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Editorial

E. Vinazzer · J. Gowshall · T. Schuffenecker

Last issues' Editorial concerned the Intergovernmental Conference and changes proposed by that conference. This issue will be published around the time that discussions start at the diplomatic conference regarding the first proposed amendments to the European Patent Convention since it came into force. The proposed amendments, although numerous, appear to be for the better in general, including removal of the provision that computer programmes are not considered inventions, clarification of the prior art effect of overlapping Applications, possibility of amendment of a patent after grant, a broadening of the scope of circumstances for further processing and the possibility of an Appeal from an Appeal.

With the Community Patent directive, proposed revision to the EPC, the Intergovernmental Conference and the finalisation of the Patent Law Treaty, this year has been an extremely important one for the development of

Patent law. It is clear that Patent law is changing more rapidly than ever before and it is our duty, as professionals, to keep up with all these developments so as to ensure that we are properly informed and able to represent our clients. Now, more than ever, it seems that time must be put aside to keep abreast of developments in our areas of expertise.

In many professions these standard practices are put into a formal framework – continuing professional development. This is also a matter of increasing interest to intellectual property professions across the world, indeed, it is a subject that is being considered by the professional qualifications committee. In the meantime, however, it is hoped that the pages of *epi* information, along with seminars, discussions and other journals, are sufficient to enable us to accelerate our knowledge intake in time with the increase in development of law and practice in Europe and elsewhere.

European Patent Office (EPO) – epi – Deutsche Patentanwaltskammer (PAK)**Symposium**

Topic: „Oral Hearings within the education and training of
European Patent Attorneys“
(How to master Rules of Procedure)

Thursday, October 26, 2000

European Patent Office, Munich

The invitation extends to European Patent Attorneys, Trainees, Students of *epi*

No registration fee, simultaneous translation into the three official languages

P r o g r a m m e

- 14.00 Opening Address
Lise DYBDAHL (EPO): *The Patent Attorney in Court*
- 14.10 Ingwer KOCH (EPO): *Oral Proceedings and training therefor at the EPO in practice*
- 14.30 Susanne KAMINSKI (epi): *How to satisfy training demands by the Professional Qualification Committee of epi*
- 14.50 Discussion
- 15.20 Coffee break
- 15.50 Francesco MACCHETTA (epi), Patrice VIDON (epi) :
Practical experiences of European Patent Attorneys in industry and private practice
- 16.30 Heiner LICHTI (PAK)
The oral hearing within education and professional practice of the German Patent Attorney
- 16.50 Uwe DREISS (PAK)
Further developments toward representation before courts
- 17.20 Discussion
- 17.50 Closing remarks
Walter HOLZER (epi)
- 18.00 Reception offered by the *epi*

The multi-language problem: a bilingual solution

R. Jorritsma (NL)

As we all know, one of the two main reasons why a Community patent is still a distant dream is the problem of the language of the patent. Thus far we have seen three different approaches: first, the 1975 Convention, providing a Community patent with the text of the specification only in one of the three EPO languages and the text of the claims in all official languages of the member-states of the Community; then, the 1989 Agreement, providing a Community patent with translations of both the specification and the claims in all official languages of the member-states; and now, the Commission proposal for a Community patent regulation, providing a patent text in one of the three EPO languages, even without a translation of the claims other than in the two remaining EPO languages.

These approaches differ in the extent to which the patent is available in languages other than the EPO language chosen by the applicant (English, French or German): from no translations in the 2000 Draft Regulation, to full translations in the 1989 Agreement. These approaches have in common that they retain the system of three official languages of the EPC. However, precisely this three-official-language system is probably the major obstacle to an acceptable solution of the language problem. Insofar a translation in the language of the a Community state is not made available, third parties in that state are obliged to command three different (foreign) languages to be able to understand patent rights and patent disclosures. This obligation is unfair and unrealistic. Experience with the EPC confirms that the three-official-language system blocks a solution, since no relevant EPC state has yet dropped the full translation requirement.

Apart from being a burden to third parties, the three-official-language system has no real justification. It was based on the idea that each of the three languages has a significant intermediary role for persons other than those who have the particular language as a mother tongue. That is positively and increasingly the case for English, but it is hardly the case any more for French and German. A fact much regretted between Biarritz and Sassnitz, but still a fact. It is shown for example by the fact that of the European applications filed in non-EPO languages, 97% is translated to English, whereas only 2% is translated to French and 1% to German.

For these reasons, the new Community patent regulation is bound to fail unless a more acceptable language regime is designed.

It would seem sensible to adopt a single-working-language system before discussing the degree to which Community patents need to be translated. In the absence of a real alternative – Western Europe has disdained the neutral, simple and versatile Esperanto

for over a hundred years – the single language would be English. This idea has already been strongly advocated by various parties. There is, however, one serious drawback of the English-only system. It favours English-language users over non-English language users. Since an overwhelming majority of those English language users are non-European users of the European patent system, whereas a large majority of the European users are non-English, this would be an anti-European solution, at least as long as European society has not decided on the exclusive use of English in its internal communication.

A linguistically acceptable patent system in Europe must take a balanced account of the basic elements of languages and translations. The first and prime element of translations is naturally *information*: a translation allows people access to information that they would otherwise not have sufficient access to. As the principle of the patent system is information, in exchange for exclusive rights, in particular information on technical improvements and information on legal constraints, the language of the patent information is crucial to its accessibility.

A second element of translations is obviously *money*. Translating costs money. Therefore, translations should only be required to the extent that they are necessary for information purposes. A third, often overlooked element, is *national pride*, i.e. the desire of a nation or another linguistic unity to maintain the position of its language. We may or may not like this factor, and its strength may be different in different parts of Europe, but it is a reality to be taken seriously. Finally, *equity* is important: the burdens and profits of a system should be equally divided.

When we appreciate all these elements, when we accept that English can partly replace other languages in patent information but that English language users should carry the same – reduced – translation burden as everyone else in Europe, when we realise that the text of a European application is often already available from the start in another than the EPO language, either as an application filed under Article 14(2) EPC, or as a priority application, then we would arrive at the following bilingual system for Community patents:

- (1) The language of filing is the authentic language of the application, provided it is a national language of a EU member-state;
- (2) A single translation of the application from the authentic application language into an EPO language (English, French, German) other than the authentic language is filed by the applicant sufficiently early for the purposes of publication and, where necessary, European search; if the authentic language is not

English, the language of the translation is English (*this latter provision perhaps need not be explicitly stipulated, as the preceding requirements will ensure in practice that some 99% of the applications will be either filed or translated in English*);

- (3) The application is published both in the authentic application language and in the language of the translation;
- (4) The application is examined in an EPO language;
- (5) After agreement of the text for grant in the language of examination, the text in the other language is brought in conformity with the agreed text;
- (6) The patent specification is published in the two languages of the application, both being equally authentic, together with the claims in all EU languages; any further translation of the patent specification provided by the applicant or patentee is also published;
- (7) Before legal action against an assumed infringer can be opened, a translation of the patent specification in the language of the assumed infringer must be delivered.

This system could in principle also apply to European patents, but when the Community patent become a success – and that is what we all want, isn't it? – that will not be necessary. The bundle patent will then be marginalised to patents that are only desired for a few states and it can then safely be left to the contracting states, in line with the spirit of the EPC, whether or not to require translations.

The proposed system equally divides the translations requirements, allows a reduction of the need for translations, ensures availability of all texts in English while maintaining a certain role for French and German as working languages, and secures a role for non-EPO languages as patent language to an extent which is proportional to the importance of each language in the patent field. It smoothens a transition of a multilingual Europe to a situation where English is the predominant, or even exclusive language in European economy and technology, without being totally dependent on such a transition to effectively happen. Therefore, this solution could be more acceptable than the schemes that have been considered thus far.

... eine Posse? Are we misled in believing that patent applications are really examined?

J. Wibbelmann (DE)

Im Jahre 2000 erleben wir eine diplomatische Konferenz, die beträchtliche Veränderungen mit sich bringen wird. Neben diesen großen Veränderungen gibt es offensichtlich aber auch „kleine Veränderungen“, die außerhalb des Europäischen Patentamtes nur am Rande bemerkt werden.

Seit einiger Zeit schon ist zu beobachten, dass die Erteilungsbeschlüsse nur spärlich das Europäische Patentamt verlassen. Dies trifft im Moment im Wesentlichen die Kollegen, die sich sehr stark mit der Übersetzung von Patentschriften beschäftigen. Bei weiterem Nachfragen im Amt erfährt man, dass dieser Umstand auf einen „Dienst nach Vorschrift“ als Protestaktion der Bediensteten des Amtes gegen die Leitung des Amtes zurückgeht. Aus dem Präsidialamt verlautet, dass man gegen einen solchen „Dienst nach Vorschrift“ eigentlich machtlos sei.

Was ist passiert?

Die Mitarbeiter des Amtes fühlen sich durch die im Jahresrhythmus jetzt stets strenger formulierten Leistungserwartungen gegängelt. Davon lässt sich die Leitung des Amtes nicht beeindrucken.

Diese Auseinandersetzung ist ein inneramtlicher Vorgang, der dort auch gelöst werden sollte. Allerdings wird er wohl zurzeit auf dem Rücken der Anmelder und deren Vertreter ausgeführt. Insoweit hier eine Annäherung der Position innerhalb des Amtes nicht möglich scheint, wird es vor diesem Hintergrund dann wohl Zeit, diese Annäherung anzumahnen. Jedenfalls zeichnen sich hier Entwicklungslinien ab, denen auch die zugelassenen Vertreter vor dem Europäischen Patentamt nicht tatenlos zusehen können. Da die derzeitige Situation tatsächlich eher einer Posse ähnelt, erlaubt sich der Verfasser, das Ganze auch „in gleicher Münze“ darzustellen.

* * *

Vor nicht allzu langer Zeit erhielt ich den Anruf des mit mir befreundeten zyprischen Patentanwalts Pat McNicker. Nur am Rande erwähnt, Pat McNicker entstammt einer alten schottischen Adelsfamilie, hat seine Kindheit in verschiedenen Ländern des europäischen Kontinents verbracht und lebt seit einiger Zeit auf Zypern. Der ungewöhnliche Nachname soll auf das deutsche Wort „Nickern“ zurückgehen. Auch im per-

sönlichen Gespräch betont Pat McNicker gerne, dass er jemand ist, der „über Patente einschläft“.

Nun, der befreundete Kollege rief mich neulich an mit dem Wunsch, sich doch einmal über seine jüngsten Erfahrungen in mündlichen Verhandlungen vor dem Europäischen Patentamt „auszuheulen“. Zu diesem Treffen kam es dann aber nicht. Stattdessen erhielt ich vor einigen Tagen den Anruf des Hoteliers, bei dem Pat McNicker immer unterkommt. Offensichtlich war mein Freund Pat in den letzten Tagen verwirrt herumgelaufen. Sogar am Frühstücksbüfett wurden Gäste des Hotels mit bohrenden Blicken in tiefe Gespräche über Sinn und Unsinn des Patentwesens und insbesondere des Europäischen Patentamtes verwickelt. Dies war aber nur die Vorgeschichte. Tatsächlich hatte Pat McNicker, wie der Hotelier mir mitteilte, urplötzlich das Hotel verlassen und offensichtlich die Hotelrechnung nicht bezahlt. Zurückgelassen hatte Pat aber ein kleines Manuskript mit einer Geschichte, die im Folgenden wiedergegeben werden soll:

„Is it true that we are misled in thinking that patents are really examined?

Up until now I have believed that, regardless of whether complicated inventions or clumsy parties in opposition proceedings were concerned, the Examiners of the European Patent Office diligently worked through the maze and tried to deliver a fair decision. But, have I been dreaming recently? Or have I traveled into the far distant future and caught a glimpse what others have not yet grasped? I have tried to discuss this issue with several colleagues but found no answer to my concerns.

Now, being firmly seated in my time machine I travelled some years ahead and what I found was even more disturbing. I started to become a little suspicious when reading the large bill-board at the Munich airport. Shaking my head, I read: 'Come to the European Patent Office and have your inventions patented.' Then on my way to the still slow-going and cumbersome S-Bahn, people in a strange uniform handed out leaflets with the same message. Finally sitting in the train I saw a frugal little advertisement from the Finnish Patent Office („We are going public“). However, when I arrived at the Munich train station I was completely taken aback. An impressive laser show told me that even the U.S. Patent and Trademark Office would be delighted to patent my inventions. Repeatedly I thought 'tough competition' as I entered the building of the European Patent Office. There I was welcomed by lovely cheer ladies. What a great new world, what a fracas? When I showed my EPO identity card to the sentry I met a confused gaze. 'That must be a very old ID card. When was the last time you were here?' asked the man with a strange looking cap. After I told him my business and showed him my summons I was to meet what the man with the yellow cap referred to as my 'personal guide'. A nice little robot introduced himself with the name 'R2D2' (Where is Darth Vader?) and guided me through never-ending hallways to the place where I was to receive my verdict. As an aside, on the way to that place R2D2 tried to cheer

me up and enlightened me with several 'novelties' that I could buy or order with the European Patent Office. 'What a nice fellow' I thought to myself.

