



Results of the Election to the 20th Council

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by C. Mulder and T. Reijns

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by J. Brown



Cover:

Men at work

This picture, photographed by Karl-Heinz Eschenbacher (European Patent Attorney, DE) was part of the epi Artists Exhibition 2021



Karl-Heinz Eschenbacher

Karl-Heinz Eschenbacher is a German and European Patent Attorney who works and lives in the Bonn-Cologne area. He got into photography in the 1980s, the main fields being nature and landscape photography, later becoming interested in other fields such as industrial, experimental and abstract photography. Photographical techniques used include classical black and white photography and darkroom work, as well as color slide photography, digital photography and hybrid techniques. In addition to present-day equipment, he also owns and uses a small collection of vintage mechanical film cameras which are still capable of producing wonderful photos.

Karl-Heinz Eschenbacher ist ein deutscher und europäischer Patentanwalt, der im Raum Bonn-Köln arbeitet und lebt. Er begann in den 1980er Jahren mit der Fotografie, vor allem mit der Natur- und Landschaftsfotografie. Später interessierte er sich auch für andere Bereiche wie die industrielle, experimentelle und abstrakte Fotografie. Zu den verwendeten fotografischen Techniken gehören die klassische Schwarz-Weiß-Fotografie und die Arbeit in der Dunkelkammer, aber auch die Farbdiafotografie, die digitale Fotografie und Hybridtechniken. Neben der heutigen Ausrüstung besitzt und benutzt er auch eine kleine Sammlung alter mechanischer Filmkameras, mit denen sich immer noch wunderbare Fotos machen lassen.

Karl-Heinz Eschenbacher est un conseil en brevets allemand et un mandataire en brevets européens qui travaille et vit dans la région de Bonn-Cologne. Il s'est mis à la photographie dans les années 1980, les principaux domaines étant la photographie de la nature et de paysage, avant de s'intéresser à d'autres domaines tels que la photographie industrielle, expérimentale et abstraite. Les techniques photographiques utilisées comprennent la photographie classique en noir et blanc et le travail en chambre noire, ainsi que la photographie en diapositives couleur, la photographie numérique et les techniques hybrides. En plus son équipement actuel, il possède et utilise également une petite collection d'appareils photo mécaniques vintage à pellicule qui sont encore capables de produire de magnifiques photos.

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Editorial

March madness

M. Névant (FR), Editorial Committee

The title of this editorial might lead one to believe that what follows is going to be devoted to the enthusiasm of Americans for college basketball, in particular for the end-of-season tournament which runs throughout March. It is not so.



Marc Névant

for our clients, but also vis-à-vis the EPO. The future of the profession therefore starts in March...

However, March is to some extent an important month for the profession. March is indeed the month when trainee patent attorneys sit the pre-EQE or the EQE, with the hope that all the efforts devoted to the preparation of the exams will be successful. As we all know, the EQE is a highly respected examination and a guarantee of seriousness and quality, not only

In addition, March has a special flavour this year: 1 March 2023 indeed marks the start of the so-called "Sunrise period", leading to the entry into force of the Agreement on a Unified Patent Court on 1 June 2023. Some practitioners will remember when the Convention for the European Patent for the common market was signed at Luxembourg on 15 December 1975 by the 9 member states of the European Economic Community at that time. Others (including myself) will remember sitting a course on the Community Patent. The advent of the Unitary Patent is an incredible milestone that will unlikely have an equivalent in the near future. We look forward to it.

2023 is an election year and the results of the election to Council are presented in this issue, which also includes articles on the e:EQE, on double patenting as well on the (never ending story about the) adaptation of the description. I hope, on behalf of the Editorial Committee, that you will enjoy reading it!

Ergebnisse der Wahl zum 20. Rat

Hinweis

Mitglieder des Instituts, die gegen das Wahlergebnis Einwände erheben möchten, müssen ihre schriftlichen Einwände rechtsgültig unterzeichnet bis spätestens 29. März 2023 beim Sekretariat des Instituts einreichen. Später eingehende Einwände werden nicht berücksichtigt.

Besonderer Dank gilt den Mitgliedern des Wahlausschusses, den Herren M.A. Müller, P. Barrett und A. Vilhjálmsón, die den erfolgreichen Ablauf der Wahl zum Rat trotz außergewöhnlicher Umstände sichergestellt haben. Ein großes Dankeschön an die Mitarbeiter des **epi** Sekretariats für die hervorragende Unterstützung und das Engagement.

Results of the Election to the 20th Council

Notice

Members of the Institute wishing to object against the election results must submit their written objection duly signed to reach the Secretariat of the Institute by 29 March 2023 at the latest. Any objections reaching the Institute after this date will not be taken into consideration.

Special thanks to the members of the Electoral Committee, Messrs. M.A. Müller, P. Barrett, A. Vilhjálmsón, who secured the successful process of election to Council in unprecedented circumstances. A big Thank you to the staff of the **epi** Secretariat for the excellent support and commitment.

Résultats de l'élection au 20^{ème} Conseil

Note

Les membres de l'Institut désirant contester les résultats de l'élection doivent faire parvenir leurs objections écrites dûment signées au Secrétariat de l'Institut avant le 29 mars 2023 au plus tard. Toute objection parvenant à l'Institut après cette date ne sera plus prise en considération.

Nous remercions tout particulièrement les membres de la Commission Electorale, MM. M.A. Müller, P. Barrett, A. Vilhjálmsón, qui ont assuré la réussite du processus d'élection au Conseil dans des circonstances sans précédent. Un grand merci au personnel du secrétariat de l'**epi** pour son excellent soutien et son engagement.

Olga Sirakova

Generalsekretär / Secretary General / Secrétaire Général

Erläuterung	Legend	Légende
* als stellvertretendes Mitglied zur Wahl	* stood as substitute only	* éligible comme suppléant uniquement
** Losentscheid bei gleicher Stimmenzahl	** tie vote position decided by lot	** classement par tirage au sort à égalité de voix
+ nominiert im wieder eröffneten Nominationsverfahren	+ nominated in reopened nomination procedure	+ nommé dans la procedure de nomination re-ouverte

Please note that the term of office of these Council members will start after confirmation of the validity of the election at the 94th Council meeting on 2nd May 2023 of the newly elected Council duly constituted under Article 2.3 of the By-Laws of the Institute.

AL - Albania

Sent ballots: 11

Participation: 55%

Received ballots: 6

Candidates

DODBIBA, Eno	1	PANIDHA, Ela *	1
NIKA, Vladimir	6	SHOMO, Vjollca	4

Allotment of seats

Full Member		Substitute	
NIKA, Vladimir	6	DODBIBA, Eno	1
SHOMO, Vjollca	4	PANIDHA, Ela *	1

AT - Austria

Sent ballots: 186

Participation: 48%

Received ballots: 89

Other capacity

Received valid ballots: 28

Candidates

HANEMANN, Otto *	22	MEUSBURGER, Johannes *	16
HEDENETZ, Alexander Gernot	24	PREHOFER, Boris André	19

Allotment of seats

Full Member		Substitute	
HEDENETZ, Alexander Gernot	24	HANEMANN, Otto *	22
PREHOFER, Boris André	19	MEUSBURGER, Johannes *	16

Private practice

Received valid ballots: 61

Candidates

FILIPOVA, Liljana	5	POTH, Wolfgang	26
FORSTHUBER, Martin *	32	SCHWEINZER, Friedrich	18
HARRER-REDL, Dagmar	48	WEINZINGER, Philipp *	39
ISRAILOFF, Peter *	16		

Allotment of seats

Full Member		Substitute	
HARRER-REDL, Dagmar	48	WEINZINGER, Philipp *	39
POTH, Wolfgang	26	FORSTHUBER, Martin *	32

BE - Belgium

Sent ballots: 300

Participation: 47%

Received ballots: 140

Candidates

CLERIX, André	69	QUINTELIER, Claude *	51
DE CLERCQ, Ann G. Y.	89	VAN DEN BOECK, Wim	47
LEYDER, Francis	73	VAN MALDEREN, Joëlle *	54
OUTTEN, Juliet Leigh *	34	VAN MINNEBRUGGEN, Ewan Benito Agnes	59

Allotment of seats

Full Member		Substitute	
DE CLERCQ, Ann G. Y.	89	VAN MALDEREN, Joëlle *	54
LEYDER, Francis	73	QUINTELIER, Claude *	51
CLERIX, André	69	VAN DEN BOECK, Wim	47
VAN MINNEBRUGGEN, Ewan Benito Agnes	59	OUTTEN, Juliet Leigh *	34

BG - Bulgaria

Sent ballots: 48

Participation: 27%

Received ballots: 13

Candidates

BENATOV, Samuil Gabriel	11	SIRAKOVA, Olga Rousseva	11
GEORGIEVA-TABAKOVA, Milena Lubenova *	10	TAHTADJIEV, Konstantin	11
KOSSEVA, Radislava Andreeva	7	TSVETKOV, Atanas Lyubomirov	11
PAKIDANSKA, Ivanka Slavcheva *, +	10		

Allotment of seats

Full Member		Substitute	
BENATOV, Samuil Gabriel	11	GEORGIEVA-TABAKOVA, Milena Lubenova *	10
SIRAKOVA, Olga Rousseva	11	KOSSEVA, Radislava Andreeva	7
TAHTADJIEV, Konstantin	11	PAKIDANSKA, Ivanka Slavcheva *, +	10
TSVETKOV, Atanas Lyubomirov	11		

CH - Switzerland

Sent ballots: 636

Participation: 35%

Received ballots: 224

Other capacity

Received valid ballots: 133

Candidates

BLÖCHLE, Hans	63	HOFFMANN, Jürgen Gerhard	68
COGNAT, Eric Jean Marie	73	KLEY, Hansjörg *	69
CORIC, Dragan	41	THOMSEN, Peter René	101
FAVRE, Nicolas	82		

Allotment of seats

Full Member		Substitute	
THOMSEN, Peter René	101	KLEY, Hansjörg *	69
FAVRE, Nicolas	82	HOFFMANN, Jürgen Gerhard	68
COGNAT, Eric Jean Marie	73	BLÖCHLE, Hans	63

Private practice

Received valid ballots: 91

Candidates

HENTSCHEL, Sarah	57	LIEBETANZ, Michael	65
KAPIC, Tarik	63	LONGCHAMP, Jean-Nicolas	41
KÖRNER, Thomas Ottmar	34	WIRTH, Christian Martin	36
LATSCHA, Silvan	59		

Allotment of seats

Full Member		Substitute	
LIEBETANZ, Michael	65	HENTSCHEL, Sarah	57
KAPIC, Tarik	63	LONGCHAMP, Jean-Nicolas	41
LATSCHA, Silvan	59	WIRTH, Christian Martin	36

CY - Cyprus

Sent ballots: 10

Participation: 60%

Received ballots: 6

Candidates

CURLEY, Donnacha John *, +	1	ROUSOUNIDOU, Vasiliki A.	4
DEMETRIADES, Achilleas L. +	2	THEODOULOU, Christos A.	4

Allotment of seats

Full Member		Substitute	
ROUSOUNIDOU, Vasiliki A.	4	DEMETRIADES, Achilleas L. +	2
THEODOULOU, Christos A.	4	CURLEY, Donnacha John *, +	1

CZ - Czech Republic

Sent ballots: 85

Participation: 28%

Received ballots: 24

Candidates

BENDA, Tomas *	12	HOLASOVA, Hana	13
FOUSKOVÁ, Petra	16	MALUSEK, Jiri	13
GUTTMANN, Michal	10	MATYSOVÁ, Jitka *	11
HARTVICOVA, Katerina	22	OSMEROVA, Sona	8

