

# BR/GT I/47 e/70

## Travaux Préparatoires EPC 1973

### Comment:

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INTER-GOVENMENTAL CONFERENCE  
FOR THE SETTING UP OF A EUROPEAN  
SYSTEM FOR THE GRANT OF PATENTS

Luxembourg, 25 June 1970  
BR/GT I/47/70

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- Secretariat -

"IMPLEMENTING REGULATIONS" SUB-COMMITTEE  
OF WORKING PARTY I

WORKING DOCUMENT

PRELIMINARY DRAFT  
FOR A CONVENTION RELATING TO THE ESTABLISHMENT OF A  
EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles 1 Number 1, 12 Number 1, 16 Numbers 1 and 2 and  
17 Numbers 1 and 2

(Text drawn up by the Drafting Committee)

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Re. Article 1

Number 1 (new)

Patent classification in use by the European Patent Office

The European Patent Office shall use the classification referred to in Article 1 of the European Convention on the International Classification of Patents for Invention of 19 December 1954, hereinafter referred to as the "international classification".

Note :

This provision is only attached to Article 1  
of the First Preliminary Draft for the record.

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Re. Article 12

Number 1 (new)

Disclosure of the invention at an international exhibition

(1) The situation described in Article 12(b) of the Convention must be invoked on filing the European patent application.

(2) The applicant must, within 4 months of filing the application, submit a certificate issued at the exhibition by the authority responsible for the protection of industrial property at that exhibition, stating that the invention was in fact exhibited there. This certificate must be accompanied by an identification of the invention, duly authenticated by the above-mentioned authority.

(3) Failure to observe the provisions of paragraphs 1 and 2 shall lead to loss of the right to invoke Article 12(b)

Re. Article 16

Number 1

Suspension of proceedings for grant

(1) If proof is provided to the European Patent Office that proceedings have been opened for the purpose of establishing that a person referred to in Article 15, paragraph 1, of the Convention, other than the applicant, is entitled to the European patent, the Office shall stay the proceedings for grant, unless the person who claims entitlement to the European patent consents to the continuation of proceedings for grant. Such consent must be notified in writing to the European Patent Office; it shall be irrevocable. However, proceedings may not be stayed before the publication of the European patent application pursuant to Article 85 of the Convention.

(2) Where proof is provided to the European Patent Office that a final decision has been given in favour of the applicant in the proceedings concerning entitlement of the European patent, proceedings for grant shall be resumed with that person. If the decision is in favour of the person who claimed to be entitled to the European patent, proceedings for grant shall not be resumed before the expiry of a suitable period, which may not be less than the period laid down in Article 16, first sentence, of the Convention.

Re. Article 16, Number 1

(3) Notification of the suspension or resumption of proceedings for grant shall be entered in the Register of European Patents and published in the European Patent Bulletin.

Notes:

1. Provisions similar to those of this Article should be adopted in the event of proceedings concerning entitlement to the European patent being opened or of a decision being given during the opposition period or at a time when the examination of an opposition has not yet given rise to a final decision by the European Patent Office (Reports, point 30, paragraph 2). The drafting of such a provision presupposes the prior amendment of Article 16 of the First Preliminary Draft.
2. (Text to be drafted later).

Re. Article 16

Number 2

Limitation of the option to withdraw the application  
for a European patent

(1) As from the receipt by the European Patent Office of notification that proceedings have been opened under Article ... (Re. Article 16, number 1) and until the expiry of the period laid down in Article 16, first sentence, of the Convention, the application for a European patent may not be withdrawn, save with the consent of the person who claimed to be entitled to the European patent. If, after a period of one month from receipt of notification, evidence that such proceedings have been opened has not been furnished, the applicant shall recover his right to withdraw the application until such time as this evidence is furnished.

Notes :

(1) See Note 1 to Re. Article 16, number 1.

(2) (Text to be drafted later).

Re. Article 17

Number 1

Mention of the inventor

(1) The inventor may only be designated before the European Patent Office by the applicant for the European patent. Such designation may be effected at any time prior to the payment of the fees provided for in Article 97, paragraph 1, of the Convention.

(2) The designation must be submitted in writing on a separate sheet. It must state the family name, given names and full address of the inventor.

(3) The European Patent Office shall not verify the accuracy of the designation of the inventor.

Notes :

1. The text of paragraph 1 will be reconsidered later.
2. It will be necessary to study whether the inventor may be designated before the European Patent Office during the opposition period or at a time when the examination of an opposition has not yet given rise to a final decision. The drafting of a provision to this effect presupposes a prior amendment to Article 17 of the First Preliminary Draft.

Re. Article 17

Number 2

Publication of the mention of the inventor

(1) Subject to the provisions of paragraphs 2 to 4 of this Article, a person designated as the inventor shall be mentioned as such in the Register of European Patents, in the notifications of the publication of the European patent application and of the grant of the patent as well as in the publications of the European patent application and the European patent specifications.

(2) In the event of it no longer being possible, when the inventor is designated, to apply the provisions of paragraph 1 in full, the inventor shall be mentioned in the European Patent Bulletin and, if the applicant for the European patent so requests, in the publications of the European patent application not yet distributed.

(3) In the event of a third party notifying the European Patent Office of a final decision whereby the applicant for a European patent is required to designate him as the inventor, the provisions of paragraphs 1 and 2 shall apply. However, in the case referred to in paragraph 2, the third party may also ask to be mentioned on the publications of the European patent application not yet distributed.

Re Article 17, Number 2

(4) The measures provided for in paragraphs 1 and 2 shall not be applicable where the inventor designated by the applicant for a European patent addresses to the European Patent Office a written renunciation of his title as inventor.

Note :

See note 2 to Re. Article 17, number 1.

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