

Notes on the request to update the European Patent Register: appointment or change of representative in one or more European patent applications/patents (Rule 143(1)(h) EPC) – form EPO 5060

There is no obligation to use form EPO 5060 and it does not guarantee registration of the requested change. It is intended as an aid for the error-free filing of requests.

The request must relate to applications or patents for which the EPO is competent to register changes in the European Patent Register. For pending European patent applications/patents, entries are made up to the expiry of the period of opposition or the termination of opposition proceedings (Guidelines A-XI, 4). After that, registration of changes is a matter for the national offices of the designated contracting states.

1. Applications/patents concerned

Always indicate the European patent application number as follows: eight digits and a check digit.

Tick the second box if the request relates to more than one application/patent, and attach an annex listing each application number concerned. The request will be dismissed if the necessary details are not supplied. Wording of the type "all applications/patents pending before the EPO" will not be accepted.

File the request in relation to the first application number only ("leading application"), not for each application/patent: the EPO will, as a matter of course, add the request to each file indicated in the annex.

To facilitate processing, you are invited, after having filed the request, to send a list of all application numbers concerned as an Excel file (XLS or XLSX format) by email to **support@epo.org**. The subject line should contain the term "bulk request" and mention the number of the leading application in which the bulk request was filed. The subject could be worded as follows: "Bulk request filed in application xx xxx xxx.x".

2. Request

Please tick the relevant box. If "Change of representative" is ticked, the name and address supplied must be identical to those published in the Register.

3. Representative's details

Please indicate the name of the representative to whom notification is to be made. In the case of several representatives, the first named representative should be mentioned, followed by the words "and others". The additional representatives should be listed on an additional sheet.

If an association is appointed, indicate only the name and address of the association and its number (if known) (Rule 143(1)(h) EPC).

What is an association of representatives?

Representation by an association of representatives differs from representation by several individual representatives, and it is important to distinguish between the two.

An association is registered with the Legal Division of the EPO pursuant to Rule 152(11) EPC. The purpose of this provision is to ensure that a party appointing several representatives can authorise them collectively as an association instead of having to authorise each of them singly. The authorisation does not relate to the association as such since only natural persons can undertake representation before the EPO. A legal fiction applies whereby each representative practising within that association is deemed to be authorised. It is important to note that the registration of an association with the EPO does not confer the status of a legal entity upon said association.

An association of representatives is registered on request and the EPO allocates it an association number. For further information, please see part I of the Notice from the EPO dated 28 August 2013 on matters concerning representation before the EPO (OJ EPO 11/2013, 535-541).

Information on representation before the EPO (Guidelines A-VIII, 1)

A party who has his residence or principal place of business in a contracting state may act on his own behalf in proceedings before the EPO and does not have to appoint a representative. The party may also be represented by an employee, who need not be a professional representative. If the employee is not a professional representative,

he must have an individual or general authorisation.

A party who has neither his residence nor principal place of business in a contracting state must appoint a professional representative and act through them in all proceedings before the EPO (other than filing the application and including all acts leading to the assignment of a date of filing, filing the authorisation if necessary and paying the fees).

In the case of multiple parties where no representative has been appointed and where said parties have their residence or principal place of business in a contracting state, the party first mentioned in the document (e.g. form EPO 1001) is referred to as the "common representative", unless another party has been appointed in that capacity (Rule 151(1) EPC). Provided that all parties have signed the first document (e.g. form EPO 1001), the common representative may sign letters and take procedural steps on behalf of the co-applicants. Any communications are sent to the common representative only.

If at least one of multiple parties does not have their residence or principal place of business in a contracting state, this party's representative will be the common representative. However, if parties who have their residence or principal place of business in a contracting state have appointed a representative, the common representative will be the one appointed by the first named of these parties.

4. Authorisation

Tick the first box if the previous representative has not withdrawn from representation. In the case of a change of representation, in order for the new representative to be duly appointed, an authorisation should be filed or reference to a general authorisation should be made (see the Decision of the President of the EPO dated 12 July 2007, Special edition No. 3, OJ EPO 2007, L.1).

Tick the second box if you are a professional representative and no representative was appointed before or the previous representative has withdrawn from representation. This option must also be chosen if the previous representative has given contact details to the EPO of the new representative, but the latter has not yet appointed themselves as representative.

A **professional representative/association** on the EPO's list only needs an authorisation from the applicant if the previous representative has not resigned and does not belong to the same association/patent department/law firm at the

same address, or if the EPO is in any doubt as to a person's entitlement to act on behalf of a party.

A **legal practitioner** will be registered after having provided evidence that they are entitled to act before the EPO. They must always file an individual or general authorisation for each application/patent.

Employees can represent their direct employer only; the provisions envisaged under Article 133(3), second sentence, EPC have never been made. Employees always need an authorisation: they are not entered as representatives in the European Patent Register.

Representatives may be authorised either by **individual authorisation** or by **general authorisation**. The relevant forms, to which amendments are permitted, can be downloaded free of charge from www.epo.org. General authorisations are registered at the EPO and can be referred to in individual applications.

If the representative moves to a different law firm, they remain responsible for those applications for which they are the appointed representative. In other words, the authorisation/appointment is attached to the person, not to the law firm. The representative must withdraw from representation and the **new representative must confirm their appointment**.

In the case of retirement of the representative, the EPO must be informed who will take over representation.

In the event of death or legal incapacity of the representative, proceedings before the EPO may be interrupted (Rule 142(1)(c) EPC).

A representative is not allowed to sign their own authorisation (Guidelines A-VIII, 3.2).

Information for representatives who have set up automatic debit orders from EPO deposit accounts

Note that an automatic debit order ceases to be effective **on explicit revocation** only, also in the case of transfer of rights and/or withdrawal of representation (point 10.2 of the Arrangements for the automatic debiting procedure (AAD)). To file or revoke an automatic debit order, observe the requirements laid down in points 1.2 and 10.1 of AAD, i.e. the request has to be filed in an electronically processable format (XML) via the EPO's online services.

5. Written confirmation issued in the case of more than five applications/patents

All corrections/amendments are published in the European Patent Register and the European Patent Bulletin, and the EPO adds written confirmation of any change to each file concerned. The EPO also sends you a copy of this confirmation in each case. However, if a request concerns more than five applications/patents, you can choose to receive a single confirmation listing all the applications/patents concerned.

6. Signature of the requester or their representative

The request is to be signed (Rule 50(3) EPC) by one of the following persons:

- the applicant/proprietor
- a person signing on behalf of the applicant/proprietor
- the common representative, if there is more than one applicant/proprietor
- an applicant's/proprietor's duly authorised employee
- the new professional representative (Article 134(1) EPC)
- a new, duly authorised legal practitioner (Article 134(8) EPC).

As a general principle, an employee signing on behalf of the applicant/proprietor must be entitled to sign by law, the legal entity's articles of association or equivalent, or by a special mandate. In this respect, national law applies. An indication must be given as to the signatory's entitlement to sign, e.g. the position held within the company, if the entitlement to sign results from such a position (e.g. CEO; managing director of a limited company).