Allotment of seats

Full Member		Substitute	
HARTVICOVA, Katerina	22	BENDA, Tomas *	12
FOUSKOVÁ, Petra	16	MATYSOVÁ, Jitka *	11
HOLASOVA, Hana	13	GUTTMANN, Michal	10
MALUSEK, Jiri	13	OSMEROVA, Sona	8

DE - Germany

Sent ballots: 5162

Participation: 22%

Received ballots: 1147

Other capacity

Received valid ballots: 469

Candidates

DÜRR, Arndt Christian	327	MOHR, Christian A.	196
KABELITZ, Matthias	158	TÜNGLER, Eberhard	225
KREMER, Véronique Marie Joséphine	287	WINTER, Andreas	335
MARX, Thomas	227		

Allotment of seats

Full Member		Substitute	
WINTER, Andreas	335	MARX, Thomas	227
DÜRR, Arndt Christian	327	TÜNGLER, Eberhard	225
KREMER, Véronique Marie Joséphine	287	MOHR, Christian A.	196

Private practice

Received valid ballots: 678

Candidates			
DALEK, Arkadius Jan	117	SCHOBER, Christoph D.	334
GRAU, Benjamin	123	SEBASTIAN, Jens	79
HÄRTLE, Rainer	103	STEPHAN, Henrik Hans Wilhelm	21
HARTIG, Michael	304	STORK, Martina	386
HÖSSLE, Markus	245	TANNER, Andreas	172
KÖRFER, Thomas	90	VOGELSANG-WENKE, Heike	475
PLEVAN, Michael	87	ZHANG, Lu	135
Allotment of seats			
Full Member		Substitute	
VOGELSANG-WENKE, Heike	475	HARTIG, Michael	304
STORK, Martina	386	HÖSSLE, Markus	245
SCHOBER, Christoph D.	334	TANNER, Andreas	172

DK - Denmark

Sent ballots: 316

Participation: 35%

Received ballots: 110

Candidates			
BÆKMARK, Thomas Rosleff	19	KANVED, Nicolai	38
CARLSSON, Eva +	44	KOEFOED, Peter	78
FARIA VIOLA GONÇALVES, Vera Lúcia	26	MARKVARDSEN, Peter +	24
HEGNER, Anette	42	STRUVE, Casper	42
HÖEG HASSING, Jessica Marie	23		
Allotment of seats			
Full Member		Substitute	
KOEFOED, Peter	78	FARIA VIOLA GONÇALVES, Vera Lúcia	26
HEGNER, Anette	42	HÖEG HASSING, Jessica Marie	23
STRUVE, Casper	42	CARLSSON, Eva +	44
KANVED, Nicolai	38	MARKVARDSEN, Peter +	24

EE - Estonia

Sent ballots: 20

Participation: 55%

Received ballots: 11

Candidates			
KAULER, Urmas	6	NELSAS, Tõnu *	3
KOITEL, Raivo *	6	SARAP, Margus	10
KOPPEL, Mart Enn	5	TOOME, Jürgen	11
Allotment of seats			
Full Member		Substitute	
TOOME, Jürgen	11	KOITEL, Raivo *	6
SARAP, Margus	10	KAULER, Urmas	6

ES - Spain

Sent ballots: 250

Participation: 39%

Received ballots: 97

Candidates

ARIAS SANZ, Juan	57	STIEBE, Lars Magnus	36
COROMINAS MACIAS, Nèstor *	30	TOPORCER KOREC, Norman	28
IGARTUA, Ismael	56	VÁZQUEZ VÁZQUEZ, Nieves *	32
JORDÁ PETERSEN, Santiago	45	VEGA ROCHA, Susana	44
SÁNCHEZ, Ruth	54		

Allotment of seats

Full Member		Substitute	
ARIAS SANZ, Juan	57	VEGA ROCHA, Susana	44
IGARTUA, Ismael	56	STIEBE, Lars Magnus	36
SÁNCHEZ, Ruth	54	VÁZQUEZ VÁZQUEZ, Nieves *	32
JORDÁ PETERSEN, Santiago	45	COROMINAS MACIAS, Nèstor *	30

FI - Finland

Sent ballots: 198

Participation: 38%

Received ballots: 75

Candidates

BOIJE AF GENNÄS, Per Gustav *	21	SAHLIN, Jonna Elisabeth	46
ETUAHO, Kirsikka Elina *	26	VATTULAINEN ERKKILÄ, Anniina	27
HÄYRINEN, Ville Tapani	30	VEHMAS, Joni Jouko Valtteri	21
KÄRKKÄINEN, Veli-Matti *	25	VIROLAINEN, Nina Erika *	23
KONKONEN, Tomi-Matti Juhani	28		

Allotment of seats

Full Member		Substitute	
SAHLIN, Jonna Elisabeth	46	ETUAHO, Kirsikka Elina *	26
HÄYRINEN, Ville Tapani	30	KÄRKKÄINEN, Veli-Matti *	25
KONKONEN, Tomi-Matti Juhani	28	VIROLAINEN, Nina Erika *	23
VATTULAINEN ERKKILÄ, Anniina	27	BOIJE AF GENNÄS, Per Gustav *	21

FR - France

Sent ballots: 1336

Participation: 31%

Received ballots: 417

Other capacity

Received valid ballots: 153

Candidates

AJDARI, Emmanuel	94	ROUSSEAU, Pierick Edouard	105
GENDRAUD, Pierre	78	SENNINGER, Thierry	109
KLING, Simone	112	TARAVELLA, Brigitte	129

Allotment of seats

Full Member		Substitute	
TARAVELLA, Brigitte	129	ROUSSEAU, Pierick Edouard	105
KLING, Simone	112	AJDARI, Emmanuel	94
SENNINGER, Thierry	109	GENDRAUD, Pierre	78

Private practice

Received valid ballots: 264

Candidates			
GAILLARDE, Frédéric F. Ch.	158	MOUTARD, Pascal Jean	156
LEBKIRI, Alexandre	168	NEVANT, Marc	188
MARTIN-CHARBONNEAU, Virginie	207	NUSS, Laurent	204
Allotment of seats			
Full Member		Substitute	
MARTIN-CHARBONNEAU, Virginie	207	LEBKIRI, Alexandre	168
NUSS, Laurent	204	GAILLARDE, Frédéric F. Ch.	158
NEVANT, Marc	188	MOUTARD, Pascal Jean	156

GB - United Kingdom

Sent ballots: 2759

Participation: 12%

Received ballots: 329

Candidates			
ASQUITH, Julian Peter	195	HILTON, Andrew Steven	134
BOFF, James Charles	148	INSTONE, Alicia Claire	209
BROWN, John D.	128	MERCER, Christopher Paul	235
DUNN, Paul Edward	136	RADKOV, Stoyan Atanassov	101
GRAY, John James	143	SARDHARWALA, Fatema Elyasali	195
GWILT, Julia Louise *	187	WRIGHT, Simon Mark	163
Allotment of seats			
Full Member		Substitute	
MERCER, Christopher Paul	235	GWILT, Julia Louise *	187
INSTONE, Alicia Claire	209	GRAY, John James	143
ASQUITH, Julian Peter	195	DUNN, Paul Edward	136
SARDHARWALA, Fatema Elyasali	195	HILTON, Andrew Steven	134
WRIGHT, Simon Mark	163	BROWN, John D.	128
BOFF, James Charles	148	RADKOV, Stoyan Atanassov	101

GR - Greece

Sent ballots: 27

Participation: 67%

Received ballots: 18

Candidates			
BAKATSELOU, Vassiliki	7	SAMUELIDES, Emmanuel	2
KOSTI, Vasiliki	6	VAVEKIS, Konstantinos	1
KOUZELIS, Dimitrios	6	YAZITZOGLOU, Evagelia S.	7
LIOUMBIS, Alexandros	6	ZOGRAFOS, Georgios	8
Allotment of seats			
Full Member		Substitute	
ZOGRAFOS, Georgios	8	LIOUMBIS, Alexandros **	6
BAKATSELOU, Vassiliki	7	KOSTI, Vasiliki **	6
YAZITZOGLOU, Evagelia S.	7	SAMUELIDES, Emmanuel	2
KOUZELIS, Dimitrios **	6	VAVEKIS, Konstantinos	1

HR - Croatia

Sent ballots: 24

Participation: 42%

Received ballots: 10

Candidates

HADZIJA, Tomislav	7	TOPIC, Zeljko	4
MARSIC, Natasa	5	VUKINA, Sanja	8
TOMSIC SKODA, Slavica *	7		

Allotment of seats

Full Member		Substitute	
VUKINA, Sanja	8	TOMSIC SKODA, Slavica *	7
HADZIJA, Tomislav	7	MARSIC, Natasa	5

HU - Hungary

Sent ballots: 71

Participation: 54%

Received ballots: 38

Candidates

GROF, Palma	19	LENGYEL, Zsolt	25
GYÖRFFY, Béla	20	PETHO, Arpad	30
HORVÁTH, Bertalan	18	SZENTPÉTERI, Zsolt	28
KERESZTY, Marcell *	29	TÖRÖK, Ferenc	33

Allotment of seats

Full Member		Substitute	
TÖRÖK, Ferenc	33	KERESZTY, Marcell *	29
PETHO, Arpad	30	GYÖRFFY, Béla	20
SZENTPÉTERI, Zsolt	28	GROF, Palma	19
LENGYEL, Zsolt	25	HORVÁTH, Bertalan	18

IE - Ireland

Sent ballots: 88

Participation: 39%

Received ballots: 34

Candidates

BOYCE, Conor	21	ROCHE, Dermot	16
CASEY, Lindsay Joseph	22	SKRBA, Sinéad	20
KELLY, Donal Morgan *	18	WALSHE, Triona Mary *	25
MCCARTHY, Denis Alexis	24		

Allotment of seats

Full Member		Substitute	
MCCARTHY, Denis Alexis	24	WALSHE, Triona Mary *	25
CASEY, Lindsay Joseph	22	KELLY, Donal Morgan *	18
BOYCE, Conor	21	ROCHE, Dermot	16
SKRBA, Sinéad	20		

IS - Iceland

Sent ballots: 18

Participation: 44%

Received ballots: 8

Candidates

FRIDRIKSSON, Einar Karl *	5	HARDARSON, Gunnar Örn +	4
GUDMUNDSDÓTTIR, Anna Valborg	5	JONSSON, Thorlakur	5

Allotment of seats

Full Member		Substitute	
GUDMUNDSDÓTTIR, Anna Valborg	5	FRIDRIKSSON, Einar Karl *	5
JONSSON, Thorlakur	5	HARDARSON, Gunnar Örn +	4

IT - Italy

Sent ballots: 584

Participation: 55%

Received ballots: 319

Other capacity

Received valid ballots: 49

Candidates

BARACCO, Stefano	22	PAGLIA, Pietro *	18
BAST, Tim +	12	ROSSETTI, Elena *, +	25
COLUCCI, Giuseppe	32	SULCIS, Roberta	27
MACCHETTA, Francesco	31		

Allotment of seats

Full Member		Substitute	
COLUCCI, Giuseppe	32	BARACCO, Stefano	22
MACCHETTA, Francesco	31	PAGLIA, Pietro *	18
SULCIS, Roberta	27	ROSSETTI, Elena *, +	25

Private practice

Received valid ballots: 270

Candidates

CHECCACCI, Giorgio	142	MAURO, Marina Eliana	84
DE GIORGI, Michele	39	MODIANO, Micaela Nadia	171
FERRONI, Filippo *	51	RAMBELLI, Paolo	140
GISLON, Gabriele *	55	SANTI, Filippo	103
MASCIOPINTO, Gian Giuseppe	38		

Allotment of seats

Full Member		Substitute	
MODIANO, Micaela Nadia	171	SANTI, Filippo	103
CHECCACCI, Giorgio	142	MAURO, Marina Eliana	84
RAMBELLI, Paolo	140	GISLON, Gabriele *	55

