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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, 21 February 1972

BR/GT I/149/72

- Secretariat -

NOTE

Subject: Proposals concerning Articles 64 to 76 of the Second Preliminary Draft of a Convention establishing a European System for the Grant of Patents, submitted on the basis of observations by the interested circles

Drawn up by: Netherlands delegation

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Proposals by the Netherlands delegation
concerning Articles 64 to 76 of the
Second Preliminary Draft of a Convention
establishing a European System for the Grant of Patents,
submitted on the basis of observations by the interested circles

Article 64

Unchanged

Article 65

BR/139/71: Unchanged

Article 66

BR/139/71: Unchanged

Article 67

(2) The designation of a Contracting State shall be subject to the payment of the fee prescribed by the Rules relating to Fees adopted pursuant to this Convention. If payment is not made within a period of twelve months as from the date of filing or, if a priority has been claimed, as from the date or the earliest date of priority, the designation shall be deemed to be

withdrawn. If the period of twelve months expires before the expiry of the period laid down in Article 66, paragraph 3, it shall be extended until the date of that expiry.

Article 68

The date of filing of a European patent application shall be the date on which it satisfies the following conditions:

(a) (English text unchanged)

(b) " " "

(c) " " "

Remarks: in connection with this Article it would appear useful to clarify Article 11, paragraph 3, as follows (without prejudice to any other amendment to be made by the Working Party):

Additionally, the contents of applications for European patents filed at an earlier date but published on or after the date referred to in paragraph 2 shall be considered as comprised in the state of the art.

Article 69

BR/139/71: Unchanged

Article 69a

The application for a European patent shall identify the inventor with regard to the designated country or countries whose national law requires such identification to be supplied at the time of filing a national application or at any time thereafter.

Article 70

Unchanged.

Article 71

(1) An application for a European patent must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

(2) If the invention includes the use of a micro-organism of a type not available to the public in the States designated in the application for a European patent, the disclosure of the invention shall not be regarded as satisfying the requirements of paragraph 1 unless a specimen of the organism has been placed in an official collection under conditions which ensure that it is available to the public irrevocably and with no restriction whatsoever, as from the date of publication of the application pursuant to Article 85.

Article 71a

The claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description.

Article 72

Unchanged

Article 73

(2) Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral treaties, including this Convention, shall be recognised as giving rise to a right of priority.

Article 74

The right of priority shall have the effect that the date of the first filing shall count as the date of filing the application for a European patent for the purposes of Article 11, paragraphs 2 and 3, Article 15, paragraph 1, Article 76, paragraphs 1 and 2 and Article 134.

Article 75

(1) Unchanged

(2) BR/139/71: Unchanged

(2a) In the case where the language of the first application is not one of the languages referred to in Article 34, paragraph 1, the person making a declaration of priority shall also produce, before the end of the twentieth month after the priority date, a translation of the first application in the language of the proceedings accompanied, in so far as the President of the European Patent Office has given instructions in this regard, by a document certifying that it is identical to the original text. Failure to produce the translation and, where appropriate, the certificate in due time shall lead to the loss of the right to claim priority of filing.

(3) to (6): Unchanged

Note 1: It is suggested that the word "official" in Re. Article 34, No. 4, of the Implementing Regulations be deleted.

Note 2: Following observations from the interested circles regarding Article 75, paragraph 1, it is suggested that Re. Article 145, No. 4a, of the Implementing Regulations be amended as follows:

Obvious linguistic errors, errors of transcription and mistakes in any document submitted to the European Patent Office may be corrected on request. The correction shall be

obvious in the sense that anyone would immediately realise that nothing else would have been intended than what is offered as the correction. With regard to correction of the declaration of priority provided for in Article 75, paragraph 1, the priority document referred to in Article 75, paragraph 2, may be taken into consideration to illustrate the obviousness of such correction.

Article 76

BR/139/71: Unchanged

Article 157

Unchanged
