

BR/GT I/102 e/71

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, 13th January 1971
BR/GT I/102/71

- Secretariat -

"Implementing Regulations" Sub-Committee
of Working Party I

WORKING DOCUMENT

Re. Article 17, No. 1
59, No. 1
66, Nos. 1 and 3
85, No. 2
97, No. 1
101, No. 1
128, No. 1
172, No. 1
186, No. 2

(Text drawn up by the Drafting Committee)

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Re. Article 17

No. 1

Mention of the inventor

(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 69a of the Convention, such designation may be effected at any time final decision.

(2) The designation shall be submitted either in the request for the grant of a European patent or in a separate document. It must state the inventor.

(3) Unchanged.

Re. Article 59
~~(former Article 60)~~

No. 1

Particulars to be entered in the Register of European Patents

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

.....

.....

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

Notes 1 and 2 in BR/L-2, 1/83.

in Note 1:

Note 2: Delete after "Conv".

(xvii) in the cases referred to in Art. 16, (Re. Art 16, Nos 1, ~~and~~
and (bis), para 3, the dates of suspension and resumption
of proceedings;

Re. Article 66

No. 1

Form and content of the request for grant of a patent

(1) unchanged from BR/67/70

(2) The request shall contain:

- (a))
- (b))
- (c)) -- unchanged from BR/67/70
- (d))
- (e)) *Delete "(in patent)" + Note to (e)*
- (f)) *[and insert it]*

(3) The request shall preferably contain:

- (a) if there is more than one applicant, the appointment of one applicant or representative as common representative,
- (b) the ^{*designation*} ~~name~~ of the inventor, if he is required to be named at the time of filing the application.

Note:

The provision in paragraph 3a will be reviewed when Article 173 of the Convention has been examined by the government legal experts.

Delete Note on P. 11.

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.../...

Re. Article 66

No. 3

Form and contents of claims

- (1) } *Paragraph 1*
(2) } *Note becomes: "This claim should ..."*
(a) } *(to end of Article).*
(b) } - unchanged from BR/50/70
(3) }
(4)
(a) Any claim which includes all the features of any other claim (dependent claim) shall contain, preferably at the beginning, a reference to the other claim and then state the additional features claimed.
(b) Any dependent claim which refers directly to more than one other claim shall refer to such claims only in the form of an alternative. A claim which refers back in the form of an alternative shall not serve as a basis for any other claim which itself refers back in the form of an alternative.
(c) A dependent claim shall also be admissible where the claim it directly refers to is itself an admissible dependent claim.
(d) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims shall be grouped together to the extent and in the most appropriate way possible.
(5) }
(6) } - unchanged from BR/50/70
(7) }

Re. Article 85

~~(former Article 85a)~~

No. 2 (~~new~~)

Termination of the preparations for publication

The President of the European Patent Office shall lay down, in the cases provided for in Article 85, paragraph 4, of the Convention, the date at which the technical preparations for publication are to be deemed to have been completed.

Note:

The attention of Working Party I is drawn to the fact that if an applicant for example amends his claims after the technical preparations for publication have been completed but before the date of publication, it will be necessary under the terms of Article 85, paragraph 3, to include the amendments in the publication. This would cause practical difficulties and involve delay in publication and it may be considered desirable therefore to amend the words "If before such publication", in Article 85, paragraph 3, so that the publication will include amendments only if they are submitted before the termination of the technical preparations for publication.

Re. Article 97

~~(former Article 96)~~

No. 1 (~~new~~)

Grant of a European patent to joint applicants

Where different persons are entered in the Register of European Patents as applicants for a patent in different States, the Examining Division shall grant the European patent for each State to the applicant or applicants registered in respect of that State.

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Re. Article 101

No. 1

Form of the notice of opposition

The notice of opposition shall contain:

- (a) unchanged)
- (b) unchanged) from BR/59/70
- (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 an indication of the facts,
evidence and arguments presented in support of these grounds;
- (d) unchanged from BR/59/70

Note:

Article 101 (1), second sentence, of the First Preliminary Draft Convention lays down that notice of opposition must be given in writing. It will be appropriate to examine whether this provision should be transferred to the Implementing Regulations, by analogy with Re. Article 88, No. 1, on the Form of the Request for Examination.

Re. Article 128

No. 1 (~~Re.~~)

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

(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.

Re. Article 172

No. 1 (~~new~~)

Exception to the rules governing compulsory representation

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.

Re. Article 186

No. 2 (~~no~~)

Publication of restrictions affecting the examination

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.