LI - Liechtenstein

Sent ballots: 24

Participation: 79%

Received ballots: 19

Candidates

GYAJA, Christoph Benjamin *	17	HOLZHEU, Christian *	16
HARMANN, Bernd-Günther	15	PISCHETSRIEDER, Tobias M.	18

Allotment of seats

Full Member		Substitute	
PISCHETSRIEDER, Tobias M.	18	GYAJA, Christoph Benjamin *	17
HARMANN, Bernd-Günther	15	HOLZHEU, Christian *	16

LT - Lithuania

Sent ballots: 23

Participation: 48%

Received ballots: 11

Candidates

ARMALYTE, Elena *, +	7	PAKENIENE, Ausra	7
GERASIMOVIC, Liudmila *, +	6	PETNIUNAITE, Jurga	7
JACKUNE, Indre *, +	5		

Allotment of seats

Full Member		Substitute	
PAKENIENE, Ausra	7	ARMALYTE, Elena *, +	7
PETNIUNAITE, Jurga	7	GERASIMOVIC, Liudmila *, +	6

LU - Luxembourg

Sent ballots: 25

Participation: 76%

Received ballots: 19

Other capacity

Received valid ballots: 3

Candidates

KUTSCH, Bernd	3	WILHELM, Wolfgang +	0
LAMPE, Sigmar *	3		

Allotment of seats

Full Member		Substitute	
KUTSCH, Bernd	3	LAMPE, Sigmar *	3

Private practice

Received valid ballots: 16

Candidates

BRUCK, Mathis	12	SCHNEIDER, Emmanuel Benjamin Daniel *, +	3
MELLET, Valérie Martine	9		

Allotment of seats

Full Member		Substitute	
BRUCK, Mathis	12	MELLET, Valérie Martine	9

LV - Latvia

LV - Latvia						
Sent ballots: 15		Participation: 60%		Received ballots: 9		
Candidates						
FORTUNA, Jevgenijs		8		OSMANS, Voldemars6		
KROMANIS, Artis		1		SMIRNOV, Alexander1		
Allotment of seats						
Full Member			Substitute			
FORTUNA, Jevgenijs		8		KROMANIS, Artis1		
OSMANS, Voldemars		6		SMIRNOV, Alexander1		

MC - Monaco

MC - Monaco					
Sent ballots: 8		Participation: 63%		Received ballots: 5	
Candidates					
AMIRA, Sami	1		SCHMALZ, Günther		3
HAUTIER, Nicolas *	1		THACH, Tum		4
Allotment of seats					
Full Member			Substitute		
THACH, Tum	4		AMIRA, Sami		1
SCHMALZ, Günther	3		HAUTIER, Nicolas *		1

MK - North Macedonia

MK - North Macedonia					
Sent ballots: 21		Participation: 52%		Received ballots: 11	
Candidates					
DAMJANSKI, Vanco	7		KJOSESKA, Marija		5
FILIPOV, Gjorgji	6		PEPELJUGOSKI, Valentin		5
ILIEVSKI, Bogoljub	6				
Allotment of seats					
Full Member			Substitute		
DAMJANSKI, Vanco	7		FILIPOV, Gjorgji **		6
ILIEVSKI, Bogoljub **	6		PEPELJUGOSKI, Valentin **		5

MT - Malta

MT - Malta					
Sent ballots: 6		Participation: 33%		Received ballots: 2	
Candidates					
FINKE, Steffi	1		SANSONE, Luigi		2
GERBINO, Angelo	1				
Allotment of seats					
Full Member			Substitute		
SANSONE, Luigi	2		GERBINO, Angelo **		
FINKE, Steffi **	1				

NL - Netherlands

Sent ballots: 562

Participation: 42%

Received ballots: 236

Candidates

BLOKLAND, Arie *	108	REIJNS, Tiemen Geert Pieter	117
DE LANG, Robbert-Jan	106	SHI, Huaizhou	54
DEKKER, Henrike Cornelia Christine	112	TANGENA, Antonius Gerardus	108
LAND, Addick Adrianus Gosling	44	VAN DER WIJK, Thea	99
MAAS, Huub Pieter André	84	VAN WEZENBEEK, Lambertus A.C.M.	82
MULDER, Cornelis A.M. *	139	VAN WOUDEBERG, Roel	108
NIESING, Willem *	74		

Allotment of seats

Full Member		Substitute	
REIJNS, Tiemen Geert Pieter	117	MULDER, Cornelis A.M. *	139
DEKKER, Henrike Cornelia Christine	112	BLOKLAND, Arie *	108
TANGENA, Antonius Gerardus	108	MAAS, Huub Pieter André	84
VAN WOUDEBERG, Roel	108	VAN WEZENBEEK, Lambertus A.C.M.	82
DE LANG, Robbert-Jan	106	NIESING, Willem *	74
VAN DER WIJK, Thea	99	SHI, Huaizhou	54

NO - Norway

Sent ballots: 106

Participation: 33%

Received ballots: 35

Candidates

BERG, André	18	TAFJORD, Harald	14
HJELSVOLD, Bodil Merete Sollie	27	THORVALDSEN, Knut *	11
REITAN, Katja	25	THRANE, Dag *	18
REKDAL, Kristine	18		

Allotment of seats

Full Member		Substitute	
HJELSVOLD, Bodil Merete Sollie	27	THRANE, Dag *	18
REITAN, Katja	25	TAFJORD, Harald	14
BERG, André	18	THORVALDSEN, Knut *	11
REKDAL, Kristine	18		

PL - Poland

Sent ballots: 248

Participation: 20%

Received ballots: 49

Candidates

AUGUSTYNIAK, Magdalena Anna	38	MALEWSKA, Ewa	10
GODLEWSKI, Piotr	19	PAWLOWSKI, Adam	23
KAWCZYNSKA, Marta Joanna	35	PRZYLUSKI, Michal Wiktor	14
KORBELA, Anna *	4	ROGOZINSKA, Alicja	26
LEWICKA, Katarzyna Dorota	19	SIELEWIESIUK, Jakub	23

Allotment of seats

Full Member		Substitute	
AUGUSTYNIAK, Magdalena Anna	38	SIELEWIESIUK, Jakub **	23
KAWCZYNSKA, Marta Joanna	35	LEWICKA, Katarzyna Dorota **	19
ROGOZINSKA, Alicja	26	GODLEWSKI, Piotr **	19
PAWLOWSKI, Adam **	23	PRZYLUSKI, Michal Wiktor	14

PT - Portugal

Sent ballots: 43

Participation: 63%

Received ballots: 27

Candidates

ALVES MOREIRA, Pedro	16	DIAS MACHADO, Antonio J. *	16
CARVALHO FRANCO, Isabel	18	FERREIRA MAGNO, Fernando Antonio	17
CORTE-REAL CRUZ, António *	17	PEREIRA DA CRUZ, Joao	22
CRUZ, Nuno *	20	SILVESTRE DE ALMEIDA FERREIRA, Luís Humberto *	7
DE SAMPAIO, José Eduardo *	18	TEIXEIRA DE CARVALHO, Anabela	6

Allotment of seats

Full Member		Substitute	
PEREIRA DA CRUZ, Joao	22	CRUZ, Nuno *	20
CARVALHO FRANCO, Isabel	18	DE SAMPAIO, José Eduardo *	18
FERREIRA MAGNO, Fernando Antonio	17	CORTE-REAL CRUZ, António *	17
ALVES MOREIRA, Pedro	16	DIAS MACHADO, Antonio J. *	16

RO - Romania

Sent ballots: 43

Participation: 51%

Received ballots: 22

Candidates

BONCEA, Oana-Laura	11	PUSCASU, Dan	2
ENESCU, Miruna	13	TEODORESCU, Mihaela	16
FIERASCU, Cosmina-Catrinel	12	TULUCA, F. Doina	4
NICOLAESCU, Daniella Olga	8	VASILESCU, Raluca	7

Allotment of seats

Full Member		Substitute	
TEODORESCU, Mihaela	16	NICOLAESCU, Daniella Olga	8
ENESCU, Miruna	13	VASILESCU, Raluca	7
FIERASCU, Cosmina-Catrinel	12	TULUCA, F. Doina	4
BONCEA, Oana-Laura	11	PUSCASU, Dan	2

RS - Serbia

Sent ballots: 43

Participation: 65%

Received ballots: 28

Candidates

BOGDANOVIC, Dejan	12	PLAVSA, Uros	6
BRKIC, Zeljka	6	TOMIC, Marija	12
HERAK, Nada	2	TRAVICA, Katarina	10
JANKOVIC, Mara	13	ZATEZALO, Mihajlo	7
PETOSEVIC, Slobodan	6		

Allotment of seats

Full Member		Substitute	
JANKOVIC, Mara	13	ZATEZALO, Mihajlo	7
BOGDANOVIC, Dejan	12	PETOSEVIC, Slobodan **	6
TOMIC, Marija	12	BRKIC, Zeljka **	6
TRAVICA, Katarina	10	PLAVSA, Uros **	6

SE - Sweden

Sent ballots: 462

Participation: 24%

Received ballots: 112

Candidates

BJERNDÉLL, Per Ingvar	41	MARTINSSON, Peter	62
ENGSTRÖM, Christer	15	SJÖGREN PAULSSON, Stina	72
FRANKS, Barry Gerard	32	THÖRNBORG, Anders Uno	31
LÖWENADLER, Jenny	59	YDRESKOG, Margareta	52

Allotment of seats

Full Member		Substitute	
SJÖGREN PAULSSON, Stina	72	BJERNDÉLL, Per Ingvar	41
MARTINSSON, Peter	62	FRANKS, Barry Gerard	32
LÖWENADLER, Jenny	59	THÖRNBORG, Anders Uno	31
YDRESKOG, Margareta	52	ENGSTRÖM, Christer	15

SI - Slovenia

Sent ballots: 29

Participation: 62%

Received ballots: 18

Candidates

BENCINA, Mojca +	7	MACEK, Gregor	16
BORSTAR, Dusan	14	OSOLNIK, Renata	18
GOLMAJER ZIMA, Marjanca	16	SVETICIC, Andrej *	14
KUNIC TESOVIC, Barbara *	15		

Allotment of seats

Full Member		Substitute	
OSOLNIK, Renata	18	KUNIC TESOVIC, Barbara *	15
GOLMAJER ZIMA, Marjanca	16	SVETICIC, Andrej *	14
MACEK, Gregor	16	BENCINA, Mojca +	7
BORSTAR, Dusan	14		

SK - Slovakia

Sent ballots: 30

Participation: 37%

Received ballots: 11

Candidates

BAD'UROVÁ, Katarina	9	MAJLINGOVA, Marta *	9
CECHVALA, Radovan	6	MESKOVA, Viera	8
MAJLINGOVÁ, Zuzana	10	NEUSCHL, Vladimir	10

Allotment of seats

Full Member		Substitute	
MAJLINGOVÁ, Zuzana	10	MAJLINGOVA, Marta *	9
NEUSCHL, Vladimir	10	CECHVALA, Radovan	6
BAD'UROVÁ, Katarina	9		
MESKOVA, Viera	8		

SM - San Marino

Sent ballots: 16		Participation: 69%		Received ballots: 11	
Candidates					
AGAZZANI, Giampaolo		8	PETRAZ, Davide Luigi *		5
BALDI, Stefano		7	TIBURZI, Andrea		3
MAROSCIA, Antonio		4			
Allotment of seats					
Full Member			Substitute		
AGAZZANI, Giampaolo		8	PETRAZ, Davide Luigi *		5
BALDI, Stefano		7	MAROSCIA, Antonio		4

TR - Turkey

Sent ballots: 90		Participation: 43%		Received ballots: 39		
Candidates						
AKSOY, Okan Alper		9		HAMAMCIOGLU, Volkan		15
ARKAN, Selda Mine		11		MUTLU, Aydin		17
ATALAY, Baris		19		SEVINÇ, Erkan		13
BAKIRCI, Utkan Bahri		11		TAS, Emrah		14
CAYLI, Hülya		20		YALVAÇ, Oya		14
Allotment of seats						
Full Member				Substitute		
CAYLI, Hülya		20		YALVAÇ, Oya **		14
ATALAY, Baris		19		TAS, Emrah **		14
MUTLU, Aydin		17		SEVINÇ, Erkan		13
HAMAMCIOGLU, Volkan		15		BAKIRCI, Utkan Bahri **		11

Towards a new format of the e:EQE

C. Mulder (NL) and T. Reijns (NL)

In view of the digitalisation of the European Qualifying Examination, the structure and content of the Exam needs to be reconsidered. When developing a new format for the e:EQE emphasis should be on testing whether candidates are “fit to practice”. Care should be taken to retain the high-level quality standard of the current Exam.