When I finally arrived at the room where we would later convene with the Opposition Division I had some time to wander around. To my surprise I found an illuminated corner displaying all the „good things“ the inventor of the European patent that I had attacked with my opposition had done for the world. 'Big surprise' I thought to myself but still I had no suspicion. My darkest moments were still to come.

These moments came a little later when the Opposition Division, after introducing themselves and placing emphasis on their particular background and their good performance within the European Patent Office, announced that they had already done their best to help my case. However, it should have been clear to me, so they said, that the preliminary opinion contained the final word on the matter. I might have overlooked that the official communication, unfortunately in small print, invited me to pay some extra fees for an „extended examination of the opposition“. In vain I tried to engage the Opposition Division in a thorough discussion on the merits of my case. But finally it came out from the Examiner in charge of the proceedings. He explained to me that he had already spent more than 3 hours struggling to understand what the attacked invention might be. In exceeding the official limits he had already done more than could be expected from a cost-effective Examiner. There was simply no time to read what I had argued and thus I could have expected nothing else than what had already been expressed in the preliminary opinion. The two other members of the Opposition Division simply nodded and the minutes writer of the Division added that in the scheduled 1 hour he could not even understand what this is all about.

And then I received my verdict....”

An dieser Stelle brach die Erzählung meines Freundes ab. Man könnte meinen, dass er in seiner Zeitmaschine möglicherweise etwas zu weit in die Zukunft gereist ist. Einige Tage später erhielt ich aus dem Hotel dann noch einen zerknüllten Zettel, den man im Papierkorb gefunden hatte. Hier setzte Pat seine Reise fort, aber wieder hatte ich den Eindruck, dass er möglicherweise in die falsche Zeit gereist ist:

„...and then I came to the promised land. I had no idea where I had been or where I could go, but then, in the building of the European Patent Office I found a room with a door slightly open. Taking a glimpse through the crack I could see a superior figure of the European Patent Office without any uniform, presumably the president, handing over a golden sandal to an examiner, followed by jealous gazes of others. 'Happy future' I thought to myself!”

Genug der Zeitreisen. Der Verfasser dieser Zeilen sieht in der Vorgabe progressiv steigender Produktionsziele

auch einen versteckten Vorschlag an ordentlich arbeitende Prüfer, bei zukünftigen Fällen eine etwas ober-

flächlichere Aktenbearbeitung vorzunehmen. „Arbeitspapiere“ aus dem Amt bestärken diesen Verdacht.

And why not a real Community Patent?

J. Gevers (BE)

Introduction

Most interested circles agree that the European Union (EU) should have a good Community Patent System (CPS) of its own.

The CPS should be long-sighted in order to contribute positively to the long term future of the EU. Unfortunately the August 2000 Proposal for a Council Regulation on the Community Patent presented by the Commission of the European Communities (*the Proposal*)¹ is often short-sighted and lacks coping with some of the real issues.

The objects of this article is on the one hand to discuss a few shortcomings of the Proposal and on the other hand to suggest what is believed to be a long term solution: the creation of a totally independent and self contained CPS.

In short this article may be outlined as follows:

1. The CPS should be based on an independent Community Patent Law (CPL). The EU should not be dependent for its patent law, through the Munich Convention, from a few (often very small) countries that are not members of the EU.
2. A Community Patent Office (CPO), to be created, should replace the European Patent Office (EPO) and be responsible for the entire granting and post granting procedure of the Community Patent (CP).
3. A Community Intellectual Property Court (CIPC) should not only have sole jurisdiction on infringement and invalidity (revocation) procedures, as suggested by the Proposal, but also have the right to review any decision of the CPO and to decide on other CP issues such as ownership.
4. The working language of the granting procedure should be English only.
5. Translations should be at the lowest level of what is legally and politically acceptable.
6. The CPS should result into a substantial cost reduction.
7. The CPS should enable the EU to become totally independent in long term management of its patent policy.
8. The CPS should be coherent with other EU policies and regulations.
9. Conclusion.
10. Post Scriptum.

¹ THE FULL TEXT OF THIS PROPOSAL IS AVAILABLE AT:
http://europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0412en01.pdf

1. An independent Community Patent Law (CPL)

The object of the Proposal is to try to squeeze a CPS into an existing EPC. It is generally accepted that the Munich Convention was in the 70s the best solution for Europe. Now that the integration of Europe has made substantial progress, trying to squeeze a modern CPS into the EPC is no longer adapted to the evolution of the EU.

Should the Proposal be adopted:

- There would be no unity of case law. Typically, the views on patentability and on invalidity of the EPO on the one hand and of the CIPC on the other hand could be substantially different.
- The problems of ownership of CPs will still be regulated by national laws, which is a poor solution. Ownership of CPs should be dealt with at EU level and disputes should be heard before the CIPC.
- The EU which is the first or second largest economic player of the World would still not have its own Patent Policy which implies a.o. its own CPS, CPL, CPO and CIPC.

Typically, according to the Proposal, when discussing further changes in the definition of what is patentable in the EU, non EU countries (currently Cyprus, Liechtenstein, Monaco and Switzerland) will have voting rights. The time has now come that the EU becomes totally independent when managing the future of its Patent Policy, similarly to what exists since 1996 for Trade Marks. Subcontracting this activity and other activities, such as renewal fees and maintenance of the CP Register, to the EPO is very similar to a situation where the EU would subcontract the management of the EURO to an organisation which is somewhere in between the „Banque de France“ and the World Bank. Inasmuch as the EURO policy is conducted by the European Central Bank, the CPS should be managed by a CPO.

2. A Community Patent Office (CPO) to be created

The CPO should be established by a regulation similarly to the OHIM in Alicante. It should be an agency of the EU and grant Community Patents and National Patents as follows :

- Applications should be filed for Community Patents only. A CP application could be extended to non-EU member states that have an extension agreement

with the CPO, such as Romania today with the EPO. An extension agreement would be suggested a.o. to the countries having an extension agreement today with the EPO and also to Cyprus, Liechtenstein, Monaco and Switzerland. However, for countries such as Switzerland, a more advanced co-operation could be negotiated which could progressively lead to establishing a WPS as envisaged in Chapter 7 below.

- When the patent is granted, the patentee may either follow the CPS post-grant procedure, whatever this might be, or convert the CP into one or more national patents in one or more EU member states.
- The above (or any alternative) procedure should remain compatible with the PCT.
- The working language should be English only as suggested in Chapter 4 below.
- The CPO should be responsible for maintaining the CP Register, receiving renewal fees, re-establishing rights of granted CPs and other CP post-grant procedures. It is interesting to note here that the Proposal suggests that such activities be carried out by the EPO which, currently, is not competent, and should not, in the future, be made competent, for such CP post-grant procedures.

The EPO employees should be transferred to the CPO. Transitional rules should be adopted in order to maintain all or most of the acquired rights of Swiss (and other non EU citizens) EPO employees and European Patent Attorneys.

The *epi* should be replaced by an association of Community Patent Attorneys (*CPA*). CPAs should be given full rights to appear before the CIPC and to represent their clients in all proceedings.

3. The Community Intellectual Property Court (CIPC)

The CIPC as organised in the Proposal is an excellent contribution to an effective CPS. However the CIPC should have additional competence.

- Currently, the EPO has its own internal Appeal system and according to the Proposal, decisions of the EPO may not be appealed to the CIPC. In a good CPS, the CPO should have one internal level of appeal and any final decision of the CPO should be appealable before the CIPC. The CPO should thus not have the possibility to elaborate a separate case law. This includes essential issues such as patentability.
- The CIPC should have the final say on other issues such as ownership of CPs, re-establishment of rights, etc.

The delicate language problem of the CIPC, including especially the language of the proceedings, should be well thought about before establishing this new Court.

4. English as the sole working language

The CPS should be in line with the general language policy of the EU. Unfortunately, currently the EU has no general language policy. Therefore, the Commission is trying to solve the EU language problems on a case by case basis.

While it spends fortunes in internal translation activities, the Commission suggests other solutions for external activities such as Patent or Trade Mark protection. This will shortly end up in a chaos of different rules.

This is not acceptable. We, Europeans, do not want one solution for the Commission, another for Patents, for Trade Marks, for Tax regulations, for Agriculture, etc.

The Heads of States of the 15 Member Countries should first of all decide about the long term future of the language policy of the EU and the CPS should follow this global political decision.

Heads of States should perhaps divide the EU languages into 4 categories.

1. English:

Technical language and preferred language for internal discussions and drafts. This is today its real status. Let us make it official.

2. *French, German, Italian and Spanish*: Since such languages are each understood by more than 40 million Europeans, they should keep their status of „other non-preferred working languages“.

3. *Danish, Finnish, Greek, Portuguese and Swedish*: These languages are each understood by 12 million Europeans or less. Official EU documents should be translated into these languages only when finalised.

Dutch: Since Dutch is understood by more than 20 million Europeans and since it is the main language of the author's country, no suggestion will be made whether Dutch should be part of group 2 or 3. Let our wise Heads of States decide about this.

4. *Languages of new countries still to adhere*: They should have no official status for a transitional period of quite a few years. This can be shortened as soon as automated translations become efficient. They would then join the group 3. At EU level, translations into these languages should perhaps be carried out by the new member states themselves.

And what about the language aspects of the granting procedure of Community Patents?

The working language of the granting procedure should be English.

Since English is globally the best known technical language throughout the EU, should the Proposal be adopted, most applicants will wish to have their patents granted in English in order to cover the greatest number of people (that understand English) without filing translations. Therefore a still greater majority of European Patents will be filed, prosecuted and granted in English.

Let us face it: „De jure“ procedure in English has many essential advantages over „De facto“ procedure in English, namely a substantial decrease of:

- CPO's overheads compared to the current EPO overheads

- CPA's „expertise“ and thus level of fees.
- the cost of the translations.

Despite the fact that the author's mother tongue is French, it is acknowledged here that the French and German languages are given an exorbitant privilege. Let us drop this privilege or give it to all the above category 2 languages.

It is amazing to note that, should the Proposal be adopted, understanding English will become a disadvantage for potential infringers!

5. The translation problem

The Proposal suggests that the three procedural languages of the EPO be maintained, with a translation of the claims in the other two languages upon grant and no further compulsory translations.

The Proposal states that *„a suspected infringer, who has been unable to consult the text of the patent in the official language of the member state in which he is domiciled, is presumed, until proven otherwise, not to have knowingly infringed the patent. In order to protect a suspected infringer who, in such a situation, has not acted in a deliberate manner, it is provided that the proprietor of the patent will not be able to obtain damages in respect of the period prior to the translation of the patent being notified to the infringer.“*

This means that if a translation is not filed in the language of the country of the suspected infringer, he is deemed not to have knowingly infringed. However the Proposal adds „until proven otherwise“. What does this mean? The debate will turn to a discussion around an expert advice dealing with the level of knowledge of the patent language(s) by the suspected infringer. And since most infringers are companies, which languages do companies understand?

This is a totally new concept and opens the door to endless disputes. Another extravagant situation that may show up is that an infringer may be ordered to stop the infringement while the court would have decided that he is unable to understand the patent.

Practically, should the Proposal be enacted, the EU patentee is expected to file an appropriate translation as soon as a suspected infringer has been identified in all cases where the patentee has delayed filing such a translation.

Indeed, a patentee will usually attack a suspected infringer mainly in order to stop the infringing activity. Obtaining damages is usually a secondary consideration. However, the possibility to obtain damages is a substantial pressure means in order to avoid that the suspected infringer uses all means to delay the proceedings and thus the stopping of the infringing activity.

Therefore, until a translation is filed, the protection, say in Spain, is incomplete and in practice theoretical, since it is limited to the possibility of stopping an infringement without obtaining damages. As long as a translation is not filed, a suspected Spanish infringer, who does not understand the language(s) of the patent, will use all means to delay a final Court order. Since no

penalties are at risk, the suspected infringer would have no real pressure to stop infringing the patent before the Court order is issued.

The patentee has thus plenty of good reasons to file immediately a Spanish translation as soon as a suspected infringer is identified. Real effective protection in Spain will only start from that date.

This results into the unacceptable situation where, practically, the EU patentee may obtain a Swiss cheese type protection (which is against EU policy) by filing no or a limited number of translations with the further extravagant possibility to fill the Swiss cheese holes at his leisure.

