice	Yes "Economic connections" = at least a 75% share	Yes §3(2) No. 5 PFR	Yes §62 Civil Proceedings Reg.	No
DK	Yes	Yes	Yes	Yes, first named	No
ES	No Art. 155(1)(a) PL	No	Yes	Yes, first named	No

FR	Yes Art. 33(3) Law No. 90-1052	Yes	Yes Art. 2(3) Dec. No. 79-822	Yes, first named	No
GB	Yes, in EEC with address for service in GB	Yes	Yes	No	Possible R. 12(3) PR
GR	Yes	Yes	Yes	No	No
IT	Yes Art. 94(1) PL Also abroad with address for service in IT	No	Yes	Yes, first named	No
LU	No	No	Yes	No	Yes
MC	Yes	Yes	Yes	No	No
NL	No	No	Yes Art. 21(4) PR	No	No
PT ⁷⁾	Yes	No	Yes	Yes, first named	No
SE	Yes	Yes	Yes §2 No. 4 PD	No	No

Conditions governing entry on the list of patent attorneys

[illegible]

DE	Yes §14(1) No. 9 PatReg.	Yes, but exemption may be granted §14(1) No. 13, (2) PatReg.	Yes §21(2) No. 9, 26 PatReg.	Yes §16(1) No. 13, (2) PatReg.	Yes §16(1) No. 2 PatReg.	Before §35, 7, 172 PatReg. R59.	1 + 3 10(8) see note9)	2 §8 PatReg. §34 Training and Examination R59.	Yes -	No -	Divided
DK Unofficial list of members of 8 patent at- torney offices	Yes	Yes	Yes	Yes	Yes §16(1) No. 2 PatReg.	Before or after	5	2	Yes 2 papers	No	Divided
ES	Yes Art. 156 PL	Yes Art. 157(a) PL	Yes	Yes	University (15 years) or equiva- lent qual- ification Art. 157 (c) PL	-	-	-	-	-	Un- divided
FR (1) List of qualified persons (Liste des personnes qualifiées)	No Art. 35(3) Law No. 90-1052	No Art. 1 Draft 11)	No Art. 1 Draft 11)	Yes Art. 33(4) Law No. 90-1052 qualific- ation + ICE/PI diploma	Yes Art. 1(c), (d) Draft 11)	Before	3	2	Yes -	No	Divided
(2) List of patent attorneys (Liste des conseils en propriété industrielle)	Yes Art. 35(3), (5), Art. 37 Law No. 90-1052	Yes, or of an EEC State Art. 12(2) Draft 11)	Yes Art. 12 (3) Draft 11)	Yes Art. 42-44 Law No. 90-1052	Yes Art. 1(a), (b) Draft 11)	-	-	-	As list (1)	-	-
GB	No	No	No	No	Also without a diploma or with a legal qualific- ation	Before or after	2; 4 see note 9)	6 4	No 2 papers	10 see note 10)	Un- divided (12)

Table 3 (contd.) -

Conditions governing entry on the list of patent attorneys														
Territory	Engaged in private practice	National of the Contracting State	Place of business or employment in the Contracting State	Transitional period	Professional qualifications									Prof- ession
					Qualifying examination									
					Admission				Examination					
					Diploma	Training period	Written	Oral	European Quali- fying Examin- ation gives	Partial (pass 10)				
					Before or after examination ⁽²⁾	Before	Years	No. of papers	Tech- Legal	Oral	Exemption from			
GR	-	-	-	-									Un- divided	
IT	No	Yes, or of an EEC State or on grounds of reciprocity Art. 2(a) Dec. of 3.4.81	Yes, or on grounds of reciprocity Art. 2(c) Dec. of 3.4.81	Yes Appropriate training and 5 years' representation in patent matters Art. 22 Dec. of 3.4.81	University quali- fication Art. 6(2) Dec. of 3.4.81	Before	2	1	-	Yes	For transitional period see Art. 22(2), second sentence, Dec. of 3.4.81	No	Un- divided (13)	
LU	(1) List of patent attorneys with employee status	No	No, but residence in LU	Yes 2 years' activity in patent matters (5 years' where not full-time) Art. 5 Reg. of 12.1.77	LU has no examination, but a person entered on one of the two lists must fulfil one of the four conditions listed below: 1. he must have passed the European Qualifying Examination; 2. he must have acted as patent attorney in an EEC State, provided that the profession is regulated in the State concerned; 3. he must possess a diploma from a university located in an EEC State, specialising in industrial property; 4. he must have a university degree or equivalent in the same subjects as for the EPD or in a legal subject (at least 4 years' study). In cases 3 and 4 evidence must also be provided of a 1-year training period. Art. 1(1), 19(1)(d) Law of 28.12.88								Divided	
	(2) List of patent attorneys engaged in private practice	Yes												

