

# **BR/GT I/93 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

Brussels, 7th January, 1971

BR/GT I/93/71

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- 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. Article 17, Nos. 1 and 4  
Re. Article 59, No. 1  
Re. Article 66, No. 4  
Re. Article 106, No. 1  
Re. Article 85, No. 2  
Re. Article 97, No. 1  
Re. Article 128, No. 1  
Re. Article 172, No. 1  
Re. Article 186, No. 2  
Re. Article 101, Nos. 1 and 1bis  
Re. Article 124, No. 1

Mention of the Inventor

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P R O P O S A L

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- (1) The inventor may only be designated before the European Patent Office by the applicant for or proprietor of the European patent. Subject to the provisions of Article 69 of the Convention, such designation may be effected at any time ..... final decision.
- (2) The designation may be submitted either in the request, or in a separate document. It must state ..... the inventor.
- (3) Unchanged.

Notes:

1. The amendments made to the version of this Article contained in BR/67/70, page 4, take into account Working Party I's amendments to the provisions of the Convention relating to the mention of the inventor.

The new Article 69a of the Convention makes provision for the immediate naming of the inventor in certain cases.

2. Paragraph 2 of the proposed Article is aligned with Article 4 of the PCT, which lays down that the inventor may be mentioned in the request.

3. The notes to the corresponding Article in the above-mentioned document should be repeated.

Re. Article 17

No. 4

(new)

Renunciation by the inventor of his title as inventor

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P R O P O S A L

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The provisions of Article 17 of the Convention shall not be applicable if the person designated as the inventor addresses to the European Patent Office a written statement opposing this designation. However, such designation may not affect any procedural steps already taken by the European Patent Office by the date when it reaches the said Office.

Note:

This provision is proposed in the light of Working Party I's invitation to the Sub-Committee - made at its meeting of January 1970 - to study the desirability of such a provision. Problems of detail may arise following examination by the Working Party of the Swedish delegation's proposal on the mention of the inventor.

Re. Article 59

No. 1

(former Article 60)

Particulars to be entered in the Register of European Patents

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P R O P O S A L

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(1) The Register of European Patents shall contain the following:

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.....  
.....

(xvbis) the submission of a request pursuant to Article 124 of the Convention;

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Note: see BR/42/70, page 32 - the proposed addition is the outcome of Working Party I's decisions (at its meeting of December 1970) as regards requests for the conversion of European patent applications into national applications.

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Form and content of the request for grant of a patent

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P R O P O S A L

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- (1) unchanged
- (2) The request shall contain:
  - (a) unchanged
  - (b) unchanged
  - (c) unchanged
  - (c bis) mention of the inventor, if such mention is required at the time of filing of the application;
  - (d) unchanged
  - (e) unchanged

Note:

see Note 2 to Re. Article 17, No. 1, in the present document.

Note :

At its last meeting (in December 1970) Working Party I, acting on a proposal by its Chairman (BR/GT I/67/70, page 39), decided to group together in a new Article of the Convention, as yet unnumbered, the provisions of Article 84, 106 and 114, on oral proceedings. The provisions of Re. Article 106, No. 1 and Re. Article 114, No. 1 (BR/59/70, pages 11 and 17) should therefore appear under new numbers, Re. Article ..., Nos. 1 and 2.

Re. Article 85 (former Article 86a)

No. 2  
(new)

Publication of European patent applications

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P R O P O S A L

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The President of the European Patent Office shall decide, in the cases provided for in Article 85, paragraph 4, of the Convention, within what period before the date of publication the technical preparations for publication are to be deemed to have been completed.

Note :

The expression used in Article 85, paragraph 4 of the First Convention "before the termination of the technical preparations for publication" should be made more specific by the President of the European Patent Office, in particular, so as to indicate to the applicant within what period, before the expiry of the 18 months, he may withdraw his application, should he wish to prevent it from being published.

