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Editorial

J. Gowshall . J. Kaden . E. Liesegang . T. Schuffenecker

This latest edition of epi information issues shortly after the announcement of the re-structuring of the arrangement for the European Patent Office to act as an International Searching Authority in respect of cases filed at Receiving Offices where the European Patent Office is not a designatable International Search Authority.

As our readers will know, the deal has been re-structured so that a maximum of five thousand such PCT applications will be searched by the European Patent Office. The understanding is that the allocation of these five thousand will be dependent upon the workload of the relevant Directorates. Thus, for example, it is expected that Biotechnology Directorates will do no International Searching or Preliminary Examination of PCT applications filed at Receiving Offices for which the European Patent Office is not an authorised International Search Authority.

As we enter what appears to be a worldwide recession, it is interesting that there are still some areas which are booming, the EPO being a shining example. Interestingly, most industries, responding to an increase in demand for their product, do not take steps to meet the increased pressure on their production ability by removing access of a portion of their customers to the product itself!

It is also not clear as to the extent of beneficial effect, in the long term, this re-structuring agreement will have. For whilst the pressure on European Patent Office Examiners to conduct International Search and International Preliminary Examination within the PCT time limits will be removed, it is less certain that this will translate into faster examination of the European patent applications

which is, presumably, the ultimate goal. In the long term, of course, the lack of International Preliminary Examination before the European Patent Office will result in many more cases entering the European Regional Phase without a European Examination. Thus, the European Patent Office will less and less be able to rely upon International Preliminary Examination Reports and will have to conduct full Substantive Examination of cases entering the European Regional Phase. This, in turn, may well cause a backlog of cases in European Examination similar to that experienced at the moment. Furthermore, it should be remembered that the presence of a highly unfavourable International Preliminary Examination Report conducted by the European Patent Office is often enough to deter applicants from entering the European Regional Phase. The absence of such an examination may well mean that more PCT applications will enter the European Regional Phase because the applicants are uncertain as to the stance that the European Patent Office will take to the technology. This may mean that the overall number of PCT applications entering the European Regional Phase will rise. Given that the applicants will have had to spend additional fees at the European Patent Office they may well fight harder for their applications. It is possible that the effect of both of these factors will be that the search and examination workload at the European Patent Office will actually increase.

Of course, none of these outcomes are certain. The only thing that we know at present is that interesting times are still with us.

Bericht der 51. Ratssitzung in Lugano, 22.-23. Oktober 2001

Die 51. Ratssitzung des *epi* in Lugano war wieder interessant, es wurde lebhaft über berufliche Themen diskutiert.

Präsident Walter Holzer eröffnete die Sitzung am 22. Oktober 2001 um 9 h. Vor Beginn der offiziellen Sitzung hielt der Rat eine Schweigeminute im Gedenken an Herrn Ken Veryard aus Großbritannien, einen früheren Präsidenten des *epi* Rates.

Die Stimmenzähler wurden bestimmt und die Tagesordnung angenommen. Das Protokoll und die Beschluss- und Maßnahmenliste der 50. Ratssitzung wurden angenommen. Der Präsident kam dann auf die Beschlüsse zurück, die der Vorstand seit der letzten Ratssitzung gefasst hat.

Der Präsident legte seinen Bericht vor, der in gekürzter Fassung in dieser Ausgabe veröffentlicht ist. Nachfolgend erstattete der Generalsekretär seinen Bericht. Dann legte der Schatzmeister seinen Bericht mit dem Haushalt 2002 vor; dieser Bericht ist an anderer Stelle in dieser Ausgabe veröffentlicht.

Die Aufmerksamkeit des Rates richtete sich dann auf die für 2002 vorgesehene Revision des Europäischen Patentübereinkommens, womit die Europäische Union Mitglied des EPÜ werden könnte.

Der Rat diskutierte über die Prüfungssituation im EPA, bevor er sich den Standesregeln zuwandte. Die Europäische Kommission warf Fragen zur Entscheidung des Gerichtshofes Erste Instanz auf, die vom *epi* beantwortet wurden.

Hierauf folgte eine Diskussion über einen Vorschlag des Geschäftsordnungsausschusses hinsichtlich der Größe der Ausschüsse. Der Rat wies den Vorschlag zurück, die Größe der Ausschüsse zu beschränken, indem kleine Länder verpflichtet werden, sich zusammenzuschließen. Der vorgeschlagene Text wurde verworfen.

Der Tag endete mit den Berichten des Disziplinarausschusses, des Ausschusses für die Berufliche Qualifi-

kation (PQC), der Schriftleitung und des Ausschusses für die Europäische Patentpraxis (EPPC). Der Bericht des PQC löste eine längere Diskussion über die Prüfungsbedingungen aus, insbesondere für Kandidaten aus Ländern, deren Sprache nicht eine der offiziellen Amtssprachen des EPA ist.

Dann beendete der Präsident die Sitzung für diesen Tag.

Die Sitzung ging am 23. Oktober 2001 um 9 h weiter. Der Bericht des EPPC wurde beendet, es folgte der Bericht des Ausschusses für Online Kommunikation, der anderswo in dieser Ausgabe veröffentlicht ist.

Dann eröffnete der Präsident Diskussionen über das Gemeinschaftspatent und das Gemeinschaftsgebrauchsmuster. Bzgl. ersterem diskutierte der Rat u.a. über die aufgeschobene Prüfung, die Dezentralisierung von Prüfungen und Probleme der Vertretung. Der Rat verwarf die aufgeschobene Prüfung und stimmte gegen ein Delegieren der Arbeit des EPA im Unterauftrag. Betreffend das Gemeinschaftsgebrauchsmuster stimmte der Rat für eine Richtlinie anstatt einer Verordnung.

Dann berichtete der Präsident als Beobachter über die Arbeitsgruppe Streitregelung. Der Arbeitsgruppe Streitregelung wurde ein *epi* Positionspapier über die Vertretung beim EPLP-Gerichtshof geschickt. Das *epi* wird auch der Europäischen Kommission ein Positionspapier schicken. Das *epi* erachtet auch eine spezielle Ausbildung von Europäischen Patentanwälten für notwendig, um sie als „Patentstreitregler“ zu qualifizieren, und plant zu diesem Zweck zusammen mit dem CEIPI Trainingskurse für Europäische Streitregelung.

Die Sitzung endete mit einem kurzen Bericht über den Beitritt der neuen Länder zum EPÜ, und die Termine für die nächsten Vorstands- und Ratssitzungen wurden festgelegt. Dann beendete der Präsident die Sitzung um 13 h und dankte den *epi* Mitgliedern aus der Schweiz und Liechtenstein für die Organisation der Sitzung und ihre liebenswürdige Gastfreundschaft.

Entwurf der Ratsbeschlüsse, 51. Ratssitzung, Lugano, 22.-23. Oktober 2001

1. Der Mitgliedsbeitrag für das Jahr 2002 wird auf EUR 150 festgesetzt, wenn die Zahlung bis zum oder am 30. April 2002 erfolgt, und auf EUR 175, wenn die Zahlung nach dem 30. April 2002 erfolgt.
2. Die Überarbeitungen zum Haushalt 2001 wurden vom Rat gebilligt.
3. Der Haushalt 2002 wurde wie vom Schatzmeister vorgelegt angenommen.
4. Der Rat billigte, dass die derzeitige Mitgliedsgebühr für die Studenten gleich bleiben und in EURO umgerechnet werden soll.
5. Der Rat billigte, dass der Disziplinarausschuss weitere Schritte unternimmt, um die Übertragung der Domain „European Patent Attorney“ vom Anmelder auf *epi* zu erhalten.
6. Der Rat billigte nicht, dass der PQC der Frage nachgehen soll, ob die Papiere für die Europäische

- Eignungsprüfung in den Muttersprachen der Kandidaten sein sollten.
7. Der Rat billigte, dass ein Positionspapier des epi an WIPO geschickt wird bzgl. der Abschaffung der Benennungsgebühren.
 8. Der Rat billigte, dass dem EPA der Entwurf von Regel 101a zum Client/Attorney-Privileg geschickt wird, um ihn in die Ergänzungsvorschriften des EPÜ aufzunehmen.
 9. Der Rat wies einstimmig die aufgeschobene Prüfung zurück.
 10. Der Rat billigte, dass der EPPC ein Positionspapier zu den „Save time“-Vorschlägen des EPA vorbereiten soll
 11. Der Rat billigte, dem EPA einen Brief zu schicken, in dem unterstrichen wird, dass Einschreiben vom EPA an zugelassene Vertreter oft nicht zugestellt werden, und dass dieser Situation Abhilfe geschaffen werden soll.
 12. Der Rat billigte, dem EPA einen Brief zu schreiben, in dem eine Änderung der Espacenet-Politik gefordert wird, d. h. die Schaffung der Möglichkeit, ein ganzes Dokument oder bestimmte Teile davon herunterzuladen.
 13. Der Rat billigte die überarbeiteten Zuständigkeitsbereiche des Ausschusses für Online-Kommunikation.
 14. Der Rat billigte, dass der Bericht des EPA-Finanzausschusses in einem Brief an das EPA geschickt werden soll.
 15. Der Rat billigte, dass der Präsident des epi den Präsidenten des EPA im Hinblick auf eine gemeinsame Stellungnahme bzgl. des Schutzes von Produkten per se kontaktieren soll.
 16. Der Rat billigte, dass der Verwaltungsrat aufgefordert werden soll, einen zweiten Absatz zu Art. 15 (Übergangsbestimmungen) der Verordnung zur Errichtung des Institutes hinzuzufügen.
 17. In der Diskussion über die Verordnung des Gemeinschaftspatents bekräftigte der Rat, dass das Gemeinschaftspatent innerhalb des Europäischen Patents eine Benennung sein soll, und stimmte im Übrigen gegen jedes Delegieren von Arbeiten mittels Unteraufträgen durch das EPA.
 18. Der Rat stimmte für die Einführung eines harmonisierten Gebrauchsmusterschutzes in der EG durch eine Richtlinie.
 19. Die 53. Ratssitzung wird am 28. und 29. Oktober in Stratford-upon-Avon zusammen mit der Feier zum 25. Jahrestag des epi am 26. Oktober stattfinden.

Report of the 51st Council Meeting in Lugano 22-23 October 2001

The 51st epi Council Meeting in Lugano was again an interesting one, with strong discussions on professional matters.

The President, Walter Holzer, opened the meeting at 9.00 a.m. on 22 October 2001. Before commencing the official business, the Council stood for a minute silence in memory of Mr. Ken Veryard from United Kingdom, a previous President of epi Council.

The scrutineers were appointed and the agenda was adopted. The minutes, and list of decisions and actions made at the 50th Council Meeting, were approved. The President then reviewed the decisions taken by the Board since the previous Council Meeting.

The President presented his report, which is published in a shortened version in this edition. Subsequently the Secretary General made his report. Then the Treasurer presented his report including the 2002 budget, which report is published elsewhere in this edition.

The attention of the Council then turned to the further Revision of the European Patent Convention foreseen for 2002, in order for the European Union to become a member of the EPC.

The Council discussed the Examination situation in the EPO before turning to the Code of Conduct. The European Commission presented questions on the decision

of the Court of First Instance, which were answered by the epi.

This was followed by a discussion of a proposal of the By-Laws Committee regarding the size of the Committees. The Council opposed the proposal, to limit the size of the Committees by introducing an obligation to group small countries together. The proposed text was rejected.

The day finished with reports of the Disciplinary Committee, the Professional Qualification Committee, Editorial Board and EPPC. The majority of these reports are published elsewhere in this issue. The report from the PQC generated a lengthy discussion on the examination conditions, particularly for people from countries which have none of the EPO official languages as their own.

The President then closed the meeting for the day.

The meeting resumed at 9.00 a.m. on 23 October 2001. The EPPC report was finished, to be followed by the Online Communications Committee report which is published elsewhere in this edition.

The President then introduced debates on the Community Patent and Community Utility Model. In respect of the former, the Council discussed, among others, the matters of deferred examination, decentralisation of examination and problems of representation. The Coun-

cil rejected deferred examination and voted against the EPO sub-contracting of work. With respect to the Community Utility Model, the Council voted in favour of a Directive instead of a Regulation.

The President then reported as an observer on the Working Party on Litigation. An *epi* Position Paper on Representation before the EPLP Courts has been sent to the Working Party on Litigation. The *epi* will also send a position paper to the European Commission. The *epi* sees also a need for special education of European patent attorneys in order to qualify as a „patent liti-

gator“ and, to this end, plans training courses, together with CEIPI, on European patent litigation.

The meeting concluded with a short report on the accession of the new countries to the European Patent Convention, and the dates of the next Board and Council Meetings were agreed. The President then closed the meeting at 1.00 p.m., offering thanks to the *epi* members of Switzerland and Liechtenstein for their organisation of the meeting and their gracious hospitality.

Draft List of Decisions, 51st Council Meeting, Lugano 22-23 October 2001

1. The membership subscription for the year 2002 is fixed at EUR 150, when payment is made on or before April 30, 2002, and set at EUR 175 when payment is made after April 30, 2002.
2. The revisions to the budget 2001 were approved by Council.
3. The budget 2002 as proposed by the Treasurer was adopted.
4. Council approved that the current membership fee for student membership be maintained, and converted into EUR.
5. Council approved of the Disciplinary Committee taking further steps in view of obtaining an assignment of the domain name „European Patent Attorney“ by the applicant to *epi*.
6. Council did not approve of the PQC investigating whether the EQE papers should be in the mother tongue of candidates.
7. Council approved sending an *epi* position paper to WIPO as regards elimination of designation fees.
8. Council approved sending to the EPO a draft provision of Rule 101a on the client/attorney privilege, for introduction in the Implementing Rules to the EPC.
9. Council rejected unanimously deferred examination.
10. Council approved that a position paper should be prepared by the EPPC on EPO Save Time Proposals.
11. Council approved sending a letter to the EPO, stressing that registered mail sent by the EPO to Professional Representatives is often not delivered, and that a solution should be found to this situation.
12. Council approved sending a letter to the EPO requesting a change in the policy of Espacenet, i.e. providing the possibility of downloading the whole, or selected parts, of a document.
13. Council approved the revised Terms of Reference of the Online Communications Committee.
14. Council approved that the report of the EPO Finances Committee should be converted to a letter to the EPO.
15. Council decided that the *epi* President should contact the President of the EPO with a view of issuing a common statement concerning protection of products *per se*.
16. Council decided that the AC would be asked to add a 2nd para. to Art. 15 (Transitional provisions) of the Regulation on the Establishment of the Institute.
17. In the discussion on the Community Patent Regulation Council confirmed that the Community Patent should be one designation within the European Patent, and furthermore voted against the idea of the EPO sub-contracting work.
18. Council voted in favour of the introduction of a harmonized Utility Model protection in the Community through a Directive.
19. The 53rd Council meeting will be held on October 28 and 29, 2002 in Stratford-upon-Avon with a celebration of 25 years of *epi* on October 26.

Compte rendu de la 51ème réunion du Conseil à Lugano 22-23 octobre 2001

La 51ème réunion du Conseil de l'epi à Lugano a été comme à l'accoutumée intéressante et ponctuée de vives discussions concernant des questions professionnelles.

La session fut ouverte le 22 octobre 2001, à 9 heures, par le Président Walter Holzer. Le Conseil observe tout d'abord une minute de silence à la mémoire de M. Ken Veryard de Grande Bretagne, ancien Président de l'epi.

L'adoption de l'ordre du jour se poursuit avec la nomination des scrutateurs. Le compte rendu de la réunion du Conseil à Madrid ainsi que la liste des décisions et actions de la 50ème réunion du Conseil sont approuvés. Le Président présente ensuite les décisions et mesures prises par le Bureau depuis la dernière réunion du Conseil.

Le Président présente ensuite son rapport dont un compte rendu abrégé est publié dans cette édition d'epi Information. Le Secrétaire Général présente son rapport, suivi de celui du Trésorier, qui inclut le budget pour l'année 2002. Ce rapport est publié dans cette édition.

Le Conseil est ensuite informé qu'une 2ème Conférence pour la révision de la Convention sur le brevet européen (CBE) est prévue en 2002 afin de permettre à l'Union Européenne de devenir membre de la CBE.

