



Report from the 94th Council Meeting

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Cover:

Green Dawn

This picture painted by
Ivica Miškovičová
(European Patent Attorney, CZ)
was part of the
epi Artists Exhibition 2021



Ivica Miškovičová

Ivica Miškovičová is an European and Czech Patent Attorney and works in Prague, Czech Republic. Before she started in the IP field in 2014, she had studied astronomy and astrophysics in her hometown in Slovakia and worked as a researcher in the field of astrophysics in Germany. Ivica attended painting and drawing courses when she was young and rediscovered the passion of art recently, to balance the technical path she had chosen for her career. She likes experimenting and trying various techniques, but she prefers realistic pencil drawing and especially acrylic painting of abstract motives and landscapes or fantasy landscapes.

Ivica Miškovičová ist eine europäische und tschechische Patentanwältin und arbeitet in Prag, (Tschechische Republik). Bevor sie 2014 in den Bereich des gewerblichen Rechtsschutzes einstieg, hat sie in ihrer Heimatstadt in der Slowakei Astronomie und Astrophysik studiert und in Deutschland als Forscherin auf dem Gebiet der Astrophysik gearbeitet. Ivica besuchte in ihrer Jugend Mal- und Zeichenkurse und entdeckte erst vor kurzem ihre Leidenschaft für die Kunst wieder, um einen Ausgleich zu dem technischen Weg zu schaffen, den sie für ihre Karriere gewählt hat. Sie experimentiert gerne und probiert verschiedene Techniken aus, bevorzugt aber realistische Bleistiftzeichnungen und vor allem Acrylmalerei von abstrakten Motiven und Landschaften oder Fantasielandschaften.

Ivica Miškovičová est mandataire en brevets européens et conseil en brevets tchèques et travaille à Prague, en République tchèque. Avant de se lancer dans le domaine de la propriété intellectuelle en 2014, elle avait étudié l'astronomie et l'astrophysique dans sa ville natale en Slovaquie et travaillé comme chercheuse dans le domaine de l'astrophysique en Allemagne. Ivica a suivi des cours de peinture et de dessin dans sa jeunesse et a redécouvert sa passion pour l'art récemment, afin d'équilibrer la voie technique qu'elle avait choisie pour sa carrière. Elle aime expérimenter et essayer différentes techniques, mais elle préfère le dessin réaliste au crayon et surtout la peinture acrylique de motifs abstraits et de paysages ou de paysages fantastiques.

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Editorial

All aboard!

M. Névant (FR), Editorial Committee

Election years always have a special flavour. This year is no exception to the rule as a new Board was elected during the last Council meeting (a report of which is given later in this issue), based on a well-crafted program and somehow innovative communication. Council also elected auditors and members of

the Disciplinary Committee. Congratulations to all those who have been (re)elected.



Marc Névant

The outgoing Board, under the leadership of (then President) Francis Leyder, must also be thanked for all the achievements made and the transformation engaged so that our Institute is better prepared to face the challenges ahead.

And challenges there are, to mention a few: the emergence of new technologies, in particular artificial intelli-

gence, in our daily practice; the start of the UPC; the influence of **epi** vis-à-vis major stakeholders such as the European Patent Office and the European Commission. As a past French Prime Minister once said: *"The road is straight but the slope is steep"*.

The new Board has a very ambitious 3-part program (called "Transparency-Collaboration-Communication"), details of which are given just after this editorial. One key element from the program is that there is a clear will to involve **epi** members and bodies in a more sustainable way. I sincerely hope that this commitment will be translated into action, and that the Board's efforts will be successful. The future of our Institute is in our hands, and it is undoubtedly appropriate to say that WE ARE ALL (A)BOARD.

This issue of **epi** Information is published while (most of) our members are about to embark on a holiday break. On behalf of the Editorial Committee I wish our members a relaxing summer.

For a Renewal of epi towards Transparency-Collaboration-Communication

epi Board

Dear epi members,

As we were elected into the Board of our Institute at C94 in Malmö, we would like to share in the following with all of you our program which we substantially presented to Council in preparation of our election. We are looking forward to working with all epi constituencies and Committees to better understand the needs and concerns of our members so that we can develop means and proposals how epi could help and address the future challenges for our profession.

With the arrival of the Unitary Patent / Unified Patent Court and new emerging technologies, our European patent attorney profession is standing at the dawn of the biggest change in decades, with further changes looming ahead, requiring the profession to embrace trends in early stage, learn faster, act faster, and change faster than ever before. This requires a change in the epi as well, bringing **Transparency – Collaboration – Communication** to the heart of what we do: understand our members and support them, build bridges to the EPO, the UPC, the EU, national organizations and other international organizations, and provide the profession with the tools and knowledge they need to be top-notch world class in everything they do.

The new epi Board, elected during the 94th epi Council meeting, is ready to embrace change and build the future of the European patent attorney profession.

Our Vision

Transparency stands for more openness towards our members: we need to better listen to and understand the concerns and needs of the various groups constituting epi's membership. But **Transparency** means also to be clear

about what we expect from our external partners and what they can expect from us. **Transparency** stands for openness for new ideas and developments concerning the profession, to finally learn faster, act better, and adjust smarter.

Our vision of **Transparency** includes therefore:

- Involving all Council members and epi members from every country in identifying their needs and defining the way in which epi can contribute. Awareness of the needs will enable us to work on what unites us and allow us to understand where and why we differ.
- Being a transparent and a reliable ally to our members but also to our partners, in particular EPO, UPC, EU, national offices, national institutes and other organizations by offering a view of the patent system from the user and representative perspective allowing to shape the future of the patent system and our profession together.
- Identifying new challenges or "hot topics" early on, determining what our profession needs, followed by a realistic analysis of the political options in order to be able to finally constructively work with our partners, to make them aware of the needs of the profession and finding common solutions. One example is the influence of Artificial Intelligence on the way of working of patent attorneys. We would institute a Working Group looking into that aspect, together with external expertise and if needed propose further academic research to better assess the impact, opportunities and risks for our profession.

Collaboration stands for working together towards common goals, first internally between the epi Presidium, the Board, the Council, the Committees and Working Groups and the Secretariat. **Collaboration** means also looking for the best suitable cooperation partners externally for our profession, to learn faster, act better, and adjust smarter.

Our vision of **Collaboration** includes therefore:

- Facilitating forming of the Presidium and Board as one functional team.
- Actively involving the **epi** bodies. Giving the committees - the lifeblood of **epi** - the room to present their needs and share their aims, goals and achievements towards Council, Board, Presidium and the whole **epi** membership, e.g. by **epi** website and social media. In turn, ensuring that the work of the Committees is properly coordinated, e.g. in case of overlapping topics.
- Involving the Secretariat members including the Executive Director in cooperation and finding ways for a more productive interaction between the **epi** bodies and **epi** Secretariat. Sharing information, clear communication and having a transparent decision-making structure within **epi** will lead to a better understanding of the needs and also of the possibilities, and therefore better collaboration.
- Engaging with the EPO. Building bridges, understanding the differences and finding common interests and jointly working on the best solutions, e.g. on the further digitalization roadmap. We will not always agree, but even creating mutual understanding of each other's concerns inherently leads to keeping those concerns in mind and in perspective finding the solution that may address the needs of all sides.
- Engaging with the UPC. Ensure together with other observer-user organizations that the UPC becomes a properly functioning, high-quality patent Court and that members of our profession deciding to work with the UPC obtain and maintain that possibility.
- **epi** must be a reliable and trustworthy partner in any discussion. We should not oversell, overpromise or overplay but still be a competent partner bringing value with our presence in the discussions.
- Education is the basis of our top-notch world class profession and to keep us world class we need to keep the education developing at the same pace. **epi** should offer education in new relevant areas based on the needs of the patent profession (e.g. what do I need to consider when I want to set up a small patent private practice firm?) and should also collaborate with new partners where it brings additional value.
- Making sure that the entrance into the profession, the EQE, remains a reliable, predictable and reputable exam.

- Identifying factors that hinder valuable innovation getting appropriate protection as a basis for a successful development into newly marketed useful products; seeing how **epi** could help its members, particularly those from the new countries, to unleash their full potential in offering their services and expertise to companies and clients from inside and outside Europe.

Communication stands for improved internal communication and transparency, keeping the members informed and involved in the **epi** activities, and for improved external communication which serves for clarifying and defending our interests.

Our vision of **Communication** includes therefore:



Magdalena Augustyniak (PL)
Secretary General

Tiem Reijns (NL)
epi Vice-President

- Using the information from the interaction with the members, internal and external stakeholders to formulate an **epi** Vision and Mission for the next 3-6 years to be discussed and agreed by Council.
- Based on the set Vision and Mission define a communication strategy on “seeking information”, “sharing information” and “using information” with a focus on where information sharing by **epi** can make a unique impact.
- Present and propose to Council the best options to improve **epi**’s **Communication** and the necessary resources. Renew existing communication channels, such as **epi** website, **epi** forum and **epi** information, and where needed create new ones.

- Building the PR/communication awareness within the **epi** bodies and **epi** Secretariat and actively using it.
- Increasing the use of **epi** social media and setting up mechanisms for creating content.
- Supporting communication channels and networking between **epi** Committees.

We are ready to embark together on a journey towards a member-centric, renewed, transparent, cooperative, and communicative **epi** serving the goals of our entire patent professional community.

Thank you for your kind attention.



Zsolt Szentpéteri (HU)
Treasurer

Ann De Clercq (BE)
Deputy Secretary General

Andreas Winter (DE)
Deputy Treasurer

Peter R. Thomsen (CH)
epi President

Katerina Hartvichova (CZ)
epi Vice-President

Report from the 94th Council Meeting held in Malmö on 2nd and 3rd May 2023

M Névant (FR)

Traditionally on election years the Council meeting following the election is scheduled for 1 and a half days. This year was no exception to the rule contrary to what happened in 2020 due to the Covid-19 pandemic (the Council meeting was then scheduled for one day and held by videoconference).

The Presidium members at C94 were President Francis LEYDER (BE), Vice-Presidents Heike VOGELSANG-WENKE (DE) and Bogoljub ILIEVSKI (MK), Deputy Secretary General Magdalena AUGUSTYNIK (PL) and Treasurer Peter THOMSEN (CH).



Outgoing epi Presidium

DAY 1

1/ Meeting opening

President Leyder opened the meeting at 9 am and welcomed the participants. A test vote was successfully conducted and scrutineers were appointed.

2/ Results of the election to Council and confirmation of the validity of the election by the President in office

Mr Müller, the Chair of the Electoral Committee, referred to his report in the accumulated file, and provided a summary of the exceptional circumstances surrounding the vote by members (the company administering the elections on behalf of **epi** is based in the UK where a postal strike impacted the dispatch of voting codes at the time they were sent out in January). The turnout for the election

was 27.1%, to be compared with 27.4% in 2020, 26.1% in 2017, 31.5% in 2014 and 39.1% in 2011.