Re. Article 97 (former Article 96)

No. 1  
(new)

Grant of a European patent to joint applicants

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P R O P O S A L

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Where several persons are entered in the Register of European Patents as applicants for a patent in the Contracting States designated, the Examining Division shall grant the European patent to the various applicants for the Contracting States in which each of them enjoys rights.

Note :

This provision is proposed for what it is worth. It may be questioned whether it is indeed necessary.

Re. Article 128

No. 1

(new)

National publications in the event of conversion of a  
European patent application

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P R O P O S A L

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(1) The central national industrial property office shall be required to communicate to the public the documents referred to in Articles 125, paragraph 2, and 128 of the Convention, in cases where, under national law, the documents relating to national proceedings may be communicated to it.

(2) The printed specifications of the national patent resulting from the conversion of a European patent application must mention that application.

Note :

These provisions were among the proposals by the Chairman of Working Party I on the conversion of European patent applications into national applications (BR/GT I/45/70, Article 127(117), page 29). The Working Party decided to transfer them to the Implementing Regulations. See also the proposal for Re. Article 59, No. 1, contained in the present document.

Re. Article 172

No. 1  
(new)

Exception to the rules governing compulsory representation

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P R O P O S A L

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Article 172, paragraph 2, of the Convention shall not be applicable to third parties making a request for examination under Article 88 of the Convention.

Note :

- (1) See the Minutes of Working Party I's September meeting (BR/49/70), point 52.
- (2) See the note drawn up by the Sub-Committee on Re. Article 88, No. 1, paragraph 2a.

Re. Article 186

No. 2  
(new)

Publication of restrictions affecting the examination

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P R O P O S A L

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Restrictions affecting the examination of European patent applications applied pursuant to Article 186, paragraphs (1) and (2) of the Convention, and the raising of such restrictions shall be entered in the European Patent Bulletin.

Note :

This proposal follows a decision by Working Party I at its last meeting (in December 1970).

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Form of the notice of opposition

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P R O P O S A L

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The notice of opposition shall contain:

- (a) unchanged
- (b) unchanged
- (c) a statement of the extent to which the European patent is opposed and of those grounds prescribed by Article 101a of the Convention on which opposition is based as well as of the facts, evidence and arguments presented in support of these grounds.
- (d) unchanged

Notes:

1. See BR/59/70, page 7. The addition to (c) is the outcome of a decision by Working Party I at its meeting in December 1970.
2. The notes to this Article on page 7 of BR/59/70 should be retained.

No. 1 bis

(new)

Entries in the European Patent Bulletin regarding opposition

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P R O P O S A L

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Where no opposition has been brought against a European patent during the opposition period, an entry shall be made in the European Patent Bulletin to this effect.

Note:

See the First Preliminary Draft, Article 101, note 3. According to this note, the Implementing Regulations should make provision for entries to be made in the European Patent Bulletin: (a) in the event of opposition proceedings; (b) in the event of expiry of the opposition period without any opposition. The first of these entries is already implicitly provided for in Re. Article 59, No. 1 (BR/42/70, page 33), since particulars entered in the Register are to be mentioned in the Bulletin.

Form of the request for conversion

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P R O P O S A L

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(1) The request provided for in Article 124 of the Convention must be submitted in writing.

(2) The request shall contain:

(a) the name and address of the person making the request, in accordance with the provisions of Article ... (Re. Article 66, No. 1), paragraph 2(c);

(b) the file number of the European patent application to which the request refers and the title of the invention;

(c) the name and address of the place of business of the representative of the person making the request, if he has appointed one, in accordance with the provisions of Article ... (Re. Article 66, No. 1), paragraph 2(c).

Note:

The above proposal is an implementing provision to Article 124 of the Convention, adopted by Working Party I in December 1970, on the conversion of a European patent application into a national application. It is based upon Re. Article 88, No. 1 (BR/59/70, page 2) on the form of the request for examination. Its value may be questioned (especially as regards (c)), since requests for conversion will be submitted by applicants in person and not by third parties. If this provision were to be kept, a provision similar to that contained in Re. Article 88, No. 2, would also have to be adopted.