Le Conseil discute de la situation des procédures d'examen à l'OEB avant d'aborder la question du Code de Conduite. L'epi a répondu aux questions de la Commission Européenne qui demandait des précisions en ce qui concerne la décision du Tribunal de Grande Instance.

Une discussion s'ensuit relative à une proposition de la Commission du Règlement intérieur concernant l'effectif des commissions. Le Conseil rejette la proposition de limiter les effectifs des commissions en obligeant les plus petits pays à se regrouper.

La première journée de réunion se termine avec la présentation des rapports de la Commission de discipline, de la Commission de Qualification Professionnelle (PQC), du Comité de Rédaction et de la Commission de „Pratique du Brevet européen“ (EPPC), qui sont pour la

plupart publiés dans cette édition. Le rapport du PQC soulève une longue discussion en ce qui concerne les conditions d'examen, particulièrement pour les candidats dont la langue maternelle n'est pas l'une des trois langues officielles.

Le Président ferme la session du jour.

La réunion reprend le 23 octobre 2001 à 9 heures. Le rapport de l'EPPC est terminé. Il est suivi du rapport du Comité des Communications en ligne, publié dans cette édition.

Le Président ouvre ensuite le débat sur la question du Brevet Communautaire ainsi que sur le Modèle d'Utilité Communautaire. En ce qui concerne ce dernier, le Conseil discute entre autres des questions de procédure d'examen différée, de décentralisation des procédures d'examen et des problèmes de représentation. Le Conseil rejette le principe de la procédure d'examen différée et se prononce contre la proposition de l'OEB de donner le travail en sous-traitance. En ce qui concerne le Modèle d'Utilité Communautaire le Conseil vote en faveur d'une directive plutôt que d'un règlement.

Le Président présente un rapport sur le Groupe de Travail „Contentieux“. Une prise de position de l'epi sur la représentation devant les tribunaux EPLP a été envoyé au Groupe de Travail „Contentieux“. Une prise de position de l'epi sera également envoyée à la Commission Européenne. L'epi est aussi conscient de l'opportunité de recourir à une formation spéciale pour que les mandataires européens puissent devenir „conseils dans le contentieux“ et dans cette perspective envisage, en collaboration avec le CEIPI, des cours de formation sur les litiges en matière de brevets européens.

La réunion se termine avec un bref rapport sur l'adhésion des nouveaux pays à la Convention sur le Brevet européen. Les dates des prochaines réunions du Bureau et du Conseil sont acceptées. A 13 heures, le Président déclare la séance close et exprime ses remerciements aux organisateurs de Suisse et du Liechtenstein pour l'organisation de la réunion et pour leur hospitalité.

Projet de liste des décisions, 51ème réunion du Conseil, Lugano 22-23 octobre 2001

1. La cotisation est fixée à 150 EUR pour l'année 2002 si le paiement est effectué avant le 30 avril 2002, et à 175 EUR si le paiement est effectué après le 30 avril 2002.
2. Le budget révisé pour l'année 2001 est approuvé.
3. Le budget 2002 est adopté tel que proposé par le Trésorier.
4. Le Conseil approuve de maintenir le montant de l'inscription pour les étudiants de l'epi au tarif actuel.
5. Le Conseil approuve que la Commission de discipline entreprenne les démarches nécessaires en vue de la revendication du nom de domaine „European Patent Attorney“.

6. Le Conseil rejette la proposition que la Commission de Qualification Professionnelle examine la possibilité de faire les épreuves d'examen dans la langue maternelle des candidats.
7. Le Conseil approuve l'envoi d'une prise de position de l'*epi* à l'OMPI concernant la suppression des taxes de désignation.
8. Le Conseil approuve d'envoyer à l'OEB un projet de texte de la Règle 101a concernant le principe du privilège et de la confidentialité des échanges entre le client et son mandataire, dans le but d'inclure celui-ci dans le Règlement d'exécution de la CBE.
9. Le Conseil rejette à l'unanimité le principe de la procédure d'examen différée.
10. Le Conseil approuve que l'EPPC prépare une prise de position de l'*epi* sur les propositions faites par l'OEB pour réduire le retard dans les procédures d'examen.
11. Le Conseil approuve l'envoi d'un courrier à l'OEB afin de porter à son attention qu'il est fréquent que le courrier envoyé en recommandé aux mandataires n'arrive pas à destination, et de demander qu'une solution à ce problème soit trouvée rapidement.
12. Le Conseil approuve l'envoi d'un courrier à l'OEB pour demander un changement de la politique d'*Esp@cenet*, afin de permettre de télécharger le document dans son intégralité ou par sections.
13. Le Conseil approuve les attributions révisées du Comité pour les communications en ligne.
14. Le Conseil approuve que les actions proposées dans le rapport de la Commission des Finances de l'OEB devront faire l'objet d'une lettre à l'attention de l'OEB.
15. Le Conseil approuve que le Président de l'*epi* contacte le Président de l'OEB aux fins de présenter une prise de position commune sur la protection des produits per se.
16. Le Conseil approuve que l'*epi* demande au Conseil d'Administration d'ajouter un 2ème paragraphe à l'article 15 (Dispositions transitoires) du Règlement relatif à la création d'un Institut.
17. Au cours de la discussion sur la Réglementation du Brevet Communautaire le Conseil confirme que le Brevet Communautaire doit être une désignation à l'intérieur du Brevet européen. De plus, le Conseil rejette la proposition faite par l'OEB de donner le travail en sous-traitance.
18. Le Conseil se prononce en faveur d'une Directive en vue de l'introduction d'une harmonisation de la protection du Modèle d'Utilité au sein de la Communauté européenne.
19. La 53ème réunion du Conseil aura lieu à Stratford-upon-Avon les 28 et 29 octobre 2002, avec la célébration du 25ème anniversaire de l'*epi*, le 26 octobre.

President's Report (Summary)

W. Holzer (AT)

The president reported that in May 2001 the Swedish Association of Patent Attorneys had invited him to speak about the *epi* after the annual meeting of the association. In June he participated in the annual SACEPO meeting in Munich, which inter alia dealt with the next EPC Revision conference, solely concerning the accession of the European Union to the EPC, and the changes required therefor in the EPC. The SACEPO meeting also dealt with the PCT problem, e.g. the amendment of Rule 107 EPC.

A further engagement was the meeting of the Board of the CEIPI where it was proposed to continue the successful European Seminar of CEIPI (with *epi* participation) at least on an annual basis. The project of enhancing the CEIPI computer system was presented. This will enable CEIPI to improve databases, e-learning and networking relations with partner institutes. The new statutes of CEIPI-EPS await approval of three French ministries. Further items of discussion were the joint seminar CEIPI-*epi* in Copenhagen in 2001 for 75 persons (a further seminar is planned for December 3, 2001 in

Milan), an intensive course seminar in cooperation with the EPO in Strasbourg for students from the East, Latin America and Asia, as well as a seminar to be held in Turkey in collaboration with *epi* for future members. The question raised by the representative of UNICE was also dealt with: why does the industrial property field not attract more professionals?

Also in June the president participated in a Podium Discussion organised by the EPO with a staff representative, members of the EPO management and a UNICE representative. The discussion dealt with the EPO Mission Statement, which had been issued earlier in the year. The audience comprised Munich EPO staff as well as delegates to the Administrative Council meeting. The discussion was televised to the Pschorrhöfe, Berlin and Vienna.

In the June meeting of the Administrative Council the Agenda inter alia comprised the expansion of the EPO to Lithuania and Latvia, the time frame for the next Revision of the EPC to accommodate the Community patent, including the convening of a Diplomatic Conference in

2002. UNICE and *epi* stressed the importance of the role of the EPO in connection with the Community patent. The AC agenda further included the revision of the EPC as concerns the transitional provisions, the new text of the EPC, the amendment of Rule 107 EPC and Rule 108 EPC and the role of the EPO as PCT authority.

In July the president was pleased to attend a meeting of the Working Party on Litigation in The Hague dealing with the Second Proposal for an EPLP. The principal topics of this paper were on the agenda. Also in The Hague a second Podium Discussion concerning the Mission Statement took place in the EPO. The discussion with a slightly different podium was well attended from the side of the Hague staff.

At the end of July, vice president Le Vaguerèse and the president visited the European Commission which had suggested a discussion the *epi* position paper on the Community patent. As the Commission is pursuing its own plans for a Community patent court, *inter alia* the problem of technical judges and the role of patent attorneys in the context of representation were topics.

The president finally reported that the *epi* assisted the EPO International Academy and the Max Planck Institute in organising a Symposium on Enforcement of Intellectual Property Rights and Patent Litigation (mainly for invited patent judges). The Symposium took place in the EPO in September. The president presented a paper on the role of European patent attorneys before courts, and also participated in a mock trial.

Treasurer's Report

P. Kelly (IE)

The accounts/budgets are expressed in Euro.

Please note that the half year accounts for 2001 are in fact accounts to June 25, 2001. This position has arisen due to an updating of the computer system at the Secretariat, which commenced during the last week of June, coupled with a subsequent upgrade of the computer software. The half year accounts indicate that in all major areas of income and expenditure we are within budget.

The apparent low level of expenditure for Committee meetings, SACEPO and rent is a timing factor and since the end of June these expenditure items have come back into line with budget.

The budget 2001 has been increased by € 9203 to take account of phone costs billed in error to the EPO and for which *epi* is now responsible, and € 1023 to take cognisance of some ongoing costs in relation to the EEC Appeal.

The budget 2002 projects a deficit of € 65620. The major items to be noted in the budget 2002 are:

(a) Membership income is based on 6250 members at a reduced membership subscription of € 150. This assumes 150 new members from the new countries will pay subscriptions in 2002.

(b) On the expenditure side the increase in reimbursement costs approved by Council in Madrid has been factored in – however, no additional increase in Committee, Council or Board meeting costs is envisaged since the impact of the new members from the ten (10) new countries on such costs is not expected to arise until 2003.

(c) Increases in Secretariat costs have been provided to take account of the anticipated extra workload at the Secretariat in the second half of the year 2002 in relation to the new countries.

(d) The budget provision for promotional activity item 5.5 at € 44000 includes a provision of € 30000 for costs arising in relation to the 25th anniversary celebratory seminar/dinner to be held in conjunction with the 2002 Autumn Council Meeting in the United Kingdom.

Report of the Committee on Biotechnological Inventions

B. Hammer Jensen (DK)

Introduction

Since the last Council meeting in Madrid in May 2001, the Committee held one meeting on 18 October 2001. Communications have also been exchanged by the use of e-mail.

Substantive Questions

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

The status of the implementation process has been monitored quite extensively. The present situation has unfortunately not changed substantially since the last report, namely that Denmark, Finland, Eire and the UK have implemented the directive in their national legislation and countries like Greece, Portugal, Spain, and Luxembourg in spite of earlier expectations have not yet implemented. In Sweden the implementation law is expected to pass in the present parliamentary season without major problems, while in the countries Austria, France, Belgium, Holland and Germany problems are present and expected to remain for some time. Members of the committee report at intervals on the progress of the implementation process in their respective member states.

The Committee noted with approval that the European Court of Justice (ECJ) has rejected all the complaints of the Dutch Government (as supported by Italy and Norway) against the legality of the Directive.

Further the Committee noted that apparently the EU Commission has been quietly putting pressure on national governments to implement the Directive, and communicated warnings of proceedings before the ECJ to the countries that have not yet implemented.

It must be hoped that the decision of the ECJ and the action of the EU Commission may accelerate the implementation in some of the countries. Concerning the specific „problem“ countries the present status is believed to be as follows: In France the implementation will be without Article 5 (human materials). In Germany there is much discussion about the claim scope on especially human genes, and the Justice Department is considering introducing a new law in Germany, which would prohibit all product per se protection in Germany. It was thought that this might be contrary to the EPC. It was reported that the German government might try to have a similar amendment made to the EPC. A last minute report from a hearing in the Bundestag on 17 October indicates that such a situation may be avoided and that Germany may adapt a complete implementation law in November, but the Committee suggests

that the matter should be referred to the EPPC for further consideration.

In this connection it was noted that the EPO had not yet taken any positive steps to counter such a proposal and that members of the EPO staff had made personal statements in the media questioning the absolute product protection as provided in the EPC. These statements had wrongly been presented as the views of the EPO, and this has not been countered by the EPO.

The Committee therefore suggests that the *epi* President should contact The President of the EPO with a view of issuing a common statement concerning this issue.

The Council approved that the EPPC shall consider the issue of absolute product protection for chemicals, and that the Committee on biotechnological inventions shall draft a communication for the *epi* President to contact the President of the EPO as indicated.

EPO Practice in respect of Rule 23:

The members again discussed this issue, and some cases have now been identified, wherein practice in respect of „unity“, „sufficiency“ „industrial applicability“ and „moral issues“ seemingly may have changed in a more restrictive manner. Especially on the issue of „sufficiency“ it appears that the later provision of supportive evidence of alleged properties will not be accepted and it will be required that experimental evidence thereof must be present in the application as filed. This is contrary to established practise and will require attention. However, it is still too early to draw final conclusions. The Committee will continue monitoring the situation, but urges that all *epi* members report any noted changes in EPO practice to the Committee.

The Council noted the deliberations of the Committee and invites all *epi* members to report as indicated.

Meeting with members of DG2

In view of the above it was suggested that there should be regular meetings between members of the Committee and members of the Biotech divisions of DG2 and DG3 to discuss such issues of the development of practice.

The Council approved that the Chairman of the Committee contacts Mr. Kyriakides and Mr. Messerly to initiate the arrangement of such a meeting.

Public Debate on Biotechnology

In light of the discussion on the German parliament's attitude to the EU Directive, it was questioned whether the *epi* should take a more active part in the debate. The attitude of the Committee has till now been that the *epi* should discuss matters only with the EPO, but maybe this should be changed.

Miscellaneous:

The members exchanged information on various issues in biotechnology, including the activities in WIPO in respect of protecting genetic resources and traditional knowledge, the review of TRIPs under the WTO, the activities under the Biodiversity Convention in respect of

Access and Benefit Sharing, and the FAO International Undertaking in respect of Farmers Rights. The Committee concluded that any effects from these activities would only have influence on the EPC sometime in the future, but that it will continue to monitor the development.

Report of the Disciplinary Committee

S.U. Ottevangers (NL)

In its meeting in Madrid in May 2001 Council has requested the Disciplinary Committee to investigate the problem of domain names registered in the name of third parties and consisting mainly or predominantly of the title „European Patent Attorney“.

So far the Disciplinary Committee has retrieved four domain names containing the title European Patent Attorney(s) without any further indication (except from the country code). All of these names have been registered in the name of individual members of the epi. Most of the web-sites concerned seem to have not been actualised since the registration of the name took place.

The question is, whether the registration by an individual epi-member of a domain name containing the title „European Patent Attorney“ is reprehensible. It has to be recalled that the Administrative Council of the European Patent Organisation in its meeting of 27 – 30 November 1979 has adopted the recommendation that persons entered on the list of professional representatives should be able to use the title European Patent Attorney in any Contracting State. Since then European Patent Attorney has been the official title of a professional representative in the English language.

The Disciplinary Committee is of the opinion that the official title European Patent Attorney (and its translation into other languages as agreed by the Council of the epi) cannot be and should not be monopolized by anyone and certainly not by a member of the European Patent

Institute. The registration of a domain name consisting mainly or predominantly of European Patent Attorney(s) is thought to be such monopolization. The Disciplinary Committee thinks that such monopolization might be considered to be contrary to the Rules of Professional Conduct. It may be argued that monopolization of a domain name „European Patent Attorney(s)“ (or its translation into one of the languages used by epi-members) is contrary to good fellowship among members of epi (Article 1 of the Code of Conduct). The use of such domain name by an individual also could be said to be misleading to the public and therefore a violation of Article 3 of the Code of Conduct.

The above has been discussed by the Council of the epi in its meeting in Lugano on October 22, 2001. Council agreed that the title European Patent Attorney should not be used by individuals (or firms of professional representatives) as main part or major part of their domain name. Only the professional organisation of European Patent Attorneys, that is the epi should use such domain name (if epi chooses to do so).