MC	Yes	No	Yes	-	MC has no examination, but to act a patent attorney must be authorised by the government								[Un- divided]
NL	No	No	Yes §7(1)(c) PatAttReg.	-	As EPO	Before or after	3	4	0	Yes	Written exam	3	[Un- divided]
PT ⁷⁾	Yes	Yes, or of an EEC State	Yes	-	§§3(4), 4(3), (4) PatAttReg.	Before	[7, 10] [see note (9)]						[Un- divided]
SE	-	-	-	-	Technical, legal or economics	No	-		Yes	Yes	No	No	[Un- divided]
													[divided]

Territory	Authorisation						
	Filing compulsory for			Notarial attestation of authoriser's signature	General authorisation must be filed once in the original then reference then copy (certified?)		Sub-authorisation ¹⁴⁾ 1 = individual 2 = general
	patent attorneys	legal practitioners	others				
EPO territory	No, with exceptions	Yes	Yes Art. 133(3) EPC	No	Yes	No	1 + 2 R. 101(2), (3) EPC OJ EPO 1989, 228-236 (Forms 1003 and 1004)
	R. 101(1) EPC, OJ EPO 1991, 489						
AT	Yes Law currently being amended to "no"	No	Yes	No	No	Yes, certified copy	1 + 2
BE	Yes	Yes	Yes	No	No	Yes	No
CH LI	Yes	Yes	Yes	No	No	Yes	1 + 2
DE Patent Office		Yes		No	Yes	No	No for employee's authorisation, otherwise 1
Federal Patent Court		No		-	-	-	-
DK	Yes	No	Yes	No	Yes	No	1 + 2
ES	Yes	-	-	No May be required	No	Yes, always with original which is returned	1

FR	Yes	Yes	Yes	No	No	Yes	1 + 2
GB	No, with exceptions			No	No	No	No
GR	-	Yes	Yes	Yes	No	Yes, certified copy	1 + 2
IT	Yes	Yes	No May be required	No for individual authorisation Yes for general authorisation	Yes	No	1, but only on the basis of a general authorisation
LU	Yes	Yes	Yes	No	No	Yes	1
MC	Yes	Yes	Yes	No	Yes	No	1 + 2
NL	Yes	Yes	Yes	No	No	Yes	1 + 2
PT ⁷⁾	No	Yes	Yes	No May be required	No	No	No
SE	Yes	Yes	Yes	No	No	Yes	1 + 2

- Table 5 -

Territory	Are associations of patent attorneys entitled to organise themselves as a legal person or as a body equivalent to a legal person?	represent an applicant	Is a patent attorney who is entitled to act in private practice also entitled under his national law to act as an employee in an industrial patent department and if so, for what percentage of his working time?
EPO territory	National Law	Yes R. 101(9) EPC, OJ EPO 1979, 92	Yes 100%
AT	Yes Federal Law Gazette 1990, 2349 Austrian Patent Bulletin 1991, 99	No	No
BE	Yes	No	Yes 100%
CH LI	Yes	Yes	Yes 100%
DE	No	No	Yes 50% §14(1) No. 9 PatAttReg.
DK	Yes	Yes	Yes 100%
ES	Yes	No	No

FR	Yes Art. 37, 38 Law No. 90-1052	Yes	No Art. 37 Law No. 90-1052
GB	Yes	Yes	Yes 100%
GR ¹⁵⁾	Yes	No	Yes 100%
IT	Yes	No	No
LU	Yes	No	Yes 100%
MC	Yes with authorisation from the government	Yes	Yes 100%
NL	Yes	No	Yes 100%
PT ⁷⁾	Yes	No	Yes 100%
SE	Yes	Yes	Yes 100%

Neue Wege des Europäischen Patentamtes zur Ausbildung europäischer Patentvertreter

von Paul Rosenich (FL)

Einer Initiative des Europäischen Patentamtes ist es zu verdanken, daß seit diesem Jahr direkt am Europäischen Patentamt ein Ausbildungsprogramm für Patentvertreter stattfindet (siehe Amtsblatt 8/91, Seite 446 und 447). Die Ausbildung ist zweigeteilt und umfaßt einen vierwöchigen Aufenthalt in der GD2 und einen vierwöchigen Aufenthalt in der GD3.

Wenngleich sich das vierwöchige Fehlen eines Sachbearbeiters oder angehenden Patentvertreters in einer Patentanwaltskanzlei zunächst störend auswirkt, möchte ich den Besuch dieses Ausbildungsprogramms jedem angehenden Praktikanten, aber auch jenen Patentvertretern empfehlen, die ihren Wissensstand auf unkomplizierte Art und Weise und durch praxisnahen Unterricht erweitern wollen. Der praktische Ablauf ist so organisiert, daß ein Praktikant einem erfahrenen Prüfer (Trainings Officer) zugeteilt ist, der dem Praktikanten für alle Fragen und Probleme zur Verfügung steht und dem Praktikanten gegebenenfalls gemeinsam mit einem gerade auszubildenden Jungprüfer sachliche Unterweisungen anhand von konkreten Fällen wie Bescheiden, Einsprüchen usw. gibt.