And what about the following: let us assume that a patentee has a CP in French with no translations on file and that a bona fide Danish enterprise (in the meaning of the Proposal) invested millions in equipment needed for what will later be considered as an infringing activity, before a translation has been filed. If the patentee obtains a Court order to stop the infringing activity, should the bona fide Danish enterprise obtain through a counterclaim damages from the patentee, who has knowingly decided to delay the filing of the translation and thereby causing him immense damages? Indeed, the Danish enterprise will have to write off all his investment at the best or file for bankruptcy at the worst. In such circumstances, another imperfect solution would be to establish appropriate prior use rights for any use that has started before an appropriate translation was filed.

Since the translation solution of the Proposal is not acceptable, the only reasonable solution is that, on granting, the patentee may either confirm the patent as a CP and should then file translations in all languages of categories 2 and 3 as defined above or request the conversion of the CP into one or more national patents. In the latter case, the national „validation“ procedure should be followed. This solution would also be in line with the political and cultural pressure of many EU Member States.

Let us stop fighting on translations and accept that automated electronic translations, which are improving every day, be filed through the Web directly within the CPO. No paper please!

6. Cost effect of the above

Procedure in English will substantially decrease the CPO overheads and thus the CPO fees. They should become in line with the US and other countries' fees which are half or less than the EPO current fees especially when half of the national renewal fees are added.

CPAs will no longer have to know French and German. Therefore, new categories of capable people will have the possibility of entering the profession thereby increasing competition and decreasing their fees.

If all CPs are granted in English the average translation cost will substantially drop compared to the current cost of „national“ translations.

Quality, low cost automated translations especially from English into the other EU languages as suggested

above would further drastically decrease the translation cost.

As explained below, an independent CPS is an open door to a WPS which implies substantial cost savings.

In any case, the language (almost ethnic) selection of the geographic scope of protection provided by the Proposal which would further reduce the translation cost can not be accepted as explained above. Here, we will have to talk to the Community policy makers (Heads of States).

7. The CPS should enable the EU to become totally independent in Patent matters

The CPS and especially its future should be in the hands of the EU and of the EU only.

Within this principle a major exception might be embodied. Should a „World Patent“ be seriously considered in the distant future, a good independent CPS with English as the sole working language is an open door thereto. It is acknowledged here that a World Patent is a very difficult goal to achieve which could result into substantial additional cost savings.

8. The CPS should be coherent with other EU policies and regulations

A good CPS should be coherent with other EU policies and Regulations. Typically it should be drafted in view of potential harmonisation with the Trade Mark regulation. The intention should be to draft the Patent Regulation in such a manner that the Trade Mark Regulation can be amended as soon as the Patent Regulation comes into

force in order to harmonise both regulations wherever possible and reasonable.

It is the EU policy to encourage the activity of national patent offices. Since renewal fees are an important source of revenue for national offices that would substantially disappear should the CPS become a success, alternative financing must be thought about.

One of the essential goals of the EU is to promote the economic growth of the economically less developed regions in Europe. Since the CPO is an agency of the EU, the EU authorities might consider moving the CPO to less developed (and expensive) regions of the EU instead of overcrowding Munich and The Hague. This might also have a cost reduction effect.

9. Conclusion

Let us be long-sighted. The EU needs its own independent patent system. The EU should establish a strong Community Patent Office, the decisions of which can be appealed to a Community Intellectual Property Court. The granting procedure should be in English and automated translations the solution to the translation problem.

10. Post Scriptum

This article covers quite a few controversial issues and has been written only a few days after the Proposal was made available to the public. Readers might therefore have quite a few additional or different views. The author welcomes any comment at gevers.patents@euronet.be. Should this be the case, such comments might be at the origin of a new article to be published as soon as appropriate.

Report of the Committee on Biotechnological Inventions

B. Hammer Jensen (DK)
Chairman

I. Introduction

1. Since the last Council meeting in Berlin in October 1999, the Committee has held one meeting on April 18, 2000 in Munich.

II. Substantive Questions

1. A. QUESTION 1 – EU Directive on the legal protection of biotechnological inventions:

a) The implementation of the directive in the EPC was discussed, since some member states do not find it sufficient that the directive has been implemented in the Implementing Regulations. This

situation could pose certain problems in respect of ratification of such amendments to the Convention in some member states.

b) Also, members of the committee reported on the progress of the implementation process in their respective member states. Unfortunately it seems that only a minority will make the July 2000 deadline.

2. **QUESTION 13 – Novartis Case:** This decision and its possible impact was briefly discussed.
3. **The EPO Patent Blunder:** The issue was discussed and it was found that reactions on this was generally limited to Germany and the EU Parliament.
4. **Public debate in member states about biotechnology patents:** Members updated each other on the situation in their countries. It seems as if the Clinton/Blair declaration on human gene sequences has initiated a debate in many countries, but also the issue of the developing countries and the rights of indigenous people is continuing to raise various patent issues. It was believed that the EPI should

not be involved in these discussions, unless a specific action is being called upon.

5. **Biodiversity:** In preparation of the common EU position for the deliberations at the 5th Conference of the Parties (COP5) in Nairobi in May, Denmark proposed to include patenting issues, such as indication of the origin of biological material, or documentation of „prior informed consent (pic)“ in patent applications relating to genetic material, and biological material. The same issue was raised in the Patent Law Treaty negotiations by South American countries. The committee found that such indications should not be included as mandatory to obtain patents in this technological field.

Content of the Patent Law Treaty

(Report on the Patent Law Treaty as adopted by the Diplomatic Conference on 1st June 2000)

F. A. Jenny (CH)

Chairman of the *epi* Harmonisation Committee

The Diplomatic Conference for the Adoption of the Patent Law Treaty took place from 11th May to 2nd June 2000 in Geneva. On 1st June 2000 it adopted the Patent Law Treaty („PLT“). The Patent Law Treaty includes i.a. the following main features:

General Features:

- The PLT does not harmonise to a single standard but rather sets a set of maximum or minimum requirements, respectively. Contracting Parties (i.e. Member States and Intergovernmental Offices adhering to the Treaty) may be more user friendly. Thus, the PLT includes the *general principle* that Contracting Parties are free to provide for requirements which, from the viewpoint of applicants and patent owners, are *more favourable* than those of the PLT (except for the filing date provisions).
- The Treaty is clearly *restricted to formal matters*. Nothing in the PLT shall be construed as prescribing anything that would limit the freedom of a Contracting Party to prescribe requirements of substantive national Law relating to patents.
- The *Treaty applies* to national and regional applications for patents of invention and for patents of addition, including divisional, continuation and continuation-in-part applications and patents granted on such applications. It applies to PCT applications only in the national (regional) phase and in respect of the time limits applicable for entering into the national (regional) phase.

- Since the PCT contains world-wide recognized formal requirements, the PLT tries to harmonise the provisions of the PLT with those of the PCT. Thus, some PLT Articles simply refer to the corresponding PCT provisions.

Filing Date Provisions:

- The *minimum requirements* for a *filing date* are:
 - (i) an indication that the elements filed are intended to be a patent application;
 - (ii) indications allowing the applicant to be established and/or contacted by the Office; and
 - (iii) a part which on the face of it appears to be a description.
- For an application to be *accorded a filing date* claims and the payment of a filing fee may not be required. After a filing date has been accorded, fees may be required in a manner analogous to that prescribed by the PCT.
- The *description* (and the claims) can be *filed in any language*, but a translation in a language accepted by the Office has to be filed within a time limit of not less than 2 months from the filing date.
- It shall be possible to file a patent application replacing the description and drawings by a *reference to an application previously filed* in another country, even if the priority of this latter application is not claimed (so-called reference filing).
- It shall be possible to *supplement unintentionally omitted drawings and parts of a description* within a time limit of 2 months from the filing date or, where

a notification has been made that something has been omitted, not less than 2 months from the date of the notification, with a shifting of the filing date to the filing date of the omitted subject matter. If, however, the omitted subject matter was contained in a priority document, the correction can be made on this basis and the original filing date preserved.

Application and Granting Procedure

- Each Contracting Party may prescribe its own *Request Form*. Its contents must, however, correspond to the contents of the PCT Request Form and may only contain additional items as allowed in the PLT.
- The Regulations provide for the establishment of *Model International Forms* by the PLT Assembly (e.g. for the Request, power of attorney, request for recordation of change in applicant or owner, Certificate of Transfer, request for correction of a mistake, etc.). These Model Forms have to be accepted by all Contracting Parties, if they are in an official language of that Contracting Party.
- As to the *form or contents of the application*, the PLT contains the general principle that, except where otherwise provided for by the PLT, no Contracting Party shall ask for requirements other than those corresponding to the requirements of the PCT prescribed for the international phase or allowed to be required by the Contracting States for the national (regional) phase. Unfortunately, however, there is a possibility to make a *reservation* to the application of the PCT Rules *on unity of invention* to this Treaty. The US will make such a reservation so as to be able to retain its double standard regarding unity of invention.
- A Contracting Party may also require a *translation of the title, claims and abstract* of an application that is in one of its official languages into any other of its official languages.
- No Patent Office shall be obliged to accept *communications* other than *on paper*. On the other hand, a Patent Office may exclude the filings on paper and accept only electronic filings only after June 2, 2005. It will, however, always be possible to file communications on paper for the purpose of complying with a time limit.
- It shall be possible to *correct or add a priority claim* within a time limit which shall not be less than the corresponding time limit under the PCT (cf. Rule 26bis.1 PCT).
- *Re-instatement into the priority period* shall be possible if a request is made within a time limit which shall not be less than 2 months after the expiration of the priority period and the Office finds that the failure to furnish the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional.
- A Contracting Party may require that *priority documents* have to be submitted within 16 months from the earliest priority date, except where the priority application was filed with the same office.
- Where the priority document is not in a language accepted by the Office, the Contracting Party may require a *translation of the priority document*, upon invitation by the Office or a court, only if the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable.
- The provisions concerning extensions of time limits and continued processing are not very user-friendly. Thus, the providing of *extensions of time limits* is limited to time limits fixed by the Office and is only optional for the Contracting Parties. There is only one guaranteed extension of not less than 2 months. The request can be made, at the option of the Contracting Party, only prior to or up to not less than 2 months after the expiration of the unextended time limit.
- *Continued Processing* shall be provided for by Contracting Parties which do not provide for requests for extension of time limits *after* the expiration of the time limit. It is also restricted to time limits fixed by the Office. The request can be filed up to not less than 2 months after a notification by the Office that the applicant or owner did not comply with the time limit fixed by the Office. However, no Contracting Party shall be required to grant an extension or continued processing
 - in respect of a time limit for which such a relief has already been granted;
 - in respect of a time limit for the payment of maintenance fees;
 - in respect of a time limit for an action before a board of appeal;
 - in respect of a time limit for an action in *inter partes* proceedings.
- The provisions on *Restitutio in Integrum* are restricted to cases where the failure to observe the time limit has the direct consequence of causing a loss of rights with respect to an application or patent. They provide that an Office shall reinstate patent applications and patents on request within not less than 2 months from the date of the removal of the cause of the failure to comply with the time limit but not more than 12 months from the expiration of the time limit if the Office finds that the failure to comply with the time limit occurred in spite of due care required having been taken or, at the option of the Contracting Party, was unintentional. In the case of non-payment of a maintenance fee, the 12-month time limit runs from the expiration of the grace period under Art. 5bis of the Paris Convention. No Contracting Party shall be required to provide for the reinstatement of rights in respect of time limits for an action before a board of appeal or in *inter partes* proceedings.

Mandatory Representation:

- A Contracting Party may require that an appointed *representative be qualified* to practice before the Office according to its national law.
- A Contracting Party may *require that a representative be appointed* for the purposes of any procedure before the Office, except that an applicant, owner or an assignee (US !) of an application may act himself before the Office for the following procedures:
 - (i) the filing of an application for the purposes of the filing date;
 - (ii) the mere payment of a fee;
 - (iii) the filing of a priority document;
 - (iv) the filing of a copy of the earlier application (in case of a reference filing).
- A *maintenance fee* may be paid by any person.

Recordals:

- The Rule on *requests for recordal of change* in applicant or owner *by contract* leaves the choice to the requesting party whether it wishes to present, as a basis for its request, a (possibly certified) copy of the complete contract, a (possibly certified) extract of the contract showing the change or an uncertified certificate of transfer of ownership by contract drawn up with the content as prescribed in the corresponding Model International Form signed by both parties. When the change results from a *merger*, or from *reorganisation* or *division* of a legal entity, the Office may require evidence, such as a copy of an extract from a commercial register.
- In an analogous manner, a party requesting *the recordal of a (voluntary) licensing agreement* has the choice between a (possibly certified) copy of the complete licensing agreement or a (possibly certified) extract thereof consisting of those portions of that agreement which show the rights licensed and their extent.