President Leyder thanked the members of the Electoral Committee and informed Council members that no objections had been raised against the results of the election. President Leyder accordingly confirmed the validity of the election. The meeting was therefore duly constituted as the New Council.

3/ Adoption of the agenda

A few changes were made to the provisional agenda, and the revised agenda was adopted by 97% in favour and 3% against.

4/ Adoption of the minutes of the 93rd Council meeting – matters arising from the decisions and actions recorded during said meeting and previous Council and Board meetings

A few changes were made to the minutes of the last Council meeting which were then adopted by 97.5% in favour and 2.5% against. A reference was made to the accumulated file with respect to matters arising from the previous Council and Board meetings.

6/ Report of the President and Vice-Presidents

President Leyder referred to his report in the accumulated file, which also included activities of the Vice-Presidents. President Leyder also took stock of his time in office over the past 6 years, and thanked Board members for the work achieved and support during this time. President Leyder also introduced a video recording from the President of the EPO who addressed Council members.

7/ Report of the Secretary General

The Secretary General, Olga SIRA KOVA, who could not attend the meeting, addressed Council members via a recorded video in which she referred to her report in the accumulated file. The Secretary General especially thanked the Secretariat and her Deputy Magdalena AUGUSTYNIK for their support during her term of office.



8/ Presentation of the annual report 2022 to be submitted to the members

The Annual Report 2022 was presented by the Chair of the Editorial Committee (yours truly), who thanked Tatjana LISSAK (Executive Director), Olga SIRAKOVA (Secretary General), Magdalena AUGUSTYNIAK (Deputy Secretary General) and Sadia LIEBIG (Secretariat) for their help and support in preparing the report.

The 2022 report was adopted by 97.5% in favour and 2.5% against.

9/ Report of the Executive Director

Executive Director Tatjana LISSAK reported on activities since the last Council meeting, with an emphasis on project management. With respect to IT projects, seventeen were completed since May 2022; seven are on-going, and three are pending. She advised that a penetration test had been carried out, which allowed identified deficiencies to be remedied.

Apart from IT, there is still a focus on compliance (accomplishments to date were highlighted) and on culture change (TEAM: Together Everyone Achieves More).

10/ Presentation of the annual accounts 2022 to be submitted to members

The Treasurer, Peter THOMSEN, presented the results of the 2022 accounting year. The overall financial result for 2022 is – 204k EUR which is about in line with a planned deficit of 193k EUR. The Treasurer noted that revenues were lower than expected (-18.3%), mostly due to a lower income from educational activities (deviation of – 310k EUR). Expenses were also lower than expected (-17.2%), explaining the slight deviation (compared to budget) in the overall result. The Treasurer fur-

ther noted that the inflation rate and the increase in energy cost in Germany had a significant impact on the costs incurred by the Secretariat. The Treasurer further noted that a significant increase in travel costs was seen on the occasion of the C93 meeting.

11/ Report of the epi-Finances Committee

The Chair of the **epi**-Finances Committee, Claude QUINTELIER, noted that it was not easy in 2021 to prepare the budget for 2022, and that the overall 2022 financial performance of **epi** was acceptably in line with the budgeted deficit. He explained that part of the deficit was due to the German bookkeeping rules (Handelsgesetzbuch, HGB), and informed Council members that discussions were undergoing with respect to the IP liability scheme available to members so that activities before the UPC could be also covered.

12/ Report of the Internal Auditors

The Auditors, Hansjörg KLEY and Philippe CONAN, were happy to report that there was nothing to report.





The Auditors also presented three motions.

Motion 1

Does Council agree:

- to approve the accounts for the accounting year 2022,
- to approve the administration of assets in the accounting year 2022, and
- to release the Treasurer and the Executive Director from liability for the accounting year 2022?

The motion was approved by 99% in favour and 1% against.

Motion 2

Does Council agree to amend Article 21 By-Laws as proposed?

The motion was approved by 95% in favour and 5% against.

Motion 3

Does Council agree to delete the terms of Reference of the Auditors?

The motion was approved by 97.5% in favour and 2.5% against.

13/ Decision on release of members of the Board, in particular the Treasurer, from liability.

Council voted in favour of releasing the Board, in particular the Treasurer, from liability (122 votes for (99%), 1 vote against (1%)).

14/ Information about the candidates for the Board

For this agenda item and the next one, President LEYDER delegated the chair of the meeting to Vice-President Bogoljub ILIEVSKI.

Each candidate was given 3 minutes to introduce themselves. The list of candidates was as follows:

For the position of President: Mr Peter THOMSEN (CH) and Ms Heike VOGELSANG-WENKE (DE).

For the positions of Vice-President: Mr Giuseppe COLUCCI (IT), Ms Katerina HARTVICOVA (CZ), Mr Tiem REIJNS (NL) and Mr Simon WRIGHT (UK).

For the position of Secretary General: Ms Magdalena AUGUSTYNIAK (PL) and Mr Francis LEYDER (BE).

For the position of Treasurer: Mr Zsolt SZENTPETERI (HU).

For the position of Deputy Secretary General: Ms Ann DE CLECQ and Mr Simon WRIGHT (GB).

For the position of Deputy Treasurer: Mr Marc NEVANT (FR) and Mr Tum THACH (MC).

A motion was then presented so that questions could be asked to candidates after all introductions have been made (NB: this item had not been included in the provisional agenda).

The motion was adopted with 2/3 of the votes cast (76 vs 38).

**** Lunch break ****

14/ Information about the candidates for the Board (continued)

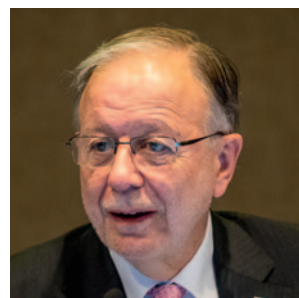
After the meeting resumed, questions were asked to candidates in respect of their nomination for the positions of President and Secretaries General.

15/ Election of the Board: President, two Vice-Presidents, Secretary General, Treasurer, Deputy Secretary General and Deputy Treasurer

The election to the various Board positions gave the following results.



Heike Vogelsang-Wenke
Outgoing Vice-President



Francis Leyder
Outgoing President

The new epi Board



Peter Thomsen,
epi President



Katerina Hartvichova,
epi Vice-President



Tiem Reijns
epi Vice-President



Magdalena Augustyniak
Secretary General



Ann De Clercq
Deputy Secretary General



Zsolt Szentpéteri
Treasurer



Andreas Winter
Deputy Treasurer

President

Mr Peter THOMSEN (CH)	76 votes
Ms Heike VOGELSANG-WENKE (DE)	52 votes

First Vice-President

Mr Giuseppe Colucci (IT)	25 votes
Ms Katerina HARTVICHOVA (CZ)	66 votes
Mr Tiem REIJNS (NL)	22 votes
Mr Simon WRIGHT (UK)	16 votes

Second Vice-President

Mr Giuseppe Colucci (IT)	37 votes
Mr Tiem REIJNS (NL)	66 votes
Mr Simon WRIGHT (GB)	26 votes

At this point, Ms Heike VOGELSANG-WENKE indicated that she was candidate for the position of Secretary General, and Mr Francis LEYDER withdrew his candidacy for that position.

Secretary General

Ms Magdalena AUGUSTYNIK (PL)	66 votes
Ms Heike VOGELSANG-WENKE (DE)	61 votes

Treasurer

Mr Zsolt SZENTPETERI (HU)	118 votes
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Deputy Secretary General

Ms Ann DE CLERCQ (BE)	91 votes
Mr Simon Wright (GB)	38 votes

At this point, Mr Andreas WINTER (DE) declared that he was candidate for the position of Deputy Treasurer.

Deputy Treasurer

Mr Marc NEVANT (FR)	45 votes
Mr Tum Thach (MC)	34 votes
Mr Andreas WINTER (DE)	50 votes

Elected President Peter THOMSEN announced that Mr Tiem REIJNS will be his deputy for the first half of the Council term, and that Ms Katerina HARTVICHOVA will be his deputy for the second half of the Council term.

16/ Amendment of the guidelines for reimbursement for travel expenses

The Deputy Treasurer, Zsolt SZENTPETERI, presented a revised version of the guidelines for the reimbursement of travel expenses, to become effective as of 1st September 2023.

The revised guidelines were approved by 93.2% in favour and 6.8% against.

17/ Report of the Treasurer, situation of the budget 2023

The Treasurer, Peter THOMSEN, reported that as of the end of March 2023, the accounting situation is rather in line with the budget, revenues being much higher than

expenses due to the fact that subscription fees are paid at the beginning of each accounting year. IT costs should be stabilized this year.

18/ epi event celebrating 50 years of EPC and amendment of the 2023 budget

2023 marks the 50th anniversary of the EPC, and the EPO will organize an official event mainly for representatives from member states.

The Presidium has thought that **epi** could also organize an event to celebrate the 50th anniversary of the EPC, the main target audience for such an event being the



160 **epi** members of the EQE Committees, who make the EQE possible through voluntary contribution of time and expertise to draft, check, carry out and finally mark each year the EQE. Hence inviting the **epi** members of the EQE Committees to the event would be a nice occasion to express the gratitude and recognition of our Institute for their work.

This event was not planned for in the Budget 2023 as approved by Council at C93, and it would represent an additional expense of about 120k EUR.

In addition, the Treasurer noted in view of recent developments, the following additional expenses will be required:

- 10k EUR to cover the programming costs for the upcoming Committee elections
- 5k EUR to increase the budget of the Harmonization Committee because of the unforeseeable work that became necessary due to the EPO organized symposia on Substantive Patent Law Harmonization
- 40k EUR to cover higher costs for the Council meetings, since accommodation and travel costs have significantly increased.

All suggested budget amendments would increase the planned overall deficit by 155k EUR from -371k EUR to -526k EUR. A decision was thus needed from Council in this respect.

The amended 2023 budget was approved with 82.6% in favour and 17.4% against.

19/ Update on the modernisation of the EQE

Tiem REIJNS, **epi** member on the EQE Examination Board (and newly elected Vice-President), reported on the progress made on the new EQE. The presentation is available on the **epi** Information website¹.

**** End of day 1 ****

DAY 2

20/ Committee reports

a) A substantial part of the morning was devoted to the report from the Harmonisation Committee, and the need for **epi** to reply to an EPO questionnaire on patent law harmonisation, including the grace period. **epi**'s position over the years is that the Institute is opposed to any kind of grace period, but could consider a grace period as a safety net as part of a harmonised system. It was thought that there is a need for a "Plan B" since a number of countries already have a grace period system in place, and that a grace period could be introduced through a Free Trade Agreement.