Introduction

For many years, there have been plans to modernize the European Qualifying Examination (EQE) which has been testing the abilities of candidates in preparation for their future job of European patent attorney. However, some of the current Exam Papers are remote from reality: they have become jigsaw puzzles, constructed such that all pieces fit perfectly together to come to clearly defined “correct” answer. As the current Exams follow a certain structure, candidates prepare for the EQE through methodology courses, where they learn how to structure their answer and include the answer elements that feature in the compendium solutions of past papers. After the cancellation of the 2020 EQE due to the Covid-19 pandemic, an immediate solution was needed for an online Exam in 2021¹. Testing skills in an online environment showed that the “paper” format of the EQE is not very well suited to online Examination without adaptation. Candidates cannot sit for hours before a screen while being continuously monitored by invigilation software.

In 2021, the Supervisory Board created an e:EQE Working Group comprising representatives from the EPO and **epi**. Two tasks were assigned to this Working Group:

- 1) set up and implement an online EQE in 2021, and
- 2) prepare the groundwork for the e-EQE of the future.

To support the **epi** members in the e:EQE Working Group, **epi** set up a Digitalisation Support Group (DSG) with members of the Professional Education Committee (PEC) supplemented by experts in the field of the EQE and in online Exams.

epi is aware of the evolving role of the professional representative and aims at actively providing contribution to the restructuring of the EQE. There are regular meetings

between the three **epi** members in the e:EQE Working Group and the DSG, which normally are also attended by members of the Presidium. One of the objects/tasks of **epi** is mentioned in Article 4(1) of the Founding Regulation of our Institute:² “... collaborate with the European Patent Organisation on matters relating to the profession of professional representatives and in particular on disciplinary matters and on the European Qualifying Examination.”

Candidates have long been asking to be allowed to type their answer papers instead of writing them, enabling them to better structure and arrange their answers (and allowing for easier marking too). Automation and digitalisation initiatives in the candidate's professional environment as well as at the EPO have led to different ways of working for the profession since the turn of the century.

Testing skills in an online environment also offers new opportunities to bring the Exam closer to the profession and to real life situations. It allows, for instance, to introduce a broader variety of assessment techniques, type the answers using a keyboard, and, among other features, to have access to digital resources, just like in real life.

A broad discussion was stimulated in **epi** to come up with a new format of the e:EQE better matching an online environment while at the same time adapting the Exam to better test if candidates are “fit to practice”. The Exam should aim at providing successful candidates with a “driving licence”, which in their subsequent life is to be supplemented by acquiring the full skills of a European patent attorney.

Proposals for a new format of the e:EQE

In the beginning of 2021, the DSG presented a discussion paper with a proposal for a new set-up of the e:EQE encompassing a practical track and a legal track, each comprising several modules for testing the required progressive skills of European patent attorneys. The proposal was discussed at **epi** Council meeting C90 in May 2021. A conference on modernising the EQE was organised by PEC in June 2021.

In addition, the **epi**-EPO e:EQE Working Group drafted a competences-based proposal for a new e:EQE, which was

¹ An early proposal for adapting the EQE can be found in: “Reform of the European Qualifying Examination” by Cees Mulder in **epi** Information 02|2020 pp.11-13.

² “Regulation on the establishment of an institute of professional representatives before the European Patent Office”, Supplementary Publication 1, OJ EPO 2023, XIV.

published on the EPO-EQE website in May 2022³. This proposal is the outcome of the work of **epi** and EPO experts to conceptualise the Exam Papers and the overall proposal, taking into account the feedback received in the **epi** conference and also the feedback received in the context of a consultation to training institutions. In this proposal, two Foundation modules (testing a basic level) and four Main Exam modules (assessing if the candidate is “fit to practice”) were presented. Passing one or both Foundation modules is necessary for being allowed to sit the Main Exam modules.

One of the goals of both proposals is that a trainee European patent attorney can sit the set of modules with progressive complexity within three years. This matches the current practice, where most candidates start with the relatively simple parts before moving to more complex tasks, and can complete the EQE also after 3 years.

In order to facilitate the understanding of the **epi**-EPO proposal, a set of Example Exams was drafted by a group of **epi** and EPO representatives. As the new e:EQE will be an online Exam (e.g. on the WiseFlow platform), several new types of questions were introduced. The aim of the Example Exams was to show what a future e:EQE could look like and demonstrate the new ways of testing that can be applied. The format and content of the Example Exams was also discussed at **epi** Council meeting C92 (May 2022). Later on, PEC organised a series of webinars on the content and structure of the Modules and Example Exams.

The EPO proposal together with the set of Example Exams was subject to a consultation process in the period May-August 2022. Close to 170 written contributions and 15 detailed letters were received and analysed, the points of consensus were identified, and the necessary changes agreed in the **epi**-EPO Working Group. In November 2022, the Working Group released a conclusion while indicating a follow-up trajectory.⁴

Draft outline of the new e:EQE

Based on the outcome of the consultation (which was discussed at **epi** Council meeting C93 in October 2022), it was decided to clearly define the syllabi for all modules to avoid confusion. The Foundation modules test basic knowledge of the EPC and PCT as well as the substantive patentability requirements of the EPC (such as claim analysis) at an intermediate level. Passing at least one of the Foundation modules is a prerequisite for sitting any of the remaining modules.

The Main Exam modules may be taken in any sequence, provided a concrete and increasing period of time has elapsed for each of them, since there is a gradually increasing level of difficulty going from module M1 to M4. It is expected that the syllabi for the respective modules will be different as the modules address different EQE aspects. The description of the modules as presented below reflects the evolution from the original concept to the most updated one after the consultation and the conclusions extracted.

- **Module M1** will deal with the assessment of information and client instructions. This will include analysis of prior art and claim interpretation at an intermediate level as well as dealing with a communication from an examining division.
- **Module M2** (was module M3 in the original **epi**-EPO Working Group proposal) will deal with mastering procedural patent law. This may include procedural and strategic aspects.
This module comprises aspects of the current D1 Paper.
- **Module M3** (was module M2 in the original **epi**-EPO Working Group proposal) will include three sections:
 - 1) a section in which the candidate is required to analyse an invention and prior art in order to draft a set of claims with an introductory portion of the description;
 - 2) a section where the candidate has to defend objections against allegations from e.g. an examining or
 - 3) a section where the candidate must show skills to attack a set of claims or description and to amend the claims. This may be filing grounds for opposition or grounds of appeal or, e.g., drafting third-party observations and predicting the consequences.

A candidate has to sit all three sections.

In this module the practical skills of the candidate are tested at an advanced level and the three sections comprise aspects of current Main Exam Papers A, B and C.

- **Module M4** will deal with advising the client in a broad sense. This will include dealing with procedural aspects of patent law at an advanced level. In addition, the candidate will have to show that he/she can assess complex patentability situations and, based on the analysis, give reasoned advice to the client how to improve the position of the client and, e.g., to weaken the position of the competitor(s) including advice on licensing agreements.

³ “New EQE – Proposal and consultation”,
<https://www.epo.org/learning/eqe/new-eqe.html>
(accessed 14.02.2023).

⁴ *Ibid.*

This module comprises aspects and is a progression of the current D2 Paper.

The assessment techniques will include automation where reasonable. The Example Exams showed up to 13 different possibilities in that respect, but it was generally perceived by respondents that it would be preferable to limit these options to a handful, and to also include more free-text type questions. As a consequence, even in the Foundation modules there may be open questions. The advanced modules M1 and M2 will combine automation with free text, although free text will take precedence, whereas modules M3 and M4 will be drafted with open questions to be scored by hand.

Not all new Exam modules need to be graded in the same manner. Choosing different grading levels may exemplify the relative importance of the Modules. By way of example,



Cees Mulder

modules M1 and M2 could each be awarded a maximum of 50 points, where for a pass it is required to score at least 30 points. Module M3 comprising three separate Exams could for instance have a total of, e.g., $3 \times 50 = 150$ points, where for each section a score of 30 points is required to pass. Module M4 could for instance have a score of 100 points, where for a pass it is required to score at least 60 points.



Tiem Reijns

Drafting the Regulations for the new e: EQE

The next step of the process to come to a new e:EQE, is drafting the corresponding Exam Regulations, i.e. the so-called REE and IPREE. The REE sets the

general framework of the EQE, including conditions for registration and enrolment, as well as the Examination Syllabus and the transitional provisions. In the IPREE, the required qualifications for admittance to the EQE are specified. In addition, general instructions for answering the papers are given. **epi** has already drafted a proposal for better defining the educational and technical qualifications for trainee patent attorneys to be allowed to sit the EQE.

It is desirable that the drafting of the REE and the IPREE will be a joint effort of the EPO and **epi**.

Once the REE and the IPREE for the new e:EQE have been finalised, they eventually are subject to approval by the Administrative Council of the European Patent Organisation. The latter organ will also set a date for the new REE and IPREE to enter into force. Of course, the new REE and the IPREE will be published in the Official Journal of the EPO.

Entry into force and transitional provisions

As the Supervisory Board has already decided that the EQE 2024 will be conducted under the current Exam regulations, the earliest possible year in which the new e:EQE can be rolled out is 2025. It may also happen that in 2025 as a first step the Pre-Exam is replaced by the new Foundation modules and that the new Main Exam modules will go live as early as 2026.

Transitional provisions will have to be prepared and published for candidates who have already successfully passed the Pre-Exam and any current Main Exam Paper. For instance, if a candidate has passed the current Pre-Exam, sitting the Foundation modules could be skipped. Once a candidate has taken the Foundation modules, he or she must sit all four Main Exam modules. In view of the work involved in preparing Exams, offering the old and the new Exam co-currently should be kept at a minimum.

Towards a new e:EQE

In view of the digitalisation of the European Qualifying Examination, it is good to reconsider the structure and content of the Exam. The proposal for a new structure of the EQE is the result of almost two years of work of a broad range of seasoned professionals, who have sought highest quality standards, modernisation, and consensus. It offers better opportunities to candidates to prove that they are “fit to practice” and modernises the tools and techniques to assess this is the case. Care will be taken that the emphasis remains on testing aspects of the daily practice of a European patent attorney while retaining the high-level quality standard of the current Exam and avoid artificial and methodology sensitive means of testing. It is highly recommended that those interested in the new EQE consult the original version and the changes introduced once the consultation response was analysed and integrated by the **epi**-EPO e:EQE Working Group.



Patent practice

Double patenting prohibition under G4/19: a paper tiger?

J. Mazurelle (BE)

The opinions expressed within this article are those of the author and do not reflect the opinions or views of the TotalEnergies company and they cannot be considered legal advice.