Ganz abgesehen davon, steht es jedem Praktikanten aber frei, sich schwerpunktmäßig nach eigenen Bedürfnissen weiterzubilden. Er hat freien Zutritt zu Formalprüfern und lernt so unmittelbar Fehler, wie sie häufig vorkommen, zu vermeiden. Darüber hinaus sind aber auch alle anderen Fachleute auf den verschiedensten Gebieten gerne bereit, dem Praktikanten Rede und Antwort zu stehen.

Einen weiteren, wesentlichen Teil des Ausbildungsprogramms bildet die Teilnahme-möglichkeit an den Ausbildungskursen für Prüfer, die insbesondere die Stoßrichtung der Prüferphilosophie erkennen lassen und daher eine zukünftig reibungsfreie Zusammenarbeit bei Prüfungen, Einsprüchen und Beschwerden erwarten lassen.

Ich kann die Teilnahme an diesem Ausbildungsprogramm nur jedem empfehlen.

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For further information, please contact:

Mme Blott, CEIPI
Université Robert Schuman
International Division
Place d'Athènes
67084 Strasbourg Cedex
Tel: 88 61 56 04 and 88 41 42 30
Fax: 88 60 37 10

Letters to the Editor

9 January 1992

Dear Sir,

US designations in PCT applications

I am writing to respond to V. Morstadt's article in EPI information 3 - 1991, page 56.

Mr Morstadt says that the question of whether a granted US patent is earlier than another, depends on the US filing date, not the convention date, but there are two aspects to «earlier than» which must be individually considered.

35 USC 102 (E) says that an issued US patent has prior art effect only against a later filed US application and in this context, it is true that it is the actual date of filing in the USA which matters, not the PCT filing date.

However, when determining the priority of two applications for the same invention, different rules apply i.e. 35 USC 365 (B) which specifies that the foreign Applicant in the USA can claim the right to priority back to his basic national application, and this is so whether or not an intervening International application is filed.

However, because of US «interference» law, there is always the possibility that even where an invention is first made in a convention country outside the USA, e.g. in the UK, a US Inventor for the same invention has the right to patent protection in the US. This is because evidence as to the earliest date of invention is critical in US interference law, and such evidence must be based on acts performed in the USA.

The earliest date a British Applicant for example, can claim to have made his invention for the purpose of US interference law, is the date of filing his basic British application from which his US application claims priority (again whether or not there is an intervening PCT application). This is because any subsequent priority-claiming US application will be considered to have been filed *in the USA*, as of the priority date and thus the filing of the priority application in these circumstances is in effect, an act performed in the USA. However, to obtain the full benefit of the priority date, there must be sufficient disclosure in the priority application to satisfy US requirements concerning a «constructive reduction to practice».

The US Inventor of the same invention, to prevail in interference proceedings, would need to establish either:

- (a) actual reduction of the invention to practice before the priority date of the British application, or,
- (b) conception of the invention before the priority date of the British application and a diligent effort to reduce the invention to practice e.g. by filing his US patent application.

Hence as a practical matter, there is little a non US Applicant can do to improve his position in the USA apart from filing a patent application in his/her country, as promptly as possible after making the invention, and describing the invention as fully as possible.

Thus there is no real detriment to a non US Applicant in using the PCT system to obtain patent protection in the USA apart from perhaps the fact that his eventual US

patent is granted, will not constitute prior art against later applications made by others before his actual US filing date.

Yours faithfully,
D. J. Lucking (GB)

19 December 1991

Dear Sirs,

The article entitled «The US 'domestic' problem of US designation in PCT Applications filed by Non-US Residents» by V. Morstadt which appeared in the EPI Journal (3-1991) has caused unjustified concern among the users of the PCT system, and it appears important to clarify the situation. The article refers to the prior art effect of an international application during the national phase before the United States Patent and Trademark Office (USPTO), and concludes with the advice not to designate the United States of America in PCT applications.

In fact, the possibility mentioned is an extremely rare one: that of a later prior art effect due to the operation of Section 102(e) of the United States patent statute (35 USC 102[e]). The International Bureau of WIPO is not aware of a single case where an applicant filing in the United States of America via the PCT has suffered diminution of rights on the basis of prior art effect under 35 USC 102(e), notwithstanding that practical operations under the PCT began in 1978 and that more than 100,000 international applications have been filed, accounting for over 70,000 designations of the United States of America. This is mainly due to the fact - not mentioned in Mr. Morstadt's article - that the international publication of an international application under the PCT, which occurs 18 months after the priority date, is prior art under 35 USC 102(b) and has prior art effect under 35 USC 102(a) as a publication of the invention. The prior art effect deriving from entry into the national phase under 35 USC 102(e) is thus irrelevant if it occurs later than the date of international publication, which is normally the case. Therefore, the date of entry into the national phase is normally not relevant to the prior art effect of an international application designating the United States of America.

Also, in interference situations, applicants have, for all claimed subject matter, full benefit of their PCT international application filing date and of any priority date under the Paris Convention, as well as of any date of disclosure of the invention in the United States of America. The prior art effective date under 35 USC 102(e) is not relevant in this respect.

