

BR/GT I/65 e/70

Travaux Préparatoires EPC 1973

Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

- Secretariat -

Working document
for Draft Implementing Regulations
to the Convention establishing a European System for the Grant of Patents
put forward by the Chairman of the
"Implementing Regulations" sub-Committee of Working Party I
(Re. Articles 170 to 198)

compared synoptically with

- the Preliminary Draft Implementing Regulations to the Convention relating to a European Patent Law, as drafted by the EEC "Patents" Working Party (unpublished working document 4419/IV/63 of 20 January 1964) and,
- the Regulations under the Patent Co-operation Treaty (PCT)

Re. Article 170

No. 1

Extended time limit for payments and payment by instalments

1964 Draft

(1) Upon request, the President of the European Patent Office may grant a term for the payment of a fine or a fee, other than the renewal fees and those provided for in Article ... (Re. Article 159, No. 7 bis), whose non-payment has been noted by the said Office, to the extent that the person in question is able to prove that he is not in a position to make the payment for want of adequate funds. The provisions of Article ... (Re. Article, 122 No. 1) shall be applicable.

(2) Upon request, the President of the European Patent Office may likewise authorise the person in question to pay by instalments the total amount of a fine or a fee other than the renewal fees and those provided for in Article ... (Re. Article 159, No. 7 bis), whose non-payment has been noted by the said Office.

Re. Article 170

No. 1

Extended time limit for payment and payment by instalments

P r o p o s a l

- deleted -

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Re. Article 170

No. 2

Waiving of enforced recovery procedures

1964 Draft

The President of the European Patent Office may waive action for the enforced recovery of a fine or a fee if the sum to be recovered is minimal or if such recovery is either too problematic or impossible.

Note:

The powers delegated by this Article to the President of the European Patent Office should be exercised, where appropriate, in joint consultation with the "Financial Comptroller" of the European Patent Office.

Re. Article 170

No. 2

Waiving of enforced recovery procedures

P r o p o s a l

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Re. Article 171

No. 1

Deletion of the representative from the list

1964 Draft

(1) Upon his own request, the representative shall be deleted from the list provided for in Article 171, paragraph 1, of the Convention.

(2) The central industrial property office shall take action for the withdrawal of the certificates furnished in accordance with Article 171, paragraph 2, of the Convention if the representative is not fulfilling or has ceased to fulfil the conditions required for the grant of the certificate. In the event of withdrawal of the certificate, the European Patent Office shall delete the representative from the list provided for in Article 171, paragraph 1, of the Convention.

Re. Article 171

No. 1

Deletion of the representative from the list

P r o p o s a l

(1) +

(2) +

Note: It might be advisable to examine whether the provisions contained in paragraph 2 should be extended to the representatives referred to in Article 171 (3) of the First Preliminary Draft.

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P r o p o s a l

(1) The authorisation must be placed on the file relating to the European patent application or European patent. If an authorisation is granted in respect of several patent applications or patents, a comprehensive authorisation shall be lodged in the corresponding number of copies.

(2) Notwithstanding the provisions of paragraph 1, the President of the European Patent Office may allow authorisations in respect of all the patent transactions of a natural person or legal entity, or a company considered to be a legal entity by reason of the laws to which it is subject, to be lodged by means of a notification published in the Official Journal of the European Patent Office, and may specify in that publication particulars regarding the content and form of such general authorisations.

Note: It follows from paragraph 1 that, authorisations should, as a rule, be placed on the file of the European patent application or European patent.

While it should be possible to lodge comprehensive authorisations without any formalities, lodging of the general authorisations referred to in paragraph 2 would be possible only after a relevant notification had been published by the President of the European Patent Office in the Official Journal of the European Patent Office.

Re. Article 173

No. 1

Right of the representative to avail himself of the European patent

1964 Draft

(1) The representative of the proprietor of a European patent may avail himself of the application or of the European patent, in accordance with Articles 25, 26, 29 and 124, of the Convention, only if the authorisation which he has received explicitly empowers him to do so. However, such empowerment shall not be required in the case of the partial surrender referred to in Article 124, paragraph 4, of the Convention.

Re. Article 173

No. 2

Right of the representative to avail himself of the European patent

Proposal

The representative of the applicant for a Note:
European patent may avail himself of the
European patent application, under Articles
23 and 28 of the Convention, only if the
authorisation which he has received
explicitly empowers him to do so.

It should be examined ~~whether~~this provision is
necessary, and, if so, whether it should be
extended to cover the representatives of proprietors
of European patents during the opposition period
if necessary, up to the end of opposition proceedings.

Re. Article 180

No. 1

Responsibility as regards the opinion of the
European Patent Office

1964 Draft

The Examining Divisions shall be responsible for the issue of the technical opinions provided for in Article 180 of the Convention. For the purposes of giving their decision, the Examining Divisions shall be made up of examiners other than those who gave the decision on the European patent in question.

Re. Article 180

No. 1

Responsibility as regards the opinion of the
European Patent Office

Proposal

Re. Article 182

No. 1

Summons

1964 Draft

(1) The parties shall be summoned to oral proceedings.

(2) In the event of a party duly summoned to oral proceedings failing to attend, the hearing may take place and a decision be taken in his absence.

Re. Article 182

No. 1

Summons

Proposal

- deleted -

Note:

Article 182 of the 1962 Draft has been deleted.

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Re. Article 184

No. 1

Summons

1964 Draft

(1) The parties shall be summoned to oral proceedings.

(2) In the event of a party duly summoned to oral proceedings failing to attend, the hearing may take place and a decision be taken in his absence.

Re. Article 184

No. 1

Summons

Proposal

- deleted -

Note:

Article 184, No. 1 of the 1962 Draft has
been deleted.

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Re. Article 186

No. 1 (new)

Determining the areas of technology

Proposal

The areas of technology in respect of which applications for a European patent are accepted shall be determined by reference to the categories set out in the international classification.

Note:

This provision corresponds to Article 186, (3) of the 1962 Draft. On the proposal of the Chairman of Working Party I (BR/GT I/46/70), it is to be included in the Implementing Regulations, in view of the fact that the provision relating to the patent classification procedure to be used by the European Patent Office will be appearing in the Implementing Regulations.

It should, however, be noted that the Chairman's proposals as regards Article 186, have not yet been adopted by Working Party I.

Re. Article 198

No. 1

Entry in national registers of acts relating
to simultaneous patents

1964 Draft

Entries in the Register of European Patents of the acts referred to in Articles 198 and 199 of the Convention shall be notified by the European Patent Office to the central industrial property offices of the Contracting States in which the national patents referred to in the said Articles were granted. These entries shall be made in the corresponding registers kept by the said offices.

Re. Article 198

No. 1

Entry in national registers of acts
relating to simultaneous patents

Proposal

- deleted -

Note:

In accordance with the proposal of Working Party I, Articles 194 to 205 of the 1962 Draft (see BR/GT I/46/70) have been deleted in the Convention.