Abstract

In decision G4/19, the Enlarged Board of Appeal (EBoA) acknowledged the prohibition of double patenting under the European Patent Convention (EPC). The scope of the prohibition of double patenting is limited within the scope of the referral of G4/19. The cumulative conditions leading to double patenting prohibition are reviewed in detail in this article. It appears that a double patenting objection may be overcome by amending the set of claims to avoid a strict equivalence. The prohibition does not extend to overlapping sets of claims. Overcoming the objection can also be done via transfer of the patent application to another legal entity like an affiliate namely to have a different applicant. Finally, given the coming into force of the European patent with a unitary effect, some countries (Estonia, France and Germany) maintain up to now the possibility to keep both a national patent

and a European patent with a unitary effect while do not authorize the simultaneous protection by a national patent and by a European Patent. Hence even if the EBoA clarified the situation about double patenting, it appears that some workaround is possible. Further development of the case law toward the prohibition of double patenting may be expected in the future.

Introduction

In decision G4/19, the Enlarged Board of Appeal (EBoA) acknowledged the prohibition of double patenting under the European Patent Convention (EPC). The G4/19 decision addressed the question of double patenting in a narrow sense [1] focusing mainly on the legal basis in the EPC for this prohibition and concluded that a European patent application can be refused under Art. 97(2) and Art. 125 EPC if the application faces a double patenting issue. A significant part of the G4/19 decision is dedicated to the legal basis to prohibit double patenting. However, it appears interesting to consider the delimitation given in the G4/19 decision on the double patenting question in more detail. More precisely, the G4/19 deci-

sion [2] states that a European patent application can be refused under Art. 97(2) and Art. 125 EPC if it claims the same subject-matter as a European patent which has been granted to the same applicant and does not form part of the state of the art pursuant to Art. 54(2) and Art. 54(3) EPC. It appears interesting to consider the following cumulative conditions considered by the EBoA:

- (i) it is a European patent application that can face a double patenting issue and be refused under Art. 97(2) and Art. 125 EPC;
- (ii) this European patent application should cover the same subject-matter as a European patent;
- (iii) the objection can be raised only if the European patent is granted;
- (iv) the European patent application and the European patent should belong to the same applicant;
- (v) the European patent should not form part of the state of the art pursuant to Art. 54(2) and Art. 54(3) EPC;

Those cumulative double patenting conditions will be examined in detail in the present article.

In addition, the EBoA stated [3] that the application can be refused irrespective of whether it was filed on the same date as, or in an earlier application or a divisional application (Art. 76(1) EPC) in respect of, or claims the same priority (Art. 88 EPC) as the European patent application leading to the European patent already granted. Those additional requirements specify further condition (v) above which states that the patent should not form part of the state of the art. Altogether the EBoA delimitates the prohibition of double patenting to rather strict conditions¹. The present article aims to consider in detail the various conditions and also to see their limits. In the final part, other cases out of the scope of the referral will be examined.

(i) Refusal of a European patent application

The prohibition of double patenting under G4/19 applies exclusively to a European patent application [4]. In other words, the EPO shall raise double patenting objections only at the examination stage and once a European patent is already granted for the same subject matter and the same applicant. The prohibition of double patenting does not affect the already granted patent having the same subject matter.

It is unlikely that an examining division, during the examination of a European patent application, would not spot

the presence of a granted European patent presenting the same subject matter as the European patent application being examined. However, in this unlikely case, a third party could file third-party observations under Art. 115 EPC raising a double patenting remark. The Guidelines [5] do not explicitly mention (yet) double patenting as a possible objection in third-party observations. It is however reasonable to consider that such third-party observations will be considered by the examining division.

In the unlikely case that two European patents are granted for the same subject matter with the same applicant, and assuming that those two patent applications are not prior art for each other, the G4/19 decision does not apply. As a third party, it is possible to file an opposition. However, it is important to keep in mind that double patenting is not a ground of opposition [6]. Indeed, an opposition based on only a double patenting objection will be considered inadmissible under Art. 100 and R. 76(2)(c) EPC [7]. Hence, at least one ground of opposition according to Art. 100 EPC must be raised in the notice of opposition to have an admissible opposition. Together with at least one ground of opposition under Art. 100 EPC, an opponent can raise a double patenting objection.

It is more likely that a double patenting issue arises in the course of opposition proceedings. Indeed, a claim request may lead to a double patenting question in case a divisional or a priority patent is already granted on the same subject matter. An opponent could try to raise a double patenting objection to have the claim request not admitted in the proceedings. However, this case is clearly out of the scope of the G4/19 decision. According to T936/04, a double patenting objection will succeed only in a clear case. Namely, there should be no doubt that the subject matter of the claim request under attack is the same as the subject matter of the granted patent.

From this first condition, it appears that the prohibition of double patenting under G4/19 limited to European patent applications applies in a rather restrictive framework.

(ii) The same subject matter

By definition, when a patent (or a patent application) claims the same subject matter as another patent (or patent application), a question of double patenting can be raised. At first sight, the question of the "same subject matter" in double patenting should not be a real issue. In fact, the EBoA did not develop what is meant by "the same subject matter" but considered that this aspect is out of the scope of the referral [1]. However, even if what is meant by double patenting is immediately understood, it is worth examining the question relating to the "same subject matter" in more detail.

¹ The scope of the referral is also limited by the EBoA to objection of double patenting when there are overlapping and still valid designations in both the granted patent and the patent application concerned. As this particular aspect is relatively straightforward, it is not considered in detail in this article.

When two sets of claims, relating to similar subjects are compared, there are two possibilities: either a) the two sets of claims are identical or b) the two sets of claims are overlapping. Those two possibilities will be examined below.

a) Identical set of claims

When two sets of claims are identical, it is rather clear that a double patenting question arises. Only when two sets of claims are similar, word for word can such a conclusion be drawn. In the case leading to the referral to the EBoA (namely the interlocutory decision T318/14), a strict identity was observed between the claims of the granted patent and the claims of the European patent application. Consequently, the scope of the referral to the EBoA was delimited to the case where the claims of the patent applications were identical to the claims of a granted patent [8]. The EBoA did not comment on what is meant by the “same subject matter”. It is questionable if the same prohibition would arise with two sets of claims covering the same invention but with different wording, for instance with the use of synonyms. If it is assumed that there are no completely true and interchangeable synonyms, there will also be some room for argumentation.

b) overlapping set of claims

G4/19 is silent in the case of an overlapping set of claims. However, it is a common practice at the EPO to not object when a patent application presents an overlapping set of claims with a granted patent [9]. Similarly, various decisions of the Boards of Appeal considered that there is not a double patenting issue with a partially overlapping set of claims. Apart from the decision T307/03, the Boards of Appeal raise double patenting objections only when the scope the claims of the patent and the patent application are identical or when there is no doubt that both sets of claims cover the same subject matter. Indeed, the Boards of Appeal considered that there is a legitimate interest of the applicant in obtaining protection different from a patent already granted [10].

However, an overlapping set of claims also comprises a situation where one of the sets of claims is completely encompassed in the other set of claims. A graphic representation of such a situation can be the section of a hard boiled egg: the smaller set of claims (the egg yolk) is completely encompassed in the larger set of claims (the egg white). This situation can be obtained with an almost identical set of claims with the exception that the broader set of claims presents an additional embodiment in the form of an alternative (“or claim”). For instance, one set of claims may cover a range of “10 to 20” whereas the other set of claims may cover two ranges “10 to 20 or 15 to 25” the rest being identical.

It is questionable if the EPO accepts such situation, the applicant will probably have to delete the “10 to 20” range in the “or” claim. Nevertheless, if only a small difference is enough, and assuming that this difference does not imply significant modification of the scope of the protection, it seems possible to overcome the double patenting ban using small differences.

Finally, it appears possible to overcome a double patenting objection by introducing some amendments that can be minor in the claims so as to provide overlapping claims instead of strictly equivalent claims. Development of case law in this respect will certainly help to clarify more precisely the meaning of the “same subject matter”.

(iii) A granted European Patent

The double patenting prohibition applies only when there is already a granted patent. In other words, the examining division will only raise a double patenting objection when another European patent has been granted. Hence two patent applications protecting the same subject matter can co-exist until one is granted. Once there is a granted patent, the examining division will have the possibility to reject the remaining patent application. On the other side, the patent granted may be opposed and limited during opposition. In that case, it is likely that the double patenting objection will be withdrawn but that the relevant documents and arguments raised during the opposition proceeding may be raised by the examining division against the European patent application under examination.



Jean Mazurelle

(iv) The same applicant

Similarly, to the “same subject matter”, the EBoA did not develop what is meant by “the same applicant” but considered that it is out of the scope of the referral. The EBoA considered that this question was already treated in other decisions.

The question that arises is the case of a mother company with affiliates. In other words, will the prohibition of double patenting apply if the granted patent is owned by a mother company and the patent application is owned by one of its affiliates (or the other way around)?

Considering the reasoning applied for the use of the right of priority [11], it can be assumed that an affiliate and a mother company will be considered as two different legal entities and, therefore, they will not be consid-

ered as the same applicant. Consequently, it might be possible to overcome the double patenting prohibition by transferring either the patent or the patent application to another affiliate. This solution is possible with large as well as small companies. Indeed, in small companies, the inventor can file one of the patent applications in its name and the other in the name of its company.

Hence, it seems possible to overcome the double patenting ban by transferring either the patent application or the patent to another legal entity. Here again, the development of the case law will help to clarify the limits of the prohibition.

(v) Not form of prior art under Art. 54(2) and Art. 54(3) EPC

The EBoA specifies that the granted patent should not be part of the prior art. Indeed, if the granted patent is part of the prior art under Art. 54(2) or Art. 54(3) EPC, there is no double patenting issue. The granted patent will destroy the novelty of the patent application and the examining division will simply refuse the patent application under Art. 97(2) EPC. The EBoA specifies in which cases a double patenting issue can arise with the granted patent not being part of the prior art. In particular, the EBoA further specifies what is meant for the patent to not be part of the prior art [3]. The following configurations are listed by the EBoA: a) the patent and the patent application were filed on the same date, or b) the patent is an earlier application or a divisional application (Art. 76(1) EPC) in respect of the patent application, or c) the patent claims the same priority (Art. 88 EPC) as the European patent application. This particular set of situations limits the scope of the referral [12]. However, within this scope, the prohibition of double patenting applies irrespective of which comes to grant first [13]. The three possibilities will be reviewed below.

a) Patent and patent application filed on the same day

In the case where the granted patent and the patent application being objected to under double patenting are filed on the same day, and they are not part of the prior art for each other. In a first scenario, an applicant files two patent applications with the same set of claims before the EPO. This situation relates undoubtedly to double patenting in its most obvious sense. Having two parallel patent applications under examination simultaneously, it is difficult to determine if one of the applications can be granted faster than the other. The EPO will probably raise double patenting objections on both applications. In a more likely second scenario, an applicant files on the same day, two patent applications having very similar descriptions and different sets of claims. During the prosecution, one of the patent applications is granted. The other patent

application faces objections (like novelty or inventive step objections), and the applicant must amend the claims to a scope that is similar if not completely identical to the already granted patent.

b) Earlier application or divisional application

The ban on double patenting extends to the case of a divisional application. Namely, the EBoA prohibits a case where a divisional application presents the same set of claims as the parent application once this parent application is granted. This case is again a clear double patenting case. The case of an earlier application is also relatively similar. There is no importance that the application facing the double patenting objection is earlier than the granted patent or comes later.

c) Patent and patent application claiming the same priority

In this last section, the EBoA considered the case where either the granted patent or the patent application are linked with the same priority date. Three possibilities are encompassed in this proposition. First, the granted patent and the patent application claim the same priority date being a third patent or patent application. Second, the patent application claims the priority date of the granted patent. Third, it is the granted patent that claims the priority date of the patent application. As already mentioned, the prohibition applies irrespective of which comes to be granted first [13].