Further information on the prior art effect in the USPTO is given in the PCT Applicant's Guide, Volume II, national chapter on the USPTO as designated or elected Office, paragraphs US.18 to US.21.

If, for exceptional reasons, the applicant wishes the application to have prior art effect from an earlier date than the date of international publication, the national phase in the United States of America can be entered immediately after the filing of the international application. As indicated in paragraph US.18(ii) of Volume II of the PCT Applicant's Guide, an early prior art effect date under 35 USC 102(e) can be estab-

lished by filing with the USPTO a copy of the international application, an English translation thereof (if the international application is not in English), the national fee and the oath or declaration of the inventor under 35 USC 371(c). If this course of action is followed, the international application will have prior art effect from the date of performing the acts referred to in the previous sentence even though actual processing in the national phase will be delayed, as usual, until 20 months (or 30 months, if international preliminary examination is requested) after the priority date (unless the applicant requests under 35 USC 371(f) that national processing commence immediately).

The delaying of national processing provided by the PCT route is of significant benefit to the applicant because it results in more complete prior art files being available to the examiner and applicants at the time when the national search and examination are conducted, thereby permitting the applicant to more accurately determine the value of the invention and the scope of the claims needed for adequate protection. In addition, since patent term in the United States of America runs for 17 years commencing from the date of the patent grant, rather than 20 years from the filing date as in most other countries, the delay in examination postpones the time at which the patent term expires in the United States of America. These benefits by far outweigh the »time disadvantages« referred to by Mr. Morstadt, particularly when those disadvantages are rarely encountered and, in any event, readily avoided.

The procedure suggested at the end of Mr. Morstadt's article - namely, to file a continuation-in-part (CIP) application in the United States of America and thereby introduce new matter to avoid discovered prior art - would not appear to serve the intended purpose, since any claim in a CIP application which contains new matter is only entitled to the filing date of the CIP application and would therefore not avoid the discovered prior art.

Conclusion: The above discussion compels the drawing of a very different conclusion from that drawn by Mr. Morstadt. Although the possibility of failing to prevent a competitor from obtaining a patent because of a somewhat later prior art effect date exists in theory, this possibility causes minimal problems in practice in view of the infrequent occurrence of 35 USC 102(e) rejections. Even in those rare cases where an applicant does wish to avoid a problem deriving from 35 USC 102(e), the position can readily be ameliorated by following the procedure outlined above and described in the PCT Applicant's Guide, Volume II, US national chapter, paragraph US.18 (ii), without losing the substantial benefits of delaying entry into the national phase in the United States of America. Contrary to Mr. Morstadt's views, the very considerable benefits which flow from use of the PCT route for obtaining a patent in the United States of America suffer no significant detraction because of the hypothetical and, in any event, avoidable operation of 35 USC 102(e).

I would be grateful if this letter could be published in the next issue of the EPI Information.

Sincerely yours,

François Curchod, Deputy Director General WIPO

More on US Patents granted on PCT applications filed by US non-residents.

I read with interest the article by V. Morstadt published in EPI-News 3/91 and I would like to add my comments to the discussion on the above subject.

First of all, however, I would like to thank Mr. Morstadt for having addressed this question, because it relates to a problem that is real and frequently found in practice. Currently, in fact, I am facing a final rejection in the US PTO on an application originally filed in Europe as a PCT application designating the USA. This rejection, at least in my opinion, is clearly based on an incorrect interpretation of the provisions of the US Code relating to what is to be considered as the filing date of an international application.

In the following discussion I will assume that the reader is familiar with the procedure, the basic principles and some of the jargon relating to the PCT and USA patent systems. In particular, I will make reference to PCT Art. 1, 11, 21, and 64(4) and to the US Code, Title 35, Patents, (35 USC) sections 363, 371, 375, and 102.

I believe that all of these provisions are clear and that a literal interpretation is sufficient in most cases, as will be exemplified below with reference to the following questions:

- a) which is the filing date accorded in the USA to an international application (as defined in ART 2(vii) PCT) designating the USA?
- b) which is the filing date of a US patent originating from an international application designating the USA?

The answer to these questions, in my opinion, is found in the US patent Code which provides that the filing date before the US PTO of an international application designating the USA, or of a US Patent granted thereon, is its *international filing date* (see 35 USC 363 and 375[a]). This answer is, however, subject to a specifically defined caveat which is found in 35 USC 102[e], last sentence, and will be discussed below.

The relevant PCT provision is Art 11(3) PCT which states that, subject to Art 64(4) PCT, any international application accorded an international filing date shall have the effects of a regular national application, in each designated State, *as of its international filing date*, which shall be considered as the actual filing date in those States.

