

BR/GT I/106 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, 28 January 1971
BR/GT I/106/71

- Secretariat -

WORKING PARTY I

WORKING DOCUMENT

FIRST PRELIMINARY DRAFT
OF A CONVENTION ESTABLISHING
A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Articles 79, 85, 95a, 101, 115, 122,
130, 141 and 148
and 111 (English text only)

(Text drawn up by the Drafting Committee)

Article 79 (former Article 73)

Obtaining of the report on the state of the art

(1) to (7) Unchanged from BR/70/70

Note (new) to Article 79, paragraph 1:

The question of dispensing with the fee referred to in this Article and replacing it by an increase in the filing fee is still to be examined.

Article 85 (former Article 86a)

Publication of a European patent application

- (1) (
- (2) (Unchanged from BR/70/70

(3) If, before the termination of the technical preparations for publication, the European patent application has been divided pursuant to Article 81, or the claims amended pursuant to Article 82, the original patent claims shall be included in the publication in addition to the new or amended claims.

- (4) (
- (5) (Unchanged from BR/70/70

Article 95a

. Amendment of the application

(1) After the request for examination has been made, but not before the applicant has received the report on the state of the art, he may, provided that he has not received the notification referred to in Article 97, paragraph 1, amend the description, the claims and the drawings.

(2) Where the Examining Division considers it necessary for the normal conduct of the proceedings for grant, it may lay down a period for the applicant after the expiry of which amendments to the description, the claims and the drawings may not be made without its consent.

(3) The above provisions shall not prejudice the application of Article 88, paragraph 3, Article 93, paragraph 1, and Article 95, paragraphs 1 and 1a.

CHAPTER III

Opposition procedure

Article 101 (former Article 96d)

Opposition

(1) Within a period of nine months from the date of the publication pursuant to Article 97, paragraph 4, any person may give notice to the European Patent Office of opposition to the European patent granted. Notice of opposition shall be given in a reasoned statement. It shall not be deemed to have been given until the fee prescribed in the Rules relating to Fees adopted pursuant to this Convention has been paid. No fee shall be payable for opposition if the notice of opposition is given by the third party who made the request for examination.

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|------------|---|-------------------------|
| (1a) (new) | (| |
| | (| |
| (2) | (| Unchanged from BR/70/70 |
| | (| |
| (3) | (| |

Article 115 (former Article 112)

Decision in respect of appeals

- (1) (
- (2) (

Unchanged from BR/70/70.

(3) If the appeal is allowable in whole or in part, the Board of Appeal shall annul the decision attacked, in whole or in part. The Board may either continue the proceedings up to and including the communication provided for in Article 97, paragraph 1, or in Article 105, paragraph 2, or decide on the grant, confirmation or revocation of the European patent, or if, having regard to the state of the proceedings, it should consider such action necessary, it may remit the matter for further decision to the authority responsible for the decision in question.

- (4) (
- (5) (

Unchanged from BR/70/70

Article 122 (former Article 113f)

International search report

- (1) (
 - (2) (
- Unchanged from BR/70/70

Note (new) to Article 122:

The question of a possible reduction of the fee for the report on the state of the art in the case of an application being filed together with an international search report is to be examined together with the examination referred to in the note to Article 79, paragraph 1.

Article 130 (former Article 120)

Payment of renewal fees

(1) Renewal fees in respect of the coming year shall be due on the last day of the month containing the anniversary of the date of filing of the European patent application.

- (2) (
- (Unchanged from BR/70/70
- (3) (

Article 141 (former Article 156)

Observation of time limit prevented by force majeure

(1) to (6) unchanged

Note (new) to Article 141

It should be examined whether Article 141 should be extended to cover patentees and opponents.

Article 148 (former Article 162)

Inspection of files

(1) Unchanged from BR/70/70

/(1a) (new) Any person who can prove that the applicant for a European patent has availed himself of it in respect of him may obtain inspection of the files prior to the publication of that application and without the consent provided for in paragraph 1. /

(1b) (new) Where a divisional application is published, any person may obtain inspection of the files of the original application prior to the publication of that application and without the consent provided for in paragraph 1.

(2) Unchanged from BR/70/70

(3) The inspection referred to in paragraphs 1, /1a/, 1b and 2 shall be of the original documents or of copies thereof, and shall be subject to the payment of the fee prescribed by the Rules relating to Fees adopted pursuant to this Convention.

(4) Unchanged from BR/70/70.

Article 111

Time-limit and form of appeal

An appeal must be lodged, in writing, at the European Patent Office within a period of two months from the date of notification of the decision appealed from; it must set out the grounds on which it is based. An appeal shall not be deemed to be lodged until after the payment of the fee for appeal prescribed by the Rules relating to fees adopted pursuant to this Convention. An additional written statement setting out the grounds of appeal in greater detail may be submitted within a period of one month after the lodging of the appeal.