After lively exchanges on this topic, the following motions were submitted to Council.

Motion 1

Does Council agree that **epi** is opposed to any kind of grace period?

The motion was adopted with 72.5% in favour and 27.5% against.

Motion 2

Could Council however consider a grace period as a safety net as part of a harmonised system?

The motion was adopted with 81.0% in favour and 19.0% against.



¹ <https://patentepi.org/r/info-2302-17>



Motion 3

Does Council agree that Question 2 (reading “12 months are usually considered as an acceptable duration for a grace period. Do you agree?”) should be answered **“Yes if from the filing date”** and that Question 3 (reading “(where) should the grace period calculated from”) should be answered **“The filing date only”**?

The motion was adopted with 88.6% in favour and 11.4% against.

b) A short report from EPPC highlighted the need for volunteers to comment on the EPO Strategic Plan 2028 and on various initiatives from the EU Commission.

c) The D&I Working Group requested permission from Council to continue their work until at least C95. This was approved with 86.8% in favour and 13.2% against.

21/ Election of Disciplinary Committee

After a report on the 2020-2023 activities given by the Chair of the Disciplinary Committee, Paul ROSENICH, members of the DC were elected. There were two candidates for Greece, and two for Montenegro, hence Council members had to elect first one candidate for GR and one candidate for ME. The results are as follows.

Greece

Mr Dimitrios KOUZELIS	47 votes
Mr Athanasios TSIMIKALIS	50 votes

Montenegro

Mr Mladen KOPRIVICA	39 votes
Mr Vuk LUTOVAC	44 votes

After this preliminary round, there was one candidate per country. All of them were elected (108 votes for, 4 against, 3 abstentions). The list of the members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/the-disciplinary-committee.html>).

22/ Election of Auditors and their Deputies; by-election of Committee members

There were 4 candidates for the positions of Auditors and Deputy Auditors. They were all elected, and the list is available on the **epi** website (<https://patentepi.org/en/epi-bodies/auditors.html>).

In addition, Council elected a Greek member for PCC, a Swedish member for EPPC, and a substitute Hungarian member for LitCom. The updated list of Committee members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/epi-committees>).

23/ Setting up and fixing the ToR of other Committees

Changes were proposed for the Terms of Reference (ToR) of the Professional Education Committee, in particular to broaden target audience for educational activities. These changes were unanimously approved. The revised ToR will be available soon on the **epi** website.

24/ Presentation and amendment of the procedures for the election of the members of other Committees

The Chair of the Committees Election Committee (CEC), Thomas MARX, presented the new procedure for the election of Committee members. In short, the election will start 6 weeks before the autumn Council meeting (of an election year) and will be carried out via a voting link. The CEC will then declare the results of the election and Council will then have to confirm these results. More information is available in this issue of **epi** Information.



A proposal to amend Rules 5 (paragraphs 4 and 5), 6 (paragraph 7), and 7 (paragraph 1.3) of the Rules for Committee elections, was presented to Council and approved with 98.2% in favour and 1.7% against.

25/ Address by new President and closing of meeting

Newly elected President THOMSEN briefly addressed Council and thanked the members of the outgoing Presidium for the work done. The meeting was then officially closed.

How epi Works

Committee Elections

A. Neves, T. Marx, A. K. Pedersen

The **epi** Council must set up a Disciplinary Committee and has the power to set up **Other Committees** which have shown over the years to be crucial for the work of our organisation. For this (and any other) election to work, first candidates must be **nominated**. Once the nomination is complete, Council members can **vote** for the candidates of their choice.

The “mechanism” of the election has now become a purely **online voting process**. This may be of special interest for those involved in former elections. But in principle, this does not change anything.



Okay, but what do we mean by...

Other Committees?

Practically **all the substantive work** of **epi** is done by the committees. It is therefore not really surprising that there are quite a few of them.

Nominations and elections?

Unlike in many popular reality shows, here the **candidates nominate themselves**. They are then **elected** by the Council members.

Everything has to take place within established **time frames**. We will explain the rules later.

Online voting?

Any Full or Substitute member of the **epi** Council will receive an invitation to the **online voting tool**. They are then invited to vote for the candidates of their choice within the established **time frame**.

This means that (unlike in the past) the Committee elections will no longer take place during the Autumn Council meeting.

Other Committees – Who votes for whom?

Every full and substitute member of the **epi** Council will be notified and can vote for all Committees. However, among the full/substitute members of each constituency, **only one vote will be counted**.

The **number/nationality, etc. of candidates** who can be elected depends on how the different Committees are organised. According to these rules, voters can make their individual choice or **follow the recommendations** made by their constituency's Council member or by (Deputy) Auditors and Committee Chairs.

Only one vote will be counted?

Exactly. When a **Full Member** casts their vote, it is this vote that counts.

Unless a full member has previously **delegated** their vote to one of their constituency's Substitute Member. In this case, the designated Substitute Member's vote is the one that counts.

It may also be that the full member has not voted and not delegated the vote to anyone. In that case, the vote that counts is that of the **Substitute Member who received the most votes in the Council elections**.

See CoD, section 3.3.4, Rule 2 (Voting Procedure).

How are the Committees made up?

For each Committee, there are **specific rules** according to which it has to be composed. These rules establish a minimum and maximum number of members - as well as requirements which must (not) be fulfilled.

For example:

The Professional Education Committee (PEC) consists of a maximum of one full member and one substitute member for each Member State, none of whom shall be a member of the Disciplinary Board of Appeal, Supervisory Board or Examination Board.

See section 3.3.2 of the CoD (Terms of Reference of the Committees).

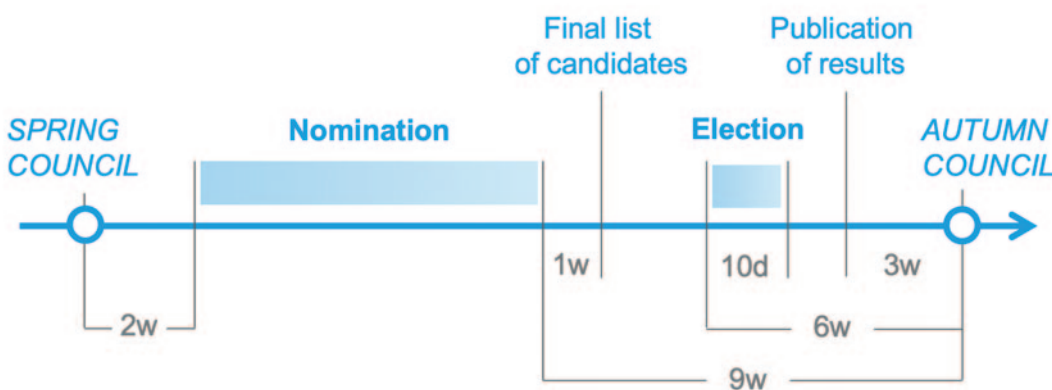
Recommended candidates?

Council members, either individually or as a constituency, Auditors, Deputy Auditors and Committee Chairs including the Chair of the Disciplinary Committee, **are encouraged to present to the Secretariat their preferred candidate** for the respective vacancy.

Any such **preference will be published** next to the candidate's name in the list of nominations.

See CoD, section 3.3.4

Nomination and Voting



Nomination for the Committees starts 2 weeks after the Spring Council and ends 9 weeks before the Autumn Council. One week later, the final list of candidates will be available.

The **election** starts six weeks before the Autumn Council and will last 10 days. The results of the elections will be **declared by the Committees Elections Committee** – and published no later than 3 weeks before the Autumn Council.

Nomination?

Any **epi** member can declare, by **submitting a completed nomination form**, that they are candidate for (re-)election and shall accept the election if elected.

If a member is interested in being a candidate for Committees Election, they should access and fill in the internet-based nomination form via their member-account on the **epi** website during the period the nomination window is open.

For the 2023 General Committee Election that means on or after 17.05.2023 and before or on 11.09.2023.

Note that candidates will be required to fill out **individual nomination forms for each relevant Committee** that they wish to stand for election to. These nomination forms also point out the **eligibility criteria** for each Committee. The CEC checks the nominations for conformity with the applicable rules. A final list candidates is published before or on the 18.09.2023. Individuals or constituencies can indicate a candidate they prefer at the latest until 26.09.2023

Elections?

All Council members will receive a **voting link from the Secretariat** at the beginning of the General election. On 02.10.2023 the election starts. Only votes received by the system within the 10 calendar days voting window will be eligible to be counted.

Council members can validly **vote for a number of candidates corresponding to the number of available seats** in the respective Committee. The number of votes received by each candidate determines, subject to validation, whether that candidate is elected, either as a full member or as a substitute member, if applicable.

Note that some Committees have national quota and/or require specific candidate qualifications.

The number of votes received by each candidate determines whether, after the validation of the election by the Council, that candidate is elected, either as a full member or as a substitute member, if applicable.

Validation and publication?

Once the voting procedure is closed, the Committees Elections Committee

- supervises **conformity** with the applicable Rules (and if so)
- declares the **results** of the votes and
- prepares a written report to the **Council for validation**.

No later than 3 weeks before the autumn Council meeting of the election year, the Secretariat publishes the results of the votes, indicating the number of votes received for each candidate (and the result of any drawing of lots carried out by the CEC, if applicable).

For the 2023 election, the publication of the results will take place no later than 23.10.2023.

In the event of any **objection** to the result of the votes for the General elections by a member of the Institute, a written objection by email, including a reasoned statement, must be submitted to the Secretariat no later than one week after the publication of the results.

For the 2023 election, objections must reach the Secretariat no later than 30/10/2023.

The procedure for handling objections is laid out and further described in Rule 11.1 of the Rules for Committee elections.

At the autumn Council meeting of the election year, the **Council shall validate** the results of the votes of the General elections.

Online Procedure

In the **past**, members and substitute members of Committees were appointed by Council at the autumn Council meeting of each election year using a **paper-based** nomination and voting procedure.

The latest amendments to the Rules for Committee elections included a change to an **internet based nomination and voting procedure**. Hence, the elections do not have to be realised during a Council meeting and will be carried out using a specific **voting tool**. All **epi members** can follow the nomination process via the **epi** website in the **member-only area of the website**, where the list of nominees will be continuously updated.

Paper-based process?

Compared to an electronic process, voting on paper is **cumbersome, time-consuming** and potentially error-prone.

By switching to an electronic procedure, the voting process becomes **faster** and **independent of council meetings**. This also saves valuable time that can be used for important discussions and decisions.

Voting tool?

While the nomination of candidates takes place in the members' area of the **epi** website, the elections are conducted using a special online voting tool.