One of the owners of a domain name consisting almost solely of European Patent Attorney in the meantime has agreed to assign said domain name to the epi. The Disciplinary Committee is continuing its efforts to convince the owners of similar domain names to assign such domain names voluntarily to the epi or to abandon these names.

Report of the EPO Finances Committee

J. Boff (GB)

Financial position of EPO

The EPO is in extremely good financial health for an organisation that is functioning so poorly. They had budgeted for a surplus of 29 million DEM and instead had surplus of 166 million DEM. This put the EPO reserves at end June 2001 to well over 2 billion DEM with 780 million DEM in cash and investments.

Workload, Human Resources, and Performance of EPO

Workload

As previously reported, the ratio of Euro-PCT to direct EPC filings continues to increase with no sign of slow-down. The EPO is in a vicious circle. The more there are delays in search for direct European filings, the more applicants

choose to use PCT. The more applicants use PCT, the more there are delays in search. This particular driver towards use of the PCT is likely to become less relevant as the delays in search begin to affect the PCT system also.

The EPO plan contemplates that by 2006 70% of filings for the EPC will be through the PCT. However, the actions taken to avoid this growth appear instead likely to increase the trend towards use of PCT (see below under „EPO Planning“).

Human Resources

Staff recruitment is still a problem, with staffing levels for grade A staff (which includes examiners) more than 10% below budget.

Performance

EPO Report CA/6/01 showed that during the period 1999/2000 the EPO's productivity declined. The number of searches and examinations completed increased, but not in proportion to the increase in number of examiners. This is to be expected when many experienced examiners are involved in teaching the less experienced. It would have been expected that during 2001 productivity should increase significantly, as new examiners become available. This is unlikely to have happened.

Significant delays in the area of search are to be expected. In the first four months of 2001 production was 7% below the comparable figure in 2000 due to industrial action. The EPO's plan for 2000 contemplated the stock of searches being equivalent to 8 months – this has been revised to 9 months. The EPO is now sending out letters to PCT applicants declaring that the EPO may not meet its statutory obligations on search. This indicates that the EPO fears worse is to come.

On the grant procedure, a process of catch-up is underway with the EPO dealing with old files near ready for grant, and Euro-PCTs where a quick grant can be obtained. An increase in the number of granted patents is to be expected this year – but clearing this backlog will not affect actual examination.

Inspection of the Annual Reports for 1999 and 2000 shows:

	1999	2000
Percentage of applications ever filed that had proceeded to grant by end of year	46.09%	44.44%
Percentage of applications ever filed that were still awaiting final action at end of year	15.23%	16.81%

This implies firstly that the situation is getting worse, and secondly that approximately 39% of the applications that have ever been filed were either refused or the applicant gave up. This does not look good.

EPO Planning

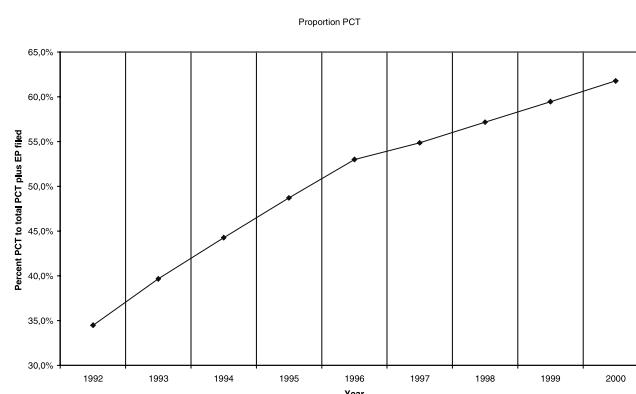
Forecasting

The EPO has announced a 150,000 Euro research programme on „Improvements of Methods for Forecasting

Patent Filings“. The fact that this has been proposed is good news: the substance of the programme is however bad news.

The research programme appears to ignore completely the question of how events affect filing patterns. While recognising in the abstract that the legal environment affects the demand for patents (if you cannot enforce a patent it is worthless), the EPO does not seem to consider how this factor can be used in forecasting. The EPO appears highly resistant to the idea that individual decisions can have huge effects and seem unaware of the Law of Unintended Consequences – „The unintended effects of any action tend to be larger than the intended effects“.

As an example, changing the Rule 107 period for entry into the Regional Phase may make the situation worse concerning the distribution between direct European filings and PCT filings. An applicant can get a guaranteed 31 month term before having to decide on examination and designation fees, and get a worldwide option to patent without having to pay a Demand fee. This is likely to rapidly increase the proportion of PCT filings and so increase the pressure on search.



As a further example, CA/128/01 has proposed a tightening of the rules concerning unity and forms of claims. The intended consequence is to ease examination and search. The unintended consequence is likely to be an increase in the number of divisional applications.

Sometimes the decisions that have the consequences are not in the control of the EPO. The US decision in Festo is likely to have a significant effect on the way US applicants draft their applications and may lead to a dramatic increase in the number of claims. Those European applicants who keep aware of US practice may also change their behaviour in this manner. As well as increasing the difficulty of search and examination, this is likely also to increase the number of divisional applications.

In summary, the EPO in their planning need to be more aware of the influence of events – and should conduct an „Applicant Behaviour Impact Study“ at least every year. Specifically, a panel of applicants should be asked how their filing, prosecution, opposition and appeal behaviour would be affected by, for example: –

- A proposed change to the EPC
- A proposed change to the PCT

- A significant decision of the Boards of Appeal
- A significant decision of National Courts
- A change in law outside the EPC Contracting States
- A proposed change in fees
- Additional member states joining the EPC and should also be asked whether there has occurred anything during the year that would affect their filing behaviour.

As an example of the way in which such factors can affect behaviour, the following chart shows the proportion of applications filed through the PCT over the period 1992 to 2000. The change in slope corresponds to the 1997 fee reduction at the EPO and would appear to confirm the guess that reducing EPO fees affected the relative preference between EPO and PCT filings.

Business Plan

The Business Plan for 2002-2006 (CA/40/01) shows the need for work on prediction of filings. It is difficult to believe, supposing an immense increase in examiner productivity over the next five years and making assumptions on future filing behaviour that are not supported by the historical trends.

As an example, the growth rate in use of the PCT over the last 5 years has averaged 18% per annum. The growth rate assumed in the Business Plan for 2001–2004 years averages 11%.

For direct EU filings the growth rate over the last 5 years has averaged 6.15% per annum. The growth rate assumed in the Business Plan for 2001-2004 years averages 4.06% per annum.

On the EPO figures, in 2004 there will be approximately 200,000 applications (direct European plus Euro-PCT). If one simply plugs-in the last 5 year's growth rates the figure for 2004 would be approximately 240,000.

While past performance is no guarantee of future behaviour, it is at least indicative. There are several possible assumptions that might justify such low growth estimates, and among these are:-

- 1) a prolonged economic recession;
- 2) that people will be so sick of delay they will be deterred from filing patent applications.

When the Business Plan further assumes no growth in examiner numbers beyond 2003 we realise that in preparing the document the EPO has acted upon optimistic assumptions.

If the EPO are to have a business plan then it should have realistic assumptions.

EPO should continue to work on improving its forecasting methods, and these methods should include studies of the effects of events on applicant behaviour.

Report of the European Patent Practice Committee (EPPC)

A. Casalonga (FR)

Following the meeting of the EPPC of 31 May 2001 in Munich.

I. Report on the WIPO meeting on PCT reform 21 May 2001

The EPPC discussed the opportunity of eliminating the concept of designations for the PCT as now proposed by the Committee on Reform of the PCT.

The question also arose whether the elimination of designation fees should be considered in view of the proposed possibility to further defer entry into national stage to 30 months instead of the present 20 months time period. It was namely felt by some EPPC member that elimination of designation fees linked with such a long time period would be excessively detrimental to third parties.

The majority of the EPPC voted however in favour of elimination of the designation fees. The majority of the EPPC also voted in favour of refusing further deferral of national stage entry in excess of 30 months in case designation fees would effectively be eliminated.

Following approval by the *epi* Council in Lugano, a position has been sent to WIPO along those lines.

II. Question 163 – Privilege for European Patent Attorneys professional work

It was stressed during the discussion that confidentiality of documents and correspondence between the European patent attorney and his client has to be distinguished from the privilege against discovery in countries where this procedure is known and particularly USA.

In view of the new article 134a EPC, the Administrative Council has the competence to adopt provisions governing the privilege for European patent attorneys.

The EPPC proposed to cooperate with the by-laws Committee to determine at which level provisions on privilege could be introduced and with which wording. A Sub-committee was appointed and prepared a proposal for a new Rule 101a EPC. After amendment by the *epi* Council, this proposal has been submitted to the EPO.

III. Question 164 – EPO save time proposals

Streamlining the final granting step rules 51-4 and 51-6
The EPO has proposed that only one communication be issued the applicant having to respond with filing of translations of the claims and payment of the fee.

It was pointed out that this proposal creates difficulties with regards the translations of the claims particularly in case of amendments requested by the applicant. It was also pointed out that the Rule 51-6 was precisely introduced to solve the problem which appeared at the beginning of the EPO when only one communication was issued.

It was also indicated that applicants wanting a quick grant could use the PACE procedure.

The majority of the EPPC was against the EPO proposal which however has now been accepted by the Administrative Council of the EPO.

Abandoning the requirement for amending the description

After the discussion of the pros and cons it appeared that a majority of the EPPC was against the proposal and preferred to keep the possibility of amending the description before grant particularly in view of the absence of any file wrapper estoppel in Europe.

Deferred examination

During the discussion it was pointed out that the present backlog of the EPO leads in practice to deferred examination.

Introducing a true deferred examination could place a too heavy burden on third parties, particularly if they do not have the right to request examination.

A significant majority of the EPPC voted therefore against the proposal for deferred examination.

Sub-contracting search an examination to National Offices

During the discussion it was stressed that the quality of search and examination should in any case be maintained.

Some members were doubtful that the same quality could be obtained by sub-contracting and that this could be inconsistent with BEST and the three persons examining division principle.

It resulted from the discussion that sub-contracting of examination should clearly not be accepted.

Sub-contracting of searches only, provided that they are of PCT quality could possibly be accepted as a compromise.

IV. Non delivery of registered mail sent by the EPO

It was reported that registered mail sent from the EPO is often not received particularly by some Irish attorneys.

A draft letter has been prepared for the EPO stressing the danger of this situation.

V. Miscellaneous

Certain members complained that Espacenet had the important drawback that it gave only a page by page output. The EPO has been contacted but stated that it was not going to change its policy.

It was therefore proposed to send a letter to the EPO requesting a change in this regard.

Report of Standing Committee on the Law of Patents („SCP“) Meeting at WIPO in Geneva, 14 to 18 May 2001

J.D. Brown (GB)

epi was represented on the above by Mr John Brown (14th, 15th and 18th May) and by Mr Klas Norin (16th and 17th May). Approximately 80 Member States, 5 Intergovernmental Organisations and 19 Non-Governmental Organisations were represented, with Mr Dave Herald (Australia) in the chair. The next meeting of SCP will almost certainly be held in the first half of November 2001, and the sole item on the Agenda will be the draft Substantive Patent Law Treaty („SPLT“). The International Bureau („IB“) were mandated appropriately. The IB were to redraft the provisions of SPLT, based on the discussions held during the week, and to submit revised provisions for the next session of SCP.

The US Delegation started by saying that they had put into effect a consultation process; there was still clearly a great divergence of opinion on such topics as first to file/first to invent, Hilmer doctrine, best mode, etc. It was said by the US Delegation that they would have a better view by the time of the next meeting of SCP.

The two alternative drafting forms (one based on existing texts, such as the „Draft Treaty Supplementing the Paris Convention as Far as Patents are concerned“ from 1991 or the PCT and one using new and plain language were presented). In the Chairman’s summary, most Delegations wished to discuss the matter further; what was needed was legal certainty.

The IB admitted that there were a number of problems arising out of how priority had been dealt with in the draft SPLT under discussion and promised to address these problems in the next draft.

It should also be noted that no decisions were taken by the SCP on any part of the draft SPLT – it was considered far too early in the procedure to „adopt” any text. In addition, there was no discussion by the Delegations of the grace period issue. This was left for the next meeting of SCP.

The representatives of epi made a number of interventions, in an attempt to have a number of draft Articles and Rules made clearer or more acceptable to users of the patent system. The Chairman specifically said that „those in the back of the room (ie the representatives of the NGO's) were the ones who should be listened to most – they know what they are talking about” – quite a complement to the representatives of all NGO's.

Article 1 (Abbreviated Expressions) was deferred. Article 1 bis (Applications and Patents to which the Treaty Applies) was amended clearly to refer to Applications and Patents and would be redrafted by the IB for clarity. It was agreed that the draft SPLT is not dealing with infringement matters and would not extend to Utility Models, etc. However, Divisional Patent Applications must be included. As to Article 2 and Rule 2 (Right to a Patent), there was no real disagreement as to how should be entitled to a patent, but the wording clearly needed attention.

Article 3 was deferred and Article 4 was deleted as not being a substantive patent law matter. Article 5 and Rule 3 (Contents and Order of Contents of Description) was deferred after a brief discussion showed that the present draft clearly needed some attention. The IB were asked to provide the next meeting of SCP with a document comparing the various provisions of PCT and PLT and how they interface with SPLT. Rule 3 provided a lively debate, but nothing was really agreed. The word „technical” in front of the words field or fields „and a problem” caused real confusion. (A similar confusion arose in relation to Rule 4 with the use of the word „technical” before „features of the invention” and before „features” in Rule 5).

Article 6 and Rule 4 (Contents, Style and Manner of Presentation of Claims) raised many issues similar to those raised in connection with Article 5 and Rule 3. The US Delegation said that Article 6(2) could possibly be used by an office to limit the number of claims (the UK Delegation disputed this interpretation) – if this was meant, say so clearly; if not, make it clear. The Japanese Delegation suggested the removal of the word „technical” in Rule 4(4) – an Applicant must be free refer to non-technical as well as technical features, „but the claim as a whole must be a technical feature”. The NGO's fiercely attacked the prohibition in Rule 4(5) of any reference to a drawing or graph in a claim – for example, it is often impossible to claim some alloys without referring to a graph. The NGO's pleaded for the SCP not to forget the users, who needed the greatest flexibility as far as claims drafting is concerned. The IB

made the point that PLT harmonised the filing of a single Application in any office subject to PLT – we need full and complete harmonisation of substantive patent law. PLT is a *maximum* Treaty. Is SPLT to be a maximum Treaty or a prescriptive Treaty? Would there be one way to draft a specification or claims to be acceptable to all offices but other ways could be used? However, the same standards of patentability would be applied by all offices subject to SPLT. As to Article 7 and Rule 5 (Unity of Invention), the US Delegation started by suggesting setting up a working group to study how to re-write these provisions. The general consensus of the SCP was for Alternative B, plus paragraph 2 of Article 7, Alternative A added.

Turning to Article 8 and Rule 6 (Definition of Prior Art), Alternative A was preferred by most Delegates (but not the US Delegation). Rule 6(1) may be taken into the Article and Rule 6(2) redrafted by the 1B.

Opinions were divided between Alternatives A and B of Article 9 (Prior Art Effect of Earlier Application) but a majority of Delegations who spoke were in favour of Alternative A. Also, a majority were in favour of deleting „inventive step” from Rule 7(1) (not the US Delegation). Opinions were divided fairly evenly for and against Rule 7(3).

When Article 10 was reached, the Chairman proposed postponement of any discussion – IFIA strongly objected. There was a brief survey of offices which have grace periods – 17 have or plan to have short grace periods. ICPI said that it was in favour of grace periods. The discussion was then terminated by the Chairman.

Article 11 (Alternative A – Disclosure in Application as a whole: Alternative B – Adequacy of Disclosure) was opened by the US Delegation who favoured Alternative B, but said that „best mode” was under consideration. Many Delegations wanted to merge Alternatives A and B, maybe with „full description” and „enablement” requirements only. It was agreed that Rule 8 needed a drafting review. Rule 9 was not discussed in detail, but it was agreed that the last sentence must be reconsidered. In Rule 10, team inventors must be included. There was some concern as to how high „highly specialised skill” is – flexibility is needed for future application of SPLT.