Art 64(4) PCT, in turn, allows a PCT contracting State to make a reservation relating to the prior art effects of a patent granted in that State on an international application designating it, if its national law provides for prior art effects of its patents as from a date before publication, but it does not equate the priority date claimed under the Paris Convention, to an actual filing date in that State. The US patent system has such a provision, see in particular 35 USC 102(e) and the CCPA decision in *re Hilmer*, 149 USPQ 480 which is discussed below in more details. In this case, this PCT State may declare that the filing outside its territories of an international application designating it, is not equated to an actual filing in that State for prior art purposes. This State should declare, at the same time, under which conditions the prior art effect of an international application designating it becomes effective. These conditions are, for the USA, the fulfilment of the requirements of 35 USC 371(c), paragraphs (1), (2) and (4) for entering the US national phase (35 USC 102[e]). The USA is the only PCT

contracting State, to my knowledge, that has made the reservation under Art 64(4) PCT, therefore, for conciseness, I will refer to the substance of this reservation as »the 102(e) caveat« in the discussion that follows.

As mentioned above, the relevant provisions of the US Code are 35 USC 363, 371 and 375(a). Also from these provisions it is clear that, subject to the 102(e) caveat, the filing date of an international application designating the USA, or of a US patent granted thereon, is its *international filing date*. In addition, Rule 53 of the US Federal Regulations, title 37, i.e. 37 CFR 1.53, at paragraph (f) clearly states that »the filing date of an international application designating the USA shall be treated as the filing date in the USA under PCT Art 11(3), except as provided in 35 USC 102(e)«. The relevant portion of 35 USC 102(e) states that a person shall be entitled to a patent, unless the invention was described in a patent granted on an international application by another, who has fulfilled the requirements of paragraphs (1), (2), or (4) of section 371(c), before the invention thereof by the applicant for patent.

Therefore, a US patent granted on an international application designating the USA, and possibly an international application designating it, has in fact two »filing dates« that are relevant depending on the specific circumstances of the case. Namely, a filing date for all purposes but its prior art effect under 102(e) (that is its international filing date) and another »filing date« for its prior art effect under 102(e) (that is its »371(c) filing date«, i.e. the date of entering the national phase in the US PTO).

The following example demonstrates the application of the above mentioned provisions.

Application A is an international application designating the USA filed by applicant X in a PCT contracting State having an international filing date of 30.09.89. This application claims a priority from an application filed in a Paris Convention country other than the USA on 30.09.88. Its international publication date was 30.03.90; it entered the US national phase on 30.03.91 and it was granted by the US PTO on 30.11.91.

Application B is a US application filed by applicant Y in the US PTO on 20.03.90 and granted on 30.05.91.

Schematically:

A		B	
119 priority date	30.09.88		
PCT filing date	30.09.89		
PCT publication date	30.03.90	20.03.90	102(e) filing date
371(c) filing date	30.03.91		
US granting date	30.11.91	30.05.91	US granting date

Fig. 1

As far as US patent A is concerned, its filing date for all practical purposes under US law, with the only exception of its use as a prior art reference under 35 USC 102(e) or under 35 USC 103 when combined with 102(e), is 30.09.89, i.e. its international filing date under Art 11 PCT (see once again 35 USC 363 and 375[a]). When, and only when, US patent A is used as a prior art reference under 35 USC 102(e) against another US patent/application (such as US patent B, in the example reported above), its filing date is 30.03.91, i.e. its 371(c) filing date (see 35 USC 102[e], last sentence) instead of its international filing date.

With reference to the situation outlined in Fig. 1, the following questions command a negative response:

- (1) Is A prior art under 102(e) in respect of B?
- (2) Is B prior art under 102(e) in respect of A?

In the first case, US patent A is not a prior art reference under 102(e) against US patent B because the »filing date« of A as a prior art reference under 102(e) is its 371(c) filing date, i.e. 30.03.90, which is later than the US filing date of B (20.03.90). This conclusion is evident from a reading date of the appropriate subpart of 35 USC 102(e) in the specific case: the applicant for patent B is in fact entitled to a patent unless the invention was described in a patent (US patent A, in this case) granted on an international application filed by another who has fulfilled the requirements of section 371(c), paragraphs (1), (2) and (4) *before the invention thereof* by the applicant for patent (i.e. the applicant of B, in this case). If the applicant/inventor of B made her/his invention in the USA, she/he may be entitled to a »date of invention« earlier than her/his US filing date. The relationship between the »date of invention« in the USA and the US filing date of a patent/application is explained very effectively, in my opinion, in D.S.Chisum, Patents, Ch. 3.08, Matthew Bender Co, Inc. It says that a general rule in US patent law is that the date of invention of the applicant, or patentee, for the purposes of novelty and anticipation is presumed to be the date he files a complete patent application in the US PTO disclosing the invention. He may also avoid anticipation under some circumstances by establishing a pre-filing date of invention, for example by a declaration under 35 USC 131, or by showing that the disclosure of the reference derives from his own work. However, neither a pre-filing date of invention nor a showing of derivation will avoid a reference which is a *statutory bar*. Public use or sale, patenting, or publication one year prior to the filing date of the patent, bar a patent regardless of the date of invention (see 35 USC 102[b], [c] or [d]).

