

BR/GT I/83 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.

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

Luxembourg, 26 November 1970
BR/GT I/83/70

- Secretariat -

"Implementing Regulations" Sub-Committee
of Working Party I

WORKING DOCUMENT

Re. Article 79, Nos. 1 and 2
Note to Re. Article 162, No. 1, paragraph 2
Re. Articles 171, No. 1
 173, Nos. 1 and 2
 180, No. 1
 186, No. 1

(Text drawn up by the Drafting Committee)

Re. Article 79
(Former Article 78)

No. 1

Report on the state of the art

(1) The report on the state of the art shall mention those documents, available to the International Patent Institute at The Hague at the time of making the report, which may be taken into consideration in deciding whether the invention of the European patent application is new and involves an inventive step.

(2) Each citation shall be referred to the claims to which it relates.

(3) [Each citation shall be accompanied by a concise analysis of the relevant parts of the document cited.] If necessary, these parts shall be identified (for example, by indicating the page, column and lines or the diagrams).

(4) Any cited document, which was published before the filing date of the European patent application but after the date of priority claimed, shall be identified as such in the report on the state of the art.

(5) Any document, which refers to an oral disclosure, a use or any other means of disclosure which took place prior to the date of filing of the European patent application, shall be mentioned in the report on the state of the art, together with an indication of the date of publication, if any, of the document and the date of the non-written disclosure.

Re. Article 79, No. 1

(6) The report on the state of the art shall be drawn up in the language of the European patent application or, where Article 34, paragraph 2, of the Convention is applied, in the language of the translation.

Note to paragraph 3:

The Sub-Committee seriously doubted the advisability of introducing the provision between square brackets, particularly in view of the fact that a search report provided under the PCT would not contain analyses such as those envisaged here and would therefore differ from the report on the state of the art, which it is to replace under Article 122(2) of the First Preliminary Draft Convention.

The Sub-Committee feels that the attention of the interested circles should in any case be drawn to this provision.

Re. Article 79

(Former Article 78)

No. 2

Time limit for the report on the state of the art

The report on the state of the art [and the definitive contents of the abstract_] shall be transmitted to the European Patent Office not later than three months after the International Patent Institute at The Hague has received from the European Patent Office the documents needed to draw up its report.

Re. Article 162

No. 1

Inspection of the files without explicit consent

[(1)] (As in BR/GT I/82/70
Note to paragraph 1: (

[(2)] As in BR/GT I/82/70

Note to paragraph 2:

The Sub-Committee draws the attention of Working Party I to the ambiguity of the term "original claims" contained in Article 85, paragraph 3, of the First Preliminary Draft Convention, since in the case of a divisional application, this term could refer either to the claims in the application from which the divisional application is derived or to the claims in the divisional application as originally filed.

[(3)] (As in BR/GT I/82/70
Note: (

Re. Article 171

No. 1

Deletion of the representative from the list

(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 withdraw a certificate furnished in accordance with Article 171 of the Convention if the representative does not fulfil or has ceased to fulfil the conditions required for the grant of the certificate, and shall notify the European Patent Office of such withdrawal. The European Patent Office shall then delete the representative from the list provided for in Article 171, paragraph 1, of the Convention.

Re. Article 173

No. 1

Authorisations

(1) An authorisation may cover one application or patent or several of them and must be lodged with the European Patent Office for insertion on the relevant file. In so far as it covers more than one application or patent it shall be lodged in the corresponding number of copies.

(2) Alternatively, a general authorisation enabling a representative to act in respect of all the patent transactions of the party making the authorisation may be lodged. A single copy shall be sufficient.

(3) The President of the European Patent Office may notify in the Official Journal of the European Patent Office the form and content of:

- (a) an authorisation as referred to in paragraph 1 in so far as it relates to the representation of persons as defined in Article 172, paragraph 2, of the Convention, and
- (b) a general authorisation as referred to in paragraph 2.

Re. Article 173, No. 1

(4) Any authorisation shall be signed by the party making it.

(5) The provisions of paragraphs 1, 2 and 4 shall apply mutatis mutandis to a document withdrawing an authorisation.

Re. article 173

No. 2

Time limit for lodging authorisations

(1) Where the European Patent Office is notified of the appointment of a representative, the necessary authorisation shall be lodged within a period of two months following such notification.

(2) If such authorisation is not lodged in due time, any procedural steps taken by the representative shall be deemed not to have been taken. In the case provided for in Article 172, paragraph 3, second sentence, of the Convention, the patent application shall be deemed to be withdrawn if the authorisation of the representative is not lodged in due time.

Re. Article 180

No. 1

Responsibility as regards the opinion of the
European Patent Office

The Examining Divisions shall be responsible for the issue of
the technical opinions provided for in Article 180 of the Convention.

Re. Article 186

No. 1

Determining the areas of technology

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