Healing of formal defects by the grant:

- *Formal defects* of an application (such as e.g. mistakes in the Request or other Forms, formal defects of the application [including non-unity of invention], missing signatures or not (fully) paid fees and the like) which were not detected during the granting procedure, may not be a ground for revocation or

invalidation of the granted patent, except where the non-compliance with the formal requirement occurred as a result of a fraudulent intent.

Change of the Rules:

- All *Rules can be changed* by the PLT Assembly (= assembly of the Contracting Parties). For most of the Rules a 3/4 majority is sufficient. A few Rules, however, (such as e.g. those concerning additional requirements relating to the form or content of the application, exceptions to mandatory representation and possibility of excluding the filing of communications on paper) need unanimity.
- Any *amendments of the PCT* made after June 2, 2000, which are consistent with the Articles of the PLT, shall apply for the purposes of the PLT and its Regulations if the PLT Assembly so decides, in the particular case, by a 3/4 majority. It was agreed at the Diplomatic Conference that the PLT Assembly would, when appropriate, be convened in conjunction with the PCT Assembly and that Contracting Parties of the PLT which are not party to the PCT would be invited as observers to the PCT Assembly and other PCT meetings.

Administrative Provisions:

- The PLT was *opened for signature* on June 2, 2000. It shall remain open for signature for one year.
- Any State which is party to the Paris Convention or which is a member of WIPO as well as Regional Patent Organisations (such as the EPO, the EAPO and ARIPO) *may become a Contracting Party of the PLT*.
- The PLT shall *enter into force* three months after ten instruments of ratification or accession have been deposited with the Director General of WIPO. For Regional Patent Organisations depositing such an instrument before the entry into force of the PLT, the PLT becomes binding 3 months after its entry into force. For States or Regional Patent Organisations depositing the said instrument later, the *PLT becomes binding* three months after its deposit or at any later date indicated in such instrument, but no later than six months after such deposit.
- The *PLT may be revised* by a Conference of the Contracting Parties. The convocation of such a revision conference shall be decided by the PLT Assembly.

Vice President of the EPO, Renate Remandas-Braendli retired this summer. The epi in her person has always found a sympathetic and helpful supporter of causes which not only were of importance for the epi but also improved the system. The engagement and efforts of Mrs Remandas for the European patent cause will be missed.

The epi would like to thank Mrs. Remandas for forwarding her farewell speech for publication and wishes Mrs. Remandas all the best for the future.

Walter Holzer, epi President

Rede von Renate Remandas-Braendli, Vizepräsidentin GD5,

anlässlich ihrer Verabschiedung im Verwaltungsrat der EPO
in Limassol, Zypern, am 8. Juni 2000

Sehr geehrter Herr Vorsitzender,

für Ihre anerkennenden Worte, die mich sehr berührt haben, möchte ich mich herzlich bedanken. In dieser Stunde des Abschieds geht mein aufrichtiger Dank an Sie alle; denn ich habe es stets als eine besondere Ehre und als ein Privileg empfunden, für diese Organisation und für dieses Amt arbeiten zu dürfen. In den mehr als zwölf Jahren meiner Tätigkeit als Vizepräsidentin GD5 habe ich mich bemüht, den von den Mitgliedern des Verwaltungsrates in mich gesetzten Erwartungen gerecht zu werden.

Ich blicke gerne zurück auf diese Jahre, die eine erfüllte, interessante, zuweilen sogar faszinierende Zeit waren. Und ich bin traurig, dass ich das Amt – aus den Gründen, die Sie kennen – vorzeitig verlassen muss.

Vor allem Ihrer großzügigen und wohlwollenden Unterstützung verdanke ich es, dass ich einen bescheidenen Beitrag zur Umsetzung der Interessen des Rats und des Amtes erbringen konnte. Wobei diese Interessen eigentlich identisch sein sollten; denn jeder Träger einer verantwortlichen Funktion kann seine Vorstellungen nur entfalten auf stabilem Boden eines aus Synergien gewachsenen Konsenses und in einer Atmosphäre des Vertrauens und offener Kommunikation.

Besonders danken möchte ich an dieser Stelle auch der griechischen Delegation unter der Leitung von Professor Koumantos, speziell Frau Catherine Margellou, die 1987 meine Kandidatur vorschlug und unterstützte und damit meine berufliche Zukunft und meinen Lebensweg entscheidend beeinflusste.

Mein Dank gilt auch in meiner Eigenschaft als die für internationale Belange zuständige Vizepräsidentin den hier vertretenen Beobachterorganisationen für die lange und gute Zusammenarbeit: den Vertretern der Kommission der EU für den stufenweisen Ausbau einer in gegenseitigem Interesse konzipierten Zusammenarbeit, den Vertretern des *epi*, der UNICE und der WIPO für ihre partnerschaftliche Kooperation. Und der Personalvertretung danke ich für den lebendigen Dialog, wann immer

dieser Dialog auf die Wahrnehmung der Interessen der Organisation ausgerichtet war.

In besonderer Herzlichkeit geht mein Dank an die Präsidenten des Amtes, Paul Braendli, dem ich als Mentor mein Wissen um das Patentwesen und die komplexen Koordinaten des Systems verdanke, und Ingo Kober für die gute Zusammenarbeit. Ich danke ihnen dafür, dass sie meine Tätigkeit anerkannt haben.

Ich habe mich bemüht, das in Artikel 10 Absatz 3 Satz 1 EPÜ den Vizepräsidenten auferlegte Gebot zu befolgen und somit den jeweiligen Präsidenten stets aktiv und loyal zu unterstützen. Loyalität ist in der Tat nicht mit einer passiven Haltung, einer Haltung bedenkenloser Zustimmung zu verwechseln; sie verlangt zuweilen, gegen den Strom zu schwimmen, fordert also vorrangig den Mut zu offener, kritischer und konstruktiver Auseinandersetzung. Nur so kann sie auch zu einem Mehrwert für die Entscheidungsfindung führen. Möge diese Verhaltensmaxime für alle Betroffenen ihre Gültigkeit bewahren!

Schließlich gilt mein aufrichtiger, von Herzen kommender und ganz besonderer Dank allen Kolleginnen und Kollegen der GD5. Ihr vorbehaltloser und engagierter Einsatz machte es möglich, die Ihnen hier im Rat bekannten Arbeitsergebnisse gemeinsam im Team zu erzielen. Meine Rolle in der Generaldirektion 5 habe ich verstanden als die eines Primus inter Pares, eingebunden in ein Netzwerk stets offener Kommunikation, das der Motivation Impulse verleiht. Ich hoffe, dass mir Letzteres zumindest teilweise gelungen ist, denn gerade darin sehe ich eine der wichtigsten Führungsaufgaben.

Gestatten Sie mir, Herr Vorsitzender, auch die zypriotische Delegation als Gastgeberin dieser Ratssitzung in meinen Dank einzuschließen. Vor allem Ihnen, Frau Kyriakou, liebe Maria, zolle ich einen besonderen Tribut für die eindrucksvolle Gastlichkeit, mit der Sie uns als jüngstes Mitglied der Europäischen Patentorganisation umgeben.

In Zypern von Ihnen allen Abschied nehmen zu dürfen, ist für mich ein Ereignis besonderer Art, mit dem sich ein

Kreis in meinem Leben schließt. Es ist kein Zufall, dass ich mich mit Zypern seit genau 40 Jahren geradezu schicksalhaft verbunden fühle: Im Sommer 1960 erlitt ich unweit von diesem Ort bei Nacht einen schweren Auto-unfall durch einen frontalen Zusammenstoß mit einem nicht beleuchteten Bus. Die unmittelbaren Folgen waren mehrwöchige klinische Behandlungen im britischen Militärlazarett in Larnaca und in einer Klinik in Nikosia. Der Unfall hat mir in paradoxer Weise das Leben gerettet; denn er hinderte mich daran, das für die Heimreise gebuchte Flugzeug zu benutzen, dessen Absturz allen Insassen den Tod brachte.

Seitdem ist der Ausspruch „A quelque chose malheur est bon“ zu einer wichtigen Devise meines Lebens geworden. Er hat mich gelehrt, mit kleinen und großen Katastrophen mit der gebotenen Gelassenheit umgehen zu können; denn das Wissen um die Relativität aller Dinge fordert eine gewisse philosophische Distanz.

Der Republik Zypern – der ich mich aus den geschilderten Gründen besonders verbunden fühle – wünsche ich, dass für sie bald eine gerechte politische Lösung des schon allzu lange anhängigen Problems auf der Grundlage der seit 1974 abgegebenen Resolutionen des Europarats und der Vereinten Nationen herbeigeführt wird.

Es sei mir an dieser Stelle gestattet, einen letzten Wunsch auszusprechen, der mich – wie viele andere – seit Jahren mit dem vor kurzem verstorbenen Kurt Haertel verbindet, dessen Vermächtnis ich mich in besonderer Weise verpflichtet fühle: Ich meine den Wunsch nach einem neuen Aufbruch und dem Wiederaufleben des Pioniergeistes der Gründertage in der Europäischen Patentorganisation, deren Erfolg diese immer mehr bürokratischer Trägheit aussetzt. Das Schlüsselwort, das die Gründerväter beseelte und die mächtigen Impulse zur Schaffung des damals neuen europäischen Weges auslöste, war die Bereitschaft auf bewussten und gewollten *Verzicht*, Partikularinteressen, die dem Ziel der Organisation zuwiderlaufen, geltend zu machen. Dieser für den Weiterbestand und die Vervollkommnung des europäischen Patentsystems entscheidende Grundkonsens darf nicht infrage gestellt werden, besonders jetzt nicht, da sich neue Weichenstellungen abzeichnen. Das Festklammern an der Vergangenheit führt statt zu visionärer Weiterentwicklung zur Stagnation, die für jede im globalen Wettbewerb stehende Institution, auch für die Europäische Patentorganisation, den Abstieg einläuten würde.

Richten wir deshalb alle den Blick in die Zukunft, in der uns verbindenden Vision, die auf das gemeinsame

Bemühen um die volle Entfaltung des europäischen Patentsystems gerichtet ist. Und dies ist gerade auch Nannuccis leuchtende Botschaft: „Mehr als das Auge sehen kann“, die heute das Hauptgebäude des Europäischen Patentamtes am Isarufer zielt. Längst erforderliche institutionelle Überlegungen sollten dieses Streben, soweit sie die Stärkung der Organisation bezwecken, sinnvoll ergänzen. Reformen sind unumgänglich, sollen aber Bewährtes nicht dem Ehrgeiz Einzelner opfern. Nur solche auf das gemeinsame europäische Ziel ausgerichtete Impulse werden der EPO den ihr einst zugegedachten und von ihren Nutzern voll akzeptierten Platz sichern.

Lassen Sie mich abschließen mit einer visionären Parabel, wie sie der griechische Dichter Konstantin Kavafis am Ende seines Gedichtes „Ithaka“ umschreibt. Ithaka, jene Heimatinsel des Odysseus im Ionischen Meer, auf die er nach lebenslanger Erkundung neuer Horizonte im und bis an die äußersten Grenzen des Archipels zurückkehrte:

„Immer halte Ithaka im Sinn.
Dort anzukommen, ist dir vorbestimmt.
Doch übereile nur nicht deine Reise.
Besser ist, sie dauere viele Jahre;
und alt geworden lege auf der Insel an,
reich an dem, was du auf deiner Fahrt gewannst,
und hoffe nicht, dass Ithaka dir Reichtum gäbe.

Ithaka gab dir die schöne Reise.
Du wärest ohne es nicht auf die Fahrt gegangen.
Nun hat es dir nicht mehr zu geben.

Auch wenn es sich dir ärmlich zeigt,
Ithaka betrog dich nicht.
So weise, wie du wurdest,
und in solchem Maß erfahren,
wirst du ohnedies verstanden haben,
was die Ithakas bedeuten.“

Dafür dass ich Sie alle eine kleine Strecke auf unserem gemeinsamen Weg nach Ithaka – im Bemühen um die Konsolidierung des europäischen Patentweges – begleiten durfte, möchte ich mich heute sehr herzlich bei Ihnen allen bedanken. Auch in der Zukunft werden meine Gedanken Sie auf diesem Weg begleiten und ich wünsche Ihnen für die künftigen Unternehmungen eine gute Hand und viel Erfolg.