At this stage, there was a brief discussion on SCP/5/4 (Internet Disclosures). The Delegates generally supported the proposal, in paragraph 31, first to establish the general principles of prior art and to keep Internet in mind when discussing the content of SPLT.

The IB agreed to send a questionnaire to all Delegates, to ascertain the provisions relevant to prior art in all States.

Article 12 (Relationship of Claims to the Disclosure) will remain for the time being, with version A preferred. In redrafting, the relationship to Article 13B will need considering. The timing issue will be considered *overall* – when does this, and other provisions, apply? The relationship with Article 20 will need considering.

Article 13 (Scope of Claims) was discussed very little; the provisions of Alternative B might be incorporated in other Articles.

The structure of Article 14 (Scope of Protection) and the Treaty as a whole is to be reviewed by the IB. Also, validity – infringement questions to be reviewed.

Article 15 (Patentable Subject Matter) was supported by very many delegations – almost all (not US) supported „technical application“. May be the exceptions to patentability could be in the Regulations.

At the beginning of the next day of the Meeting, the Chairman advised that the next meeting of the Committee would discuss what additional items/subjects are to be included in SPLT.

Article 17 (Novelty) and Rule 13 was debated in depth, with the majority of Delegation favouring Alternative A. Rules 13(2) and 13(1) were supported, but Rule 13(3) needs redrafting.

As to Article 18 (Inventive Step) and Rule 14, the US were for their present position, but nearly all others who spoke opposed using intervening references for inventive step. The US Delegation were also strongly opposed to the „problem/solution“ approach. Rule 14(1), there must be a reason for the skilled person to combine the items of prior art – hindsight must not be allowed. On the whole, Alternative A was preferred but this is a little simplistic – some redrafting is clearly necessary. The IB promised to take note of the many interventions when preparing a revised draft for the next meeting of SCP. It also became clear that the whole question of priority still has to be sorted out.

On Article 20 (Patentability of Claimed Invention), the Korean Delegation put forward a proposal, to ensure

that amendment (added subject matter), priority and novelty must use the same test. After considerable debate, this was accepted as raising issues which need to be addressed. The next IB Paper on priority may well resolve some of the issues raised by the Korean proposal. There was diversity of opinion as to whether the second part of Article 20(2) should remain.

Returning to Article 19, GRULAC made a proposal to add a new Article 19(3) along the lines of „Nothing laid out in this Treaty would prevent a Contracting State applying measures or sanctions against the Biodiversity objectives, including revocation (totally or partly) of patents“. As expected, the US Delegation lead the opposition to this proposal, saying that this imposes a new and additional requirement for patentability which goes beyond TRIPS. The issue will be addressed in other fora. The Japanese Delegation said that the proposal appeared to fall outside the scope of SPLT.

The IB said that in the next draft they will separate what can be applied before grant or after grant. The Chairman's summary, after a somewhat heated debate, was „The goal is mutual recognition of prosecution and grant of patents“, which even Columbia (who had put forward the GRULAC proposal) agreed with.

Article 21 to 24 were not discussed in detail.

On the matter of future business of SCP, the International Bureau advised that two weeks had been booked, commencing Monday, 5th November 2001, with the sole topic on the Agenda being SPLT.

Report of the Online Communications Committee for the time period between May 2001 and October 2001

D. K. Speiser (DE)

1. Distributing documents to Council members by e-mail

Based on the decision of our Council at its 50th meeting last May this Committee started to look into the question of distributing Council documents by e-mail.

The epi secretariat had started some time ago to send out to Council members by email some of the documents needed for Council meetings. This practice received a mixed response.

Those against this practice took the position that handling of the emails and the documents attached thereto was time consuming and cumbersome and therefore should be concentrated at the secretariat. Others without denying those problems referred to the benefit of receiving their documents up to the last day before the meetings. This could not be achieved with paper documents distributed by ordinary mail and this

would have the disadvantage of having to read and discuss such last minute papers during the Council meetings. Some members even looked forward to the day where they could avoid any paper and display in the meetings all the Council documents on their laptops.

Most members seem to have accepted that the preparation and distribution of paper documents by ordinary mail is much more expensive than the distribution of emails and that handling of incoming paper documents used to be almost as time consuming and cumbersome as handling of emails except that handling of emails required the extra step of printing the attachments by the recipient.

In consideration of the further increase of costs and the expected increase of time needed to get ordinary mail from the secretariat to the new members in the eastern countries of Europe the OCC concluded that the secretariat should continue to use email to the extent

possible with the option to fall back to paper in those cases where members do not provide an email address.

This proposal was approved by the Council of the epi at its meeting on 23 February 2001

The OCC discussed various possibilities of handling emails by the recipients including the possibility of using laptops in the Council meetings or distributing Council documents on CD or DVD. All these possibilities, however, seemed to be too remote and too far reaching at this time.

On the other hand the Committee concluded that proposals were needed at this time to substantially decrease the workload presently required for handling and in particular for sorting the flood of emails and/or papers arriving within the weeks prior to Council meetings.

To this end the OCC proposed in a meeting with the Secretary General and the secretariat to provide each sheet of all documents forwarded and/or otherwise distributed with a unique header including a clear identifier on the right hand side at the top of each page relating the particular sheet to a particular document and relating the particular document to a particular point of the agenda.

The header was proposed to contain a reference to the place and date of the Council meeting the document is intended for and it will have to contain the internal epi document number. These headers will be found on many of the documents distributed for use in the 51st Council meeting.

The identifier according to a first draft has a fixed format in which the characters in line 1 of the identifier designate the point of the agenda with sub-identifiers being added to line 1 if different documents are available for that point of the agenda. Line 2 of the identifier designates the page number of the respective sheet and the total number of pages of the respective document.

The proposed identifier will be more readily understood from the following examples:

- Ag13_4 refers to agenda point 13 subpoint 4 (report of the OCC). Because Ag13_4 is not followed by a sub-identifier the document Ag13_4 is the only or the first document distributed for use with point 13_4 of the agenda;
- Ag13_4_2 would be used to designate a second document for use with Ag13_4 this second document not being an annex;
- Ag13_4_v2 would designate a second version of document Ag13_4;
- Ag13_4_a1 designates the first annex to document Ag13_4; and
- Ag13_4_a5v2 would designate a second version of annex 5 to document Ag13_4.

It was further suggested to use the first line of the identifier as the name of the email attachment (file) containing the particular document. This will result in an automatic sorting of all documents arriving by email if they are stored in a special directory named for instance „epi Lugano“.

It might be that the identifier will have to be abbreviated for those of us using the 8+3 rule for the names of files (such as Ag134a1) but the full identifier will be displayed on all sheets of the respective document. It remains to be seen whether the proposal will be acceptable and will make the handling of incoming documents easier than it used to be.

Still further, the OCC suggested to distribute email attachments in the PDF format. This will give Council members an easy access to Council documents not yet distributed by the secretariat but stored in a special section of the epi website accessible only by Council members. The main advantage, however, will be that every document will have the same format irrespective of who makes a hard copy or displays it on a screen because once formatted in PDF the format of the document cannot be changed again. In this way page x line y of a particular document will remain page x line y which will prevent problems when working with such documents during Council meetings.

A substantial number of the documents prepared for the Council meeting in Lugano and forwarded to the members by email were given the proposed header and identifier. Our tests showed that handling of these „new“ documents was much easier and quicker than before but the OCC invites Council members to share their first experiences with the Committee.

2. Online Filing of European Patent Applications

The Online Communications Committee at its meeting on 24 August 2001 made an in depth evaluation of the experiences some of its members have made since the beginning of the current year with a very substantial number of European Patent applications filed online using the epoline online filing system.

The evaluation has shown that the epoline online filing system (OLF system) from the users perspective has both positive and negative aspects. Of the positive aspects the immediate availability of a filing date and an application number appears to be the most significant one.

The negative aspects from the users perspective can be divided into two groups of problems. Firstly, there are problems related to the completeness of the disclosure. Secondly, there are problems of an economic nature including handling problems. Potentially, the handling problems can influence the completeness of the disclosure.

It was noted that the epoline online filing system from an economical point of view and even if the internal organisation of the applicants is adapted to the system requires more resources than needed for filing the European patent applications by hardcopies (paper).

While the economical side is something that for some users may be balanced to a certain extent against the immediate availability of a filing date and an application number there is no such balance allowed when considering the technical and other deficiencies of the system which surfaced since the beginning of 2001 and which result in the disclosure problems mentioned

above and explained below. In this context and in some instances the members of the Committee had the impression that not all of the persons attached to the development of the epoline online filing system had the necessary deep understanding of the dangerous impact Articles 83 and 123 (2) EPC will have on the value of the applicant's intellectual property due to errors occurring when using the online filing system.

Having noted and discussed in detail numerous problems experienced by some of its members using the epoline online filing system (OLF system) the Committee provided the following summary of problems, the summary differentiating between different categories of problems; this summary served and will serve as a basis for our discussions with the EPO:

a) Prohibitive Problems

- conversion problems with Adobe Acrobat and Amyuni conversion software before filing
- problems with correct printing of the PDF documents by the EPO after filing

b) Severe Handling problems

- the „all fonts embedded” problem, namely the difficulty of determining whether all fonts are actually embedded in the generated PDF file
- Amyuni conversion software neither obviates the all font conversion problems nor obviates laborious checking procedures; advice to use different PCs for the creation of technical documents and for the electronic filing is unacceptable
- the problem of having to split the application text into three separate files
- the requirement to combine all drawings into one PDF file can be cumbersome and even risky when having several sources for the figures and when having to combine figures in landscape with figures in portrait format

c) Other Handling problems

- interaction problems on certain PCs between EASY Floppy, Easy PCT, Finnish version of EASY and the epoline OLF software
- installation problems with custom made templates
- Secure storage and backup of „blob” problem
- quickly disappearing error messages
- unclear error messages
- registration number of new applicant unavailable and no field for „assign new registration number”
- refusal for formal reasons possibly because of use of smart card of a non-representative?
- changing default subdirectory for installation causes problems
- number of „blobs” on a system seems to reduce the performance of the OLF software
- pin code sometimes requested up to 4 times rather than once (or twice)
- animation missing during waiting periods
- epoline OLF overwrites EASY floppy software during installation without warning

- exporting stored ZIP-files overwrites existing file without warning
- replacing a wrongly entered PDF file with another PDF file is user unfriendly

d) Communication Problems

- frequent lack of feedback from EPO
- lack of solutions

e) Availability problem

- transmission speed
- time outs
- just one URL at one location
- missing information from EPO regarding server availability and speed of incoming packets

f) Miscellaneous

- backward compatibility of new epoline OLF and PDF-software to read old „blobs”; time guarantee?

The Committee being under the impression that all or at least most of the problems listed above could be overcome in the not too distant future by providing the epoline team with a substantial increase of resources, suggested to have a joint epi/EPO meeting to discuss the problems in detail and arrive at the needed solutions. President Walter Holzer thereupon wrote to the EPO and made arrangements for the meeting which will take place on 10 December 2001 in Munich.

Further, being under the obligation to keep the epi membership informed the Online Communications Committee at its meeting on 24 August 2001 decided to alert the members on the existing problems with the following note:

„Experience collected since earlier this year with the epoline online filing system shows, that, for technical reasons, we cannot yet be confident with the system and therefore cannot at present recommend its use, mainly because of conversion problems from word processor documents into PDF documents, and printing problems on the side of the EPO and because of transmission problems caused by system availability at the EPO or on the internet or on local systems and because of the lack of technical assistance provided by the EPO and for other less important reasons.”

This note was published on the epi web site as well as in the recent epi Information.

In parallel to the publication of the note the OCC members provided the epoline team with a detailed summary of problems which individually had been sent to the epoline Help Desk since the beginning of the year. Finally, the EPO reacted quickly and visited the offices of three of the particularly active OCC members to acquaint themselves locally with the reported problems.

The European Patent Office since then made efforts to solve the problems addressed in the OCC publication. In particular, the EPO by replacing the Adobe PDF conversion software with new conversion software from Amyuni believes it has solved the conversion problems

at least as far as the conversion of description and claims are concerned.

Further, the EPO has announced that the staff of the epoline Help Desk will be increased substantially so that more persons will be available with intimate knowledge of the epoline online filing software and procedures. This will result in improved support for the users of the online filing system.

During the above mentioned visits members of the epoline team had indicated that the EPO might be prepared to accept from the user a copy of his or her pre-conversion files such as a Word-file or an AutoCad-file as proof for the correct disclosure. This would have been an adequate solution of all disclosure problems stemming from incorrect conversion and printing errors so that Articles 83 and 123 (2) EPC would have lost much of their impact on online filing. Regretfully but understandably the EPO department on patent law was unable to agree to accept from the users the pre-conversion files after the filing date.

The new Amyuni conversion software now provided by the EPO seems to be a substantial improvement over the old Acrobat conversion software but it also seems that it is not completely error free. Therefore, and for the time being when using the EPO online filing system users should carefully observe the following precautionary measures which are still necessary to reduce the risk of insufficient disclosure of an invention:

- Request from the EPO a copy of the latest version of the Amyuni software and not use the Acrobat Writer or Acrobat Distiller software.
- Use Amyuni with correct parameter settings („embed all fonts“) for the conversion to PDF and carefully observe the written instructions provided by the EPO.
- Print or display the created PDF files and proof-read them carefully instead of the original word processor file. Be particularly careful with descriptions, claims and drawings containing chemical or mathematical formulae, subscripts and superscripts and/or other special symbols.
- Keep in mind that conversion errors not noticed by you before filing may seriously reduce the original disclosure and cannot be repaired after filing.
- After EACH new installation of the epoline online filing software, file at least one dummy patent application, preferably by using an EPO test server if available or by not paying the official fees.
- Export the filed „blob“ (*file.EZF*) to a disk having a regular back-up and keep as legal proof.
- For at least the initial electronic filings: request the EPO to provide a hardcopy printed by them and compare that hardcopy with your original word pro-

cessor file. The hardcopy should be requested in an email to epoline@epo.org

- Inform the OCC and the epoline Help Desk (+31 70 340 4500 or epoline@epo.org) if you encounter problems with installation, PDF conversion or transmission.

The Council of the *epi* decided at its meeting on 23 October 2001 that the OCC publishes the above measures as a replacement for the note previously shown on the *epi* website.

About ¼ of all 518 EP applications so far filed online this year were filed by members of the Online Communications Committee. This means that the OCC can base its conclusions on a broad basis of own experience. Nevertheless, the OCC invites all other users to share both negative and positive experiences with the Committee.

In its future work the OCC will continue to cooperate with the EPO along the path to an error free and easy to handle online filing system. In doing so the OCC must consider the fact that the EPO by its decision not to accept documents in their native format (such as Word etc.) but in the PDF format (or in future days in the XML format) only, put the legal and practical burden of converting all documents with all related risks upon the applicant.

The legal burden because of Articles 83 and 123 (2) EPC forces the Committee to put the emphasis of its work on an absolutely error free solution of the conversion requirement. Such solution will have to take into account that the majority of potential users of the OLF system due to limited numbers of available filings will have only a respectively limited routine; in this sense the needed error free solution must also be a „foolproof“ solution.

The practical burden as will have become apparent from above means that the user of the OLF system at least presently is required to invest a substantial amount of extra time in the preparation and the laborious checking of his or her filings. Trusting that one day we will have the error free and foolproof solution the amount of extra time will be less than at present but even then will be negligible neither for the applicants with large number of filings nor for those having only a few applications to file. Extra time clearly means extra cost which will reduce the interest of the users in the OLF system. Since this result would be detrimental to the goal of the EPO the office in its own interest will work hard on the necessary improvement of the handling aspects of the OLF software. The OCC will continue to offer practical input in this regard.

Report of the Professional Qualifications Committee (PQC)

T. Onn (SE)

1. Students of the epi

The current number of students is 258 from 14 countries.