The EBoA has listed a possible case falling under the scope of the referral [13], but excluded listing all conceivable criteria for applying the prohibition [12]. It is however difficult to conceive another possibility where a double patenting issue arises based only on the filing date, priority or divisional applications.

(vi) Other cases out of the scope of G4/19

The scope of the referral neither included the national patent nor the Unitary Patent. It is however interesting to evaluate the situation at a national level or in view of the coming into force of the Unitary Patent.

a) Case of European patents vs. national patent

The EBoA explicitly stated that the scope of the referral was different from the situation falling under Art. 139(3) EPC (simultaneous protection by a national and a European patent) [14]. As a reminder, Art. 139(3) EPC states that *"Any Contracting State may prescribe whether and on what terms an invention disclosed in both a European patent application or patent and a national application or patent having the same date of*

filing or, where priority is claimed, the same date of priority, may be protected simultaneously by both applications or patents.” Namely, a double patenting case implying both a European patent and a national patent is a matter of national laws. A result a short analysis originating from the brochure published by the EPO: “National law relating to the EPC” [15] is provided here. More details are available in this brochure. There are mainly three possible cases². First, simultaneous protection is explicitly excluded. This is the case for the majority of countries. For most countries, namely 31 countries out of 38 countries, the national patent ceases to have an effect. Interestingly, in the case of the United Kingdom and Ireland, the national patent does not automatically cease to have an effect but “*the controller may revoke the national patent*”. In this particular case, there is a ban on double protection but the effect is not automatic. Second, simultaneous protection is not per se excluded. This case includes 7 countries out of 38, namely Austria, Denmark, Finland, Hungary, Iceland, Norway, and Poland. Third, there is one country where double protection of the national patent with the European patent is allowed: Portugal.

In a majority of countries, national jurisdiction forbids the cumulation of the protection issued from a national patent with a European patent.

b) Case of Unitary Patents vs national patents

In view of the future start of the UPC, it is worth considering the case of cumulative protection between a Unitary Patent with a national patent.

In the EPO brochure “National measures relating to the Unitary Patent”, the EPO published [16] an updated situation on the possibility of simultaneous protection between a Unitary Patent and a national patent. At the date of the preparation of this article, 17 countries will be covered by the Unitary Patent. Out of those 17 countries, 7 countries allow the simultaneous protection between the national patent and the Unitary Patent³; 6 countries do not authorize the simultaneous protection between a national patent and a Unitary Patent⁴; the remaining 4 countries do not exclude the simultaneous protection or are still under evaluation of the situation⁵. It is worth noting that Estonia, France and Germany do not authorize the simultaneous protection by a national patent and by a European Patent but authorize the simultaneous protection by a national patent and a Unitary Patent.

² Montenegro was not included at the time of preparation of this article

³ Austria, Denmark, Estonia, Finland, France, Germany, Sweden

⁴ Belgium, Bulgaria, Italy, Latvia, Lithuania, Netherlands

⁵ Luxembourg, Malta, Portugal, Slovenia

Conclusions

In decision G4/19, the EBoA defines the scope of the prohibition of double patenting and specifies the legal basis for this prohibition. Analysis of the conditions leading to a double patenting prohibition shows that there are some possibilities to play around with the prohibition as it stands. In particular, amending the claims to avoid having the same subject matter is probably the easiest way to proceed to overcome a double patenting objection. Identical sets of claims should be avoided and overlapping is accepted (at least up to now). A transfer of the patent or of the patent application to another legal entity to avoid having the same applicant to overcome the double patenting objection is also possible. Overcoming a double patenting objection seems therefore manageable. In any case, the prohibition of double patenting being confirmed by the EBoA, it can be foreseen that the case law will develop in the direction of a strict prohibition of double patenting.

References

- [1] G4/19 reason 16
- [2] G4/19 headnotes 1
- [3] G4/19 headnote 2
- [4] G4/19 reasons 4
- [5] Guidelines for Examination in the European Patent Office E VI 3
- [6] Case Law of the Boards of Appeal of the European Patent Office, 10th Edition, July 2022; part II F 5.4 and T 936/04
- [7] Case Law of the Boards of Appeal of the European Patent Office, 10th Edition, July 2022; part IV C 2.2.7
- [8] see point 24 of T318/14
- [9] Guidelines for Examination in the European Patent Office G IV 5.2
- [10] Case Law of the Boards of Appeal of the European Patent Office, 10th Edition, July 2022; part II.F.5.3
- [11] see T 5/05 cited in Case Law of the Boards of Appeal of the European Patent Office, 10th Edition, July 2022; part II D 4.2
- [12] G4/19 reasons 14
- [13] G4/19 reasons 10
- [14] G4/19 Reasons 2
- [15] National law relating to the EPC part X. 21st edition, March 2022
- [16] National measures relating to the Unitary Patent part III, available on www.epo.org

On topical Article 84 issues

F. Hagel (FR)

The 2021 revision of the EPO Guidelines F-IV 4.3 (i) - (iii) has made it a requirement to adapt the description after claim amendments to remove « inconsistencies » between the description and the amended claims, based on an expanded interpretation of the support requirement of Article 84 EPC. This has triggered conflicting decisions of the Boards of Appeal, some of them holding that this interpretation is correct, others that it has no basis whatsoever in the EPC. Critical comments have been voiced by users, but the EPO has writ large paid no attention so far, as clear from the recently published draft 2023 Guidelines.

In **epi** Information 2/2022, Mikael Nyberg has laid out compelling arguments showing that the requirement that unclaimed embodiments be deleted from the description or marked as such has no legal basis in the EPC.

In **epi** Information 3/2022, Martin Wilming has provided in-depth analysis of the *Travaux Préparatoires* leading to the 1973 initial text of the EPC and highlighted that the EPO current practice is isolated in Europe and is significantly different from the practice set out in the PCT ISPE Guidelines applicable to the PCT phase of euro-PCT applications.

Boards of Appeal decisions issued after Martin Wilming's article deserve attention. We will add to a cursory discussion of these decisions some personal views on practical and policy issues and suggestions.

Discussion of recent decisions

T 2194/19 issued on 24 October 2022 disagrees with the requirement as set out in the Guidelines. It equates « inconsistency » and « contradiction » between the description and the claims. It actually relies on the clarity requirement of Article 84 in combination with the support requirement. The requirement for removing « inconsistencies » from the description is then justified only if parts of the description make the language of the claims unclear, it is not justified when the language of the claims is clear in itself.

Another significant element of T 2194/19 is that the burden of proof is on the Examining Division, which must explain why the inconsistency it requires the applicant to remove would make the language of the claims unclear. The fact that an embodiment or alternative option disclosed in the description is not covered by the claims is not a sufficient

motivation, absent a specific showing by the Division that this makes the language of the claims unclear.

The reasoning of this decision parallels the sensible approach of the PCT ISPE Guidelines section 5.29 mentioned in Martin Wilming's article. The requirement for removing inconsistencies is not justified by reference to hypotheticals, i.e. if the inconsistency *could* cause doubt. In that case, it can be overlooked. It is only justified if the inconsistency causes doubt (in the present tense, i.e. if it *does* cause doubt).

It is of note that the PCT ISPE Guidelines are applicable to the PCT phase of PCT applications, including those in which the EPO is the ISA. For practitioners, it would clearly be an improvement if the EPO practice regarding the EPO phase was brought in line with the PCT Guidelines.

T 3097/19 issued on 16 November 2022 increases the confusion resulting from previous conflicting decisions. In essence, it shifts the rationale for the requirement to adapt the description, from the initial argument relying on the support prong of Article 84 to a « creative » interpretation of the first sentence of Article 84, supposedly calling for a « precise determination » of the scope of protection.

This shift seems to reflect a view of the Board that the reliance on the support requirement in previous decisions does not justify the requirement to adapt the description to claim amendments and has no basis in the EPC. It is a fairly extraordinary development - and we dare say an embarrassing one for the Boards and the EPO as a whole - when those Boards of Appeal which support the EPO practice as set out in the Guidelines diverge so clearly over the rationale for this practice. The global picture which emerges is that the adaptation of the description has to be completed, irrespective of the rationale which is put forward to justify it and of whether it has a basis in the EPC.

The Board's interpretation of the first sentence of Article 84 calling for a « precise determination of the scope of protection » goes far beyond the clarity requirement, which merely requires for the terms of a claim to be clear when taken in their ordinary meaning. It is settled case law of the Boards of Appeal that a claim is allowed to be broad without violating the clarity requirement of Article 84. The call for a « precise determination of the scope of protection » is thus at odds with the compatibility in accordance with settled case law between a broad scope and clarity.

It is also surprising that the Board (Reason 28.1) has ignored the established case law regarding the interpretation of the first sentence of Article 84, i.e. the claim must mention all essential features (GL F-IV 4.3 (ii), citing **T 32/82**). And this is a requirement for the claims, not for the description. This is not in line with RPBA 2020 Article 20(2) which suggests that the Board shall provide an explanation when it departs from the Guidelines.

This decision also asserts the truly burdensome requirement for the applicant to adapt the description alongside each claim amendment.

Practical and policy issues

1. Generally speaking, the EPO practice of requiring description adaptation after claim amendments appears to contradict the extremely stringent approach of the EPO in the assessment of inadmissible new matter under Article 123(2). The support requirement of Article 84 acts as an effective bulwark against the addition of new matter. Admissibility of amendments is to be assessed by reference to the content of the application as filed, particularly to its description. Amendments to the description, especially substantive amendments, have the potential of creating Article 123(2) issues, particularly in view of the very strict approach of the EPO.

Risks are compounded by the Examining Divisions' frequent practice of making amendments at the Rule 71(3) stage to speed up the process without prior consultation with applicants. It is clear that the applicant remains responsible for the text as granted and may challenge such amendments, however this is a difficult decision at such a late stage of proceedings, because this entails additional delay and costs.

2. Furthermore, it is apparent that the « legal security » concern alleged by the EPO to justify its practice can be depicted as an attempt to interfere with the competence of national courts as to the interpretation of the claims of granted patents especially in infringement proceedings. This is very explicit from **T 1024/18** Reason 3.1.9 and also clear from the EPO's press release of 7 July 2022¹. Such attempt goes against the established case law and it is an overreach.

It seems in this respect that the EPO's objective in the deletion of unclaimed embodiments from the description is to create the equivalent of a disclaimer or a prosecution estoppel preventing a patentee to recapture ground. It is significant to note here the UK Supreme Court Pemetrexed decision of 12 July 2017 (Actavis vs Eli Lilly)² and the unusual consensus of European national courts

(no less than the courts of Switzerland, Italy, Germany, Sweden, Austria, Finland, Denmark, Portugal, Spain, Netherlands (except in the first-level District Court of the Hague) and France) which have followed suit. The consensus of national courts has been that a restrictive amendment of the claims to a specific Pemetrexed salt during examination did not preclude, for the assessment of infringement, a broader scope including another salt, based on equivalents or on the choice of the salt considered a secondary feature, as in the decision of the Paris judiciary court of 11 September 2020³. In addition, the courts dismissed the argument of a prosecution estoppel linked to the claim restriction, holding that the restriction was only aimed at addressing a formal matter and was not needed for distinguishing over the prior art.

A case in point is also *l'Oréal v. RN Ventures*, UK Patents Court of 5 February 2018, [2018] EWHC 173 (Pat)⁴ which relates to a case in which the description was adapted to the claims and the prosecution history was cited by the defendant to challenge an interpretation broader than the words of the claims. The court dismissed this argument by referring to the above-cited Pemetrexed UK decision, stating that the consideration of the prosecution history in infringement proceedings was the exception, not the rule.