As mentioned earlier, the composition of each committee is specific (e.g. in terms of minimum/maximum number of members, applicable national quota, etc.). The voting tool will guide you through the relevant choices; however, voters are also always encouraged to **consider the applicable criteria** in their decision.

Votes are counted manually after the election. More information on the voting tool and its use will follow in due course.

epi members?

Members are informed that in order to create an **epi member account** and be able to submit one or more nomination forms, a **valid email-address** is needed. Members who do not already have an **epi** account are strongly encouraged to create an account.

Overview deadlines

We would like to inform you about the following deadlines:

Nomination phase,

all **epi** members may nominate themselves.

- Wednesday, 17 May 2023 Opening of the Nomination process
- Monday, 11 September 2023 Closing of the Nomination process
- Monday, 18 September 2023 Publication of final list of candidates for election

Election phase,

all Council members are entitled to vote.

- Tuesday, 26 September 2023, at the latest, Indication of preferred candidate (individuals or constituencies can indicate a candidate they prefer)
- Monday, 02 October 2023 Start of online voting
- Wednesday 11 October 2023 Closure of voting
- Monday, 23 October 2023 Publication of results

Objections

- Monday, 30 October 2023 Deadline for objections

Validation at autumn Council meeting

- Tuesday, 31 October 2023 Publication of 2nd accumulated file
- Saturday, 11 November 2023 C95– Validation of the results of the election



Patent practice

Bringing the description in line with the scope of claims?

The potential end of the 'Angora cat paradox' & other stories for sleepless nights

C. López Mosquera (ES), European Patent Attorney, BALDER

Rivers of ink have been spilt over the significant changes which have been introduced by the EPO – in particular by means of their most recent annual revisions of the Guidelines for Examination – in respect of amendments to the description of European patent applications prior to grant. By way of illustration, this topic has already been the subject of a previous article¹ published in the **epi** Information issue 3|22, wherein the connection between those amendments and **Art. 84 EPC** was thoroughly analysed.

Another aspect worth considering – parallel to the fact that, starting from the 2021 Guidelines, the approach followed by the EPO appears to become consistently more stringent which each passing year – is that there is a growing body of case law relating to the adaptation of the description, its impact on **Art. 84 EPC** and even its relationship with **Art. 69 EPC** and its corresponding Protocol on the Interpretation of **Art. 69 EPC**, which may eventually have wider implications for applicants, patent holders and patent practitioners, than initially foreseen.

The evolution of the Guidelines for Examination (2021-2023)

If we return to the 2021 Guidelines, in particular to section F-IV, 4.3 thereof, we may see how the previous general

¹ Article entitled "For discussion: Has the requirement that claims be 'supported by the description' been perverted over time?", provided in **epi** Information 3|22 (Sept. 2022) and authored by M. Wilming, European Patent Attorney at Hepp Wenger Ryffel AG.

indication regarding amendments in the description (including an example), namely:

- ‘(iii) Part of the subject matter of the description and/or drawings is not covered by the claims

For example, the claims all specify an electric circuit employing semiconductor devices but one of the embodiments in the description and drawings employs electronic tubes instead. In such a case, the inconsistency can normally be removed either by broadening the claims (assuming that the description and drawings as a whole provide adequate support for such broadening) or by removing the “excess” subject-matter from the description and drawings.’ (cf. F-IV, 4.3 (iii) EPO Guidelines for Examination 2019)

was extensively amended and developed on the grounds that inconsistencies found in the description “often throw doubt on the scope of protection”:

- ‘(iii) Part of the subject matter of the description and/or drawings is not covered by the claims

Where parts of the description give the reader the impression that they disclose ways to carry out the invention but are not or, due to amendments to the claims, are no longer encompassed by the wording of the claims, these parts **often throw doubt** on the scope of protection and therefore **render the claims** unclear or unsupported under Art. 84, second sentence, or, alternatively, **render the claims objectionable under Art. 84, first sentence**. The description must be adapted to the claims in order to avoid inconsistencies between the claims and the description.’ (Emphasis added – cf. F-IV, 4.3 (iii) EPO Guidelines for Examination 2021)

In line with this, a clear indication of those parts of the description which do not fall within the scope of the claimed invention would also be more specifically required.

From that moment onwards, claims were made more easily objectionable under **Art. 84 EPC**, second sentence, on the grounds that they would not be properly supported by the description unless it was not amended in accordance with the claimed subject matter. Furthermore, such description amendments – or rather the absence thereof – were understood to potentially have a negative impact on the definition of the scope of protection sought by the claims.

If we now move on to the 2022 revision of the Guidelines for Examination, we will quickly see that the EPO went one step further with the new amendments of section F-

IV, 4.3, more specifically those of section F-IV, 4.3 (iii), which was fully amended, up to its title, to reflect the new situation:

- ‘(iii) Part of the description and/of drawings is **inconsistent** with the subject matter for which protection is sought

According to Art. 84, second sentence, the claims must be supported by the description. This means that there must not be inconsistency between the claims and the description. Parts of the description that give the skilled person the impression that they disclose ways to carry out the invention but are not encompassed by the wording of the claims are **inconsistent (or contradictory)** with the claims. Such inconsistencies may be present in the application as originally filed or may result from amending the claims to such an extent that they are no longer consistent with the description or drawings.’ (Emphasis added – cf. F-IV, 4.3 (iii) EPO Guidelines for Examination 2022)

What had been considered as “often throw(ing) doubt on the scope of protection” in the earlier 2021 version, then appeared to have critically become “inconsistent (or contradictory) with the claims” in the 2022 version. Additionally, section F-IV, 4.3 (iii) was further expanded to provide a more detailed definition of what such “inconsistency” means, including examples such as the following one:

- ‘For example, an inconsistency may exist due to the presence of an alternative feature which **has a broader or different meaning** than a feature of the independent claim. Further, an inconsistency arises if the embodiment comprises a feature which is **demonstrably incompatible** with an independent claim.’ (Emphasis added)

However, in my view, the examples presented therein cast an even longer shadow on how to perform such amendments in the description and how they are to be objectively assessed. For example, who is to set the bar which defines what “a broader or different meaning” is? And what is the basis for making such a decision, from a legal and technical perspective?

Furthermore, conspicuously lacking from the revised Guidelines is an explanation of how to determine whether two features are “demonstrably incompatible” in a clear and objective way during examination proceedings. It must be acknowledged, though, that the EPO provided certain examples thereof in the 2023 Guidelines:

- ‘Further, an inconsistency arises if the embodiment comprises a feature which is demonstrably incompatible with an independent claim.

Examples:

- the independent claim defines a feature as being made of “purely substance X”, whereas the description defines it as being made of a blend of substances “X and Y”;
- the independent claim defines the feature of an article comprising nicotine-free liquid material, whereas the description states that the liquid material may contain nicotine.’ (cf. F-IV, 4.3 (iii) EPO Guidelines for Examination 2023)

The 2021 Guidelines also further developed the topic of claim-like clauses. Nevertheless, instead of still considering that those clauses had to be deleted prior to grant, since they “otherwise may lead to unclarity as to the actual scope of protection”² the following was then explicitly included:

‘Finally, claim-like clauses must also be deleted or amended to avoid claim-like language prior to grant because:

- they are **inconsistent with the claimed subject-matter**, they lead to **unclarity as to the actual scope of protection** and hence do not fulfil the requirements of **Art. 84** (see F-IV, 4.3(iii));
- they **only repeat the claimed subject-matter** in a very literal manner, they **are an irrelevant and unnecessary reduplication** and hence do not fulfil the requirements of **Rule 48(1)(c)** (see F-II, 7.4).’ (Emphasis added – cf. F-IV, 4.4 (iii) EPO Guidelines for Examination 2021)

Based on these amendments in the Guidelines, one could only assume that claim-like clauses lost the benefit of the doubt regarding clarity interpretation. Even more surprising was the consideration that subject matter provided in claim-like clauses only amounts to a repetition of the claimed subject matter, therefore being an ‘*irrelevant and unnecessary reduplication*’, which thus contravenes R. 48(1)(c) EPC:

‘Rule 48 Prohibited matter

(1) The European patent application shall not contain: [...]

(c) any statement of other matter **obviously irrelevant or unnecessary** under the circumstances’ (Emphasis added)

In my experience, claim-like clauses are still widely employed nowadays. And, while it is true that sometimes they encompass specific subject matter that is already recited in the claims, more often than not they are used to disclose additional embodiments which may not find an explicit basis in other passages of the description. These

clauses, typically also referred to as ‘aspects’, may in fact serve as basis for further amendments during examination proceedings, or even for a new set of claims to be prosecuted in a divisional patent application. Similarly, this subject matter may turn out to be a suitable source for amending the claims during post-grant proceedings.

In any case, we must not forget how that specific passage was subsequently reverted to its previous 2020 version in the 2022 revised Guidelines, therefore again only indicating that ‘claim-like clauses must also be deleted or amended to avoid claim-like language prior to grant’. Since then, this specific part of the Guidelines remains unamended, though meanwhile there have been several Board of Appeal decisions, such as **T 1426/21** from March 2023, which clearly support the fact that, under certain circumstances, there is actually no reason to require the deletion of claim-like clauses:



Cristina López Mosquera

‘In the present case the “claim-like clauses” do not render the subject-matter for which protection is sought unclear because the text in the description is consistent, and not in contradiction, with the set of claims. Moreover, the Board notes that the “aspects” on pages 11 and 12 **cannot be mistaken for claims. It is obvious that they are part of the description and are not part of the claims defining the protection to be sought.**’

‘Rule 42 EPC does not rule out claim-like clauses in the description. In the present case, the claim-like clauses disclosed as “aspects” on pages 11 and 12 can be considered as embodiments of the invention defined in terms of technical features. These claim-like clauses do not change or impair the understanding of the technical problem and the solution defined in the description. Therefore **there is no reason to require their deletion.**’ (Emphasis added – cf. T 1426/21, r. 2.5 and 2.6)

Notwithstanding the foregoing, are we to still assume that claim-like clauses must always be deleted in accordance with the Guidelines for Examination? Or is there still the risk that, should claim-like clauses be kept in the description, they can be objected over R. 48(1)(c) EPC? Worse still, can the patent application be refused for not deleting claim-like clauses, even if they do not impair either the understanding of the technical problem and the solution provided by the invention, or the determination of the scope defined by claims? It may be worth remembering at this point that decision **T 1989/18** stems from a European patent application which initially had

² See section F-IV, 4.4 of EPO Guidelines for Examination 2019.

been refused by the Examining Division because the subject matter disclosed in the description was broader than the claimed subject matter and so was deemed not compliant with **Art. 84 EPC**.