As for the answer to question (2), it can be said that US patent B is not prior art under 102(e) against application A, because its filing date (20.03.90) is *later than* the filing date of A (30.09.89), which is, in this case, its international filing date as mandated by 35 USC 363/375, and the corresponding PCT provisions. A literal reading of 35 USC 102(e) under the specific circumstances of this case may help to avoid any misunderstanding. The applicant of A is »the person« that, according to the language of 35 USC 102(e), is »entitled to a patent unless« the invention (A) was described in a patent (US patent B, in our example) granted on an application filed in the USA *before the invention thereof* (i.e. the invention described in A) by the applicant of B. Since the applicant of A did not make her/his invention in the USA, she/he can rely only on the

date of constructive reduction to practice of her/his invention, i.e. the filing date of her/his application in the USA. As prescribed by section 363 and discussed at length above, this date is the international filing date of application A, i.e. 30.09.89.

As usual under US practice, if the disputed subject matter which is claimed in both application(s)/patent(s) is patentable to each of the applicant(s)/patentee(s) but for the conflicting application(s)/patent(s), only an interference under 35 USC 135 can decide who, between the applicant of A and B, was the first to invent it in the USA and thus has the right to a patent.

The example discussed above was developed essentially to analyze the specific application of 35 USC 102(e) in a case involving an international application designating the USA, or a US patent granted thereon. No use of the other subsection of 102 has been made so far. However, it should be noted that the publication of the international application under Art. 21 PCT (see »PCT publication date« in Fig 1) represents, as such, a *printed publication* in the sense of 35 USC 102(a) or (b), as provided also by 35 USC 374. If application B had been filed after 30.03.90, the published international application (A) could have been a prior art reference against it under 35 USC 102(a) or (b). In this case invention B could not have been patented if it had been anticipated or was obvious vis-a-vis the published international application of A (possibly in combination with other relevant references). Moreover, if US patent B were filed more than one year after the publication of international application A, i.e. 30.03.91, it could not have been patented under 35 USC 102(b) (or 35 USC 103 in combination with 102[b]) which states that »a person shall be entitled to a patent unless ... the invention ... was described more than one year prior to the date of application for patent in the United States...«.

As mentioned above, the prior art effect *under 35 USC 102(e)* of »international application« A in the US PTO in respect of US patent/application B will start from its »371(c) filing date«, i.e. from 30.03.91.

Therefore, in the case of application A reported above, its prior art effect *under 35 USC 102(e)* begins at a date that is *later than* its international filing date, but the prior art effect of the corresponding published international application under 35 USC 102(a) or (b) starts when the international application is published under Art 21 PCT (i.e. 30.03.90, in our example). Since this normally occurs soon after 18 months from the earliest priority date (unless only the USA is designated/elected), the delay in the prior art effects in the USA of an international application originating outside of it, and claiming a foreign priority, in comparison with an application filed in the USA on the filing date of the international application and claiming the same earliest priority date, is *in any case* 6 months.

In fact, if application A, in the above example, were directly filed in the US PTO claiming the same priority date, *once granted*, it would have exerted its prior art effect under 35 USC 102(e) as from its *filing date*, i.e. 30.09.89. However, its prior art effect under 35 USC 102(a) or (b) would have occurred as from the *publication date* of a corresponding application in any country that mandates its publication soon after 18 months from the earliest claimed priority, thus, also in this case, just after 30.03.90. This holds true *independently* from the fact that PCT Chapter I or II (International Preliminary Examination) is followed in the international application, when the same

priority is claimed. In fact, while the international application designating the USA may exert its prior art effect under 35 USC 102(e) either from about 20 or 30 months after the earliest priority claimed, depending on whether PCT Chapter I or II is followed, it *will exert* its prior art effect under 35 USC 102(a) or (b) as from its international publication date. In this connection it should be noted that the provisions under 102(e) on one side, and those under 102(a) or (b) on the other, are, at least in my opinion, merely cumulative. These subsections define in fact *when and under which conditions* 'something' becomes prior art in the US PTO for anticipation and obviousness purposes. In particular, section 102(a) or (b) define very broadly what is to be considered as prior art: they embrace, in fact, knowledge or use in the USA, and patents are 'retrospectively' part of the prior art as from their filing date (i.e. from a time they are still secret in the US PTO), and not just from their publication/patenting date (as already provided for in sections 102[a] or [b]). Evidently, for practical purposes, all that matters is the earliest date from which the subject matter of an international application, designating the USA, may exert its anticipatory effects under any of the above mentioned 102 subsections.

As outlined above, by choosing the PCT route instead of a direct Convention filing in the US PTO, the prior art effect of the subject matter of the application is delayed by *about 6 months*, provided the PCT application designated at least one country that mandates publication of the application as provided for in Art 21 PCT, and assuming that its subject matter is not divulged in the USA or published earlier than that.

Now, we may want to consider in more depth the variations on the above situation that may result from a claim for a foreign priority under 35 USC 119, as opposed to a first filing in the USA.