Francis Hagel

3. It is also to be stressed that the EPO practice is based on a logical flaw. Article 84 is applicable to the claims of an application and is not a ground for opposition or for challenging the validity of a patent. It is established case law that the interpretation of the claims during examination must be based on the ordinary meaning of the words, provided they are clear to the skilled person. This was once again affirmed in recent decision **T 2502/19** issued on 19 December 2022 (Reason 2.2): *"...the claims should be taken by themselves, i.e. without relying on the description and drawings, and tested against the broadest possible or objectively reasonable construction which would occur to the skilled reader. This is because Article 84 EPC stipulates that the matter for which protection is sought is defined by the claims. It does not require to rely on any other part of the application documents."*

That being the case, it is illogical to base on Article 84 the requirement to delete unclaimed embodiments, since in the context of Article 84 which is applicable to

¹ <https://patentepi.org/r/info-2301-03>

² <https://patentepi.org/r/info-2301-04>

³ <https://patentepi.org/r/info-2301-05>

⁴ <https://patentepi.org/r/info-2301-06>

pending applications, the interpretation of the claims is the broadest possible and does not rely on the description, making description amendments irrelevant. For the EPO's requirement to delete unclaimed embodiments or remove inconsistencies to have any effect, the context should imply that the claims are interpreted in the light of the description under Article 69 EPC, but this applies to granted patents and is outside the remit of the EPO.

4. Substantive amendments of the description generate undesirable legal insecurity as to the interpretation of claims under Article 69 EPC, for which national courts are competent and which as said above is outside the remit of the EPO (except in the infrequent need for assessment of compliance of post-grant amendments in opposition proceedings with Article 123(3) EPC). According to Article 69, the claims are interpreted in the light of the description. A literal reading implies that the description referred to in Article 69 is the description of the patent, possibly including substantive amendments. But this opens up an inconsistency, since the description to be relied upon in the assessment of the substantive conditions of the EPC is the description of the application as filed. This entails legal insecurity.

5. As pointed out above, amendments of the description fall prey to the new matter trap of Article 123(2) EPC, and this is true for claim amendments as well. This is illustrated in **T 1473/19** issued on 30 September 2022. In this case, the Board revoked a granted patent by finding inadmissible new matter for an amendment which had been entered by the Examining Division as part of the Rule71(3) Communication with a seemingly minor oversight (a missing comma). Such mitigating circumstances were not taken into account by the Board, which illustrates how stringent the assessment of new matter can be.

Other typical examples of iatrogenic revocations may arise as a result of the ban of such words as « substantially » and « approximately » required by Guidelines F-IV 4.7. For example, if the Examining Division deletes in a claim the word « substantially » in « substantially vertical » and the description never discloses a strictly vertical geometry, this can be considered inadmissible new matter in accordance with the EPO's very strict approach of compliance with Article 123(2).

It is also of note that national courts may find there is new matter *whenever an amendment alters the interpretation of the claims by the court* (see UK Manual of patent practice Section 76)⁵.

Conclusions

The EPO's practice regarding the adaptation of the description to claim amendments is isolated vis-à-vis those of European national patent offices.

Given the growing divergences within the Boards, some users have called for a referral to the Enlarged Board of Appeal. If this happened, whatever outcome would likely leave the EPO isolated vis-à-vis national patent offices, to the detriment of European patent applicants.

The situation calls for a reckoning of the EPO's current practice of language policing and the exploration of alternative solutions at the EPO.

The EPO's 2023 objectives include work towards convergence with European patent offices on a

number of topics ("Convergence of practice programme")⁶. It would be desirable in our view to look at the topic of description adaptation within this programme, with the goal of defining a common practice, as harmonised as possible, by broadening the scope of the programme accordingly. The PCT ISPE Guidelines Section 5.29 would provide helpful guidance, as stated above.

The other issues related to the practice of Article 84 including claim amendments should also be considered within the programme. As explained above, the requirement to delete in the claims the words « substantially » or « approximately » as set out in Guidelines F IV-3 4.7 raises unnecessary issues and should also be reviewed.

⁵ <https://patentepi.org/r/info-2301-07>

⁶ <https://patentepi.org/r/info-2301-08>

Advice from PCC

The **Professional Conduct Committee** has recently addressed -in a specific working group- some issues relating to the ways an **epi** member should behave when showing to have passed the EQE. It seems advisable to report what was discussed and concluded within the working group, as this may be of interest for many **epi** members.

Relevant provisions in this respect are the following:

Regulation on Discipline, Art. 1(2)

Code of Conduct, Art. 5(b)

Council decision 4.2.3 of 1986

Council recommendation 4.2.2.1 of 2004

Council recommendation 4.2.2.2 of 2016

Council decision 4.2.3 of 1986 -although not motivated in the relevant minutes- seems correctly based on RoD, art 1(2): communication about EQE-pass should not imply that grandfathers are less fit; and on CoC, art. 5(b): communication about EQE-pass should not discriminate between EQE-passed members and grandfathers.

The discussion within the working group arrived at the following conclusions:

1. To publish certificate of passing EQE on a company webpage is considered **admissible**, insofar as this is related to information included in a CV or the like. It seems evident that the mere mention in a CV of having passed the EQE (eventually in a given year) is admissible: it is a fact, a simple piece of information, like any other items in a CV.
2. To publish certificate of passing EQE on social media including linkedin, facebook and others is also considered **admissible**, for the same reasoning above in point 1.
3. To show certificate of passing EQE on slides when tutoring is considered **admissible**, whereas the tutoring addresses potential EQE candidates. The fact of having passed the EQE might be information of interest of the target group and does not seem to create discrimination.
4. To inform about EQE in CV using wording such as "(...) *has passed European Qualifying Exam in year XXXX*" is considered **admissible**, for the same reasoning above in point 1.

5. To mention in the CV "(...) *qualifications to represent before European Patent Office confirmed with European Qualifying Exam (...)*" is considered **inadmissible**. Although referring to a CV, the verb "confirm" does not seem to be the right verb to communicate having passed the examination. The formulation differs from the wording in Article 134(2) EPC and further relevant regulation concerning the EQE.

6. To mention in the CV "(...) *fit to practice before the European Patent Office, as confirmed with European Qualifying Exam (...)*" is considered **inadmissible**. Also this doesn't seem to be the right wording to communicate having passed the examination, even if fit-to-practice is a principle applied in EQE marking process. See also point 5 regarding the verb "confirm".

7. To use e-mail footer/signature, header in social media, header on a webpage, title slide in presentation etc. indicating successfully taking the EQE (possibly with the addition of the year) is considered **inadmissible**. The EQE reference in the professional title is not appropriate. The definition of the title is clearly regulated in the Recommendation on the use of titles by Professional Representatives before the European Patent Office¹, and in the Recommendation of the Council concerning the title (professional designation)²; see also the Recommendation on the use of titles by Professional Representatives before the European Patent Office of the Administrative Council of the EPOrg³. It seems evident to PCC that using a reference to EQE in the professional title or in a similar context is not admissible: the title is one and applies equally to all **epi** members, with no distinction.

Like any advice issued by PCC, this advice does not have regulatory force and is prepared with the intention to provide helpful assistance to members. No liability of any kind attaches to the **epi**, the Professional Conduct Committee or any members of that Committee in respect of this advice. This advice shall not be binding on the disciplinary bodies.

¹ 4.2.2.1 Recommendation on the use of titles by Professional Representatives before the European Patent Office, C56 Copenhagen 17/05/2004, Collection of Decision (<https://patentepi.org/r/info-2301-09>), p. 215.

² 4.2.2.2 Recommendation of the Council concerning the title (professional designation), C08 Milan 29-30/05/1980, C44 Helsinki 11-12/05/1998, C80 Athens 23/04/2016, Collection of Decision (<https://patentepi.org/r/info-2301-10>), p. 216.

³ OJ EPO, 11-12/1979, p.452.



Educational events

Session Calendar

Seminars

A fresh look at procedural aspects of appeal proceedings – supported by the EPO

- 29 March 2023 in Oslo¹
- 27 June 2023 in Düsseldorf²
- 27 September 2023 in London³
- 22 November 2023 in Madrid⁴

Unitary Patent (UP) and Unified Patent Court (UPC) – **epi** roadshow

- 25 April 2023 in Helsinki⁵
- 16 May 2023 in Barcelona⁶
- 16 June 2023 in Warsaw⁷

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¹ <https://patentepi.org/r/info-2301-11>
² <https://patentepi.org/r/info-2301-12>
³ <https://patentepi.org/r/info-2301-13>
⁴ <https://patentepi.org/r/info-2301-14>
⁵ <https://patentepi.org/r/info-2301-15>
⁶ <https://patentepi.org/r/info-2301-16>
⁷ <https://patentepi.org/r/info-2301-17>

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⁸ <https://patentepi.org/r/info-2301-01>

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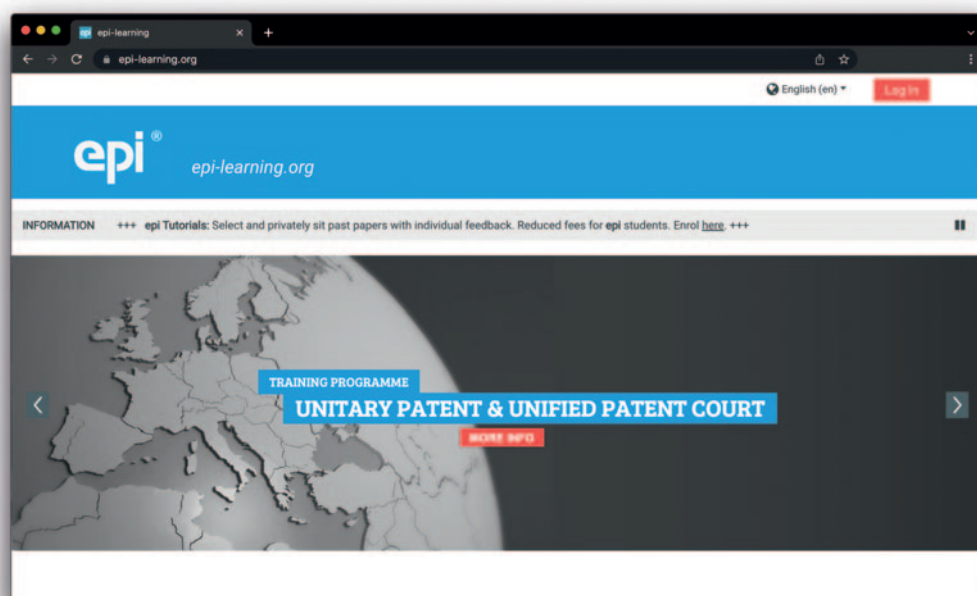
<https://twitter.com/patentepi>



<https://patentepi.org/r/linkedin>

⁹ <https://patentepi.org/r/info-2301-02>

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¹ <https://www.epi-learning.org>

² https://www.surveymonkey.de/r/epi-learning_platform

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¹ <https://patentepi.org/r/student-membership-01>

² <https://patentepi.org/r/student-membership-02>



EQE Training Courses in Maastricht

Since 2014, Maastricht University has been preparing candidates for the European Qualifying Examination (EQE). This training is for candidates who already have a basic understanding of European patent law. One of the cornerstones of our courses is the interactivity: two tutors and group sizes limited to 16 participants stimulate the exchange of ideas and learning from each other.

The Pre-Exam methodology encompasses a 2-day workshop focusing on Claim Analysis, followed by a 1-day workshop for the Legal Questions of the Pre-Exam. The training for each of the main exam papers starts with a 3-day workshop (A and B are combined). Following each of the training courses, access is provided to Maastricht University's electronic learning environment for further practice and online support from fellow students and the tutors all the way up to the EQE. The presentations, cases and model solutions of the workshops are available for subsequent study in this system. In addition, the online system comprises assignments which are set up to improve the skills of the participants and to boost their confidence. Discussion of experiences and possible answers are encouraged.