2. epi Tutorials

There are 62 candidates (from BE, CH, DE, DK, ES, FI, FR, GB and SE) participating in the summer session. The candidates are doing 492 papers and the Tutorials involved 29 tutors from BE, CH, DE, DK, FR, GB and SE.

The final date for enrolling the autumn Tutorials is 12 October 2001 and the Tutorials will start in November 2001 and will cover the papers of 2001 or 1999. Some days before deadline 28 candidates (from CH, DE, ES, FI, GB and SE) have registered to do 78 papers. 18 tutors from BE, DE, DK, FR, GB and SE will comment the papers.

This year the PQC is doing a study on how to improve the *epi* Tutorials. A questionnaire has been distributed to the students and tutors in order to get a clearer picture of the situation. We have received answers from 21 students (of a total of 62) and from 24 tutors (of the 29 involved). The evaluation of the answers is in progress but in order to get more background material we will send out a revised questionnaire to the students and tutors of the current Tutorials.

However, some of the comments given on these first questionnaires were the same for students and tutors:

- It is too little information about the *epi* Tutorials
- The geographical distance between the students and the tutors is too large
- Avoid unnecessary duplication of the papers done at the *epi* and CEIPI Tutorials
- Extend the Tutorials over a period of two years.

Of the 21 students only 3 found the organisation of the Tutorials unsatisfactorily whereas all 24 tutors were satisfied with its organisation.

The tutors would like to have a better knowledge of the marking of the EQE, which would facilitate for their tutoring. They would also like to have Tutors' meetings at a national level.

The tutors answering our questionnaire had an average experience of three Tutorials. As an average each tutor commented 8 papers from 3 students and the average time they spent was 10 hours of preparation for the Tutorials, 14 hours for marking and 6 hours for meetings with the students.

I would like to bring my tribute to the Tutors. Without their unselfish contribution to our Tutorials the passing rates of the EQE would be much lower, something that in the long run would endanger the whole EPC system. I therefore urge you all to help us to recruit Tutors for the future Tutorials and to begin with to next year.

3. Tutors' meeting

This year the annual tutors' meeting will be on 13 November at the *epi* premises in Munich. It will be a one-day meeting together with chairmen/secretaries from Examination committees I, II and III and some tutors from CEIPI.

We note with great satisfaction that the draft of the Examiners' Report has been distributed well in time before the Tutors' meeting.

Council is invited to take note of the content of these 3 first items.

4. Continuing Professional Education (CPE)

The first CPE seminar was held in Copenhagen on 28 May 2001. 78 persons from 9 countries participated in the seminar and the topic was „Some basic facts about Oral proceedings at the EPO“. The seminar started with mock oppositions chaired by Mr. Daniel Thomas, Director in DG 2 assisted by the Danish *epi* members Mrs. Birgitte Stephensen, Mr. Johnny Boesen, Mr. Jakob Pade Fredriksen and Mr. Ejvind Christiansen having the roles of further members of the Opposition Division and of the parties. They all contributed to a successful outcome of the seminar. The seminar was concluded with some general information about Opposition Procedures presented by Mr. Thomas. This part was also very popular which was evident from the large number of questions from the audience.

A second CPE seminar will take place in Milan on 3 December with Mrs Susanne Kaminski and Mr. Paolo Rambelli as responsible for the organisation. The topic will be the same as in Copenhagen and Mr. Thomas will chair this seminar too. The local *epi* members to participate are Mr. Giorgio Checcacci, Mr. Alessandro Guerci, Mr. Pierre Saconney and Mr. Paolo Rambelli. They will act as members of the Opposition Division and as the parties. The preparations are in progress and it is our hope that the seminar will be as successful as the one in Copenhagen. A first information of this has been published in the current issue (3-2001) of the *epi* Information. Information of the seminar and an invitation is published on the *epi* homepage and an invitation will also be sent to Italian and Swiss *epi* members.

Further CPE seminars are planned in spring 2001 (BE/NL), autumn 2002 (ES/PT) and spring 2003 (IE).

5. Joint *epi*/EPO/CEIPI working group

The joint *epi*/EPO/CEIPI working group had its first meeting on 25 April 2001.

It comprises Mrs. Leissler-Gerstl and myself from *epi*, Ms. Dybdahl and Mr. Haugg from EPO and Mr. Stauder

from CEIPI. One task for this working group is to start with a thorough analysis of the EQE statistics as available from EPO and epi. In the light of this analysis the group will propose revised guidelines to the candidates and hopefully also come with proposals on how to improve training. After the meeting we received more statistical material from EPO, which we now are studying.

A second meeting with this working group took place on 6 September 2001. At this meeting only Mr. Haugg, Mrs. Leissler-Gerstl and myself participated. We discussed what further details of statistics we would like, and they were promptly received from EPO. All this material is now being analysed by our working group on statistics. It seems that EPO is now somewhat more open-minded about giving us access to their statistics.

We were informed that nearly 30 % of the candidates sitting EQE for the first time do it in modules. EPO also informed us that they are working on an interactive compendium for the EQE. They hope to launch the first issue in the end of this year.

Mr. Haugg also informed us that EPO is preparing an interactive CD-rom for the EQE 2001. He hoped that it should be ready in the beginning of next year.

6. EQE

Also this year the Examination Board has enclosed a copy of our revised questionnaire to all candidates who sat the

EQE 2001. This will give us more information and a better statistical material. Up to now we have received about 80 answers.

The passing rate this year was 30.3 % for all sitters as compared with 29.1 % last year. The corresponding figures for first sitters are 34.7 % and 37.0 %, respectively.

The next EQE takes place on 20-22 March 2002 and the last date to enrol is 9 November 2001.

7. Revision of lists A and B

PQC has contacted the Examination Secretariat in order to have a revision of the list A and list B qualifications (see Art. 2 and Art. 3(a) in the decision of the Examination Board published in OJ EPO 1994, 599). The existing list is from 1993 and it is really high time to update it (Finland and Portugal had no universities at all on these lists). We have received the complete current lists from the Examination Secretariat and they have been distributed to all members of the PQC. We will now scrutinize the lists and give a detailed report to the Examination Secretariat. For the future we have suggested an annual revision of these lists.

Council is invited to take note of the content of these 4 last items.

Call for New epi Members for Examination Committees

The examination committees need new members, and this for different reasons:

- a) The number of candidates of the EQE is still increasing, so the number of the committee members must increase too, since it is not possible to increase the workload per member.
- b) The epi has always been opposed to limit the sittings so there are an increased number of resitters, causing in general more work per paper.
- c) The rules prescribe that there must be a 50:50 balance for epi-EPO members. A number of epi-members will retire in October of this year.

While it is evident that the task of being an examiner consumes time, up to two full weeks per year, it is also evident that such a task is a very interesting occasion to meet colleagues and EPO examiners and officers from all EPC states, which is more than compensating.

Any epi members desirous to apply as member of a committee please contact the epi Secretariat in Munich: Tel. +49 89 201 70 80 – email: info@patentepi.com

The Professional Qualifications Committee looks for tutors

The Professional Qualifications Committee urgently needs English and German speaking tutors for the epi tutorials preparing for the European qualifying examination, in the fields of electricity/mechanics and chemistry.

All epi members willing to collaborate are requested to contact the epi Secretariat.

epi-Sekretariat
P.O. Box 26 01 12
D-80058 München

Tel: +49 89 201 70 80
Fax: +49 89 202 15 48
E-mail: info@patentepi.com

RESULTS OF THE EUROPEAN QUALIFYING EXAMINATION 2001

FIRST SITTING – Examination in full and modular sitting

Nationality	Candidates (in total)	PASSED				FAILED			
		Total	%	Examination in full	modular sitting (2modules)	Total	%	Examination in full	modular sitting (2modules)
AT	5	2	40,0	2	0	3	60,0	3	0
BE	7	2	28,6	2	0	5	71,4	2	3
CH	9	4	44,4	4	0	5	55,6	4	1
DE	182	71	39,0	62	9	111	61,0	90	21
DK	16	1	6,3	1	0	15	93,8	14	1
ES	2	0	0,0	0	0	2	100,0	2	0
FI	4	2	50,0	2	0	2	50,0	1	1
FR	44	15	34,1	11	4	29	65,9	21	8
GB	82	31	37,8	25	6	51	62,2	42	9
GR	1	0	0,0	0	0	1	100,0	0	1
IE	5	2	40,0	2	0	3	60,0	3	0
IT	16	2	12,5	1	1	14	87,5	7	7
NL	14	7	50,0	4	3	7	50,0	6	1
SE	12	2	16,7	1	1	10	83,3	6	4
JP	1	0	0,0	0	0	1	100,0	1	0
US	6	0	0,0	0	0	6	100,0	6	0
TOTAL	406	141	34,7	117	24	265	65,3	208	57

RESITTING – Examination in full
 Total number of candidates: 20
 Passed: 0 (0%)
 Failed: 20 (100%)

RESITTING – Examination in part
 Total number of candidates: 517
 Passed : 145 (28%)
 Failed: 372 (72,0%)



Institut der beim Europäischen Patentamt zugelassenen Vertreter

Institute of Professional Representatives before the European Patent Office

epi • Postfach 26 01 12 • 80058 München • Deutschland

Institut des mandataires agréés près l'Office européen des brevets

RECHNUNG
epi-Beitrag 2002

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epi Subscription 2002

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Please use the possibility for direct debiting from EPO deposit accounts, see encl.

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- your registration number (shown next to your name on the label above).

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Nous recommandons le prélèvement sur le compte courant à l'OEB, v. annexe.

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Falls Ihr Beitragskonto schon einen Fehlbetrag aufweist, erhalten Sie ein zusätzliches Blatt. Bitte überweisen Sie dann auch den Fehlbetrag.

Sollten Sie Ihren Jahresbeitrag nicht bezahlen, nehmen Sie bitte zur Kenntnis, dass **Ihr Name von der Liste der zugelassenen Vertreter gelöscht wird**, gemäß Regel 102(1) der Ausführungsordnung zum EPÜ. Ihr Name kann jedoch gemäß den derzeit gültigen Regeln wieder in die Liste aufgenommen werden, sobald Sie den ausstehenden Beitrag bezahlt haben, gemäß Regel 102(3).

If your subscription account shows a deficit already, a separate sheet is attached. In this case please also transfer the outstanding amount.

Please note that if you fail to pay your annual subscription **your name will be deleted from the list of professional representatives**, cf. Rule 102(1) of the Implementing Regulations of the EPC. However, you may, upon request, be re-entered under the current regulations on the list of professional representatives as soon as your outstanding subscription has been paid, cf. Rule 102(3).

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Nous vous rappelons que, si vous n'avez pas acquitté votre cotisation annuelle, **votre nom sera radié de la liste des mandataires agréés**, voir Règle 102(1) du Règlement d'exécution de la CBE. Toutefois, vous pouvez faire une demande de réinscription sur la liste des mandataires agréés selon les règles en vigueur après avoir acquitté votre cotisation impayée, voir Règle 102(3).

Der Schatzmeister
Peter Kelly

The Treasurer
Peter Kelly

Le Trésorier
Peter Kelly

epi Subscriptions

P. Kelly, Treasurer

The Secretariat needs your co-operation in relation to the payment of epi subscriptions. In order to minimise the heavy workload in processing accurately and efficiently these subscription payments it is very important that each payment can be clearly identified with a specific member. At present we have each year a significant number of payments made to the epi in respect of subscriptions where the payment does not identify the member and/or his/her firm or company.

It will be appreciated that the additional work load in sorting out these problem payments is very time consuming. On behalf of the Secretariat I therefore request

your help and ask that all members personally ensure that their subscription payment – whether by EPO deposit account, bank draft or eurocheque – gives as a basic level of information **your name and membership number**.

If your firm or company is making a single payment to pay the subscriptions of a number of members please ensure that the name and identification number of each member covered by this single payment is given.

I thank you on behalf of the Secretariat in anticipation of your understanding and co-operation.

Redaktionsschluss für epi Information 1/2002

Wegen der Veröffentlichung der Wahlergebnisse wurde der Redaktionsschluss für die nächste Ausgabe der epi Information auf den **5. Februar 2002** vorverlegt. Die Dokumente, die veröffentlicht werden sollen, müssen bis zu diesem Datum im Sekretariat eingegangen sein.

Deadline for epi Information 1/2002

Because of the necessary publication of the election results the deadline for the next issue of epi Information has been brought forward to **5 February 2002**. Documents for publication should have reached the Secretariat by this date.

Date limite pour epi Information 1/2002

En raison de la publication des résultats d'élection, la date limite de remise des documents pour le prochain numéro de epi Information a été avancée au **5 février 2002**. Les textes destinés à la publication devront être reçus par le Secrétariat avant cette date.

Bitte einreichen an / Please return to / retournez s.v.p. à:

epi-Sekretariat
Postfach 26 01 12
D-80058 München

Telefax +49 89 202 15 48

Einzugsermächtigung

**Eingangsfrist im
epi-Sekretariat:**

15. Februar

Bitte senden Sie diese Einzugsermächtigung oder eine Kopie hiervon **nur an das epi-Sekretariat**, nicht an das EPA.

Bitte verwenden Sie **nur dieses Formular**, gegebenenfalls mit einem gesonderten Blatt für die Namen mehrerer epi-Mitglieder. **Verwenden Sie keine Einzugs ermächtigungen des EPA.**

Direct debiting mandate

**Deadline for receipt by the
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15 February

Please, send this debiting mandate or a copy thereof **to the epi Secretariat only**, not to the EPO.

Please use only this form, if necessary with a separate sheet for the names of several epi members. **Do not use EPO mandate forms.**

Autorisation de prélèvement

**Date limite de réception au
Secrétariat de l'epi:**

15 février

Veuillez envoyer cette autorisation de prélèvement ou une copie de celle-ci **uniquement au Secrétariat de l'epi**, pas à l'OEB.

Veuillez n'utiliser que ce formulaire; ajoutez si nécessaire une feuille séparée pour les noms de plusieurs membres de l'epi. **N'utilisez pas les formulaires d'autorisation de prélèvement de l'OEB.**

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epi member's surname/first name:
Nom/prénom du **membre de l'epi**

epi-Mitgliedsnummer:
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Die Einzugsermächtigung gilt für **mehrere epi-Mitglieder**.
Falls "ja", bitte ein gesondertes Blatt mit den Namen und Mitgliedsnummern beifügen.

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If "yes", please list names and membership numbers on a separate sheet.

nein ja
 no yes
 non oui

L'autorisation de prélèvement s'applique à **plusieurs membres de l'epi**:
Dans l'affirmative, prière de joindre au présent formulaire une feuille séparée portant le nom et le numéro de ces membres.

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Einzugsermächtigung

Eingangsfrist im epi-Sekretariat: **15. Februar**

Das Institut der beim Europäischen Patentamt zugelassenen Vertreter (epi) wird hiermit ermächtigt, den epi-Jahresbeitrag für das unten angegebene epi-Mitglied in der jeweils gültigen Höhe von dem nachstehend genannten und beim Europäischen Patentamt (EPA) geführten laufenden Konto einzuziehen. Die Einzugs-ermächtigung gilt für den nächstfälligen und künftig fällige Beiträge bis auf schriftlichen Widerruf. Sie gilt ebenso für offene Beiträge vergangener Jahre. Der Einzug erfolgt auf der Grundlage der zwischen dem EPA und dem epi getroffenen Verwaltungsvereinbarung vom 5. April 1993 (ABI. EPA 1993, 367) und der Nr. 9 der Vorschriften über das laufende Konto (ABI. EPA 1993, 366).

Der Einzug des Beitrags erfolgt mit Wirkung vom 25. Februar des laufenden Jahres. Alle an das EPA am Abbuchungstag zu entrichtenden Gebühren und Auslagen gehen dem Einzug des epi-Beitrags vor. Mehrere Beiträge, die vom selben Konto abgebucht werden sollen, fasst das epi zu einem Gesamtbetrag zusammen. Demgemäß erteilt das epi dem EPA einen Abbuchungs-

auftrag über den Gesamtbetrag. Reicht das Guthaben nach Begleichung der vorrangigen EPA-Gebühren und Auslagen zur Ausführung des Abbuchungsauftrags des epi nicht aus oder trifft die vorliegende Einzugs-ermächtigung beim epi nach dem 15. Februar ein, kann der Abbuchungsauftrag nicht ausgeführt werden. Das epi-Mitglied wird über den fehlgeschlagenen Einzugsversuch informiert. Überweist es den Beitrag dann nicht bis spätestens 30. April (Kontoeingang) für das epi spesenfrei im normalen Bankverkehr, erfolgt ein Einzugsversuch des erhöhten Jahresbeitrags am 25. Juni. Schlägt auch dieser Versuch fehl, muss der erhöhte Beitrag im normalen Bankverkehr beglichen werden.