I would define the rights granted under 35 USC 119 of a »defensive-only« nature, i.e. 'passive' only, as opposed to those of an 'internal' priority under 35 USC 120, that I would define as both of a »defensive« and »offensive« nature, i.e. 'active« as well as 'passive'. With the terms »defensive-only« nature of the foreign priority right under section 119, I intend to make reference to the fact that it can effectively be used 'only' to move back the »invention date« of an invention possibly made outside the USA from the US filing date to the filing date of the priority application (as far as the *same* subject matter is involved) when it is examined for novelty or obviousness under sections 102 and 103, *but it cannot be used* to move back the *US filing date* when said US application, or most likely the corresponding US patent, is used as a prior art reference under 102(e) against another patent/application. In this case, in fact, the governing section is 102(e) and the established case law is *in re Hilmer*, 149 USPQ 480 (CCPA 1966), where it is stated that »application ... filed ...« in section 102(e) does not include a foreign application entitled to a right of priority in the USA under section 119. Thus, a priority claim under 35 USC 119 does not move back the effective date as a reference of a patent/application, contrary to what happens in the case of an »internal« priority under 35 USC 120, but it does move back the *filing date* of an application/patent when determining its *invention date* under any subsection of 102 or 103, which is in turn a relevant step in assessing the entitlement to a patent in the USA.

This is the Law and its current interpretation, and it applies equally whether the application or patent was filed with the US PTO directly, or it originated from an international application.

By applying all these provisions to the case of »application A« of Fig 1, it results that:

- a) when judging its patentability, (e.g. novelty or unobviousness under sections 102/103) its invention date in the USA (as far as the same subject matter disclosed in the priority document is concerned) is 30.09.88;
- b) when used as a prior art reference under section 102(e) against another US application or patent its effective date is 30.03.91 (i.e. its 371[c] filing date)
- c) when the corresponding PCT published application is used as a prior art reference under section 102(a) or (b) against another US application or patent its effective date is 30.03.90 (i.e. its international publication date).

Assuming that application A instead of, or in addition to, being filed through the PCT were filed in the US PTO on the same day, i.e. 30.09.89, claiming the same priority date, its effective date as a prior art reference under 102(e) would have been 30.09.89.

Since the published international application, and the corresponding US application originating from it, should describe the same invention, the practical difference in choosing either route is that by choosing the PCT, a six-month delay in the starting of the prior art effects of the subject-matter of the application is to be expected, in the absence of any earlier publication.

In some instances, depending for example on the specific technical field, competitive advantage or previous publications, this »6-month delay« is not likely to have a practical relevance. However, in those instances where it may be relevant, the applicant has some options to avoid drawbacks. In addition to filing only US applications without filing any PCT applications for the USA as suggested by Mr. Morstadt, the applicant may:

- I) file a PCT application designating the USA and either enter the US national phase soon after the international filing date or file a continuation application in the USA based on the international application soon after the international filing date, or
- II) file a PCT application designating the USA and, at the same time, file also an application in the USA.

In either case, the ultimate choice between the US »national« application, and the US application deriving from the international application, could be delayed up to the time one or possibly both of them is close to the grant in the US PTO, and a double patenting prohibition comes into effect.

It should be noticed, *in passim*, that in a similar situation an applicant who chooses the PCT route, and claims a Convention priority, instead of filing and prosecuting a first application in the USA without claiming any foreign priority, »loses« about 18 months in the prior art effects of the subject matter of his application in the US PTO.

Conclusions:

For all purposes under US patent law, except for use as a prior art reference under 35 USC 102(e), the filing date before the US PTO of an international application designating the USA, or of a US patent granted thereon, is its international filing date.

For use as a prior art reference under 102(e), the »filing Date« of a patent granted on an international application designating the USA is, however, the date on which the corresponding international application entered the US national phase of the PCT procedure, that is the date on which the requirements of 35 USC 371(c), paragraphs (1), (2) and (4) were fulfilled.

Under current US patent Law a »domestic« application or patent having its earlier US filing date that is *later than* either the international filing date of an international application designating the USA by another, or the validly claimed foreign priority thereof, cannot be an effective prior art reference against it under 35 USC 102(e).

Possible conflicts relative to the right to a patent before the US PTO may arise among international applications designating the USA after entering the US national phase, US patents granted on international applications designating the USA, and US national patents/applications claiming the same or substantially the same patentable subject-matter. These conflicts are resolved, as usual under US practice, by an interference under 35 USC 135.

Francesco Macchetta (IT)

January 1992

RECHNUNG

EPI Beitrag

für 1992

INVOICE

EPI fees

for 1992

FACTURE

Cotisation EPI

pour 1992

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Erhardstraße 27, D-8000 München 2

Tel. (0 89) 201 70 80

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REGELN FÜR DIE ZAHLUNG DER JAHRESBEITRÄGE

Auszug aus dem Be-
schluss der Rats-
sitzung in Liech-
tenstein am 15/16
October 1990.

