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Munich, April 8, 2013

### **Third Party Observation under Art. 115 EPC**

#### **Please transmit urgently to the Opposition Division in view of Oral Proceedings scheduled on 11-12 April 2013**

European Patent Nr. 1 040 185  
European patent Application Nr. 98 966 817.3 – 2401  
Patentee Brüstle, Oliver, Prof. Dr.

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Dear Sir, Dear Madam,

We refer to our earlier Third Party Observation under Art. 115 EPC of 11 January 2013.

With this new Observation we would like to stress that **epi** agrees with the content of the Third Party Observations filed on March 28, 2013 by George Schlich and NIABA.

In particular **epi** wishes to stress that predictability and harmonization are important goals and the EPO should adopt a position in which exclusions to patentability are interpreted as narrowly as possible given the legislative intentions. The EPO is urged not to adopt a more restrictive practice than that of the German Federal Court in this matter.

Respectfully submitted,

  
Antonius Tangena

President of **epi**