

CA/PL 1/19

Orig.: en

Munich, 18.01.2019

AGENDA

for the

50th meeting of the

COMMITTEE ON PATENT LAW

Munich, 19 and 20 February 2019

(commencing at 14.00 hrs)

- Room 102 -

SUBMITTED BY: Council Secretariat

ADDRESSEES: Committee on Patent Law (for adoption)

To enable us to organise the seating arrangements, delegations are requested to inform the Council Secretariat (by e-mail to council@epo.org) of the names of their representatives (title, first and family names) by **8 February 2019** at the latest.

A. INFORMATION RELATING TO THE MEETING

- The Committee on Patent Law will hold its 50th meeting on Tuesday, 19 February 2019 (commencing at 14.00 hrs) and Wednesday, 20 February 2019.

Venue: European Patent Office
Room 102
Bob-van-Benthem-Platz 1
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B. PROVISIONAL AGENDA

1. (dec) Adoption of the provisional agenda (CA/PL 1/19)
2. (dec) Approval of the draft minutes of the Committee's 49th meeting (CA/PL 7/18)
3. (inf) Update on the patentability of inventions concerning plants and animals under the EPC (CA/PL 3/19)
4. (inf) Report on the results of the online consultation on increased flexibility in the timing of the examination process (CA/PL 6/19 e)
5. (inf) Legal aspects of patenting inventions involving artificial intelligence – replies to CA/PL 10/18 (CA/PL 7/19 e)
6. (opn) Amendment to the Implementing Regulations to the EPC regarding notification by postal services - Rule 126 EPC (CA/PL 5/19)
7. (inf) Status report on Substantive Patent Law Harmonisation
8. (opn) Status report on PCT legal developments (CA/PL 4/19)
9. (inf) Status report on procedural patent harmonisation within IP5
10. (inf) Any other business

ANNEX 1 SHORT SUMMARY OF THE MAIN ITEMS FOR EARLY INFORMATION TO THE DELEGATIONS

3. (inf) Update on the patentability of inventions concerning plants and animals under the EPC (CA/PL 3/19)

With CA/PL 3/19 the Office continues to inform delegations about the implementation of amended Rules 27(b) and 28 EPC (exclusion from patentability of plants and animals exclusively obtained by means of an essentially biological process) in the practice of examining and opposition divisions. Statistical figures are provided. Other topics addressed include the ongoing cooperation with the Community Plant Variety Office. The implications of decision T 1063/18 for the Office's practice will be discussed under this agenda item, too.

4. (inf) Report on the results of the online consultation on increased flexibility in the timing of the examination process (CA/PL 6/19 e)

In autumn 2017 the Office presented a proposal to allow applicants to postpone the start of substantive examination. In view of the mixed feedback received from the user community and the Contracting States, the Office has launched a broad online consultation on increased flexibility in the timing of the examination process and the possible options to achieve this. The consultation was launched on 19 November 2018 and remained open until 11 January 2019. The results of the user consultation are presented to the Committee for information.

5. (inf) Legal aspects of patenting inventions involving artificial intelligence – replies to CA/PL 10/18 (CA/PL 7/19 e)

Artificial intelligence (AI)-related patent applications have raised questions regarding inventorship of AI inventions, patentability of AI, assessment of inventive step and sufficiency of disclosure. These topics are being discussed within the IP5 Cooperation and the discussion of these issues among the EPC Contracting States will help develop a common understanding and increase legal certainty.

6. (opn) Amendment to the Implementing Regulations to the EPC regarding notification by postal services - Rule 126 EPC (CA/PL 5/19)

As a result of differing delivery systems in the Contracting States, advices of delivery are often not returned to the EPO so that their suitability to prove notification is limited. The Office is therefore considering removing the requirement of the advice of delivery. Notification by registered letter would become the standard form of notification for documents subject to notification from which time limits are reckoned.

7. (inf) Status report on Substantive Patent Law Harmonisation

The delegations will be informed of the state of play of the work within the Industry Trilateral and the B+ Sub-Group. They will also be consulted on the possible next steps which lie ahead.

8. (opn) Status report on PCT legal developments (CA/PL 4/19)

The EPO will give an update on a series of issues of common interest in the framework of the PCT, namely the status of the discussions on erroneous filings (by reference to last year's CA/PL 6/18), the EPO proposal to introduce safeguards in case of outages attributable to Offices in the PCT, the joint pilot run with WIPO regarding the PCT Fees Netting System and the application of Rule 23bis PCT which entered into force last year.

9. (inf) Status report on procedural patent harmonisation within IP5

An update will be provided on the recent activities of the IP5 Patent Harmonisation Expert Panel (PHEP) that has been pursuing procedural patent harmonisation. In particular, the presentation will discuss the successful conclusion of the EPO CNIPA co-led item on unity of invention which provides for a common approach for raising non-unity objections among the IP5 Offices and enhances the predictability of non-unity assessments for users.