Mit Wirkung vom 25. Juni kann der Beitrag auch für epi-Mitglieder, die zum vorausgegangenen Abbuchungstag noch keine Einzugs-ermächtigung vorgelegt hatten, eingezogen werden. Eingangsfrist für die Einzugs-ermächtigung im epi ist hierfür der 15. Juni.

Falls ein gesondertes Blatt mit den Namen mehrerer epi-Mitglieder beigelegt wird, braucht es nicht gesondert unterschrieben zu werden.

Direct debiting mandate

Deadline for receipt by the epi Secretariat: **15 February**

The Institute of Professional Representatives before the European Patent Office (epi) is hereby authorised to debit from the deposit account held with the European Patent Office (EPO) as specified below the epi annual subscription for the epi member named below at the appropriate rate. This direct debiting mandate applies to the forthcoming and all subsequent subscriptions until it is revoked in writing. It also applies to outstanding subscriptions from previous years. Debiting will be on the basis of the Administrative Agreement dated 5 April 1993 between the EPO and the epi (OJ EPO 1993, 367) and point 9 of the Arrangements for deposit accounts (OJ EPO 1993, 366).

Subscriptions are debited with effect from 25 February of each year. All fees and costs payable to the EPO on the debiting date have priority over the epi subscription. The epi will combine several subscriptions to be debited from the same account into one overall sum, for which it will then issue the EPO with a debit order. If, after priority payment of EPO fees and costs, the credit balance is not

sufficient to carry out the epi debit order, or if the direct debiting mandate is received by the epi after 15 February, the debit order is not carried out. The epi member will be informed. Then, if the annual subscription has not been credited to the epi account through the standard banking procedure and at no expense to the epi by 30 April (reception on epi account), an attempt will be made to debit the higher annual subscription on 25 June. Should this attempt also prove unsuccessful, the higher annual subscription must be paid to the epi through the standard banking procedure.

Subscriptions of epi members who had not issued a direct debiting mandate by the previous debiting date may also be debited with effect from 25 June. The deadline for receipt of the direct debiting mandate by the epi is then 15 June.

If a separate sheet with the names of several epi members is enclosed, it does not need a separate signature.

Autorisation de prélèvement

Date limite de réception au Secrétariat de l'epi: **15 février**

L'Institut des mandataires agréés près l'Office européen des brevets (epi) est autorisé par la présente à prélever, sur le compte courant ouvert à l'Office européen des brevets (OEB) dont le numéro est mentionné ci-après, le montant en vigueur de la cotisation annuelle du membre de l'epi dont le nom figure ci-dessous. La présente autorisation de prélèvement est valable pour la prochaine cotisation venant à échéance ainsi que pour les cotisations suivantes, jusqu'à révocation par écrit. Elle vaut également pour les cotisations des années précédentes non encore acquittées. Le prélèvement est opéré sur la base des dispositions de l'accord administratif en date du 5 avril 1993 entre l'OEB et l'epi (JO OEB 1993, 367) ainsi que de celles du point 9 de la décision modifiant la réglementation applicable aux comptes courants (JO OEB 1993, 366).

Le prélèvement de la cotisation prend effet le 25 février de l'année en cours. Le règlement de toutes les taxes et de tous les frais dûs à l'OEB à la date de débit a priorité sur le prélèvement de la cotisation annuelle à l'epi. L'epi regroupe en un seul montant plusieurs cotisations devant être débitées du même compte. A cette fin, l'epi donne à l'OEB un ordre de débit pour le montant total.

Si, après règlement prioritaire des taxes et des frais dûs à l'OEB, la provision du compte ne suffit pas pleinement pour exécuter l'ordre de débit de l'epi ou si la présente autorisation parvient à l'epi après le 15 février, l'ordre de débit ne peut être exécuté, et le membre en est informé. Si celui-ci ne vire pas le montant de la cotisation le 30 avril au plus tard (date d'inscription au compte de l'epi), par une opération bancaire normale et sans frais pour l'epi, il sera procédé, le 25 juin, au prélèvement du montant majoré de la cotisation annuelle. Au cas où ce prélèvement non plus ne peut être effectué, le montant majoré de la cotisation doit être acquitté par une opération bancaire normale.

Avec effet au 25 juin, il est également possible de prélever le montant de la cotisation annuelle des membres de l'epi n'ayant pas produit d'autorisation de prélèvement à la date de débit précédente. A cette fin, la date limite de réception des autorisations de prélèvement par l'epi est le 15 juin.

S'il est joint une feuille séparée portant le nom de plusieurs membres de l'epi, il n'est pas nécessaire de la signer.

Regeln für die Zahlung der epi-Mitgliedsbeiträge

Beschluss des epi Rates auf seiner Sitzung in Kopenhagen am 11./12.Mai 1992

- 1) Der jährliche epi Mitgliedsbeitrag ist innerhalb von zwei Monaten nach Fälligkeit zu zahlen.
- 2) Für Mitglieder, die bereits zu Anfang eines Jahres in die Liste der zugelassenen Vertreter eingeschrieben sind, ist das Fälligkeitsdatum der 1. Januar.
- 3) Für Mitglieder, die erst im Verlauf eines Jahres in die Liste der zugelassenen Vertreter aufgenommen werden, ist das Fälligkeitsdatum der Tag der Eintragung in die Liste.
- 4) Der jährliche Mitgliedsbeitrag wird erlassen, wenn
 - der schriftliche Antrag des Mitgliedes auf Löschung von der Liste der zugelassenen Vertreter vor dem 1. April beim Europäischen Patentamt eingehet;
 - eine Person nach dem 30. September in die Liste der zugelassenen Vertreter aufgenommen wird.
- 5) In allen anderen Fällen muss der volle jährliche Mitgliedsbeitrag bezahlt werden. Ratenzahlungen, Stundungen oder Beitragsreduzierungen können nicht gewährt werden.
- 6) Zahlt ein Mitglied, das bereits zu Anfang des Jahres auf der Liste der zugelassenen Vertreter stand, seinen Beitrag nicht vor dem 1. Mai (Eingang auf dem epi Konto), erhöht sich sein Beitrag um DM 50,-. Gleichermaßen gilt für Mitglieder, die erst im Verlauf des Jahres in die Liste der zugelassenen Vertreter aufgenommen worden sind, falls sie ihren Mitgliedsbeitrag nicht innerhalb von vier Monaten nachdem sie durch „epi-Information“ oder einen Brief über seine Höhe informiert worden sind, zahlen.
- 7) Zahlungen müssen mittels Banküberweisungen, in Deutsche Mark und frei von Bankspesen für epi erfolgen. Dabei sind der Name und die Mitgliedsnummer jedes einzelnen Mitglieds, für das die Zahlung erfolgt, anzugeben.
- 8) Wegen der beachtlichen Bankgebühren und darüber hinaus wegen des großen zusätzlichen Verwaltungsaufwand werden keine Schecks, Bankschecks, kein Bargeld oder ähnliches angenommen.

- 9) Der *epi* Rat beschließt Änderungen des Mitgliedsbeitrages vor Anfang des Folgejahres. Er informiert alle Mitglieder durch „*epi*-Information“ über den neuen Beitragsbetrag und die Zahlungsmodalitäten. Alle Mitglieder, von denen angenommen werden kann, daß sie die entsprechende „*epi*-Information“ erhalten haben, müssen Zahlungsvorkehrungen innerhalb der oben genannten Zeitspanne treffen, ohne daß eine zusätzliche Aufforderung hierzu

erfolgt. der Schatzmeister wird jedoch zu Beginn eines Jahres bzw. bei neuen Mitgliedern nach Eintragung in die Liste zusätzlich Rechnungen an alle Mitglieder verschicken. Verspätete Zahler, von denen angenommen werden kann, daß sie die oben genannte „*epi*-Information“ erhalten haben, können sich aber nicht darauf berufen, diese Rechnung nicht erhalten zu haben.

Rules Governing Payment of the *epi* Annual Membership Fee

Decision taken by the *epi* Council at its meeting in Copenhagen on 11/12 May 1992

- 1) The *epi* annual membership fee has to be paid within two months after its due date.
- 2) The due date for members being on the list of professional representatives at the beginning of the year is 1 January.
- 3) The due date for members entering the list of professional representatives in the course of the year is the moment of entry on this list.
- 4) The annual membership fee is waived if
 - a member's written demand for deletion from the list of professional representatives arrives at the European Patent Office prior to 1 April;
 - a person is registered on the list of professional representatives after 30 September.
- 5) In all other cases the entire annual membership fee has to be paid. No instalments, extensions of the term of payment, or reduction of payment may be granted.
- 6) Members on the list of professional representatives on 1 January who fail to pay their membership fee prior to 1 May (reception on *epi* account) will have to pay a surcharge of DM 50.–. The same applies to members who entered the list during the course of the year if they have not paid the fee within four

- months after being notified of its amount through „*epi* Information“ or by letter.
- 7) Payments have to be made by money transfers, in German Marks, and free of bank charges for *epi*. They must indicate the name and registration number of each member for whom the fee is paid.
- 8) Due to the substantial bank charges and furthermore to the enormous additional administrative requirements no checks, bankers drafts, cash, or the like will be accepted.
- 9) The *epi* Council decides on modifications of the amount of the annual membership fee before the beginning of a year. It informs all members through „*epi* Information“ of the new amount of the fee and the conditions for payment. All members deemed to have received the respective „*epi* Information“ will have to make provisions for payment within the above mentioned time-limit without further request. The Treasurer will, however, also send out fee invoices to all members at the beginning of the year or to new members after their registration. Late payers deemed to have received the before mentioned „*epi* Information“ may not plead not having received this invoice.

Règles relatives au paiement de la cotisation annuelle *epi*

Décision prise par le Conseil de l'*epi* à la réunion de Copenhague les 11 et 12 mai 1992

- 1) Le paiement de la cotisation annuelle *epi* est dû dans les deux mois qui suivent la date d'exigibilité.
- 2) La date d'exigibilité pour les personnes inscrites sur la liste des mandataires agréés au début de l'année est le 1er janvier.
- 3) La date d'exigibilité pour les personnes admises sur la liste des mandataires agréés en cours d'année est la date d'admission sur cette liste.
- 4) N'est pas redevable de la cotisation de l'année en cours:

- un membre qui demande par écrit à l'OEB sa radiation de la liste des mandataires agréés avant le 1er avril;
 - toute personne inscrite sur la liste des mandataires agréés après le 30 septembre.
- 5) La cotisation annuelle doit être payée dans son intégralité dans tous les autres cas. Aucun versement partiel, report d'échéance ou réduction du montant ne peut être accepté.
- 6) Toute personne inscrite sur la liste des mandataires agréés au 1er janvier et dont la cotisation n'est pas payée avant le 1er mai (date de réception sur le compte de l'epi) doit payer un supplément de 50,— DM. Ceci s'applique également à toutes les personnes inscrites sur la liste en cours d'année, dont la cotisation n'est pas réglée dans les quatre mois qui suivent la notification dans „epi Information“ ou par lettre.
- 7) Le paiement doit être fait par virement, en Deutsche Marks, sans frais bancaires pour l'epi. Le nom et le numéro d'affiliation de la/les personne(s) pour qui la cotisation est destinée doivent être indiqués clairement sur le virement.
- 8) Les chèques, les chèques bancaires, les règlements en espèces ou autres ne sont pas acceptés en raison des frais bancaires importants et de l'énorme supplément de travail que leur traitement nécessite.
- 9) Le Conseil de l'epi décide des modifications du montant de la cotisation annuelle avant le début de l'année. Tous les membres sont informés par „epi Information“ du nouveau montant de la cotisation et des conditions de paiement. Toute personne qui, en tant que membre, reçoit „epi Information“ devra s'assurer que sa cotisation est payée dans le délai imparti, ci-dessus mentionné, sans autre notification. Le Trésorier enverra toutefois aussi un appel de cotisation à tous les membres au début de l'année, de même qu'aux nouveaux membres après leur inscription. Toute personne recevant en tant que membre „epi Information“, mentionné plus haut, et n'ayant pas payé sa cotisation à temps ne pourra pas alléguer qu'elle n'a pas reçu l'appel de cotisation.

epi-Mitgliedschaft und Jahresbeitrag

1. Internationale Kammerorganisation

Das epi ist die Standesorganisation der beim Europäischen Patentamt zugelassenen Vertreter. Es besteht Pflichtmitgliedschaft. Das epi erfüllt ähnliche Aufgaben wie nationale Standesorganisationen, z.B. die deutsche Patentanwaltskammer. Seine Mitglieder sind sowohl Freiberufler als auch in der Industrie oder im staatlichen Bereich Tätige. Voraussetzung für die Mitgliedschaft ist u.a. der Erwerb eines natur- oder ingenieurwissenschaftlichen Hochschuldiploms bzw. gleichwertiger natur- oder ingenieurwissenschaftlicher Kenntnisse, eines mindestens dreijährigen patentrechtlichen Praktikums und das erfolgreiche Ablegen der Eignungsprüfung beim Europäischen Patentamt.

Das epi ist also die Kammerorganisation des Europäischen Patentamtes. Es ist eine Körperschaft internationalen öffentlichen Rechts.

2. Mitgliedschaft

Die Pflichtmitgliedschaft, die automatisch mit Eintrag in die Liste der zugelassenen Vertreter beim EPA begründet wird, beruht auf Artikel 5, die Verpflichtung zur Entrichtung des Jahresbeitrages auf Artikel 6 der Vorschriften über die Errichtung des Instituts, vgl. ABl. EPA 2/1978, S. 85 ff. Die Mitgliedschaft endet ebenso automatisch mit der Streichung aus der EPA-Liste.

Nach einer Streichung aus der Vertreterliste kann jederzeit ein Antrag auf Wiedereintragung in die Liste gestellt werden. Es dürfen jedoch keine gegenteiligen disziplinarischen Maßnahmen vorliegen. Eventuell in

früheren Zeiten nicht entrichtete Mitgliedsbeiträge müssen zuvor nachentrichtet werden. Bei einer Wiedereintragung in die Vertreterliste braucht keine Eignungsprüfung abgelegt zu werden.

Beim epi gibt es nur Vollmitgliedschaft, keine ruhende Mitgliedschaft. Wer die Jahresgebühren für einige Zeit sparen will, muss sich vor dem 1. April des laufenden Jahres von der Liste der zugelassenen Vertreter beim EPA streichen lassen und gegebenenfalls später einen Antrag auf Wiedereintragung in die Liste stellen. Bitte richten Sie Ihren Antrag auf Streichung/Wiedereintragung an das EPA, Direktion 5.1.1.

3. Jahresbeitrag

Die Verpflichtung zur Entrichtung des epi-Jahresbeitrags entsteht mit Eintragung in die Liste der zugelassenen Vertreter.

Verschiedentlich ist der Wunsch nach Aus- oder Herabsetzung dieses Beitrages von z.Z. DM 300,— geäußert worden. Diese Frage hat mehrfach den epi-Rat und Vorstand beschäftigt. U.a. angesichts der vergleichsweise geringen Höhe des Beitrages wurde eine Aus- oder Herabsetzung abgelehnt. Damit gilt, dass der Mitgliedsbeitrag für das laufende Jahr nur entfällt, wenn a) die Streichung von der Vertreterliste vor dem 1. April erfolgt ist;
b) der Eintrag in die Vertreterliste erst nach dem 30. September vorgenommen wurde.

Der Jahresbeitrag kann nicht gequotet werden. Er ist in voller Höhe auch bei Eintragung in die Liste während des Kalenderjahres zu entrichten, es sei denn er entfällt

ganz, wenn die oben unter a) und b) genannten Voraussetzungen vorliegen.