Das Fälligkeits-
datum für die Zah-
lung des Jahres-
beitrages ist der
1. Januar. Wird
jemand erst im
Laufe des Kalen-
derjahres in die
Liste des EPA ein-
getragen, wird die
Zahlung mit dem
Eintragungsdatum
fällig.

Wird ein Mitglied
vor dem 1. April
des laufenden Jah-
res aus der Liste
gelöscht, so gilt
der Jahresbeitrag
als nicht fällig.

Wird jemand vor
dem 1. Oktober des
laufenden Jahres
Mitglied, so muß
der volle Jahres-
beitrag für das
laufende Jahr ent-
richtet werden.

Wer erst am oder
nach dem 1. Okto-
ber des Jahres
Mitglied wird,
braucht keinen
Beitrag für das
betreffende Jahr
zu bezahlen.

RULES GOVERNING THE PAYMENT OF THE ANNUAL FEES

Excerpt of the de-
cision taken by
the Council at its
meeting in Liech-
tenstein on 15/16
October 1990.

The due date for
payment of the an-
nual fee is 1 Jan-
uary. For persons
who have been put
on the EPO list of
Professional Re-
presentatives in
the course of a
year the due date
for payment is the
date of entry on
the list.

If a member is
deleted from the
list before 1
April of the cur-
rent year, the an-
nual fee is waiv-
ed.

A person becoming
a member prior to
1 October has to
pay the full fee
for that year.

A person becoming
a member on or af-
ter 1 October does
not have to pay
any fee for that
year.

REGLES RELATIVES AU PAIEMENT DE LA COTISATION ANNUELLE

Extrait de la dé-
cision prise lors
du Conseil de
l'EPI au Liechten-
stein les 15/16
octobre 1990.

Le paiement de la
cotisation annuel-
le est due au 1er
janvier. Pour les
personnes admises
sur la liste des
mandataires agréés
de l'OEB en cours
d'année, la date
de paiement est la
date d'admission
sur la liste.

Si un membre de-
mande sa radiation
de la liste avant
le 1er avril de
l'année en cours,
la cotisation est
considérée comme
n'étant pas due.

La cotisation de
l'année en cours
est due dans son
intégralité par
toute personne
devenant membre
avant le 1er octo-
bre.

Une personne qui
devient membre le
1er octobre ou
après cette date
ne doit pas payer
de cotisation pour
l'année en cours.

Der Schatzmeister wird eine einmalige Mahnung per Einschreiben an diejenigen Mitglieder schicken, von denen vor dem 1. Mai keine Zahlung eingegangen ist. Sie haben einen um DM 50.- erhöhten Beitrag zu zahlen.

Geht der Mitgliedsbeitrag (inkl. Zuschlag) nicht innerhalb von zwei Monaten nach Absenden dieser Mahnung ein, kann der Schatzmeister, wie im Art. 4, Abs. 2, der "Vorschriften in Disziplinarangelegenheiten von zugelassenen Vertretern" vorgesehen, die Angelegenheit dem Disziplinarrat vorlegen.

Members who have not paid before 1 May will receive a final reminder by registered mail from the Treasurer requiring a surcharge of DM 50.-

If a member has not paid his fee (increased by the surcharge) within a period of two months after the mailing date of this final reminder, the Treasurer may refer the matter to the Disciplinary Committee as provided in Art. 4, Par. 2, of the Regulation on Discipline for Professional Representatives.

Le Trésorier enverra un seul et dernier rappel, par lettre recommandée, aux membres dont il n'aura pas reçu la cotisation avant le 1er mai. Ceux-ci devront payer un supplément de DM 50.-

Au cas où, dans les deux mois qui suivent l'envoi du rappel, un membre ne s'est pas acquitté de sa cotisation (augmentée du supplément), le Trésorier peut saisir la Commission de Discipline comme prévu à l'article 4, para. 2, du Règlement en matière de discipline des mandataires agréés.

* * *

Information from the General Secretariat

Deadline für EPI Information 2/1992

Our redaction deadline for the next issue of EPI Information is 15 May 1992. The documents for publication should have reached the General Secretariat by this date.

Redaktionsschluß für EPI Information 2/1992

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Von Prof. Dr. Dr. Romuald Singer, Vorsitzender der Großen Beschwerdekammer des Europäischen Patentamts a. D., und Margarete Singer, Amtsgerichtsrätin a. D.

1989. XV, 972 Seiten. Kunststoff DM 160,- ISBN 3-452-21571-7

(= Heymanns Taschenkommentare zum gewerblichen Rechtsschutz)

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5., revidierte Ausgabe 1989

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Inhalt

Die 5. Ausgabe von 1989 stellt die vom Sachverständigenausschuß der IPC-Union bei der Weltorganisation für geistiges Eigentum in Genf gebilligte verbesserte Fassung der vierten 5-Jahres-Revision dar. Damit ist die Internationale Patentklassifikation wieder auf dem neuesten Stand, wie es ihrem Ruf als einmaliges, den Gesamtbereich der Technik umfassendes Ordnungssystem für Patentliteratur entspricht.

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