It is my belief that there still is much room for debate on all the above-mentioned topics, also given that there is an increasing number of conflicting Board of Appeal decisions related to all these matters, which do not appear to be able to put all these issues to rest in any way...

Ripples in the sand: The diverging 2021-2023 Board of Appeal decisions

In decision **T 1399/17**, which relates to an appeal filed against the Opposition Division decision to maintain a patent in amended form, we could catch a glimpse of what the new amendments of the 2021 Guidelines could bring about. Claim 1 of the main request on appeal recited that “dietary fat is a blend of natural fats”, whereas there were passages in the description which, according to the Board of Appeal, cast doubt on the scope of the claims because they did not reflect that mandatory feature of claim 1:

‘In paragraph [0040], it is still stated that “[p]referably” the dietary fat composition is a blend of natural fats [...]’

‘[0125] While Applicants prefer to avoid use of inter-esterified fats, such fats may still be used in the present invention [...]’³

‘[0208] Interesterified dietary fats were prepared by the Stepan Company (Northfield, IL) using random chemical interesterification to combine the following fats or fatty acids and vegetable oils:’ (cf. T 1399/17, r. 2.2)

Additionally, it was explicitly clarified in **T 1399/17** that the above-mentioned requirements concerning the adaptation of the description also apply whenever claims are amended during opposition proceedings. On that basis, the main request was immediately deemed not allowable considering it was evident the description of the patent contravened **Art. 84 EPC**.

Nine months later, decision **T 1989/18** appeared to steer away from both T 1399/17 and the stringent approach provided in 2021 Guidelines:

³ It was considered by the Board of Appeal that it would be straightforward for the skilled person that interesterified fats are not natural fats, as confirmed in paragraph [0191] of the patent, wherein it was indicated that ‘The terms “natural fat” and “natural oil” [...] does not contain a significant level of triglyceride molecules which have been artificially structurally modified (e.g., by chemical or enzymatic interesterification)’ and also in D11-N (e.g., page 110, left column, third paragraph).

‘However, when assessing clarity, the description cannot be relied upon to resolve a clarity issue in a claim, nor can it give rise to any such issue if the definition of the subject-matter in a claim is clear per se. In particular, **if the claims are clear in themselves and supported by the description, their clarity is not affected if the description contains subject-matter which is not claimed**’ (Emphasis added – cf. T 1399/17, r. 5)

It was also considered in **T 1989/18** that R. 48(1)(c) EPC would not appear to provide a suitable basis for the requirement to adapt the description, thus showing a clear contradiction with 2021 Guidelines for Examination wherein, as previously noted, R. 48(1)(c) EPC had been cited as basis for deleting or amending claim-like clauses:

‘A number of decisions have relied on Rule 48(1)(c) EPC as a (potential) legal basis for requiring the description to be adapted to the subject-matter as claimed (see e.g. decision T 544/88, OJ EPO 1990, 429, point 5; decision T 329/89, point 4.4; decision T 1903/06, point 2; decision T 853/91, point 2; decision T 443/11, point 4). In the board’s judgement, however, **the purpose of Rule 48(1)(c) EPC cannot be to keep a patent specification free of unnecessary information and to make sure that its content relates only to what protection is sought**, for several reasons.

[...] **It is therefore difficult to conceive that the legislator intended to impose more severe sanctions on less offensive matter, in particular to provide a ground for refusal based on the inclusion of merely “irrelevant or unnecessary”**’ (Emphasis added – cf. T 1989/18, r. 10 and 11)

On 1 March 2022, the newly revised Guidelines entered into force, and decision **T 1024/18** was issued. In those appeal proceedings, auxiliary request 2 was not found allowable because, “at least due to the identified inconsistency between the claims and the description, the claims are not supported by the description” (c.f. point. 3.1.12 of Reasons for the Decision). The Board of Appeal elaborated further on **Art. 84 EPC** and their understanding thereof, according to which the description should provide full support, and not just support in a part of the description:

‘Merely providing a part of the description which gives support to the claims appears to be at odds with the wording “supported by the description”. **Only providing such a part would be rather more akin to the claims having some form of basis in the description or being supported by “part” of the description, whereas the wording of Article 84 EPC requires support by “the description”**. To put this into context, to provide only support for the claims in one single passage of the description while the rest of the description

might give a different or even contradictory meaning to the claims, would in essence negate the general meaning of the words “support by the description” and in fact would allow it to be reduced to a de minimis requirement of e.g. repetition of the claim wording while allowing the entire remaining description to be left to explain an entirely different invention to the one claimed.’ (Emphasis added – cf. T 1024/18, r. 3.1.8)

Furthermore, in that same decision, the Board of Appeal went on to connect the adaptation of the description with national infringement proceedings:

‘Hence, the Board finds that the requirement in Article 84 EPC of the claims to be supported by the description includes the requirement that the description is consistent with the claims not only in some part but throughout. **Considering also Article 84 EPC in the wider context of the EPC, this understanding of the provision seems to be in line with the standard of claim interpretation for national proceedings enshrined in Article 69(1) EPC, according to which the description is also to be taken into account when interpreting the claims. Inconsistencies between the claims and the description could thus – in particular in national proceedings – be the source of diverging interpretations as regards the scope of the claims.** Accordingly, misinterpretation could be avoided in particular if inconsistent information contained in the description or drawings is already removed in the proceedings before the EPO. The importance of Article 84 EPC for the interpretation of claims in national proceedings is also documented in the “travaux préparatoires” of the EPC 1973. It emerges from the preparatory documents that a provision corresponding to the current Article 84 EPC, which was originally part of the Implementing Rules, was re-located to the Convention due to its importance for national infringement proceedings (cf. BR/51/70, point 18). Thus, **the support requirement of Article 84 EPC also serves the aim to ensure legal certainty for national post-grant proceedings (as do the requirements of clarity and conciseness).**’ (Emphasis added – cf. T 1024/18, r. 3.1.9)

At this point, I would like to refer to **Art. 69 EPC** wherein it is clearly established that the extent of protection conferred by a European patent or patent application shall be determined by the claims, not by the description, though the latter shall be used for the purposes of interpreting the claims:

‘Art. 69 Extent of protection

(1) The extent of the protection conferred by a European patent or a European patent application **shall**

be determined by the claims. Nevertheless, the description and drawings shall be used to interpret the claims.

(2) For the period up to grant of the European patent, the extent of the protection conferred by the European patent application **shall be determined by the claims contained in the application as published.** However, the European patent as granted or as amended in opposition, limitation or revocation proceedings shall determine retroactively the protection conferred by the application, in so far as such protection is not thereby extended.’ (Emphasis added)

On considering the wording of **Art. 69 EPC**, it therefore does not become apparent how it would provide any basis for the requirement to bring the description, as a whole, strictly in line with the claims. However, later Board of Appeal decisions **T 0121/20** and **T 1516/20** (both issued by the same Board), as well as **T 2766/17** and **T 1516/20**, would also appear to support the criterion that the description in its entirety must be consistent with the claims.

Notably, the recent **T 3097/19**, issued in November 2022, also connected **Art. 84 EPC** with the scope of protection and, ultimately, with **Art. 69 EPC**, in a similar way to **T 1024/18**, to state the following:

‘Often, Article 84 EPC is construed as defining three requirements on the claims, while the introductory clause is taken to merely state the role of the claims. However, the purpose of the claims to define the matter for which protection is sought imparts additional requirements on the application as whole.

The matter for which protection is sought is central for determining, after grant, the extent of protection conferred by the patent (Article 69 EPC). The Board deems it to be an elementary requirement of a patent as a legal title that its extent of protection can be determined precisely. In the Board's view, the clarity and conciseness requirements in Article 84 ultimately serve that purpose, but they are not sufficient to ensure it. To mark this distinction, **the Board prefers to talk about the scope and extent of protection being “precisely determined” rather than being “clear”.**’ (Emphasis added – cf. T 3097/19, r. 28)

This decision actually provides further proof of the divergent approaches taken by the different Boards of Appeal since, for example, in this case, the Board even appears to modify **Art. 84 EPC** itself when connecting it to **Art. 69 EPC**, thus making its own interpretation thereof. In fact, the Board itself acknowledged the existence of tensions between the interpretations of Art. 84 EPC, though they still insisted on the need to ensure full consistency between description and claims to achieve legal certainty. Further-

more, **T 3097/19** may have actually given a glimpse of what the true purpose behind all these adaptation requirements could be, namely, reducing divergence of post-grant jurisprudence:

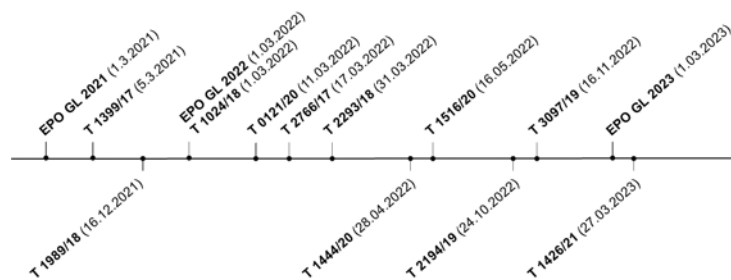
‘The Board also considers that **this consistency between the claims and the description is necessary for legal certainty**. The skilled person to whom the claims – and the entire application – are addressed (see point 29.1) must not be confronted with contradictory statements when reading the patent application as a whole. **Otherwise, they may be left with doubts as to what is the invention sought to be protected.** [...]

The Board is aware that its interpretation of Article 84 EPC may appear to be in tension with case law of the Boards of Appeal regarding clarity and claim interpretation. In particular, the often expressed requirement that the claims be clear “from the wording of the claims alone” appears to be hardly compatible with the idea that the patent (application) must be read “as a whole”.

The Board does not agree with a verbatim reading of the former requirement, nor, without further qualification, with the statement of T 454/89 (reasons 4.1 (vii)) as cited in T 1989/18 (reasons 4) that “Claims must be clear in themselves when being read with the normal skills including the knowledge about the prior art, but not including any knowledge derived from the description of the patent application or the amended patent”. [...]