Speech by Renate Remandas-Braendli, Vice-President DG 5,

at her farewell ceremony at the meeting of the Administrative Council of the European Patent Organisation
in Limassol, Cyprus, on 8 June 2000

Mr Chairman,

Thank you very much indeed for your words of appreciation, which I found most touching. At this, my last Council meeting, I would like to express my sincere thanks to you all. I have always felt it a particular honour and a privilege to be able to work for this Organisation and this Office. Throughout my time as Vice-President DG 5 – a period of more than twelve years – I have always endeavoured to live up to the expectations of the Administrative Council.

I look back fondly at these years, which were fulfilling, interesting, and in some aspects even fascinating. And I greatly regret my premature departure from the Office – for the reasons of which you have already been informed.

Above all it was your generous and benevolent support that enabled me to make a modest practical contribution to furthering the interests of the Council and the Office. These interests should really be identical, since people in positions of responsibility can only develop their ideas on the basis of a stable consensus facilitated by synergy, and in an atmosphere of trust and unfettered communication.

I would particularly like to thank the Greek delegation under the direction of Professor Koumantos, and above all Mrs Catherine Margellou, who proposed me as a candidate in 1987 and gave me her support, by which she exerted a decisive influence on the course of my professional and personal life.

My thanks are also due, in my capacity as vice-president with responsibility for international affairs, to the organisations with observer status: to the representatives of the EU Commission for their support in gradually establishing a partnership designed to benefit all concerned; and to the representatives of the *epi*, UNICE and WIPO, who have worked with the EPO in a spirit of true co-operation. I would also like to thank the staff representatives for a dialogue which I found lively and stimulating, wherever its purpose was to promote the interests of the Organisation.

I take particular pleasure in expressing my thanks to Presidents Paul Braendli, the mentor to whom I owe my knowledge of the patent system and its complex coordinates, and Ingo Kober, for his support and co-operation. I wish to thank both of them for their acknowledgment of my work.

I have always tried to comply with the requirement imposed on vice-presidents in Article 10, paragraph 3,

first sentence, EPC, by giving my active and loyal support to the President of the day. Loyalty is not to be confused with passivity and unthinking assent; at times, it can also mean swimming against the stream, and it requires the courage, above all, to engage in open, critical and constructive debate. It is only on this basis that loyalty can become a positive asset in decision-making. I very much hope that this principle of professional conduct will continue to be followed by all those to whom it applies!

Finally, my sincere, heartfelt and very special thanks are due to my colleagues in DG 5. Their unstinting commitment made it possible to achieve the results known to the members of the Council – results which have always been the product of teamwork. I have seen my role in DG 5 as that of a *primus inter pares*, a member of an intercommunicating network with an open structure and a strong motivating effect. In this area, I would hope to have been successful at least to some extent, as I see communication as one of the most important tasks of a manager.

Permit me, Mr Chairman, to extend my thanks also to the Cypriot delegation, which is hosting this Council meeting. To you, above all, Mrs Kyriakou – Maria – I wish to pay special tribute for your impressive display of hospitality on behalf of Cyprus as the youngest member of the European Patent Organisation.

My leave-taking from you in Cyprus is a very special event, with which a part of my life comes full circle. For the past 40 years I have had a sense of almost fateful connection with Cyprus. In the summer of 1960, not far from where we are today, I was involved in a serious road accident when a car in which I was travelling collided at night with an unlit bus. The immediate consequence was several weeks of treatment at the British military hospital in Larnaca and a clinic in Nicosia. Paradoxically, though, the accident saved my life, since it prevented me from boarding the plane on which I was due to travel home – which crashed without a single survivor.

Since then, the saying „A quelque chose malheur est bon“ has been a ruling maxim of my life. It has taught me to maintain the requisite degree of calm when coping with disasters, whether small or large, as the awareness that everything is relative demands a measure of philosophical detachment.

My hope for the Republic of Cyprus – with which I feel strong ties, for the reasons I have just indicated – is that it may soon prove possible, on the basis of the resolutions passed since 1974 by the Council of Europe and the

United Nations, to bring about a just political solution to the problem that has lingered all too long.

At this point, I would like, with your permission, to express one last wish, which I, in common with others, shared for many years with the recently deceased Kurt Haertel, by whose legacy I feel particularly bound – the wish for a renewed sense of purpose and a revival of the pioneering spirit seen in the early years of the European Patent Organisation, whose very success has increased the risk of subsiding into bureaucratic lethargy. The watchword of the founding fathers, which provided a very powerful impetus for the creation of what at that time was an entirely new European institution, was the willingness to *relinquish* individual interests, consciously and deliberately, if they conflicted with the interests of the Organisation as a whole. This basic consensus, which is vital to the continuing existence and the optimisation of the European patent system, must not be called into question, particularly now, at a time when new perspectives for the future are beginning to emerge. Clinging to the past would replace dynamic, visionary development with stagnation, which for any institution competing at a global level – including the European Patent Organisation – would be the beginning of the end.

Let us therefore train our gaze on the future, sharing the common vision of a European patent system developed by our joint efforts to its fullest pitch. This is precisely the message of Maurizio Nannucci's light sculpture „*Mehr als das Auge sehen kann*“ („*More than the eye can see*“), on the façade of the EPO's main building by the Isar in Munich. But this general aim must be reinforced by a long-overdue reappraisal of institutional issues, always bearing in mind that such efforts must invariably serve to strengthen the Organisation. Reforms are inevitable, but arrangements which have stood the test of time must not be sacrificed to individual ambition. Only impulses firmly directed towards the common European goal will guarantee that the Organisation

retains the position which it was originally designed to occupy and which has been fully accepted by its users.

Allow me to close by quoting the visionary parable sketched by the Greek writer Constantine Cavafy in the closing stanzas of his poem „*Ithaca*“. Ithaca – the native island of Odysseus in the Ionian Sea, to which the adventurer returns after a lifetime of wandering, exploring new vistas and venturing to the furthest limits of the archipelago:

**

„But you must always keep Ithaca in mind.

The arrival there *is* your predestination.

Yet do not by any means hasten your voyage.

Let it best endure for many years,
until grown old at length you anchor at your island,
rich with all you have acquired on the way.

You never hoped that Ithaca would give you riches.

Ithaca has given you the lovely voyage.

Without her you would not have ventured on the way.

She has nothing more to give you now.

Poor though you may find her,

Ithaca has not deceived you.

Now that you have become so wise,

so full of experience,

you will have understood the meaning
of an Ithaca.”

**

Today, I would like to say „thank you“ to you all, for permitting me to accompany you on at least a part of our common journey to Ithaca – striving in concert for the consolidation of the European patent system. My thoughts will be with you in the future, as you continue to travel along the same route. I wish you a steady hand and every success in your future endeavours.

Discours d'adieu de Mme Renate Remandas-Braendli, Vice-Présidente DG5,

prononcé devant le Conseil d'administration de l'OEB à Limassol (Chypre), le 8 juin 2000

Monsieur le Président,

Je vous remercie de l'hommage que vous venez de me rendre. Vos paroles m'ont très touchée. En cette heure où il me faut prendre congé, je tiens à vous adresser, à vous tous, mes sincères remerciements. Car pouvoir travailler pour cette Organisation et cet Office a toujours été pour moi un insigne honneur et un privilège. Tout au

long de mon activité de Vice-présidente DG5, pendant plus de douze ans, je me suis efforcée de répondre à l'attente des membres du Conseil d'administration.

C'est avec plaisir que je pense à ces années, qui furent pour moi une époque bien remplie, intéressante, voire parfois fascinante. Mais c'est avec tristesse que je me vois contrainte de quitter prématurément l'Office – pour les raisons que vous savez.

Grâce surtout au soutien bienveillant que vous m'avez accordé sans compter, j'ai pu apporter une modeste contribution au service des intérêts du Conseil et de l'Office. Intérêts qui, à vrai dire, devraient être identiques. Pour développer ses vues, quiconque exerce des responsabilités doit pouvoir faire fond sur un consensus que les synergies auront permis de dégager, dans une atmosphère de confiance et de communication ouverte.

Ma gratitude va aussi tout particulièrement à la délégation hellénique présidée par le Professeur Koumantos, et notamment à Madame Catherine Margellou, qui, en 1987, avait proposé et appuyé ma candidature et qui, ce faisant, devait avoir une influence décisive non seulement sur ma vie professionnelle, mais encore sur ma vie tout court.

En ma qualité de Vice-Présidente chargée des affaires internationales, je tiens également à remercier les organisations ici présentes à titre d'observateur pour leur longue et fructueuse collaboration : je veux citer les représentants de la Commission de l'Union européenne pour le renforcement progressif d'une coopération conçue dans l'intérêt mutuel, les représentants de l'*epi*, de l'UNICE et de l'OMPI pour la coopération que nous avons établie dans un esprit de partenariat. Merci aussi à la représentation du personnel pour le dialogue animé que nous avons entretenu, dès lors qu'il visait à défendre les intérêts de l'Organisation.

Je voudrais remercier tout particulièrement et de tout coeur les Présidents de l'Office, M. Paul Braendli, qui, en mentor éclairé, m'a transmis sa connaissance du monde des brevets et initié aux arcanes du système, et M. Ingo Kober, pour la bonne collaboration que nous avons eue. Je les remercie pour l'estime qu'ils ont portée à mon travail.

J'ai eu à coeur de m'acquitter du devoir que la Convention sur le brevet européen, en son article 10, paragraphe 3, première phrase, assigne aux Vice-Présidents, et ainsi de toujours prêter au Président une assistance active et loyale. Loyauté ne doit pas être confondue avec passivité, avec une attitude de suivisme sans réserve ; la loyauté exige parfois d'aller à contre-courant, et requiert donc au premier chef le courage d'engager une discussion ouverte, critique et constructive. Ce n'est qu'ainsi qu'elle peut aussi favoriser les décisions. Que cette règle de conduite puisse rester d'application pour tous ceux qui sont concernés !

Enfin, j'exprime de tout coeur, et bien sincèrement, toute ma gratitude à mes collègues de la DG5. C'est grâce à l'engagement inlassable et sans restriction dont ils ont fait preuve qu'il a été possible de parvenir, ensemble, aux résultats que le Conseil connaît. J'ai vu mon rôle à la tête de la DG5 comme celui d'un *primus inter pares* intégré dans un réseau de communication toujours ouverte et motivante. J'espère avoir réussi, en partie du moins, sur ce dernier point. Car c'est précisément en cela que consiste, pour moi, l'une des tâches les plus éminentes d'un dirigeant.

Permettez-moi, Monsieur le Président, de dire toute ma gratitude également à la délégation chypriote, qui accueille le Conseil aujourd'hui. C'est tout particulière-

ment à vous, Madame Kyriakou, chère Maria, que je veux rendre hommage pour l'impressionnante hospitalité que le plus jeune des Etats membres de l'Organisation européenne des brevets nous offre.

Prendre congé de vous tous à Chypre revêt pour moi une dimension particulière. Une boucle de ma vie est en quelque sorte bouclée. Ce n'est pas un hasard si depuis exactement 40 ans je me sens étroitement liée par le destin à Chypre : en été 1960, je fus victime, non loin d'ici, d'un grave accident de voiture dans une collision frontale, la nuit, avec un bus sans éclairage. La conséquence immédiate fut un séjour de plusieurs semaines à l'hôpital militaire britannique de Larnaka et dans une clinique à Nicosie.

Paradoxalement, cet accident m'a sauvé la vie, car il m'a empêchée de prendre l'avion pour lequel j'avais réservé mon billet retour : l'avion s'est écrasé au sol, provoquant la mort de tous ses occupants.

Depuis lors, le proverbe „A quelque chose malheur est bon” est devenu une devise importante dans ma vie. Il m'a appris à prendre les petites et grandes catastrophes avec le calme nécessaire. Savoir relativiser toute chose requiert en effet une certaine distance philosophique.

A la République de Chypre, à laquelle je me sens singulièrement liée pour les raisons que je viens d'évoquer, je souhaite que soit bientôt trouvée une juste solution politique, sur la base des résolutions que le Conseil de l'Europe et les Nations Unies ont adoptées depuis 1974, à ce problème qu'elle ne connaît que depuis trop longtemps.

Qu'il me soit permis ici d'émettre un dernier vœu. Un vœu qui m'attache de longue date - comme tant d'autres - à Kurt Haertel, qui vient de nous quitter. Son testament vaut pour moi obligation : qu'un nouvel élan soit donné à l'Organisation européenne des brevets et que renaisse cet esprit de pionnier qui a marqué ses premiers pas. Car le succès qu'elle rencontre l'expose de plus en plus à l'inertie de la bureaucratie. Le maître-mot qui avait guidé les pères fondateurs et qui avait transmis de puissantes impulsions à la création de cette voie européenne, alors novatrice, c'était leur volonté de *renoncer* à tout intérêt particulier qui serait contraire aux objectifs de l'Organisation. Ce consensus de base, si décisif pour la pérennité et le perfectionnement du système du brevet européen, ne saurait être remis en cause, encore moins aujourd'hui où s'annoncent de nouvelles orientations. S'accrocher au passé conduit non pas à un développement visionnaire, mais à une stagnation amorçant le déclin de toute institution confrontée à une concurrence mondiale, y compris l'Organisation européenne des brevets.

