



Institut der beim Europäischen Patentamt zugelassenen Vertreter
Institute of Professional Representatives before the European Patent Office
Institut des mandataires agréés près l'Office européen des brevets

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Ausschuss für Europäische Patentpraxis
European Patent Practice Committee
Commission pour la Pratique du Brevet Européen

7th May, 2022

The Administrative Council and
The Committee on Patent Law
c/o The Administrative Council Secretariat,
The European Patent Office,
Munich

By email only

Dear Members of the Administrative Council and of the Committee on Patent Law,

Re: Legal Changes to Support Digital Transformation in the Patent Grant Procedure
CA/30/22

This letter is written on behalf of the Institute of Professional Representatives before the European Patent Office (“**epi**”). **epi** represents over 13,000 professional representatives from all the EPC member states. They represent a wide variety of users of the EPO, from individual inventors to multinational corporations.

epi held a Council meeting on 7th May, 2022 at which the above-referenced document was discussed. The document will be considered at the meeting of the Committee on Patent Law (CPL) on 12th May, 2022 and, depending on the outcome of that meeting, by the Administrative Council in June. We apologise for the late sending of this letter but this was occasioned by the scheduling of our Council meeting. This letter sets out the contribution **epi** intends to make to the meeting of the CPL.

As noted in CA/30/22, **epi** has been consulted by the Office regarding the proposals in this document and is pleased to see that its main objection to earlier proposals has been fully taken into account. In this respect, at its Council Meeting held on 7th May, 2022, **epi**'s Council unanimously approved the attached Statement, which is provided in English, French and German. The Statement records **epi**'s appreciation of the way in which this matter has progressed.

Although **epi** in general approves of the proposals in document, there are a few points where **epi** considers that further improvement could be made and **epi**'s suggestions are set out below.

Chair **Chris Mercer**

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Rules 46, 49 and 50

epi agrees with the principle underlying the proposed changes to these rules. These rules were designed for the paper era and so are not appropriate for the electronic era. It is also appreciated that the format of electronic documents is constantly changing and so having in the Implementing Regulations to the EPC detailed provisions relating to the format of electronic documents is inappropriate. It needs to be possible to amend the detailed provisions for the format of documents efficiently. Therefore, **epi** agrees that the power to provide detailed provisions for the format of documents should be delegated to the President of the Office.

epi appreciates the indication that there will be extensive consultation on any decisions taken by the President of the Office regarding document format.

On the proposed amendments, **epi** has concerns that the amendments to Rule 49 go too far. There are parts of Rule 49 which are not related to the format of the application documents but relate to matters of substance. In particular, Rule 49, paragraphs 10 and 11 should remain in the Rules and should not be determined by the President of the Office.

It also seems to be appropriate to have a single Rule relating to the format of all documents, whether application documents or later filed documents. This will make it easier for users to find information relating to the format of documents.

It is also noted that the amended Rule still relates to the “presentation” of documents. However, this appears to be an outdated word. In the digital age, the appropriate word appears to be “format”, which will certainly be familiar to anyone using word processing software to create a document. **epi** therefore suggests that this word be used.

In order to take all these points into account, **epi** suggests that there should be one Rule relating to the substantive requirements for the European patent application and one Rule relating to the format of all documents. Suggested wording for these Rules is set forth in the attached document. This would also require a concomitant amendment to Rule 57(i).

Rule 65

epi is generally in favour of the proposals regarding Rule 65. However, **epi** would urge the Office to ensure that the documents are made available in as small a size as possible. **epi** has noted that many documents available from the Office are getting larger and larger and so use up the Office’s resources, and therefore also user’s resources, and this tendency should be reversed.

Rules 126, 127 and 131

epi carried out a survey regarding the removal of the “10 day rule” and responses were split about 50:50. However, a consistent comment was that, if it is decided to remove this rule, a reasonable amount of notice should be given. It is therefore noted with appreciation that any amendment to Rules 126, 127 and 131 will not come into effect until 1st February, 2023.

Of course, this assumes that the amendments to these Rules will be approved by the Administrative Council at its meeting in June this year. Were this not to happen, **epi** requests that the entry into force be delayed until 8 months after the approval of the Rule amendments by the Administrative Council.

We look forward to the discussion of CA/30/22 at the forthcoming meeting of the Committee on Patent Law.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Mercer', with a stylized flourish at the end.

Christopher Mercer
Chair of EPPC

Motion
(Art. 38 By-Laws)

Council is requested to approve the following Statement:

STATEMENT

- (1) The Council of the Institute of Professional Representatives before the European Patent Office (epi) appreciates that the European Patent Office (EPO) has taken note of the objections raised by epi's delegates to the SACEPO-WPR and at a meeting between epi's European Patent Practice Committee and DG1 against the EPO's proposal to amend Rule 132 EPC to reduce the minimum time limit from 2 months to 1 month.

- (2) epi agrees with the decision of the European Patent Office (EPO) not to proceed with this proposal.

- (3) The Council of epi considers that no such proposal should be reintroduced by the EPO.

- (4) The Council of epi will forward this statement to the Administrative Council of the European Patent Organisation, its Committee on Patent Law and the EPO.

MOTION

(Art. 38 By Laws)

Der Rat wird gebeten, die folgende Erklärung zu genehmigen:

ERKLÄRUNG

- (1) Der Rat des Instituts der beim Europäischen Patentamt zugelassenen Vertreter (epi) begrüßt, dass das Europäische Patentamt (EPA) die Einwände zur Kenntnis genommen hat, die erhoben worden sind von den Delegierten des epi bei der SACEPO-WPR und bei einem Meeting zwischen dem European Patent Practice Committee (EPPC) des epi und DG1 gegen den Vorschlag des EPA, Regel 132 EPÜ zu ändern, um die Mindestfrist von 2 Monaten auf 1 Monat zu verkürzen.
- (2) epi stimmt der Entscheidung des Europäischen Patentamts (EPA) zu, diesen Vorschlag nicht weiterzuverfolgen.
- (3) Der Rat des epi ist der Ansicht, dass ein solcher Vorschlag vom EPA nicht erneut eingebracht werden sollte.
- (4) Der Rat des epi wird diese Erklärung an den Verwaltungsrat der Europäischen Patentorganisation, an den Ausschuss für Patentrecht des EPA und an das EPA weiterleiten.

MOTION

(Art. 38 By-Laws)

Le Conseil est prié d'approuver la déclaration suivante :

DÉCLARATION

- (1) Le Conseil de l'Institut des mandataires agréés près l'Office européen des brevets (epi) prend note que l'Office européen des brevets (OEB) a pris note des objections soulevées par les délégués de l'epi au SACEPO-WPR et lors d'une réunion entre la Commission EPPC de l'epi et la DG1 contre la proposition de l'OEB de modifier la règle 132 CBE afin de réduire le délai minimum de 2 mois à 1 mois.
- (2) l'epi est d'accord avec la décision de l'Office européen des brevets (OEB) de ne pas donner suite à cette proposition.
- (3) Le Conseil de l'epi considère qu'aucune proposition de ce type ne devrait être réintroduite par l'OEB.
- (4) Le Conseil de l'epi transmettra cette déclaration au Conseil d'administration de l'Organisation européenne des brevets, à sa commission du droit des brevets et à l'OEB.