That, however, the claims should be, as far as possible, clear from their wording alone, is an expression of the desire, in the interest of legal certainty (see G 1/04, reasons 5), that the divergence of post-grant jurisprudence be limited (see also T 1817/14, reasons 7.4 and 7.5).’ (Emphasis added – cf. T 3097/19, r. 33, 35 and 36)

Since the 2021 Guidelines entered into force, at least seven of the Board of Appeal decisions issued so far support the strict approach concerning adaptation of the description, with two of them (**T 1024/18** and **T 3097/19**) making a particular connection between national infringement proceedings and **Art. 69 EPC** interpretation. Besides, four out of those seven decisions were granted “C” distribution status (i.e., decisions to be distributed to board chairmen). However, if we have a look at the emerging body of case law of the Boards of Appeal related to all these topics, we can readily see that divergence is consistently increasing, with four different decisions appearing to support an opposite view to the one presented in the latest versions of the Guidelines, all of them with “D” status (i.e., decisions not to be distributed):



In **T 1444/20**, the idea that claim-like clauses must be removed by any means was rejected. In fact, usefulness of those clauses was actually acknowledged, while also noting that there is no need to refer to the description to ensure clarity of the claims:

‘The claims of a patent application define the matter for which protection is sought. Article 84 EPC requires this definition to be clear. This means that the **claims must be clear in themselves for a person skilled in the art with common general knowledge of the technical field in question, without the need to refer to the description** (T 412/03, Reasons 2.4.1). Article 84 EPC also requires the claims to be concise and be supported by the description. [...]

As an additional remark, **the Guidelines for Examination in the EPO (version of 11 November 2019), in point F-IV, 4.4, are inconsistent** in that they acknowledge, on the one hand, that claim-like clauses may (or may not) give rise to a lack of clarity, but require, on the other hand, that such claim-like clauses must always be removed. **If claim-like clauses in the description do not result in a lack of clarity of the actual claims, Article 84 EPC cannot provide the justification for removing them.**

Moreover, the entire section “Specific embodiments of the invention” relates to the same subject-matter (defined by the same method steps) as the current claims and may be taken to provide additional support for the claims in the description, as also required in Article 84 EPC.’ (Emphasis added – cf. T 1444/20, r. 2.1, 2.6 and 2.7)

Such a not-so-strict approach followed by **T 1444/20** has also been endorsed recently by **T 1426/21**, issued in March 2023.

Furthermore, in **T 2194/19**, the Board of Appeal challenged the requirement that all embodiments of the description had to be covered by the claims, and considered that proper justification about any conflicting embodiment in the description had to be provided by the Examining Division:

‘Secondly, **this board takes issue with the conclusion that the requirement that the claims are to be supported by the description** (Article 84, second

sentence, EPC) **necessarily means that all the “embodiments” of the description of a patent application have to be covered by the (independent) claims**, i.e. that all the embodiments must fall within the scope of those claims. **This conclusion cannot be derived from the EPC. It can also not be derived from the jurisprudence of the Boards of Appeal**, according to which merely inconsistencies or contradictions between the claims and the underlying description are to be avoided in that context (see e.g. T 1808/06, Reasons 2; T 2293/18, Reasons 3.3.5). The board considers that it may well be that, in a given case, there is such an inconsistency or contradiction between the claims and an “embodiment” of the description. But this has to be justified by the examining division. **The mere indication that the embodiment does not or no longer fall under the respective claim(s) is not sufficient in this regard.**’ (Emphasis added – cf. T 2194/19, r. 6.2.2)

What lies ahead? Not-so-great expectations

For the time being, we can only assume that previous practice based on occasional amendments in the description being made before the patent application proceeded to grant is a thing of the past. Such assumptions are reinforced by the fact that, currently, requirements to adapt the description are consistently issued at an earlier stage during examination proceedings, and they are even becoming more and more exhaustive.

Still, one cannot help but imagine what may happen during future opposition proceedings, or even invalidation proceedings, if the topic of the adaptation of the description is not consistently dealt with.

By way of illustration, I recently came across a text intended for grant wherein the Examining Division had deleted a paragraph wherein it was clearly noted that all test standards referenced in the patent application were the most recent standards in effect as of the filing date of the application or of the earliest priority application wherein each test appeared, if priority was claimed. It is known in the art, though, that test standards typically undergo revisions through time. Therefore, what could happen if that amendment were to be accepted by the applicant, but subsequently validity of the patent was challenged in opposition proceedings? Could the patent be attacked on the grounds of **Art. 100(b) EPC** merely because, due to these new adaptation requirements, the time reference to the applicable version of the test standard had been removed from the description?

What is more, decisions **T 1024/18** and **T 3097/19** directly appear to intertwine the requirements of full adaptation of the description with **Art. 69 EPC** interpre-

tation, and this may clearly have ramifications on how the doctrine of equivalents could be applied during national infringement proceedings. Here again we should remember that, for example, according to the Guidelines for Examination, “an inconsistency may exist due to the presence of an alternative feature which has a broader or different meaning than a feature of the independent claim”, although such “broader or different meaning” has so far not been fully clarified.

At this point, this topic may bring to mind the pemetrexed saga based on EP1313508 (Eli Lilly & Co.). During examination proceedings, claim 1 of EP’508 had been objected to for lack of novelty, and also for relating to an extremely large number of possible combinations of compounds, in particular regarding claim 1, as “antifolate” and “methylmalonic acid lowering agent”:

‘1. Use of a methylmalonic acid lowering agent in the preparation of a medicament useful in lowering the mammalian toxicity associated with an antifolate, and the medicament is administered in combination with an antifolate.’

In view of that, the applicant limited the methylmalonic acid lowering agent and the antifolate to pemetrexed and vitamin B12, respectively, but such amendment was refused on considering that there was basis in the description for “pemetrexed disodium”, but not for “pemetrexed”, said compounds being understood as distinct compounds. Eventually, the patent application proceeded to grant with the claims being restricted to “pemetrexed disodium”, which is the active pharmaceutical ingredient of ALIMTA® (Eli Lilly & Co). A significant number of patent infringement litigation proceedings have taken place across Europe over this European patent, wherein the doctrine of equivalents has been duly considered, producing different results in different jurisdictions, but... If we now imagine a different scenario where the description had disclosed pemetrexed in acid form or any salt thereof, but the claims had to be restricted to pemetrexed disodium only because results with ALIMTA® were provided, what could have happened if the description had to be then strictly adapted in accordance with the claimed subject matter? Would have this approach impacted the assessment of equivalents, thus potentially depriving the Angora cat paradox⁴ of its fur?

While prosecution history estoppel is typically not accepted by national (European) courts, it cannot be completely disregarded either in certain jurisdictions.

⁴ According to this well-known IP paradox, patent holders typically favour a narrow interpretation of the claims during prosecution or invalidity actions in order to better distinguish them from the prior art (thus resembling a wet cat), whereas, during infringement proceedings, they always defend a broader scope of the claims (therefore resembling a dry Angora cat with its long and silky fur).

Thus, it may be worth considering whether, for example, the deletion of a full paragraph may be preferable over marking it as “outside the subject-matter of the claims” as suggested in the Guidelines, in order to better safeguard the patent holder’s interests, especially if post-grant proceedings are foreseeable.

Besides, in my opinion, certain Board of Appeal decisions mentioned in this article could be understood as potentially trying to influence (or restrict) the claim construction performed by national courts, more particularly, how the doctrine of equivalents may be applied.

In contrast, it must also be noted that other decisions, such as **T 1819/89**, still appear to support that the adaptation-of-the-description requirements and its consequences on **Art. 84 EPC** are not linked to Art. 69 EPC:

‘When assessing clarity, Article 69 EPC is of no relevance since it is only concerned with the extent of protection conferred as one of the effects of an application or patent (chapter III of the EPC) whenever that extent is to be deter-

mined by whoever is competent to do so. Article 69 EPC is not by itself concerned with a requirement of the Convention to be met by an application or patent – in particular, unlike Article 84 EPC it is not concerned with the definition proper of the subject-matter sought to be protected by a claim. Moreover, **even if it were possible**, for the purpose of Article 84 EPC, to interpret the claims in the light of the description and drawings as provided for in Article 69 EPC in order to establish whether the conditions governing clarity have been satisfied, **the board fails to see how that approach could lead to a lack of clarity of the claims (as opposed to a lack of clarity of the description) if the clear terms of the claims did not encompass subject-matter disclosed in the application or patent.**’ (Emphasis added – cf. T 1819/89, r. 6)

Taking all these facts into account, it is my understanding that the current situation still calls for particular attention, especially because all these matters remain unresolved, and no question in that regard has been referred to the Enlarged Board of Appeal yet.

Next deadline for epi Information	Nächster Redaktionsschluss für epi Information	Prochaine date limite pour epi Information
<p>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 31 August 2023.</p> <p>Further information can be found in our “Guidelines for Authors” here: https://patentepi.org/r/guidelines-epi-info</p>	<p>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 31. August 2023.</p> <p>Weitere Informationen finden Sie in unseren „Guidelines for Authors“ auf der epi Webseite: https://patentepi.org/r/guidelines-epi-info</p>	<p>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 31 août 2023.</p> <p>De plus amples informations sont disponibles dans nos « Directives pour les auteurs » à l'adresse : https:// patentepi.org/r/guidelines-epi-info</p>



Educational events

Upcoming epi events

Session Calendar

Continuous Professional Education (CPE)

28 June 2023 **Webinar**: Patent litigation in The Netherlands: specifics for national proceedings and a future prospect in light of the UPC

12 July 2023 **Webinar**: Patent litigation in Germany: specifics for national proceedings and a future prospect in light of the UPC

14 September 2023 **Webinar**: Basics about conduct provisions for EPAs

27 September 2023 **Seminar**: A fresh look on procedural aspects of appeal proceedings, in London

18 October 2023 **Seminar**: Infringement by equivalence in major EPC States, in Munich

22 November 2023 **Seminar**: "A fresh look on procedural aspects of appeal proceedings" in Madrid

EQE 2024 Preparation

epi Tutorial

EQE online Workshops

Paper A:
25 September 2023 – 12 October 2023

Paper B:
16 October 2023 – 02 November 2023

Paper D:
06 November 2023 – 23 November 2023

Paper C:
20 November 2023 – 14 December 2023
15 January 2024 – 08 February 2024

Only for epi Students – self-enrolment on epi-learning

epi Tutor consultation hour

All sessions will be held from 16:00 to 17:00, CEST (and then CET after the end of October).

Pre-Examination:

13 September 2023 | 04 October 2023 | 25 October 2023 | 15 November 2023 | 06 December 2023 | 14 February 2024

Paper A:

27 September 2023 | 08 November 2023 | 20 December 2023 | 24 January 2024 | 28 February 2024

Paper B:

11 October 2023 | 22 November 2023 | 03 January 2024 | 31 January 2024 | 28 February 2024

Paper C:

18 October 2023 | 29 November 2023 | 10 January 2024 | 07 February 2024 | 06 March 2024

Paper D:

20 September 2023 | 02 November 2023 | 13 December 2023 | 17 January 2024 | 21 February 2024

DI Advanced Questions

09 October 2023 – 20 February 2024, 60 DI questions

VCs on 09 October, 14 November, 19 December 2023, 23 January, and 20 February 2024

epi Tutors

12 October 2023 **epi** hybrid Tutors Meeting (half days in Munich)

30 October 2023 **epi** Tutors Meeting (online, half day)

Further information and links to register online each training offer is available on the **epi** website¹.

