

BR/GT I/81 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.

Luxembourg, 24 November 1970
BR/GT I/81/70

- Secretariat -

"Implementing Regulations" Sub-Committee
of Working Party I

WORKING DOCUMENT

Re. Articles 66, No. 1
159, Nos. 7 and 8
161, Nos. 1, 1a, 2, 3, 4, 5, 6,
7, 8, 9 and 10 paragraph 1

(Text drawn up by the Drafting Committee)

I/81 e/70 prk

Re. Article 66
(Former Article 68)

No. 1

Form and content of the request for grant of a patent

(1) As in BR/50/70

(2) Delete [i]

(3) If there is more than one applicant, one of the applicants or agents shall preferably be named in the request as common representative.

Note to paragraph (3):

This provision will be reviewed when Article 173 of the Convention has been examined by the government legal experts.

Re. Article 159

No. 7

Interruption of proceedings

(1) Proceedings before the European Patent Office shall be interrupted:

- (a) in the event of the death or legal incapacity of the applicant for or proprietor of a European patent or of the person authorised by national law to act on his behalf. To the extent that the above events do not affect the authorisation of a representative appointed under Article 171 of the Convention, proceedings shall be interrupted only on application by such representative;
- (b) in the event of the applicant for or proprietor of a European patent being declared bankrupt, or of other judicial proceedings being opened for the purpose of satisfying all the holders of debt claims on his estate.

(2) When the European Patent Office has been informed as to the identity of the person authorised under the national law of the deceased or legally incapable person to act on his behalf, or who has obtained the authorisation, under the law of the State in which bankruptcy or other judicial proceedings have been instituted, to dispose of the estate, the European Patent Office shall notify said person and any interested third party that the proceedings shall be resumed as from a date to be fixed by the European Patent Office.

Re. Article 159, No. 7

(3) The time limits, other than the time limit for making a request for examination, in force as regards the proprietor of or applicant for the patent at the date of interruption of proceedings shall begin again as from the day on which notification under paragraph 2 has been given. If such notification is given less than two months before the end of the period within which the request for examination must be made, the authorised person under paragraph 2 may request examination up to the end of two months after such notification has been given.

Re. Article 159

No. 8

Belated observations

The European Patent Office may decide not to take into consideration observations or evidence not submitted within the period fixed.

Re. Article 161

No. 1

General provisions on notifications

(1) In proceedings before the European Patent Office, the notifications referred to in Article 161 of the Convention shall relate to the original of the document to be notified or to a copy thereof certified by the European Patent Office. Certification shall not, however, be required in respect of copies of documents emanating from the parties themselves.

(2) Direct notification shall be made:

(a) by post;

(b) by delivery on the premises of the European Patent Office;

(c) by public notice.

(3) Notification through the central industrial property office of a Contracting State shall be made in accordance with the provisions applicable to the said office.

Note:

For paragraphs 1 and 2, see Article 79(1) of the RPCJEC.

Re. Article 161

No. 1a (new)

The law applicable to notifications by post shall be the law of the State on the territory of which the notification is made, subject to any provisions to the contrary in the Implementing Regulations.

Re. Article 161

No. 2

Notification by post

(1) Notification by post shall be by registered letter or by registered letter with recorded delivery.

(2) Decisions incurring a time limit for appeal and summons shall be transmitted by registered letter with recorded delivery. The President of the European Patent Office may decide that this method of notification shall be used in other cases.

Note:

The Sub-Committee noted a discrepancy between the English text of Article 111 of the First Preliminary Draft Convention and the other two texts with regard to the beginning of the period for appeal: the words "Zustellung" and "signification", which appear in the German and French texts, are rendered by "issue" in the English text. The Sub-Committee draws the attention of Working Party I to the need to revise the text of this provision.

Re. Article 161

No. 3

Notification by registered letter

(1) Where notification is effected by registered letter, this shall be deemed to be delivered to the addressee on the tenth day following its posting, unless the letter has failed to reach the addressee or has reached him at a later date; in the event of any dispute, it shall be incumbent on the European Patent Office to establish that the letter has reached its destination or to establish the date on which the letter was delivered to the addressee, as the case may be.

(2) The date of despatch shall be recorded on the files.

Re. article 161

No. 4

Refusal to take delivery

Notification by registered letter or by registered letter with recorded delivery shall be deemed to have been effected even if acceptance of the letter has been refused.

Re. Article 161

No. 5

Notification by delivery by hand

(1) If the addressee is on the premises of the European Patent Office, notification may be effected by delivery by hand of the document to be served upon the addressee, who shall on delivery acknowledge having received it that day. The official making the notification shall record the date of delivery on the document itself.

(2) Notification shall be deemed to have taken place even if the addressee refuses to accept the document to be served or to acknowledge receipt thereof. Note shall be taken in the files of the date of such refusal to take delivery or to acknowledge receipt.

Note:

For paragraph 1, see Article 79(1) of the RPCJEC.

Re. Article 161

No. 6

Notification by despatch by post

(1) Notwithstanding the provisions of Article ... (Re. Article 161, No. 2), notifications in respect of addressees who have neither a registered place of business nor a place of residence on the territory of one of the Contracting States and who have not appointed a representative in accordance with Article 172 of the Convention, shall be effected by posting the document to be notified as an ordinary letter bearing the last address of the addressee known to the European Patent Office.

(2) The date of despatch and the address to which the document has been sent shall be recorded on the files.

(3) Notification shall be deemed to have been made when despatch has taken place, even if the letter is returned to the sender owing to the impossibility of delivering it to the addressee.

Re. Article 161

No. 7

Public notification

(1) If the address of the addressee cannot be established, notification shall be effected by public notice.

(2) The President of the European Patent Office shall determine how the public notice is to be given and the beginning of the period of one month on the expiry of which the document shall be considered to have been notified.

Re. Article 161

No. 8

Notification in the event of there being several legal
representatives

- Deleted -

Re. Article 161

No. 9

Notification to professional representatives

(1) If a representative has been appointed according to Article 171 and the authorisation has been placed on the file, notifications shall be addressed to him.

(2) If such a representative has been appointed for several interested parties, notification of a single document to him shall be sufficient for all the interested parties.

(3) If several such representatives have been appointed for a single interested party, notification to any one of them shall be sufficient.

Re. Article 161

No. 10

Ex officio appointment of a common representative

(1) If there is more than one applicant and the request for the grant of a European patent does not name a common representative, the applicant first named in the request shall be considered to be the common representative. However, if that applicant is obliged to appoint a representative under Article 172, paragraph 2, of the Convention, that representative shall be considered to be the common representative.

Note:

The first paragraph proposed is based on Rule 4.8(b) of the PCT Regulations.