If possible, the workshops will take place live in Maastricht. However, if necessary or preferable, the workshops may take place via Zoom.

At the basis of each of the courses are specially developed methodologies to solve the current papers using a pragmatic and efficient approach. After providing some background and theory, the most important aspects of the methodologies are illustrated by solving cases. Some cases are based on old exam papers, others are specially made for the Maastricht courses. Materials are provided electronically during the course to reduce the books needed and to facilitate electronic notetaking.

Of course, the tutors closely follow all developments in the EQE. The methodologies are continuously adapted to accommodate for such developments, including the e-EQE and the new exam format in which some of the papers are split up into multiple parts. But also, more subtle changes in the structure of the exams and/or the desired answering structure are considered.

Training for the Pre-Exam

Pre-Exam – Claim Analysis

The teaching encompasses how to apply the theoretical concepts such as scope of protection, novelty, inventive step, clarity and allowability of amendments in a practical way to the type of questions asked in the Pre-Exam.

Workshop duration: 2 days: Monday 6 and Tuesday 7 November 2023. Online learning trajectory: from November 2023 to March 2024: about 7 assignments will be set out.*

Pre-Exam – Legal Questions

The legal questions of the Pre-exam require you to apply your legal knowledge quickly and correctly to a legal situation presented in each of the 10 questions. The one-day course will teach you a practical methodology for answering multiple-choice legal questions.

Workshop duration: 1 day: Wednesday 8 November 2023. Online learning trajectory: from November 2023 to March 2024: about 6 assignments will be set out.*

For detailed information of and registration for the Pre-Exam courses, see:

<https://www.maastrichtuniversity.nl/education/course/eqe-pre-exam-training>

Training for EQE Papers A and B

In Paper A, a set of claims and the introductory portion of a European patent application have to be drafted. In Paper B, a response to a communication from the examining division has to be drafted, while taking account of the cited prior art and the instructions from the client. The training covers the skills needed to tackle both electricity-mechanic and chemical aspects of the current combined-technology papers. The methodologies borrow from real-life skills and approaches to drafting applications and answering office actions to provide an intuitive approach. We apply them step-by-step as a group to A and B papers and cases covering combined-technologies, focussing on the parts of the answer where most of the marks can be gained.

Workshop duration: 3-days: Monday 13 – Wednesday 15 November 2023. Online learning trajectory: from November 2023 to March 2024: different assignments of which some are marked by the tutors.*

Training for EQE Paper C

In Paper C, a notice of opposition has to be drafted following the grant of a European patent. In the course, a newly developed, simple and efficient methodology for tackling Paper C will be taught, which has been successfully applied by many of our previous candidates. The methodology will be put into practice with various example cases.

Workshop duration: 3-days: Monday 23 – Wednesday 25 October 2023. Online learning trajectory: from October 2023 to March 2024: different assignments will be provided from which some are marked by the tutors.*

Training for EQE Paper D

In Part I of Paper D, a set of legal questions have to be answered. In Part II, a legal opinion must be drafted following an inquiry from a client. An intuitive methodology will be taught for answering Part I questions and for analyzing and preparing a response to the inquiry in Part II. The methodology will be put into practice with example questions and cases.

Workshop duration: 3 days: Monday 9 – Wednesday 11 October 2023. Online learning trajectory: from October 2023 to March 2024: different assignments of which some are marked by the tutors.*

For detailed information of and registration for the Pre-Exam and Main Exam training courses, see:

www.maastrichtuniversity.nl/education/course/eqe-exam-training



All course material and teaching will be in English. The courses are given by a team of renowned teachers.

**Dates are subject to final confirmation, please consult our website.*

CEIPI preparation courses for the European Qualifying Examination 2024

A complete range of high-quality courses using proprietary high-quality training material



CENTER FOR INTERNATIONAL
INTELLECTUAL PROPERTY STUDIES

Preparation for the EQE pre-examination 2024

Preparatory seminar for the EQE pre-examination from 23 to 27 October 2023 in Strasbourg or online
Fee: 1.800 €. Closing date for receipt of applications: 29 September 2023.*

Intensive course "Mock examination" for the pre-examination on 25 and 26 January 2024 online
Candidates take two complete CEIPI mock exams according to the format of the e-EQE and discuss the papers with the tutors in plenary sessions.
Fee: 750 €. Closing date: 8 December 2023.*

Preparation for the EQE main examination 2024

Introductory "Methodology" courses on papers A+B, C and D in Paris or online
Papers A+B: 15 September 2023
Paper C: 16 September 2023
Paper D: 13 – 14 September 2023
Each part (A+B, C, D) can be attended separately. Fee: papers A+B or C: 600 €, paper D: 900 €. Closing date: 11 August 2023.*

Preparatory seminars for papers A+B, C and D in Strasbourg or online
Papers A+B and C: 13 to 17 November 2023
Paper D: Paper D: 8 to 12 January 2024 in Strasbourg or 15 to 19 January 2024 online
Fee: 1.800 € for each five-day seminar (ABC or D), 925 € for the A+B or C part, respectively. Closing date: 13 October 2023.*

Intensive courses "Mock examination" for papers A+B, C and D online

Candidates take mock exams according to the format of the e-EQE and discuss the papers with the tutors in plenary sessions.

Papers A+B: 23 January 2024

Paper C: 24 January 2024

Paper D: 31 January 2024

Courses A+B, C or D can be attended separately. Fee per course: 750 €. Closing date: 8 December 2023.*

"Correction of paper" module for papers A+B, C and D and for the pre-examination

Candidates write a former mock exam paper and receive a personalized correction by an experienced tutor. Four possible dates of submission before taking the EQE 2024. Each paper can be chosen separately. Fee: 300 € per paper.

**The CEIPI offers reduced package prices for candidates enrolling simultaneously for the complete range of courses preparing for one or more papers of the EQE. Further information about the courses and enrolment is available in OJ EPO 3/2023 and on our website: www.ceipi.edu.*

Contact: Christiane Melz, CEIPI International Section
tel. +33 (0)368 85 83 13
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Committee Reports

Report of the Online Communications Committee

J. Gray (GB), Chair

The OCC Chair and other OCC members attended the meeting of the SACEPO working group on the Electronic Patent Process on 28 February 2023. This should yield important updates on developments of existing EPO systems and changes. We discussed the phasing out of smart cards, introducing new authentication methods for eOLF, OLF 2.0, MyEPO Portfolio etc.. Also we heard about phasing out of fax sending and many more topics. Fax filing will remain an option for now, but we believe that alternative fall-back mechanisms are urgently required.

Users of the EPO **Mailbox** and **My Files** systems are encouraged to try the **MyEPO Portfolio** if you have not already done so. You can use both systems in parallel without problem while you get used to the options. The new system includes all the functionality of older ones, and older Mailbox and MyFiles will be decommissioned finally in mid-2024. Of course, MyEPO Portfolio includes additional functionality, but it is up to users how much benefit they take from that. New features are being rolled out gradually through pilot groups. The first machine-machine interface will be tried in the coming quarter, with a user group dedicated to that.

Members are also strongly advised to follow the advice in the EPO's recent email "Avoiding unauthorised access to EPO online services and your files".

The new MyEPO Portfolio platform gives greater visibility and control of who has smartcards linked to a firm's account. Use this facility to check whether your account e.g. includes staff who have left the employment some time ago.



John Gray

OCC members remain very active with the Litigation Committee and the UPC IT team, to get users ready to use the **UPC CMS** and the forms for UP designation. Discussion among our members in the dedicated forum (<https://patentepi.org/en/epi/forum/335>) has been very useful for the UPC IT team, who are dedicated but quite limited in time and resources. It was very welcome that the start of the Sunrise Period was postponed, but the start on 1 March 2023 is "set in stone".

Thanks always to those many members who contribute on the forums, and who participate alongside OCC members in the EPO pilots and focus groups. Members are welcome to contact occ@patentepi.org with any issues that EPO cannot resolve.

Report of the Harmonisation Committee

J. Brown (GB) Chair

The EPO is moving forward with facilitation of consultation relating to Substantive Patent Law Harmonisation ("SPLH"), on behalf of Group B+.

At the meeting of the EPO Committee on Patent Law ("CPL") held virtually on 16 February 2023, Julian Elbro of the UK IPO on behalf of the Group B+ Working Group on SPLT set out a timetable for conducting a comparative analysis of national/regional consultations in order to a) identify areas of convergence in user opinions across jurisdictions and b) identify areas where more work & discussion is needed. The Working Group on SPLH will report to the Group B+ Plenary in July 2023, giving an overview of existing systems, comparative analysis and possible options for issues. The members of the Working Group on SPLH are UK (Chair), AU, CZ, DE, JP, PL and EPO, with FR observing on behalf of the chair of Group B+.

At the said meeting of CPL, the EPO set out the process for the European Symposium on SPLH – 2023. Part I will be held in hybrid format on 23 March 2023, Part 1 consisting of presentation of issues (EPO, BusinessEurope) and guided discussions on each point relevant to: grace

period, conflicting applications and prior user rights, with emphasis on contextual elements: trade, economic impact. There will then be an eight week period for stakeholders (BusinessEurope, national federations involved in SPLH and **epi**) to undertake consultations to reach consensus. Part II will be held on 22 May 2023 and will comprise presentations from stakeholders to delegations representing member states of EPC of outcomes of internal consultations and discussion of results. In the post-symposium process, the delegations representing Member States will, within the CPL, take up discussions on a consensus within CPL, determine the substance of a European common position and, depending on the outcome, next steps. The **epi** President and members of the **epi** Harmonisation Committee have been invited to attend physically the European Symposium on 23 March 2023. At the said meeting of CPL, I took the opportunity of thanking the EPO most sincerely for inviting our President and the members of our Harmonisation Committee to attend physically the Symposium on 23 March, adding that the **epi** looks forward to participating in a full and frank discussion of all aspects of SPLH.

Next deadline for epi Information	Nächster Redaktionsschluss für epi Information	Prochaine date limite pour epi Information
The Editorial Committee invites contributions for publication in the next issue of epi Information. Documents for publication or any enquiry should be sent by eMail to (editorialcommittee@patentepi.org) no later than 15 May 2023 . Further information can be found in our "Guidelines for Authors" here: https://patentepi.org/r/guidelines-epi-info	Bitte senden Sie Ihre Beiträge zur Veröffentlichung in der nächsten Ausgabe der epi Information an den Redaktionsausschuss. Alle Artikel oder Anfragen schicken Sie bitte an folgende Email Adresse editorialcommittee@patentepi.org bis spätestens 15. Mai 2023 . Weitere Informationen finden Sie in unseren „Guidelines for Authors“ auf der epi Webseite: https://patentepi.org/r/guidelines-epi-info	La Commission de Rédaction vous invite à lui faire parvenir vos contributions pour publication dans le prochain numéro d' epi Information. Les documents pour publication ou toute demande d'information doivent être envoyés par courriel (editorialcommittee@patentepi.org) au plus tard le 15 mai 2023 . De plus amples informations sont disponibles dans nos « Directives pour les auteurs » à l'adresse : https:// patentepi.org/r/guidelines-epi-info



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Next Board and Council Meetings

Board Meetings

126th Board Meeting in Skopje on 24 March 2023

Council Meetings

94th Council meeting in Malmö (Sweden) from 1-3 May 2023

95th Council meeting in Ljubljana (Slovenia) on 11 November 2023

Disciplinary Bodies, Committees and Audit

Disziplinarorgane, Ausschüsse und Rechnungsprüfung · Organes de discipline, Commissions et Vérification des comptes

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