

# **BR/GT I/132 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

Brussels, 25 October 1971

BR/GT I/132/71

- Secretariat -

WORKING PARTY I

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

Articles	35a
	95
	97
	101
	102
	103

- FIRST PRELIMINARY DRAFT OF THE IMPLEMENTING REGULATIONS

Re. Article 101, No. 3

(Texts drawn up by the Drafting Committee)

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CHAPTER Ia

Powers and functions of the Administrative Council

Article 35a

Adoption and amendment of general rules

(1) The Administrative Council shall be competent to amend:

- (a) Article 35, paragraph 2, so as to provide, in the light of experience, that an Examining Division shall consist of a single technical examiner;
- (b) the time limits laid down in this Convention; this shall apply to the time limit laid down in Article 88, paragraph 2, only in the conditions laid down in Article 88a;

(c)

(2)

(a)

(b)

(c)

(d)

Unchanged from Second Preliminary  
Draft Convention published 1971

(3) The Administrative Council shall take the decisions referred to in Articles 88a, 157 and 160a.



Article 95

Notification of the result of the examination

(1)

(1a)

(1b)

{ Unchanged from Second Preliminary  
Draft Convention published 1971

(2) Any notification issued under paragraphs 1 or 1a shall be a reasoned statement indicating, where appropriate, all the reasons against the grant of the European patent.

Article 97

Grant of the European patent

(1) If the Examining Division is of the opinion that the application and the invention to which it relates meet the requirements of this Convention, it shall inform the applicant of the text in which it intends to grant the European patent. The applicant shall at the same time be requested to pay, within a period of one month, the fees prescribed for grant and printing by the Rules relating to Fees adopted pursuant to this Convention.

(2) If the fees for grant and printing are not paid in due time, the European patent application shall be deemed to be withdrawn, unless the applicant has communicated his disapproval of the European patent being granted on the basis of the text mentioned in paragraph 1 within the period referred to in that paragraph.

(3) When the fees for grant and printing and the fees already due under Article 129 and Article 130 have been paid, the Examining Division shall grant the European patent for the Contracting States designated in accordance with Article 67. The decision shall be communicated to the applicant.

(4)

{ Unchanged from Second Preliminary  
Draft Convention published 1971

### CHAPTER III

#### Opposition procedure

#### Article 101

#### 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 by the Rules relating to Fees adopted pursuant to this Convention has been paid.

(1a)

{ Unchanged from Second Preliminary  
Draft Convention published 1971

(1b) Article 23, paragraphs 2, 3 and 4 shall apply mutatis mutandis to any transfer of the European patent made during the period mentioned in paragraph 1 or during opposition proceedings.

(2)

{ Unchanged from Second Preliminary  
Draft Convention published 1971

(3) The Opposition Division shall examine whether the notice of opposition complies with the provisions of this Convention and the Implementing Regulations. If the opposition is admissible it shall notify the proprietor of the patent of the opposition lodged and shall invite him to reply to the opposition, by presenting his observations and, submitting amendments to the description, claims and drawings within a period to be fixed by the Division. These amendments

Article 101 continued

may not go beyond what is necessary to meet the opposition. The observations and amendments shall be communicated to the other parties concerned who shall be invited by the Opposition Division, if it considers it expedient, to reply within a period to be fixed by the Opposition Division.

Article 102

Notification of the result of the examination  
in opposition proceedings

If, after having examined the opposition, the Opposition Division considers that the Euro ean patent should not have been granted, Article 95, paragraphs 1 and 2, shall apply mutatis mutandis. The result of the examination and the observations of the proprietor of the patent, together with any amendments to the description, claims and drawings submitted by him, shall be communicated to the other parties concerned.

Article 103

Reply of the parties concerned

The Opposition Division shall invite the other parties concerned to comment, with a period to be fixed by the Division, on the observations of the proprietor of the patent and any amendments to the description, claims and drawings submitted by him in so far as these contain substantial new elements or in so far as the Opposition Division considers this expedient for other reasons.

FIRST PRELIMINARY DRAFT OF THE IMPLEMENTING REGULATIONS

Re. Article 101

No. 3

Rejection of the notice of opposition as inadmissible

- (1) {
  - (2) {
- Unchanged from First Preliminary  
Draft Implementing Regulations  
published 1971

(3) Any decision to reject a notice of opposition shall be communicated to the proprietor of the European patent, together with a copy of the notice.

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