UP/UPC Webinar Recordings

epi is offering the purchase of the recordings of the recent webinars relating to the Unitary Patent and the Unified Patent Court to **epi** members and **epi** students.

The topics are:

1. Opt-Out and Strategy
2. Transitional provisions for the Unitary Patent
3. UP/UPC – What to do before the start of the system
4. Recording: Tips and Tricks for the UPC sunrise period

Sounds interesting? Please find all the relevant information on the **epi** website².

¹ <https://patentepi.org/r/training-2023-2024>

² <https://patentepi.org/r/up-upc>

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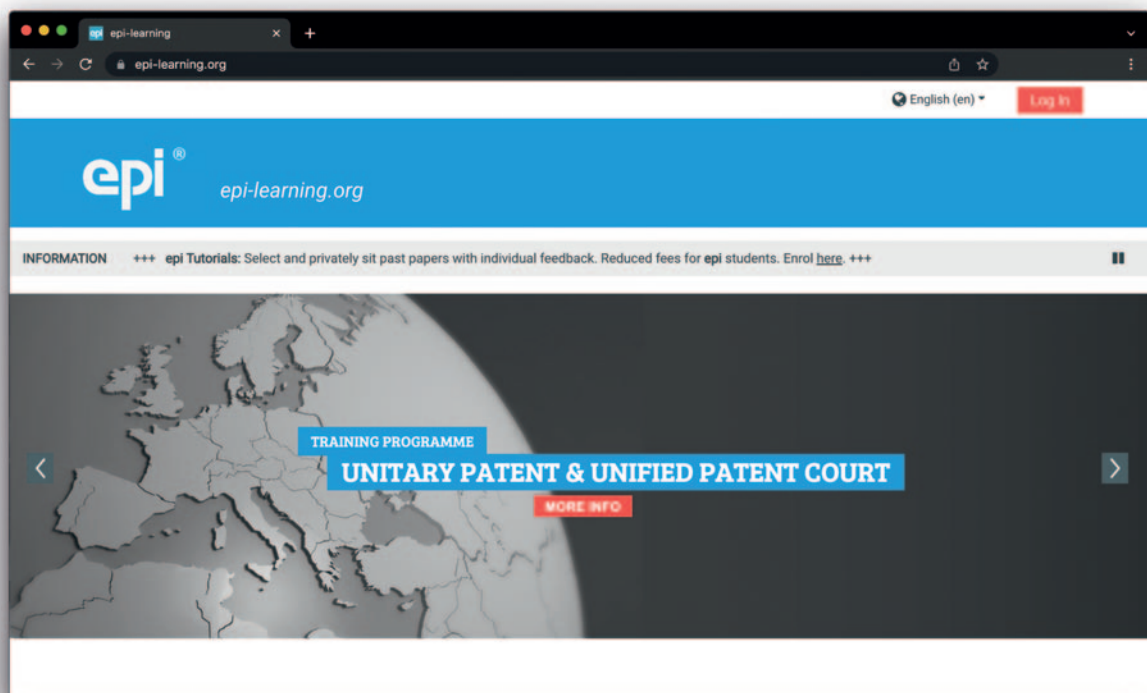
epi Student membership

epi student members have access to additional information on the **epi** learning website, including the student forum described below. Other benefits of student membership include receiving alerts about **epi** training courses, priority access to our educational events, and reductions on course fees for **epi** educational events, such as tutorials, seminars and webinars. Candidates for **epi** student membership may apply, at any stage of

their training, to the **epi** Secretariat (epi.student@patentepi.org), simply by filling in the online application tool¹, providing the necessary documents² and paying the fee.

- 1 <https://patentepi.org/r/student-membership-01>
- 2 <https://patentepi.org/r/student-membership-02>

epi-learning



epi-learning¹ is the platform for all online training activities organised by the **epi**.

epi students are automatically registered in this platform and can take advantage of support and training offers specifically designed for **epi** students.

To register you on the platform we need your consent. This will be presumed when you fill in the survey link² the required data.

Via **epi-learning**, **epi** members and **epi** students can access relevant online courses, online lessons, and other resources, such as recordings of the following webinars:

- Added Matter
- Collaboration with overseas patent colleagues
- Conflicts of Interest
- Diversity and Inclusion
- Essential training on UP/UPC
- New Rules of the Procedure of the BoA and further developments
- Privilege in patent matters
- Supplementary Protection Certificates (SPC)

You can find more training offers on **epi-learning**³.

¹ <https://www.epi-learning.org>

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

³ <https://www.epi-learning.org/course/>



Committee Reports

Report of the Online Communications Committee

J. Gray (GB), Chair

Introduction

OCC members have remained busy in various pilots, 'working groups', 'focus groups' and 'round tables', some of which are discussed below. The new UPC Case Management System became a whole new topic for urgent investigation and support of members. As OCC Chair I have joined in **epi** Board meetings and in the regular 'bilateral' meetings with the EPO president and his team. OCC members will continue to join the TOSC meetings as **epi** observers (Technical and Operational Support Committee of the EPO Admin Council – EPO and national office experts cooperation).

In February 2023 there was a good meeting of SACEPO-EPP, where a few OCC members meet EPO experts along with other representatives of industry and professional bodies, from Europe and abroad. Increasingly we liaise with the other European contributors to get the most out of the meeting. After some rather frustrating (even alarming) experiences last year, developments at the EPO side nowadays are increasingly positive, and it is evident that the EPO is addressing more and more the issues identified as a priority by *users*. We are planning for a last meeting of *this* OCC with the EPO, before a new committee is elected at C95.

EPO's MyEPO Roadmap 2023-2024

Of interest to all **epi** members is the roadmap for various IT developments. The plans for various changes have become much more concrete and should now allow planning by users, for transition to new systems. In **Annex 1** the Roadmap is laid out, in the June 2023 edition although timings are of course provisional. Detailed explanations have been published in the OJEPO May 2023 edition¹.

MyEPO Portfolio

MyEPO Portfolio is maturing steadily, and any major new features are being tested in the pilot groups, before being released to all users. Several OCC members are active in the pilot group, among a wide range of participants from private practice and industry. Paralegals increasingly get into the detailed use and evaluation. Some of the new features are long-awaited improvements, responsive to user feedback.

Imminent developments include:

¹ <https://patentepi.org/r/info-2302-01>

- A first API to download MyEPO mailbox communications automatically. A sub-group of pilot users has been formed, which includes IT providers who make the popular IP management systems.
- Alternatives to the smart card (MyEPO Portfolio and Central Fee Payment) (see below)
- Requests for change of representation
- Improved integration with Central Fee Payment (payment with deposit account)
- Portfolio access administered by company administrators
- Opposition cases visible in the portfolio
- Interaction with examiners, including with editing of shared documents.

Administration of users, associations etc.. is facilitated by the new systems, but the new system also exposes when EPO records are out of date as to who is still with which firm, etc.. EPAs, firm administrators and management need to pay attention to the updating of records of associations, access to unpublished cases, Mailbox, smart cards etc.. Even if you don't use MyEPO Portfolio day-to-day, use it to review such permissions.

Users can migrate now to MyEPO Portfolio, from the original Mailbox and MyFiles services. There is no need to make a sudden switch, as both systems can be used in parallel. However, the old system will be switched off mid-2024. Online Filing 2.0 will also be integrated into MyEPO Portfolio in due course.

UP and UPC IT infrastructure

OCC continued to support LitCom in submissions to the UPC Preparatory Committee concerning the UPC CMS. Unfortunately, quite a lot of bugs and outages have arisen, and users have not received quick solutions from the UPC team.

The **epi** members' Forum has been an invaluable medium for sharing issues and solutions. I thank **Tassilo Meindl** for keeping track of all the UPC CMS IT issues and assisting LitCom in presenting them to the UPC team.

Online Filing of patent applications

Online Filing 2.0 has settled down and seems quite popular among its users. The **opposition form 2300** is now available, with user comments requested.

More countries are developing **national filing systems** based on the new "**Front Office**" platform, after the proof of concepts by **Lithuania** and **Spain**. Other countries with ongoing/agreed implementations include: **Greece, Macedonia, Finland, Netherlands, Iceland, Belgium, Luxembourg**. Other countries (e.g. United King-

dom) will be providing their own alternative. The contribution of our user representative Ben Grau has helped greatly in making this a success.

epi members will want to ensure their own national offices have Front Office **or** some other service established as soon as possible, so that there is no rush when, one day, the **original eOLF** system is turned off. However, we have been assured that **eOLF is safe until the end of 2024**, at least.

Alternatives to smartcards

EPO plans on **decommissioning the existing Smart Cards** completely by the end of 2024. No new smart cards will be issued after the end of 2023. During 2023, all EPO systems (including eOLF) will be updated to use a new two-factor authentication ("2FA") platform. Users will be able to use their smart card and the new authentication system in parallel, so that firms and individuals can transition gradually to using the new system before the smart cards become inactive. OCC members will be among the pilot users testing the 2FA system. If it all goes to plan, the transition should be reasonably smooth.



John Gray

New EPO website epo.org

The EPO website is being redeveloped, with the aim of being more usable on a variety of modern devices. The new format can be seen already in e.g. the Legal Texts part of the website, and the Contact form. New ways of presenting information for non-expert users are being developed next. I am making submissions to ensure that the new pages will not mask from users the importance of professional advice.

New Contingency Upload service – fax filing no more

The EPO is also developing an alternative to fax filing for "rescue"/emergency filings. This will need to be launched and tested in good time before incoming fax lines (and Web Form Filing) are abolished (scheduled mid-2024). According to the Decision of the President², this service will only accept documents in Annex F-compliant format. As a matter of principle, OCC has always argued that imposing formal requirements before a person can establish a filing date is contrary to the EPC. What if the nature of the emergency is such that the

² <https://patentepti.org/r/info-2302-02>

user has trouble making compatible PDFs? This question will be taken up directly with the EPO and within SACEPO.