Aussi, tournons-nous vers l'avenir, et vers cette vision qui nous unit dans les efforts que nous déployons ensemble pour que s'épanouisse pleinement le système du brevet européen. C'est précisément aussi le message lumineux de Nannucci : „*Mehr als das Auge sehen kann*” („Plus que l'oeil ne peut voir”) qui orne aujourd'hui le bâtiment principal de l'Office européen des brevets le long de l'Isar. Une réflexion institutionnelle, dont le besoin se fait sentir depuis longtemps déjà,

devrait venir compléter utilement ces efforts dès lors qu'elle s'attache à renforcer l'Organisation. Pour inévitables qu'elles soient, les réformes ne devraient cependant pas conduire à sacrifier ce qui a fait ses preuves à l'ambition personnelle. Seules les impulsions axées sur l'objectif européen commun assureront à l'Organisation européenne des brevets la place que l'on a voulue pour elle à l'origine, et que ses utilisateurs lui ont pleinement reconnue.

Je voudrais conclure par une parabole visionnaire, comme celle sur laquelle le poète grec Constantin Cavafy termine son poème „Ithaque“. Ithaque, cette île de la mer Ionienne et patrie d'Ulysse, où celui-ci s'en revint après une vie passée à explorer de nouveaux horizons jusqu'aux confins de l'archipel :

**

„Garde sans cesse Ithaque présente à ton esprit.
Ton but final est d'y parvenir,
mais n'écourte pas ton voyage:
mieux vaut qu'il dure de longues années,
et que tu abordes enfin dans

ton île aux jours de ta vieillesse,
riche de tout ce que tu as gagné en chemin,
sans attendre qu'Ithaque t'enrichisse.

Ithaque t'a donné le beau voyage:
sans elle, tu ne te serais pas mis en route.
Elle n'a plus rien d'autre à te donner.

Même si tu la trouves pauvre,
Ithaque ne t'a pas trompé.
Sage comme tu l'es devenu
à la suite de tant d'expériences,
tu as enfin compris ce que signifient les Ithaques.”

**

Vous avez bien voulu me laisser vous accompagner un petit bout du chemin qui nous mène à Ithaque – dans nos efforts pour consolider la voie du brevet européen – et je tiens aujourd'hui à vous en remercier du fond du coeur. Mes pensées continueront d'être avec vous sur ce chemin, et je vous souhaite un total succès ainsi que bonne chance dans toutes vos entreprises.

American Intellectual Property Law Association (AIPLA)

The AIPLA European Practice Committee and epi met in Munich in June to discuss topics of mutual interest. Further meetings will take place in the future.

To introduce AIPLA a short profile of this organisation is published below together with a newsletter.

The American Intellectual Property Law Association (AIPLA) is a 10,000 member, national bar association constituted primarily of lawyers in private and corporate practice, in government service, and in the academic community. The AIPLA represents a wide and diverse spectrum of individuals, companies and institutions involved directly or indirectly in the practice of patent, trademark, copyright and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

The AIPLA was formed in 1897 in order to maintain a high standard of professional ethics, to aid in the improvements in laws relating to intellectual property and in their proper interpretation by the courts, and to provide legal education to the public and to its members on intellectual property issues.

The AIPLA is governed by the Board of Directors and has a staff of 12, headed by an Executive Director, located in Arlington, Virginia. The AIPLA has approximately 40 administrative and substantive committees which provide education to their members and formulate proposed positions for the Board of Directors to consider adopting as Association policy.

To qualify for membership, applicants must be members in good standing of the Bar of a court of

record of the United States or any State. Foreign affiliate members must be able to practice in a court of general jurisdiction in their countries to be considered for membership. The AIPLA also has student memberships available for those regularly enrolled in a law school approved by the Association of American Law Schools. Approximately 75% of the active members are in private practice, 20% in corporate practice, with the remainder in the government or academia.

The AIPLA holds three regularly scheduled conferences a year, Mid-Winter, Spring and Fall, at which the Association offers educational seminars on the latest developments in intellectual property law. In addition, AIPLA holds several stand-alone seminars on specialized areas of intellectual property law at varying times of the year in locations around the United States.

The Association also produces a number of informative publications including the *AIPLA Quarterly Journal* (a scholarly law journal published four times a year), and *Mid-Winter Institute Books* which include papers presented by speakers at the meetings. The AIPLA also publishes a *Directory of members* and an *Economic Survey* biennially.

Furthermore, the AIPLA is actively involved in shaping U.S. intellectual property policy through its work on legislation and federal regulations affecting intellectual

property cases in the U.S. courts. Internationally, the AIPLA has spearheaded a worldwide campaign to reduce the costs of procurement and enforcement of patents,

regularly participates in meetings of the World Intellectual Property Organization, and maintains close relations with foreign IP officials and practitioners.

U.S. Patent Law is trying to catch up to the Speed of Technology

M. N. Meller¹

In an attempt to simulate the tremendous pace of U.S. technology led by the ever growing importance and dissemination power of the Internet, the U.S. Patent and Trademark Office will start publishing the large majority of patent applications 18 months after their filing dates, whether they are of U.S. or foreign origin, in order to provide their informational value to the public and the inventor community at-large.

The U.S. patent system in an effort to emulate most foreign patent laws where publication of applications takes place 18 months after the first filing date, the U.S. will also start such a system on November 29, 2000.

This new evolution in the thinking about U.S. patent law, puts publication first and patenting second and changes the old concept of no publication, until after a patent right has been granted.

In exchange, however, applicants will be able to get patent rights of a more limited nature from the date of the publication of the invention after the grant of a patent.

This concept first evolved by the Dutch in 1963 and since then practiced by more and more countries around the world, puts the U.S. in company with most other countries and

U.S. trading partners, that have been operating in this manner.

While some might consider this type of change in U.S. law as violating the inventor's secrecy, a concept that may have been prevailing until recently, but now with the explosion of technology, these considerations seem to have been overwhelmed in the thinking of the U.S. Congress, when they enacted this legislation in favor of more and more publishing and the making available to the public inventions and discoveries at as early a date as legally feasible.

No more will there be the strict secrecy by which the U.S. patent system has granted its patents for over 200 years; when only those inventions were published that were also being patented, but instead, the world will now know what patent applications are pending after 18 months from the first filing date of an application in the USPTO or other patent offices, thus enabling a much

greater appreciation and knowledge of the developing prior art in a given field of technology.

For U.S. applicants, Congress has still maintained an escape clause in that those who do not wish to file outside of the U.S. and hence open up their applications for others to see, can maintain their applications in secrecy until granted just as before, however, the USPTO estimates that this will not happen any more than in perhaps 10-20% of the cases, while all other applications will be published at 18 months.

The important bargain, so to speak, that the U.S. gains from this development, however, is that the applications of the Germans and the Japanese for instance will thus be available in English, because those applications will have to be published in English if filed in the U.S. Patent and Trademark Office, 18 months from their respective priority dates in Germany and Japan.

With the greater and greater internationalization of technical literature and its use of English as the dominant language, this development takes it one step further to realize that as much technical information is published in English, as early as possible and as widely as possible.

With some perhaps 70% of technical information available in the English language already, this development will have the hidden benefit of having perhaps another 10-20% of such publication of patents, as soon as 18 months from first filing.

Interestingly, the U.S. Patent and Trademark Office is taking a leaf out of the forces driving this change, by not conventionally publishing such patent applications, effective that date of November 29, 2000, but instead placing their contents on the Internet, from where, all those eager to obtain the benefits of the new improved feature of the U.S. Patent System can derive their technical information as quickly and as efficiently, as was previously possible to do with the applications of Europe and Japan.

In a parallel development in the same legislation, U.S. Congress has also authorized the extension of the term of patents now 20 years from the filing date, to compensate for certain Patent and Trademark Office delays that have been in examination for over three (3) years. Such extensions are available for delays in the issuance of a patent due to interference proceedings, secrecy orders and appellate review. Hence, diligent applicants are

¹ Michael N. Meller, Anderson Kill & Olick, New York, NY – Member of the AIPLA European Practice Committee.

guaranteed a minimum of a 17-year patent term which used to be prior to the term of U.S. patents from the date of issue prior to June 8, 1995, when it was changed in view of the WTO Treaty implementing legislation.

Such extension authority was heavily lobbied for by those forces who felt that 20 years from the patent filing date was insufficient, especially in those cases where Patent Office processing delays were no fault of the applicants and patentees.

Changes have also been made in other areas of U.S. patent law such as providing for an opportunity to have prior users of business methods to have a defense against an infringement charge and provide for an optional inter-part reexamination procedure in the USPTO in lieu of having such proceedings in U.S. courts, but which provision suffers from Congress' decision that adverse decisions beyond the Patent Offices' Board of Patent Appeals and Interferences would not be appealable to the U.S. Court System.

Finally, the USPTO's top official who used to be known as the Commissioner of Patents has been changed and

the new top man to be appointed by the President will be the Director of the United States Patent and Trademark Office. The new legislation establishes the Patent and Trademark Office as an agency within the Department of Commerce subject to the policy direction of the Secretary of Commerce. Beyond the Director there also will be a Deputy Director that shall be appointed by the Secretary of Commerce upon nomination by the Director.

The Secretary of Commerce will then appoint a Commissioner for Patents and a Commissioner for Trademarks to serve as Chief Operating Officers for their respective units for a term of five (5) years. This will enable career employees of the USPTO to rise to these positions, hence limiting the political appointees in the USPTO to only the above noted two slots.

These new provisions enacted by Congress should go a long way towards making U.S. Patent Law more in line with those of other countries, but especially reflecting the economic needs evolving in the United States as the speed and efficiency of international commerce is better realized.

Topics of Interest and their Websites

General Information about *epi* and news:

www.patentepi.com

Basic proposal for revision of the European Patent Convention:

www.european-patent-office.org/news/headlns/2000_08_17.htm

Grace period – Yes or No:

www.european-patent-office.org/news/pressrel/index.htm

Proposal for a Community Patent Regulation:

www.europa.eu.int/eur-lex/en/com/pdf/2000/com2000_0412en01.pdf

Optional Protocol on the Settlement of Litigation concerning European Patent:

www.european-patent-office.org/news/headlns/2000_08_03_e.htm

Amendment of Article 27 of the Regulation on the European qualifying examination for professional representatives

Decision of the Administrative Council of 8 June 2000 amending Article 27 of the Regulation on the European qualifying examination for professional representatives

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 134(8)(a), thereof,

On a proposal from the President of the European Patent Office,

HAS DECIDED AS FOLLOWS:

Article 1

Article 27, paragraphs 2 and 3, of the Regulation on the European qualifying examination for professional representatives shall be amended to read as follows:

„(2) Notice of appeal must be filed in writing with the Secretariat within one month of the date of notification of the decision appealed against. Notice of appeal shall not be deemed to have been filed until the fee for appeal specified pursuant to Article 19 has been paid. Within two months of the date of notification of the decision, a written statement setting out the grounds for appeal must be filed.“

„(3) If the Board or, in the case of an appeal against a decision of the Secretariat, the Secretariat considers the appeal to be admissible and well-founded, it shall rectify its decision and shall order reimbursement of the fee for appeal. If the appeal is not allowed within two months, it shall be remitted to the Disciplinary Board of Appeal of the EPO. Notwithstanding Article 10(1) of the Regulation on discipline for professional representatives, the Disciplinary Board of Appeal shall decide in a composition consisting of two legally qualified members of the EPO and one professional representative. The Chairman shall be a legally qualified member.“

Article 2

(1) This decision shall enter into force on 1 September 2000.

(2) The amended provisions shall apply to appeals against decisions taken after that date.

Done at Limassol, 8 June 2000

For the Administrative Council

The Chairman

Roland GROSSENBACHER

Training Guidelines for the European Qualifying Examination

The PQC (Professional Qualification Committee of the *epi*) wishes to draw the following to the attention of *epi* members, supervisors and candidates with regard to training for the EQE (European Qualification Examination), which not only requires hard work but also understanding and cooperation between the involved parties.

The training guidelines are intended to indicate to trainees what they may fairly expect from employers to prepare them for the European Qualifying Examination, and for employers to recognise what is expected from them by the trainees. The guidelines have no legal effect whatever.