Bitte beachten Sie, dass der Vorstand und Rat des epi bei allen Entscheidungen zu beachten haben, dass es

sich bei dem *epi* nicht um eine nationale Einrichtung handelt, sondern dass 19 Staaten am Patentübereinkommen beteiligt sind.

epi membership and membership subscription

1. Professional Association

epi is the statutory association of Professional Representatives before the European Patent Office, with compulsory membership. Its tasks are comparable to those of national professional associations such as the British Chartered Institute of Patent Agents. Its members come from the free profession as well as the industry and government sectors. Requirements for membership are a university level scientific or technical qualification or an equivalent level of scientific or technical knowledge, a full-time training period of at least three years, and passing the European Qualifying Examination.

epi is an international public law corporation.

2. Membership

All persons entered in the list of Professional Representatives, kept by the European Patent Office (EPO), automatically become a member of the *epi*, Art. 5 of the Regulation on the Establishment of an Institute of Professional Representatives before the European Patent Office, OJ EPO 2/1978, p. 85 et seq. Their obligation to pay the annual subscription to *epi* results from Art. 6, loc. cit. Membership automatically expires as soon as a member is deleted from the list of the EPO.

After having been deleted from the list, a member may at any time file an application for reinstatement. There must, however, be no contradicting disciplinary measures. Outstanding membership subscriptions have to be paid before reinstatement. There is no need to pass the European Qualifying Examination again for being reinstated.

epi has only one membership status, no associate membership or the like. Persons who do not want to

pay their annual subscription for one or more years need a deletion from the list of professional representatives before 1 April of the current year. They may apply for reinstatement later on. Application for reinstatement has to be sent to the EPO, Directorate 5.1.1.

3. Membership subscription

The obligation to pay the annual *epi* membership subscription starts with the registration on the list of Professional Representatives kept by the European Patent Office.

Occasionally, requests have been made for suspension or reduction of the membership subscription, currently amounting to 300 DM. The *epi* Council and Board have considered this question many times and have decided that the membership subscription may neither be suspended nor reduced. One of the reasons for this decision is the already low amount of the membership subscription. It is waived if

- a) a member's written demand for deletion from the list of professional representatives arrives at the European Patent Office prior to 1 April;
- b) a person is registered on the list of professional representatives after 30 September.

The entire membership subscription, and not only a proportion, has to be paid even if a person is entered on the list in the course of the year, except if the above-mentioned conditions under a) and b) are fulfilled.

Please keep in mind that the *epi* Board and Council have to take into consideration that all decisions they take concern an international organization involving 19 Contracting States to the European Patent Convention and not only one single country.

Affiliation à l'*epi* et cotisation annuelle

1. Organisation internationale de l'Ordre des mandataires agréés près l'Office européen des brevets

L'*epi* remplit auprès de l'Office européen des brevets les mêmes fonctions que, au niveau national, le Barreau pour les avocats ou l'Ordre pour les médecins, avec cependant la particularité que non seulement les per-

sonnes appartenant à la profession libérale mais également celles qui exercent dans l'industrie ou dans le secteur public en sont membres.

Puissent faire partie de l'*epi* les personnes titulaires d'un diplôme scientifique ou technique de niveau universitaire ou bien ayant des connaissances scientifiques ou techniques de niveau équivalent, qui ont accompli un

stage d'au moins trois ans dans le domaine du brevet et réussi l'examen européen de qualification de l'Office européen des brevets.

L'*epi* est donc l'Ordre des mandataires agréés près l'Office européen des brevets. C'est une association de droit public.

2. Affiliation

L'affiliation obligatoire qui est automatiquement suivie de l'inscription sur la Liste des mandataires agréés de l'OEB, repose sur l'Article 5 du Règlement relatif à la création de l'Institut, et l'obligation d'acquitter la cotisation annuelle sur l'Article 6, voir JO OEB 2/1978, p. 85 et suiv. L'affiliation à l'*epi* expire automatiquement avec la radiation de la liste de l'OEB.

Une personne qui s'est fait radier de la Liste des mandataires peut à tout moment se faire réinscrire, à condition qu'aucune mesure disciplinaire à son encontre ne l'interdise. Les cotisations éventuellement impayées doivent être réglées au préalable. Il n'est pas nécessaire de repasser l'examen de qualification pour se faire réinscrire sur la liste des mandataires.

Les membres de l'*epi* sont tous des membres actifs. Il n'est pas possible de suspendre l'affiliation. Si une personne désire ne pas payer de cotisation annuelle pendant quelque temps, elle doit demander sa radiation de la liste des mandataires de l'OEB avant le 1er avril de l'année en cours et refaire une demande d'inscription plus tard. La

demande de radiation/réinscription doit être adressée à l'OEB, direction 5.1.1.

3. Cotisation annuelle

L'inscription sur la liste des mandataires entraîne automatiquement l'obligation d'acquitter la cotisation annuelle.

Une suspension du paiement de la cotisation ou une réduction de son montant, actuellement de 300 DM, n'est pas possible. Une éventuelle suspension ou réduction de la cotisation a souvent été considérée par le Conseil et le Bureau de l'*epi*. Cette possibilité a été rejetée en raison, entre autres, du montant relativement peu élevé de la cotisation. Une personne est toutefois dispensée d'acquitter la cotisation annuelle si

- a) elle se fait radier de la liste des mandataires avant le 1er avril;
- b) elle se fait réinscrire sur la liste des mandataires après le 30 septembre.

Le montant intégral de la cotisation doit être payé en une seule fois, même si l'inscription a lieu en cours d'année, exception faite des conditions citées ci-dessus aux points a) et b).

Nous vous rappelons que le Bureau et le Conseil de l'*epi* doivent, pour chaque décision, tenir compte du fait que l'*epi* est une organisation internationale constituée non pas d'un seul pays mais de 19 Etats Contractants de la Convention sur le brevet européen.

Please visit our website for further news !

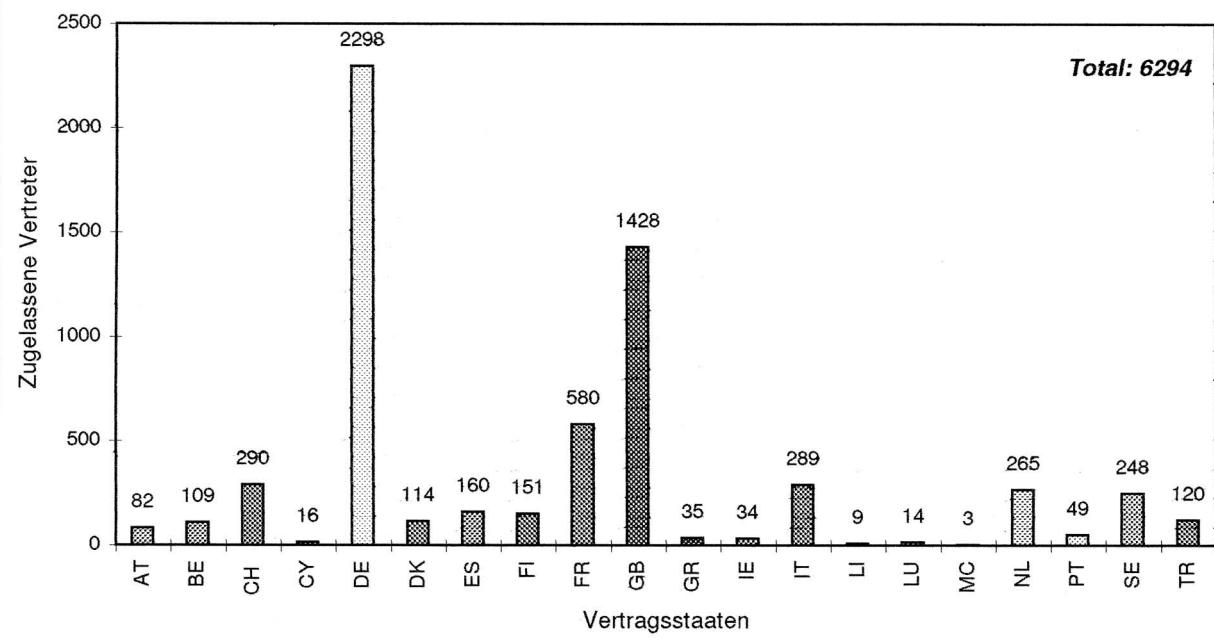
www.patentepi.com

LIST OF PROFESSIONAL REPRESENTATIVES AS OF 31.10.2001
 by their place of business or employment in the Contracting States

No.	Contr. State	No. of repres.	% of repres.
1	AT	82	1,30
2	BE	109	1,73
3	CH	290	4,61
4	CY	16	0,25
5	DE	2298	36,51
6	DK	114	1,81
7	ES	160	2,54
8	FI	151	2,40
9	FR	580	9,22
10	GB	1428	22,69
11	GR	35	0,56
12	IE	34	0,54
13	IT	289	4,59
14	LI	9	0,14
15	LU	14	0,22
16	MC	3	0,05
17	NL	265	4,21
18	PT	49	0,78
19	SE	248	3,94
20	TR	120	1,91

Total	6294	100,00
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Zugelassene Vertreter gemäß Art. 134 und 163 EPÜ - Stand vom 31.10.2001



Sisyphe et le Brevet Communautaire

S. Le Vaguerèse (FR)

La lutte elle-même vers les sommets suffit à remplir un cœur d'homme. Il faut imaginer Sisyphe heureux.

Albert Camus

Pour ne mentionner que ses avatars les plus aboutis, le Brevet Communautaire, en germe dès l'origine du Marché Commun, nous a donné successivement la Convention de Luxembourg en 1975, la version révisée de 1989 de la même Convention, un projet avorté d'entrée en application pour une partie des Etats Membres, et maintenant un projet de Règlement élaboré par la Commission...

Le rocher va t-il de nouveau dévaler la pente ? Va t-il donner tort au mythe, et se stabiliser au sommet ? Ou... privera t-on Sisyphe de son „bonheur“ en lui retirant son rocher sans que la tâche soit vraiment accomplie ?

Les déclarations mises en préambule des textes ayant accompagné les différentes tentatives rappellent l'impérieuse nécessité du titre unique. Celui de 1989 le dit en ces termes :

„...l'un des objectifs Fondamentaux du traité instituant la Communauté économique européenne est l'abolition des obstacles à la libre circulation des marchandises ;

...l'un des moyens les plus appropriés pour assurer que ce but sera atteint, en ce qui concerne la libre circulation des marchandises protégées par des brevets, est la création d'un régime communautaire de brevets ;

...que la création d'un tel régime communautaire de brevets est par conséquent indissociable de la réalisation des objectifs du traité.“

La dernière version proposée par la Commission ne fait pas exception et entonne l'air bien connu maintenant : „Il faut un titre qui joue de manière uniforme sur le territoire communautaire pour satisfaire enfin au dogme de l'obligation de la libre circulation des produits“.

Ce qui est nouveau, c'est le fait que le rappel des principes ne semble plus suffire. La Commission croit devoir justifier les dispositions entreprises et s'excuse presque de sa témérité. Oui les mesures adoptées doivent respecter le principe de la subsidiarité. Non les objectifs ne peuvent être atteints par les Etats membres agissant séparément ou collectivement. Elle s'interroge encore pour savoir si les mesures proposées ne sont pas disproportionnées aux objectifs poursuivis. Et pour répondre la Commission croit même devoir s'abriter derrière l'autorité de la Cour de Justice !

„The Court of Justice has ruled that Community intellectual property rights cannot be created by harmo-

nizing national legislations. Having regard to the unity of the right, Member States cannot be left with any discretion concerning its implementation.“

Tant de précautions fait penser que tout ne va pas de soi.

Pourtant l'objectif est sans équivoque, et l'unification attendue doit se faire même si les Etats membres doivent renoncer à certaines de leurs prérogatives. C'est la Cour qui le dit.

Sans doute la Commission ne va pas jusqu'à la conclusion que le titre communautaire étant le seul à répondre aux objectifs fixés, il doit se substituer aux titres nationaux qui manifestement ne permettent pas d'atteindre ces objectifs. N'en demandons pas trop, bien que la question du maintien des droits nationaux soit posée depuis l'origine et continuera de l'être. A cette question l'un des pionniers du système européen, M. Guillaume Finniss, ancien Directeur de l'I.N.P.I. et ancien Directeur de l'I.I.B., en 1961 dans une conférence intitulée „Les droits nationaux de Propriété Industrielle sont-ils appelés à disparaître“, apportait en conclusion la réponse suivante:

„...si les échanges économiques s'accélèrent, il va de soi que la création de titres fédéraux coexistant avec des titres nationaux sera presque inéluctable; mais si, à côté de l'accélération économique, il y a une accélération politique, dont je ne sais pas si elle aura lieu, alors je pense qu'il serait enfantin d'imaginer que dans cette hypothèse, le droit de la propriété industrielle puisse garder ses assises nationales.“

Quarante ans plus tard les faits confirment trop bien la justesse de cette vision prémonitoire, à la différence que le titre „fédéral“, qui à cette époque était seul envisagé en concurrence avec les titres nationaux, s'est un peu égaré entre-temps dans le sens euro-national.

Passer directement au titre unique aurait certainement été prématuré. Sans être aussi inspiré que M. Finniss, on peut prévoir sans grand risque de se tromper, que la disparition des titres nationaux mettra encore ...un certain temps, même si leur maintien apparaît à l'observateur extérieur de plus en plus anachronique pour reprendre le qualificatif utilisé dans un article récent par un éminent magistrat spécialiste de ces questions. (EIPR,9,2001 „National I.P. Rights : A moribund anachronism in a Federal Europe“ par Sir Hugh Laddie).

Mais la gêne de la Commission ne vient certainement pas d'avancées téméraires vers une disparition des titres nationaux, et ses précautions vis-à-vis des Etats membres ne se limitent pas aux justifications du pourquoi de son intervention. Elle entreprend encore de donner des gages à ceux de ces Etats qu'elle sait les moins favorables à l'établissement de ce titre unique.

Ainsi, une note émanant de la Commission, destinée au Conseil de l'Union, datée du 31 mai 2001, propose comme allant de soi la remise en cause de la centralisation des travaux pour le brevet communautaire, et par voie de conséquence pour le brevet européen.

La question de la décentralisation est régulièrement soulevée par quelques-uns des Etats membres. La surcharge que connaît actuellement l'OEB, et les embarras que cette surcharge provoque, ne sont pas de nature à faire taire ces demandes. Que certains profitent de cette situation pour relancer la question n'est donc pas surprenant.

Ce recours à la décentralisation des travaux est formalisé dans le Projet de Rapport daté du 5 septembre, relatif au Règlement proposé par la Commission, Rapport présenté au Parlement Européen. Ce Projet de Rapport contient un nombre limité d'articles modifiés du projet de Règlement. Parmi ces articles se trouve un article 1a2 stipulant le droit pour les Offices qui le demandent, d'effectuer des travaux dans le cadre de la CBE, pour les demandes communautaires en ces termes :

„2. National patent offices which so request within the framework of the European Patent Convention may, in their respective languages, undertake other tasks relating to Community patent applications, particularly in the field of search and research operations. These activities shall not affect the uniformity of the Community patent, which in all cases must be granted by the European Patent Office“.

Le Protocole sur la décentralisation joint à la CBE, contient des mesures prévoyant le recours limité, et pour certains travaux, à certains Offices nationaux. Mais d'une part ceci n'est envisagé que comme mesure transitoire, et surtout, d'autre part, c'est à l'OEB en principe qu'il revenait d'autoriser les Etats à effectuer ces travaux en tant que de besoin.

La formulation adoptée dans ce nouvel article est d'une tout autre nature. Elle constitue une invitation aux Etats à faire valoir leur revendication à participer aux travaux, de recherche principalement, mais pas exclusivement, l'examen pouvant entrer dans la formulation non limitative „other tasks“. Il ne s'agit plus comme précédemment de faciliter la mise en route d'un nouveau système, mais de reconnaître un droit permanent aux Offices nationaux de se substituer à l'OEB, à la seule convenance des premiers.

