

SUBJECT: Amendment to the EPC Implementing Regulations, R 102(1)

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Committee on Patent Law (for opinion)

SUMMARY

This document contains a proposal to amend Rule 102(1) EPC (R 154(1) EPC 2000) in order to improve the procedures on default of payment of the annual subscription to the Institute of Professional Representatives. The proposed change has only recently been suggested by the *epi*, is supported by the Office, and should be integrated into the package of amendments to the EPC Implementing Regulations as submitted with document CA/PL 17/06.

I. INTRODUCTION

Rule 102(1) EPC (R 154(1) EPC 2000) foresees two alternatives for deletion from the list of professional representatives. It states in fact that the entry of a professional representative shall be deleted from the list of professional representatives on request (1st alternative) or if, despite repeated reminders, he fails to pay the annual subscription to the Institute of Professional Representatives (*epi*) before the European Patent Office (EPO) **before the end of the year** for which the subscription is due (2nd alternative). The procedure which leads to the deletion of a professional representative according to this alternative brings, however, some disadvantages to the *epi* and to the EPO, which could be eliminated through the introduction of the proposed amendment.

II. FACTS AND FIGURES

In the last eight years 1 653 persons did not pay the annual subscription to the *epi* so that the Legal Division of the EPO had to start the deletion procedure according to Rule 102(1), 2nd alternative. The procedure comprises a communication, a decision open to appeal and the deletion from the list.

Out of said persons, 587 (or 35%) paid their annual subscription to the *epi* before the end of the year for which the subscription was due thus ending the deletion procedure. Further 158 persons (or 10%) were deleted before the end of the year for which the subscription was due. The remaining 908 persons (55%) were deleted *ex officio* at the end of the above-mentioned procedure.

Owing to the current provision the Legal Division of the EPO can proceed to the deletion from the list only when the decision open to appeal has become final. This normally occurs three to four months after the start of the deletion procedure. Therefore the deletion can only be performed in March or April of the following year. In the mean time those 908 persons were considered as being active members of the *epi*. Consequently, they had to be reminded to pay the annual subscription for the following year, too.

III. ADVANTAGES

It is proposed to set the term for payment of the annual subscription according to Rule 102(1), 2nd alternative, EPC at the **end of September** of the year for which the subscription is due instead of the end of the year. This will allow the Legal Division to start the deletion procedure three months earlier. Thus it would be

possible to delete the persons concerned before the end of December so that *epi* would not be obliged to send invoices for the next year to those persons. Thereby *epi* would save time and costs by not having to dispatch unnecessary invoices. The EPO would also benefit from the proposed amendment, i. e. by avoiding a renewed deletion procedure to be started for the following year. With a more streamlined deletion procedure the list will be updated much more quickly which will improve the legal security of the entry of a professional representative on the list. This is also in the interests of the users of the European Patent System.

IV. AUTOMATION SYSTEMS

The introduction of the proposed amendment does only require minor adaptations of the EPO automation systems.

V. PROPOSED AMENDMENT

Present wording	Proposed wording
Rule 102 Amendment of the list of professional representatives	Rule 154 Amendment of the list of professional representatives
(1) The entry of a professional representative shall be deleted from the list of professional representatives, if he so requests or if, despite repeated reminders, he fails to pay the annual subscription to the Institute of Professional Representatives before the European Patent Office before the end of the year for which the subscription is due.	(1) The entry of a professional representative shall be deleted from the list of professional representatives, if he so requests or if, despite repeated reminders, he fails to pay the annual subscription to the Institute of Professional Representatives before the European Patent Office before the end of September of the year for which the subscription is due.

VI. ENTRY INTO FORCE/TRANSITIONAL ARRANGEMENTS

This amendment is meant to enter into force together with EPC 2000. Therefore it will only apply to the deletion procedure as of 2008.