1. Expectations of the trainee

The trainee is entitled to expect that the employer will ensure that the trainee, as far as is practicable, is given properly supervised experience in European Patent practice, covering the syllabus of the EQE, for example drafting applications, replying to communications, filing and prosecuting oppositions and acquiring an overview of the procedural stipulations. The trainee is also entitled to expect some additional instruction over and above the work of the office, for example by tutorials either inhouse or external or both. The trainee is further

entitled to advice as to aspects of the trainees preparation that the employer recognises as being insufficient and guidance as to how best to rectify such deficiencies.

2. Obligations of the trainee

The trainee should realize that supervised work in the office of a European Patent Attorney is not sufficient preparation for the EQE. In addition to whatever training is provided by the employer the trainee must devote his own time to private study of the statutes, case law, guidelines and other material in the syllabus of the EQE. The trainee should actively seek advice and guidance from the employer and any other available sources.

3. Responsibilities of the Employer

The employer should, as far as is possible having regard to over-riding requirements of their business, meet the expectations of the trainee as stated in paragraph 1 and support the trainees training program as far as practically possible. This should be completed within the minimum period of trainee experience, as stated in Article 10(2) of the *Regulation on the European Qualifying Examination* (currently three years), that is required before the trainee can take the EQE.

(Kindly see *epi* website: www.patentepi.com)

epi Tutorials Autumn term 2000

The autumn term (enrolment deadline 13 October 2000) is specially devised for those candidates who wish to have tutorials for those papers which they failed in the 2000 EQE.

The autumn term will run according to the following timetable:

| | |
|-----------------------------------|---------------|
| Papers offered: | 2000 only |
| enrolment: | 13.10.2000 |
| Papers sent to the candidates by: | 10.11.2000 |
| 2000 papers, scripts in by: | 15.12.2000 |
| 2000 papers, comments by: | 19.01.2001 |
| Meeting: | February 2001 |

Candidates are reminded to be ready to stick to the indicated deadlines to allow a smooth progressing of the course.

Candidates are encouraged to enrol as soon as feasible, and by 13 October 2000 at the latest, by filling in and sending the form printed hereafter to the *epi* Secretariat (Fax No. +49 89 202 15 48). For further information, please contact the *epi* Secretariat (Tel. +49 89 201 70 80).

epi Tutorials, Autumn 2000

Please return by →
to: **epi** Secretariat
Postfach 26 01 12
D-80058 München

13 October 2000

Tel: +49 89 201 70 80
Fax: +49 89 202 15 48

Name:.....

Address:.....

.....

Telephone No.: Fax No.:

Preferred language: English German French

Fields of interest: Electricity/Mechanics Chemistry

– I should like to enrol for:

- all 2000 Papers
- the following papers: 2000 A B C D
-

– I need a copy of:

- all 2000 Papers
- the following papers: 2000 A B C D
-

I am a Student of the **epi** I am not a Student of the **epi** Feesnon-epi Studentepi Student

any single paper

120 DM

70 DM

2 papers (2000)

200 DM

100 DM

4 papers (2000)

350 DM

200 DM

Tutorial fees are halved for each Paper that the candidate declares he/she does not need a copy from the **epi** Secretariat.

Previous courses attended on intellectual property: (CEIP, QMW, previous preparatory courses etc.):

.....

If you have already sat one or both of the following examinations, please indicate its date(s):

– a national examination

– the European Qualifying Examination:

Years of professional experience:

Would you be willing to travel to meet your tutors?

.....

Date of fee payment into the following **epi** account, and its amount:

Postbank München
 Account No. 703-802
 BLZ (Bank Sorting Code) 700 100 80

.....

(Please note that **epi** tutorial fees **cannot** be debited from accounts held with the European Patent Office)

Date:

Signature:

Name:

Union of Industrial and Employers' Confederations of Europe (UNICE)

A letter from the Union of Industrial and Employers' Confederations of Europe (UNICE) has been received and an answer sent. We are publishing them together with an information on UNICE which I believe will be of general interest.

Walter Holzer
epi President

June 9th 2000

Dear Mr. President,

In the article you published in epi Information Part 1 of March 2000, you wrote that in the Intergovernmental Conference „the epi and UNICE share substantially similar views on general improvements of the system“. As a representative of UNICE, I think this point is well taken and our cooperation has been fruitful in many respects.

Nevertheless, you also indicated that „the political interests tend to be different in some respects, simply because of the different membership structure of the two organizations, which in the case of epi also comprises representation of SMEs of all kinds and individual applicants.“

I think that the differences that you underline and which exist, are more about some differences in the interest of private practitioners, Patent Attorneys and the industry.

As a matter of fact, as UNICE representative, I should like to point out that the UNICE is a Confederation of 35

industry Federations of countries of the EEA and that there are more than 49 million SMEs which are members of these different organizations.

This makes the UNICE the legitimate representative of industry including SMEs.

In addition, with respect to epi members, I do think that epi actually represents individual European Patent Attorneys coming from industry and from private practice and that no mandate was given to represent such SMEs as such.

UNICE would greatly appreciate your including our answer in the next issue of epi Information.

Yours sincerely,

Thierry Sueur
Director of the Intellectual Property Department
L'Air Liquide, Paris

18 July 2000

Dear Mr. Sueur,

Thank you for your letter of 9 June 2000.

You are quite correct in pointing out that my reference to representation of SMEs meant epi-members representing SMEs. It goes without saying that the epi does not represent any particular industry or group of applicants in a strict political sense, rather the members of epi voice their professional views in technical and legal matters by reflecting on the problems of applicants they represent, which to a large extent are SMEs and individual inventors.

May I take this opportunity to invite you to forward an information paper on UNICE which together with our correspondence I would like to publish in the next epi Information. I look forward to hearing from you.

Yours sincerely,

Walter Holzer
epi President

UNICE

UNICE is

- the *voice of small companies* – small, medium and large, in all business sectors – *vis-à-vis the EU institutions*;

- an independent organisation whose members are *33 industrial and employers' federations from 25 European countries*;

- an *active partner* in European integration.

UNICE's mission is

- to promote the common professional interests of the firms represented by its members;
- to inform the decision-making process at European level so that policies and legislative proposals which affect business in Europe take account of companies' needs;
- to represent its members in the dialog between social partners enshrined in the Treaty on European Union.

UNICE's 10 priorities

- *European competitiveness*, a pre-condition for achieving healthy growth and a high level of employment;
- completion and implementation of the *single market*, to the benefit of 370 million consumers;
- long-term stability of *economic and monetary union* with a sound single currency;
- a policy of *open competition* in the Union, offering greater choices and lower prices;
- *liberalisation of world trade* by strengthening the multilateral trading system, based on fair and clear rules;
- *enlargement of the European Union* to increase prosperity in the entire European continent;
- *better quality legislation* in order to minimise costs and constraints which are particularly harmful to the development of small and medium-sized enterprises;
- promotion of *entrepreneurship, social policies based on economic realities and structural reforms* (lower taxation, more efficient public services and more flexible labour markets);
- *sustainable development* through reconciling environmental protection while stimulating the dynamism of European industry;
- *innovation and life-long learning* – through targeted policies for research, education and training, protection of intellectual property etc. – in order to meet the challenges of the information and learning society.

Structure and organisation

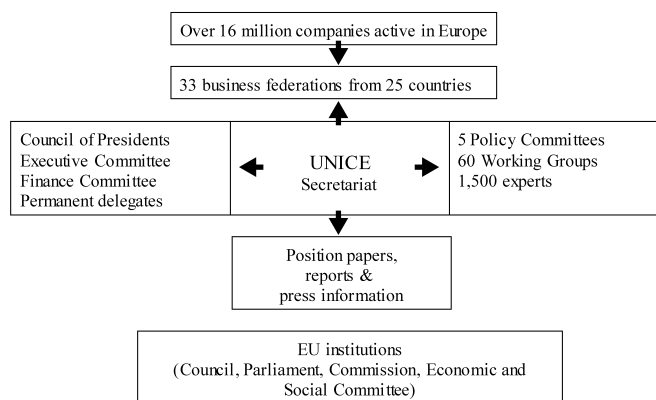
The *Council of Presidents*, comprising the Presidents of all member federations, determines UNICE's general strategy. The Executive Committee, composed of the Directors General of all member federations, steers and supervises deployment of the organisation's activities. Advised by the Finance Committee, it ensures a balance between tasks and resources.

Five *Policy Committees* (economic and financial affairs, external relations, social affairs, industrial affairs and company affairs) approve UNICE's position papers. Some 1,500 experts from federations and companies in 60 working groups participate in the work.

The *Committee of Permanent Delegates* provides a dynamic link between UNICE Secretariat and its 33 member federations. Convened twice a month by the

Secretary General, it comprises the permanent representatives of member federations based in Brussels.

The *UNICE Secretariat*, based in Brussels, has around 40 people to coordinate the efforts of working groups and Policy Committees. It prepares position papers and organises appropriate communication.



Activities and achievements

UNICE is the principal advocate of companies' interests: it coordinates a network of expertise, allowing all European companies to speak with a single voice.

UNICE is a pro-active force. Each year it prepares reports and around one hundred position papers drawing attention to the views shared by Europe's companies on a whole range of EU initiatives.

UNICE is an essential link between the business world and the EU institutions, working in close contact with a large number of organisations (governmental and non-governmental, European and international).

UNICE fuels the European debate, informs companies about topical European developments and influences decisions taken at national level by mobilising its network of member federations across Europe.

UNICE plays its role of social partner at European level to the full, taking part in the European social dialogue.

Created in 1958, UNICE has been contributing for 40 years to the construction of a Europe committed to free trade, open to competition, and driven by the spirit of enterprise, defending the principles of market economics.

UNICE President is Mr. George Jacobs, and Secretary General Mr. Dirk F. Hudig.

5 Main fields of action

The *Economic and Financial Affairs Committee* is responsible for competitiveness issues, economic policy, monetary and financial questions, taxation, regional policy and statistics.

Contact at UNICE: Tel: +32 2 237 65 23

The *External Relations Committee* covers the Union's commercial policy and external relations with eastern European, American, Asian and Mediterranean countries, the World Trade Organization, customs legislation, market access, credit insurance and export controls.

☎ Contact at UNICE: Tel: +32 2 237 65 24

The *Social Affairs Committee* handles employment and the EU's social policy, social protection, the social dialogue and industrial relations, education and training, health and safety at work, equal opportunity and non-discrimination.

☎ Contact at UNICE: Tel: +32 2 237 65 32

The *Industrial Affairs Committee* tackles environment and sustainable development, energy, transport, telecommunications, innovation, research as well as technological development and public procurement.

☎ Contact at UNICE: Tel: +32 2 237 65 43

The *Company Affairs Committee* covers competition policy, state aid, intellectual and industrial property, company law, international business practices, workers involvement, accounting, insurance legislation, corporate liability, cost-benefit analysis, civil, commercial and judicial law, consumer affairs and marketing, data protection, electronic commerce and technical barriers to trade.

☎ Contact at UNICE: Tel: +32 2 237 65 52

☎ Your other direct contacts at UNICE:

| | |
|---------------------------|----------------------|
| Secretary General | Tel: +32 2 237 65 01 |
| Communications Department | Tel: +32 2 237 65 64 |
| Documentation Centre | Tel: +32 2 237 65 63 |

Address: Union of Industrial and Employers' Confederations of Europe (UNICE)
Rue Joseph II, 40 bte 4 – B-1000 Brussels
Tel.: +32 2 237 65 11 – Fax : +32 2 231 14 45
E-mail: main@unice.be

☞ Please send your e-mail address.
We can then communicate with you faster!

Indicate your name and address and
send directly to

gchiste@epo.org

Redaktionsschluss für
epi Information
4/2000

Redaktionsschluss für die nächste Ausgabe der *epi* Information ist der **8. November 2000**. Die Dokumente, die veröffentlicht werden sollen, müssen bis zu diesem Datum im Sekretariat eingegangen sein.

Deadline for
epi Information
4/2000

Our deadline for the next issue of *epi* Information is **8 November 2000**. Documents for publication should have reached the Secretariat by this date.

Date limite pour
epi Information
4/2000

La date limite de remise des documents pour le prochain numéro de *epi* Information est le **8 novembre 2000**. Les textes destinés à la publication devront être reçus par le Secrétariat avant cette date.

Nachwahl zum *epi*-Rat für Portugal

Für den Ende des letzten Jahres verstorbenen Mr. J. Arantes e Oliveira, ordentliches *epi*-Ratsmitglied, wurde nach der Geschäftsordnung des Instituts eine Nachwahl durchgeführt.

Herr José Luis Arnaut, der stellvertretendes Ratsmitglied war, wurde als ordentliches Ratsmitglied, und Herr Pedro Alves Moreira als stellvertretendes Ratsmitglied gewählt.

epi Council By-election for Portugal

Following the death of Mr. J. Arantes e Oliveira, a full member of the *epi* Council, last year, a by-election was carried out according to the By-Laws of the Institute.