Cet article est l'objet d'une „justification“ qui laisse perplexe toute personne soucieuse du bon fonctionnement du système.

„In some Member States, the national patent offices have large staffs and infrastructures, something which should be turned to advantage after the creation of the Community patent. Efforts should be made to ensure that they take part in relevant aspects of Community patent applications.“

Il faut espérer que cette motivation ne reflète pas vraiment la pensée qui sous-tend cette proposition. Dans l'hypothèse inverse, elle serait l'image même du moyen pris comme fin en soi.

La proposition est, bien entendu, assortie du vœu pieux que cette façon de procéder ne doit pas porter atteinte à la qualité du brevet. Le fait même, que cette précaution soit prise, montre bien l'incertitude qui s'attache au résultat de cette disposition si elle devait être confirmée et appliquée.

Sans mettre en cause la qualité des travaux des Offices nationaux concernés, quel bénéfice peut-on raisonnablement espérer d'une distribution sur une pluralité d'opérateurs dont les pratiques sont tout sauf uniformes ? Il ne faut pas se tromper, le succès du brevet européen n'a pas conduit les Offices nationaux à exercer leurs compétences en les calquant sur celles de l'OEB. A cela rien que de normal. Quel intérêt y aurait-il eu à refaire, au mieux à l'identique, au pire en moins bien, ce que l'OEB faisait déjà ? Retirer à l'OEB ce qui lui a valu son succès, pour le confier à des acteurs qui, encore une fois, n'ont pas la même pratique, ne peut que fragiliser l'ensemble de l'institution.

La volonté politique communautaire, à laquelle M. Finniss faisait allusion dans la conférence mentionnée plus haut, est-elle suffisamment vigoureuse pour écarter cette tentation de redistribution des tâches au niveau national ? A ce propos, sans trop d'illusions, M. Finniss, évoquant la possible disparition des offices nationaux à la suite de l'introduction d'un titre unique, remarquait :

„Et si vous me demandez si c'est une bonne ou une mauvaise chose que de voir disparaître les titres nationaux de propriété industrielle, je serai obligé de répondre que les fonctionnaires nationaux n'aiment pas voir s'évanouir leur métier...“

On peut ajouter qu'ils ont de la suite dans les idées. Le brevet européen qui a certainement changé le rôle de ces Offices, ne semble pas encore parfaitement admis par certains. Faut-il pour autant céder à leur demande insistant pour voir naître, mais sous quelle étoile, ce brevet communautaire éclaté ? Espérons que le politique reprendra la copie pour la ramener à des considérations plus en rapport avec le but poursuivi.

En attendant, ces quelques remarques doivent rassurer Sisyphe. Il peut encore rouler quelque temps son rocher „brevet communautaire“.

Amendment of the Patent Law in Luxembourg

J. Waxweiler (LU)

On 4 September 2001, Luxembourgh Patent Law of 20 July 1992 (as amended by the Law of 24 May 1998) was further amended. The purpose of the new amendments is to adapt the law to the needs of the users and to bring it into line with certain legal or contractual obligations of the State. The provisions of the EU Directive on Biotechnology, however, were not incorporated into the Law; this amendment is still under discussion. The main amendments are briefly discussed below.

Six Year Patent

A main amendment is the introduction of a six-year patent which is granted without a search report to be drawn up. Luxembourg thereby follows France, Belgium and The Netherlands which have already implemented such regulations. There are no transitional provision so the old provisions apply to applications filed before 4 September 2001. The new 6-year patent is only available for patent applications filed on or after 4 September. There is only an examination as to form for those applications.

Term to request establishment of a search report

The former Patent Law which came into force on 1 January 1998 introduced the requirement for providing a search report or for requesting the drawing up of a search report within seven years from filing an application for a patent. In view of the introduction of the six-year patent, this time limit is reduced to 18 months from filing or the earliest priority claimed. If such request is not filed within this shortened 18-month term, a six-year patent will be granted. Luxembourg thus aligns its patent legislation with other European countries. The seven years term remains for applications filed before 4 September 2001. Furthermore third parties are no longer allowed to request the drawing up of a search report.

Annuities

As from 4 September 2001, like for EP applications, annuities are no longer levied for the first and second years, but only for the third and subsequent years. There are no transitional provisions so applications filed before 4 September 2001 are still subject to payment of first and second year annuities.

Priority

Priority may now also be claimed from applications filed in countries which are parties to a bilateral or multilateral agreement on the reciprocal recognition of priority rights.

PCT

The direct national route into Luxembourg from an international (PCT) application has been closed. i.e. only the European route will be available for an applicant wishing to apply for a Luxembourg patent via the PCT. Thus, Luxembourg may only be designated in an international application by way of designation for a European (EP) patent. Designations for a Luxembourg patent will be treated as a designation for a European patent. This amendment brings Luxembourg patent law in line with that of other countries, such as Belgium and The Netherlands.

European Patent Applications – Provisional protection under Article 67 EPC

A patent attorney authorized to practice before the Luxembourg Patent Office may file the translation into an official language (French or German) of the claims of a published European patent application without the need to file a power of attorney signed by the applicant. Such filing is only required for EP patent applications published in English.

Miscellaneous

In order to enable industrial and private practices resident in Luxembourg to comply with the provisions of the Treaty on European Union relating to free movement of goods and services registered patent attorneys are no longer required to have their domicile in Luxembourg.

It is no longer required that a handling fee is paid when filing a PCT or EP application with the Luxembourg Patent Office.

If the proprietor of a European patent designating Luxembourg has recorded a change of name or address in the Register of European patents before the opposition period has expired or during opposition procedure, these changes are automatically extended to the Luxembourgh patent register and need no longer to be recorded within the Luxembourg Patent Office. (This does not apply to assignments.)

Schulte, Patentgesetz mit EPÜ Kommentar, 6. Auflage¹

G. Eisenführ (DE)

Wer sich ein Jahrhundert Entwicklung des deutschen Patentrechts gewissermaßen im Zeitraffer vor Augen führen möchte, der greife zu den Kommentaren von Isay und Seligsohn (deren klare, unprätentiöse und gleichwohl edle Sprache mich noch heute begeistert) und schaue dann in den *Schulte*, der jüngst in sechster, durchgängig überarbeiteter und auf den neuesten Stand der Gesetzgebung (z. B. 2. Patentgesetz – Änderungsgesetz) und Rechtsprechung gebrachter Auflage erschienen ist. Der ins Auge fallende Quantensprung ist aber nicht nur das Ergebnis einer seinerzeit ungeahnten technischen Entwicklung, in deren Folge sich die Patent-Rechtsprechung immer weiter differenzieren musste, und auch nicht nur das Ergebnis der Europäisierung des Patentrechts mit seinen vielfachen Einflüssen namentlich auf das einschlägige Verfahrensrecht, sondern vor allem das Ergebnis einer ebenso akribischen wie profunden Aufbereitung der Stofffülle durch den Verfasser, der sich auf eine reiche Erfahrung als Richter am Bundespatentgericht und Vorsitzender der juristischen Beschwerdekammer des Europäischen Patentamts stützen kann.

Was erwartet der Praktiker von einem Kommentar des Patentgesetzes? Er erwartet nicht nur die vollständige und umfassende Erläuterung aller einschlägigen gesetzlichen Vorschriften (was Nebengesetze und Verordnungen einschließt unter Einbindung der dazu ergangenen Rechtsprechung), sondern er erwartet – vielleicht vor allem –, dass er den Zugang zu den von ihm im Einzelfall benötigten Informationen so rasch wie möglich erhält. Beide Wünsche erfüllt das Standardwerk von *Schulte* meisterhaft.

Die Fülle der komprimiert angebotenen Informationen ist stupend. Neben einem umfangreichen Fußnotenapparat treten dafür mehrere Entscheidungssammlungen an, erstmals auch ein chronologisch geordnetes Entscheidungsregister des Bundespatentgerichts mit einer Konkordanz der Fundstellen. Daneben gibt es nicht nur umfassende Literaturübersichten, geordnet nach deutschem Patentrecht und dem anderer Nationen sowie europäischem und darüber hinausgehendem internationalen Patentrecht, sondern auch eine Anlagensammlung von Texten zugehöriger Gesetze und Verordnungen, und es fehlt nicht einmal eine Zusammenstellung von über 50 Internet-Adressen („Internet-Links“) verschiedenster mit Patentsachen befasster Organisationen und Anbietern.

Beibehalten wurde in der Neuauflage die vorteilhafte Einbindung des EPÜ und der Praxis sowie Rechtspre-

chung des Europäischen Patentamts. Das trägt der Europäisierung des deutschen Patentrechts Rechnung und erlaubt eine unmittelbar parallele Wahrnehmung der Einzelheiten und Eigenheiten beider Patentierungswege. Sehr hilfreich sind in diesem Zusammenhang die der Kommentierung vorgeordnete „EPÜ-Schnellübersicht“ und die Konkordanzliste auf der Grundlage der Paragraphenfolge des Patentgesetzes, zumal erstere auch die englischen „headings“ enthält. Dementsprechend ist eingangs der Kommentierung jeder Einzelvorschrift des Patentgesetzes die entsprechende Vorschrift des EPÜ vollständig auch in Englisch und Französisch abgedruckt. Die stets vorhandenen Angaben zum Geltungsbereich helfen Fehler bei der Zuordnung und Anwendung zu vermeiden.

Hiernach überrascht nicht mehr, dass neben den Auswirkungen des TRIPS auch die EG-Biotechnologie-Richtlinie aufgenommen und sogar das bislang erst im Entwurf vorliegende, diese Richtlinie umsetzende Biopatentgesetz bereits eingearbeitet worden ist. Gleches gilt für die bevorstehenden Kostenregelungen, welche auch die Währungsumstellung auf Euro berücksichtigen. Zu erinnern ist, dass zwischen der autonomen, staatsvertraglichen Regelung des EPÜ und der supranational einheitlichen EG-Gesetzgebung kein unmittelbarer Zusammenhang besteht (weshalb wir – mitunter leidvoll – das Fehlen eines den Beschwerdekammern des EPA übergeordneten Kassationsgerichts zur Kenntnis nehmen müssen).

Für das rasche Auffinden der gewünschten Information sorgen nicht nur ein überwältigendes Sachregister (neben den schon erwähnten Entscheidungsregistern), welches vom englischen „Abandonment“ bis zum „Zwischenurteil“ 95 Seiten füllt, sondern auch ebenso praktische wie kluge Stichwort-Zusammenstellungen, wie es die „Alphabetika“ im Rahmen der Kommentierung der §§ 1 und 4 PatG sind. Auch optische Mittel sollen ersichtlich der raschen Orientierung dienen. Sie reichen von eingedruckten Randfahnen zur Unterscheidung der Inhaltsabschnitte über unterschiedliche Typengröße bis zum Kursiv- und Fettdruck. Die davon ausgehende zusätzliche Orientierungshilfe verdrängt ästhetisches Unbehagen.

Um 417 auf 1372 Seiten und somit um fast 50% ist allein der Kommentarteil des *Schulte* gegenüber der Voraufgabe angewachsen. Der Verlag ist der Auswirkung auf das Volumen durch die Verwendung dünneren Papiers begegnet. Denn es soll sich ja nach wie vor um einen „Taschenkommentar“ handeln. Und darin ist auch begründet, dass man trotz der unglaublichen Informationsfülle im *Schulte* eines vergeblich suchen wird: die freie Auseinandersetzung mit dem Patentgesetz, mit

¹ Carl Heymanns Verlag KG 2001. LXVIII, 1776 Seiten DM 280,- (€ 143,-)
ISBN 3-452-24174-2

dem Für und Wider seiner Regelungslinien, ja dem Patentrecht überhaupt. Derartiges ist Großkommentaren vorbehalten, und es sei dem Rezensenten nachgesessen, dass er dies mit Blick auf die eingangs erwähnten Altmeister der Patentrechtskommentierung, aber auch auf die höchst eigenständigen Ansichten von Reimer in seinem nach der 3. Auflage 1968 nicht mehr fortgesetzten Nachkriegskommentar bedauernd vermerkt. Jedoch

schmälert das nicht im geringsten die außerordentliche Qualifikation des Schulte als eines unverzichtbaren Hilfsmittels für den 'Newcomer' ebenso wie für den erfahrenen Praktiker, denn auch er wird in diesem umfassenden Kompendium des Patentrechts wertvolle Tipps und Anregungen finden. Dass es auch eine CD-ROM-Version des Schulte gibt, sei für die EDV-Freaks hervorgehoben, zumal sie erweiterte Zugriffe erlaubt.

Enabling Biotechnological Inventions in Europe and the United States A study of the patentability of proteins and DNA sequences with special emphasis on the disclosure requirement¹

B. Hammer Jensen (DK)

This fourth volume of the EPOscript series published by the EPO deals, like the first volume, with the controversial issue of patents in the field of biotechnology.

This time the focus is on the issue of enablement – or disclosure requirement, and investigating also the much-argued concept of broad claims in this field in relation to the disclosure requirement.

The author, Dr. Bostyn has for some years been teaching Intellectual Property Law at the University of Maastricht in the Netherlands and has been involved in the debate surrounding the implementation of directive 98/44 on the legal protection of biotechnological inventions in the Netherlands.

The book is divided into four parts, the first part being an introduction to the history of patent law and economic theories dealing with the patent system in general (chapters 1 and 2). The second part is an introduction to the application of the main patentability criteria to proteins and DNA sequences (polynucleotides). The third part – the main theme – investigates the application of the requirement for disclosing the invention in a manner sufficiently clear for the skilled person to perform the invention. Finally the fourth part provides the conclusion and recommendations of the author.

The first part is highly recommended reading for anyone dealing with patents, whether the practitioner or the legal scholar. The historical review and the introduction to the economic theories are excellently presented and provided good food for the mind of an old practitioner. At the same time it gives a good background for the main theme of the book, namely the balance between rewarding the inventor and providing value for society as a whole.

The second part is in my view less interesting. It has the definite stamp of the legal scholar entering the tech-

nological side of biotechnology. Notwithstanding this, the general discussions and overviews of the European and US case law in relation to the application of the criteria of novelty and inventive step to biotechnological inventions relating to proteins and polynucleotides (DNA sequences) is very pertinent. Not comprehensive, but the selection of cases shows that the author is aware of the many existing cases, and demonstrates his ability to pick the most relevant ones. A small peculiarity is the separate treatments of the patentability of antibodies, a special group of proteins; and DNA macromolecules (vectors) that are generally used for transporting DNA into cells. Finally, the patenting of so-called expressed sequence tags (ESTs) and single nucleotide polymorphisms (SNPs) is briefly discussed. For obvious reasons the author cannot discuss the recently introduced „utility guidelines“ of the USPTO in this special area, and no case law exists.

Next comes the main part of the book, wherein the author investigates the relationships between the disclosure of the patent and the scope of the patent. Here a number of key features are used, namely the scope (or breadth) of the disclosure, the enablement, the invention, the claims, and the protection. The simple philosophy being that a balance must be struck to secure that the scope of the claims or protection (including equivalents) should not be broader than the scope of the invention as given in the disclosure. The discussion of this topic and review of the case law is presented excellently taking into consideration the best mode requirement of the US law and recent discussions about written disclosure in the US. A small note in relation to the authors advocacy of the best mode requirement in the US as a means to avoid „concealment“ is the apparent oversight of the fact that the inventor does not have an obligation to identify the best mode among the embodiments disclosed, and the fact that most – if not all – patent applications in this field are filed in both Europe and the

1 Sven R. Bostyn
EPOscript Volume 4
European Patent Office 2001.

USA, and therefore the European applications do fulfil this requirement.

Finally, in the conclusion and recommendations, the author voices some concerns over the European system as represented by the EPO, one main problem being that only one board of appeal deals with biotechnological inventions in the EPO, thereby exerting an extremely important influence in this area, and the author has a

number of reservations in respect of certain principles laid down by this one board.

I will not reveal the conclusions here. The book is a major contribution to the literature in this field and deserves to be read by all those interested in biotechnology and patents. It is not a practical guide on how to draft a patent application, but it certainly comprises elements that should be taken into account by anyone endeavouring to draft one.

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