Mr. José Luis Arnaut, who was Council substitute member, was elected as ordinary member of the Council, and Mr. Pedro Alves Moreira as new substitute member.

Election complémentaire au Conseil de l'*epi* pour le Portugal

Faisant suite au décès de M. J. Arantes e Oliveira, membre titulaire du Conseil, à la fin de l'année dernière, une élection complémentaire a été organisée conformément aux dispositions du Règlement Intérieur de l'Institut.

M. José Luis Arnaut qui était membre suppléant du Conseil a été élu membre titulaire du Conseil, et M. Pedro Alves Moreira a été élu membre suppléant.

epi Excess Liability Insurance 2000/2001

On 1 October 2000 the *epi* Excess Liability Insurance scheme has gone into its twelfth year of existence. It aims to give better insurance coverage at a reasonable price to *epi* members.

The indemnity of basic professional liability insurance schemes is often limited to DM 2 million. Therefore, the *epi* Excess Liability Insurance scheme indemnifies losses as far as they exceed DM 2million/equivalent. Its limit of indemnity is a further 3 million per loss so that – together with basic insurance – a total loss of DM 5 million/equivalent is covered.

There is a collective indemnity limit to 30 million p.a. for all participating *epi* members which according to insurance calculations will hardly be reached. The premium for the *epi* Excess Liability Insurance scheme for the insurance year 2000/2001 amounts to DM 750,- plus insurance tax.

Persons wishing to join the *epi* insurance policy should directly contact the broker, Funk GmbH, for all policy matters, application forms etc., and payments. Please make your payments to the broker's account mentioned hereafter, free of bank charges, indicating the following reference „*epi* insurance 01 0047425000“ (this is the *epi* client number with the broker) as well as your name.

epi invites each member to carefully consider joining the *epi* Excess Liability Insurance scheme since clients' claims may easily reach the sum of DM 5 million. They may ruin your economic and professional situation if no adequate insurance cover is provided for. The *epi* Excess Liability Insurance scheme improves your insurance cover at a reasonable price and provides insurance cover for you as an *epi* member in all nineteen EPC contractual countries regardless of where you exercise your profession.

For further information on the *epi* Excess Liability Insurance please contact:

Funk International GmbH

Postfach 30 17 60
D-20306 Hamburg
Phone: +49 40 3 59 14-4 57
Fax: +49 40 3 59 14-5 59
Att: Mrs. G. Peiniger

Bank connection of Funk International GmbH:

Account No. 9 131 310 00
Bank Code 200 800 00
Dresdner Bank AG, Hamburg, Germany

Lichtbildausweis für zugelassene Vertreter

Lichtbildausweise für zugelassene Vertreter, die bei der Gebäudeverwaltung des Europäischen Patentamts *ab dem 1. Oktober 2000* bestellt werden, werden den Antragstellern nicht mehr gegen Hinterlegung der Unterschrift vom Institut der zugelassenen Vertreter (*epi*) ausgehändigt, sondern werden ihnen direkt seitens des EPA durch die Post zugestellt.

Ausweise, die von der Gebäudeverwaltung vor dem 1. Oktober 2000 ausgestellt worden sind, können beim *epi*-Sekretariat (Tal 29, 80331 München) *bis zum 15. Dezember 2000* abgeholt werden. Nach Ablauf dieses Termins werden die vor dem 1. Oktober 2000 beantragten, ausgestellten und noch nicht abgeholt Ausweise vernichtet.

Die Rechtsabteilung möchte die Inhaber des Ausweises darauf hinweisen, dass der Lichtbildausweis die zugelassenen Vertreter lediglich dazu berechtigt, im Fall einer mündlichen Verhandlung zu den Verhandlungs-

sälen des EPA Zutritt zu erlangen und dazu dient, die Arbeit der EPA-Bediensteten bei der Überprüfung der Personalien zu vereinfachen. Er gewährt sonst keine weiteren Vorteile wie z.B. Kantinenermäßigung.

Zugelassene Vertreter, die von dem Ausweis Gebrauch machen möchten, können das *Antragsformular* für die Ausstellung des Ausweises sowohl beim *epi* als auch beim EPA (Gebäudeverwaltung, Informationsstelle und Rechtsabteilung) anfordern oder abholen. Da die Lichtbildausweise von der Gebäudeverwaltung des EPA angefertigt und ausgestellt werden, erfolgt die Bearbeitung der Anträge ausschließlich durch die Gebäudeverwaltung. Ca. drei Wochen nach Eingang des Antrags werden die Ausweise seitens der Rechtsabteilung durch die Post zugestellt.

Bitte senden Sie ihre ausgefüllten Formulare deshalb ausschließlich an die Gebäudeverwaltung des EPA.

EPO pass for Professional Representatives

From 1 October 2000 on EPO passes for Professional Representatives, which have been applied for at the EPO Building Administration will no longer be collected against signature at the Institute of Professional representatives (*epi*). They will be mailed directly by the EPO to the requester.

Badges which have been issued by the EPO Building Administration before 1 October, 2000 can be collected at the *epi* Secretariat (Tal 29, 80331 Munich) *at the latest by 15 December 2000*. Those badges which have not been collected by that date will be destroyed.

The Legal Department draws the attention of badge owners that the EPO pass gives professional representatives access to the EPO rooms for oral proceedings and

makes it easier for the EPO employees to check their identity only. It does not provide any other advantage such as discount on the meals at the canteen.

Application forms are available either from the *epi* or the EPO (Building Administration, Information Desk, Legal Department). The application and the issuing of the badge will be dealt with exclusively by the EPO Building Administration. About three weeks after receiving the application the badge will be sent by mail by the Legal Department to the requester.

Therefore you are kindly requested to return your application form only to the EPO Building Administration.

Badge avec photo pour mandataires agréés

A partir du 1er octobre 2000 les badges avec photo dont la demande a été faite au service Gestion des bâtiments de l'OEB ne devront plus être retirés contre signature à l'Institut des mandataires agréés (*epi*). L'OEB les enverra par courrier directement aux demandeurs.

Les badges qui ont été délivrés par le service Gestion des bâtiments de l'OEB avant le 1er octobre 2000 peuvent être retirés au Secrétariat de l'*epi* (Tal 29, 80331, Munich) *jusqu'au 15 décembre 2000, date limite*. Les badges qui n'auront pas été retirés avant cette date seront détruits.

Le service juridique attire l'attention des mandataires agréés sur le fait que le badge sert uniquement à leur permettre l'accès aux salles de l'OEB en cas de procédure

orale, et à faciliter leur identification par le personnel de l'OEB. Le badge ne procure pas d'autres avantages comme p.ex. une réduction sur les repas à la cantine.

Les mandataires agréés peuvent se procurer un formulaire de demande de badge à l'*epi* ou auprès de l'OEB (service Gestion des bâtiments, Information, service juridique). Le traitement de la demande et la délivrance du badge sont effectués exclusivement par le service Gestion des bâtiments de l'OEB. Environ trois semaines après réception du formulaire, le service juridique enverra au mandataire agréé son badge par la poste.

C'est pourquoi nous vous prions de retourner votre formulaire de demande de badge uniquement au service Gestion des bâtiments de l'OEB.

Disziplinarorgane und Ausschüsse
Disciplinary bodies and Committees · Organes de discipline et Commissions

| | | |
|---|---|---|
| Disziplinarrat (epi) | Disciplinary Committee (epi) | Commission de discipline (epi) |
| AT – W. Katschinka AT – P. Révy von Belvard BE – G. Leherte CH – J. J. Troesch DE – W. Baum DE – G. Keller** DK – I. Kyed ES – V. Gil Vega | FI – P. C. Sundman FR – P. Gendraud FR – J.-P. Kedinger GB – J. Orchard GB – T. J. Powell GR – T. Kilimiris IE – G. Kinsella IT – G. Mannucci | IT – B. Muraca (Subst.) LI – P. Rosenich LU – J. Waxweiler NL – S. Ottevangers* NL – L. Ferguson PT – A. J. Pissara Dias Machado SE – P. O. Rosenquist |
| Disziplinarausschuss (EPA/epi) epi-Mitglieder | Disciplinary Board (EPO/epi) epi Members | Conseil de discipline (OEB/epi) Membres de l'epi |
| CH – C.-A. Wavre DE – W. Dabringhaus | FR – M. Santarelli | GB – J. Boff |
| Beschwerdekammer in Disziplinarangelegenheiten (EPA/epi) epi-Mitglieder | Disciplinary Board of Appeal (EPO/epi) epi Members | Chambre de recours en matière disciplinaire (OEB/epi) Membres de l'epi |
| CH – C. Bertschinger DE – H. Lichti FR – A. Armengaud Aîné | GB – E. Lyndon-Stanford GR – C. Kalonarou | IT – E. Klausner SE – C. Onn |
| epi-Finzen | epi Finances | Finances de l'epi |
| AT – P. Pawloy BE – A. Colens CH – T. Ritscher | DE – B. Feldmann* DK – K. Vingtoft FR – H. Dupont GB – J. U. Neukom** | IT – R. Dini LU – J. P. Weyland SE – B. Erixon |
| Geschäftsordnung | By-Laws | Règlement intérieur |
| CH – C. E. Eder* DE – K. Draeger** | FR – T. Schuffenecker | GB – T. L. Johnson |
| Standesregeln | Professional Conduct | Conduite professionnelle |
| AT – E. Kunz AT – E. Piso BE – P. Overath CH – U. Blum DE – W. O. Fröhling DE – H.-H. Wilhelm DK – L. Roerboel ES – C. Polo Flores | FI – L. Nordin FR – J. Bauvir FR – P. Vidon GB – J. D. Brown* GB – J. Gowshall GR – A. Patrinos-Kilimiris IE – P. Hanna | IT – A. Perani LU – J. Bleyer NL – F. Barendregt NL – F. Dietz PT – N. Cruz PT – F. Magno (Subst.) SE – L. Stolt SE – M. Linderoth |
| Europäische Patentpraxis | European Patent Practice | Pratique du brevet européen |
| AT – F. Gibler AT – G. Widtmann BE – E. Dufrasne BE – J. van Malderen CH – F. Fischer CH – P. G. Maué CY – C. Theodoulou DE – G. Schmitt-Nilson DE – F. Teufel DK – P. J. Indahl | DK – P. R. Kristensen ES – E. Armijo ES – L. A. Duran FI – E. Grew FI – A. Weckman FR – A. Casalonga* FR – J. Bauvir GB – P. Denerley** GB – I. Muir GR – D. Oekonomidis | GR – M. Zacharatou IE – P. Shortt IT – E. de Carli IT – A. Josif LI – S. Kaminski NL – W. Hoogstraten NL – L. J. Steenbeek PT – J. L. Arnaut PT – N. Cruz SE – S. A. Hansson SE – Z. Schöld |

*Chairman/**Secretary

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| (Examination Board Members) | | | |
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| DE – P. Weinhold | | | |
| Biotechnologische Erfindungen | | Biotechnological Inventions | Inventions en biotechnologie |
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| BE – A. De Clercq | | FI – M. Lax | IE – C. Gates |
| CH – W. Mezger | | FR – F. Chrétien | IT – G. Staub |
| DE – G. Keller | | FR – J. Warcoin | NL – H. Prins |
| DK – B. Hammer Jensen* | | GB – S. Wright | PT – J. E. Dinis de Carvalho |
| | | | SE – L. Höglund |
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| ES – I. Elosegui de la Pena | | | |
| Harmonisierung | | Harmonization | Harmonisation |
| BE – F. Leyder | | CH – F. A. Jenny* | GB – J. D. Brown** |
| DE – R. Einsele | | | SE – K. Norin |
| Elektronisches Anmeldesystem – Electronic Application System (EASY) Système de demandes électroniques | | | |
| BE – M. Van Ostaeyen | | ES – J. A. Morgades y Manonelles | FR – P. Vidon |
| DE – D. Speiser* | | FI – J. Virkkala | GB – R. Burt** |
| | | | NL – F. Dietz |
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| BE – D. Wante | | FR – J. J. Martin | LU – E. Meyers |
| CH – A. Braun | | GB – C. Mercer | MC – G. Collins |
| CY – C. Theodoulou | | GR – H. Papaconstantinou | NL – A. Huygens |
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| DK – K. E. Vingtoft | | IT – V. Faraggiana | SE – S. Berglund |
| ES – M. Curell Suñol | | | |
| Wahlausschuss | | Electoral Committee | Commission pour les élections |
| CH – H. Breiter* | | IE – A. Parkes | NL – J. Van Kan |

*Chairman/**Secretary