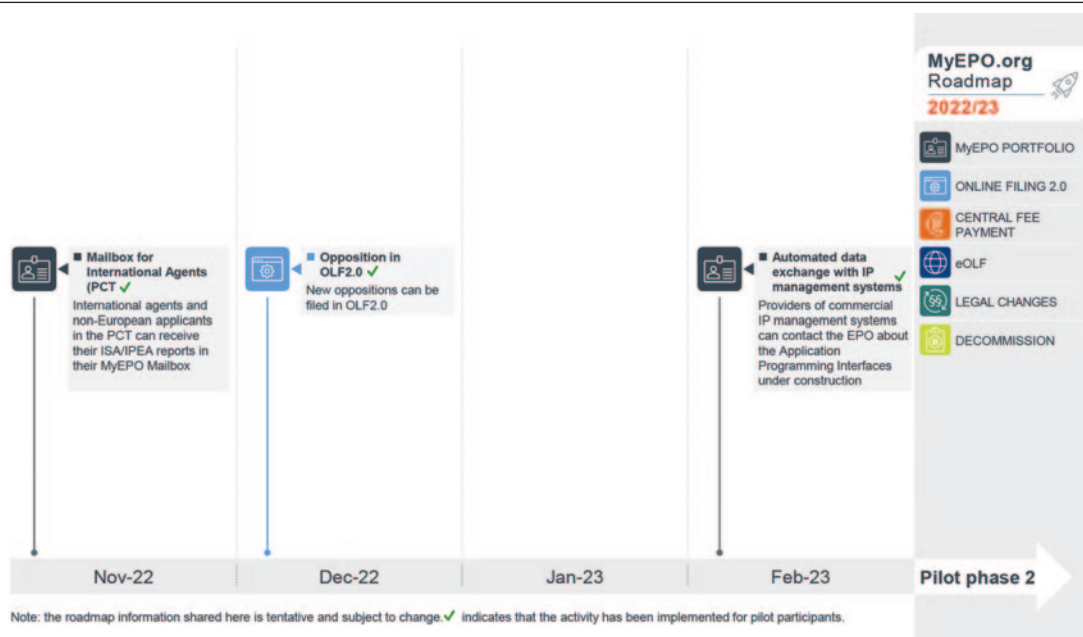
Other systems

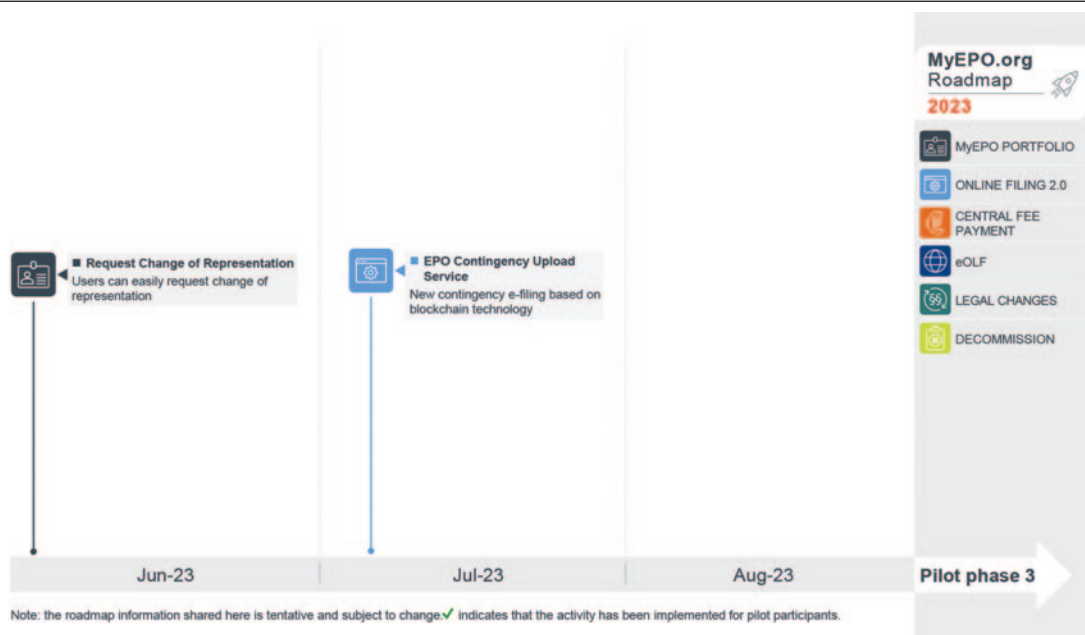
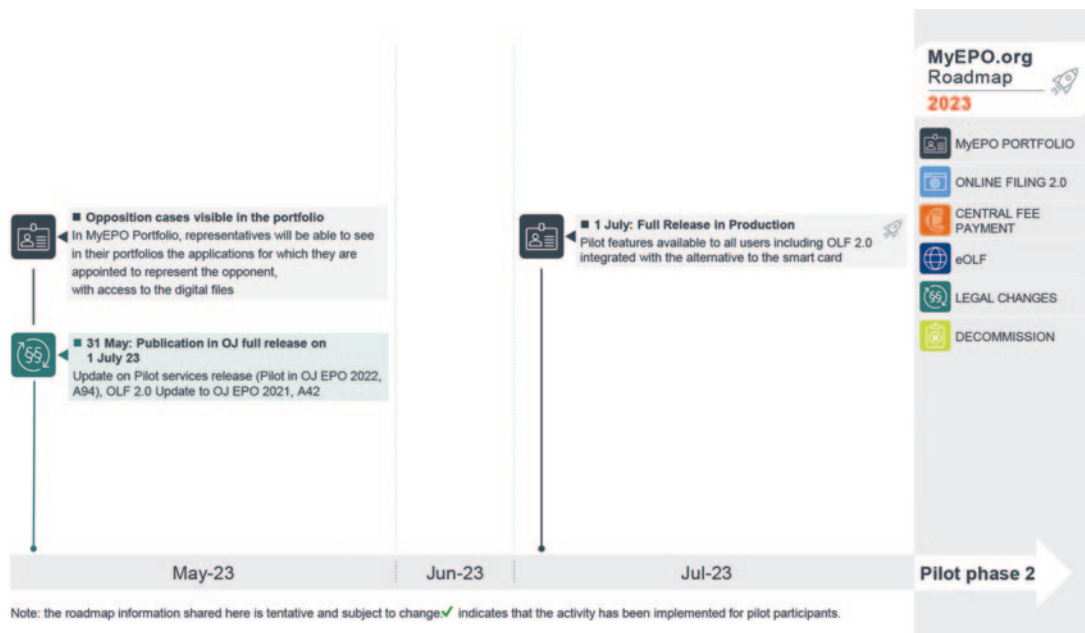
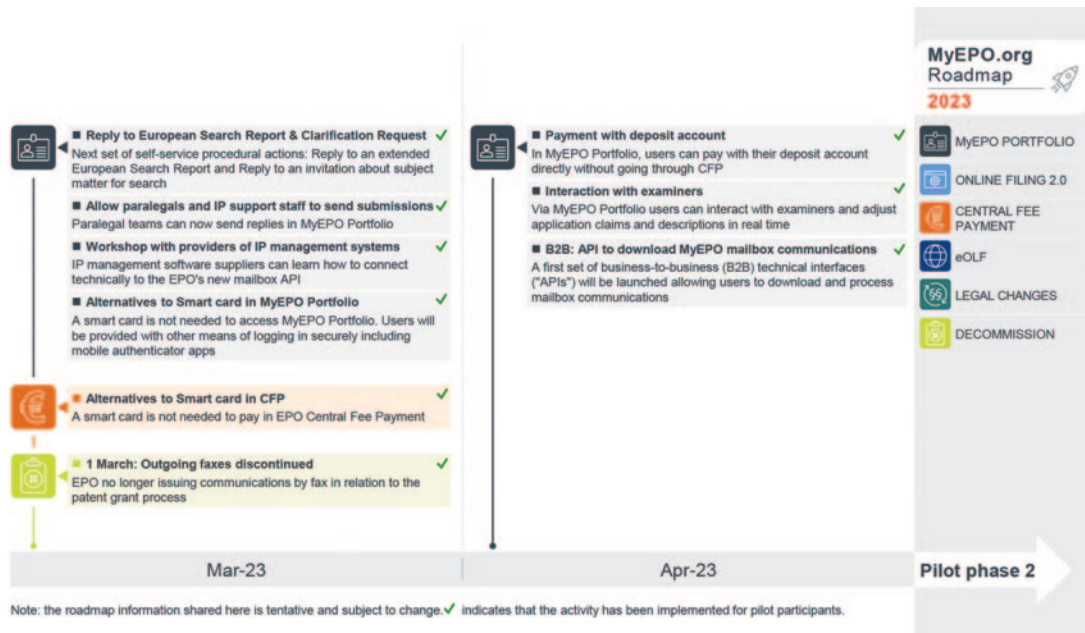
Various other IT systems are up for discussion. Improvements have been requested in the **Third Party Observations** form, **Register Alert**, and **digital signatures on assignments**, for example. Fax notification (outgoing from the EPO) has been abolished. OCC and other users have impressed upon the EPO that regular Mailbox com-

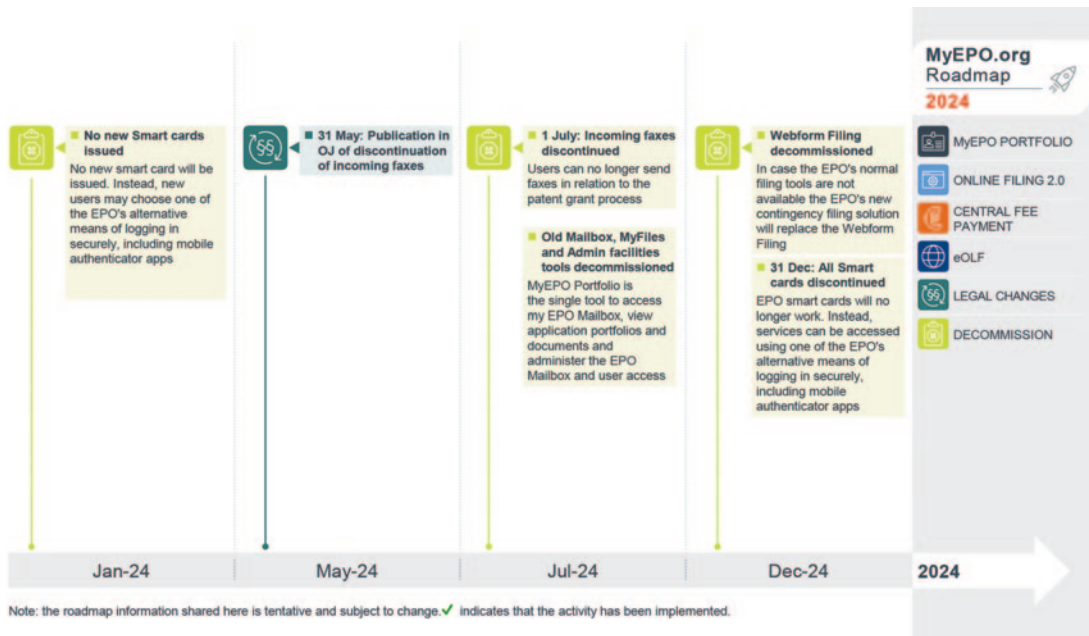
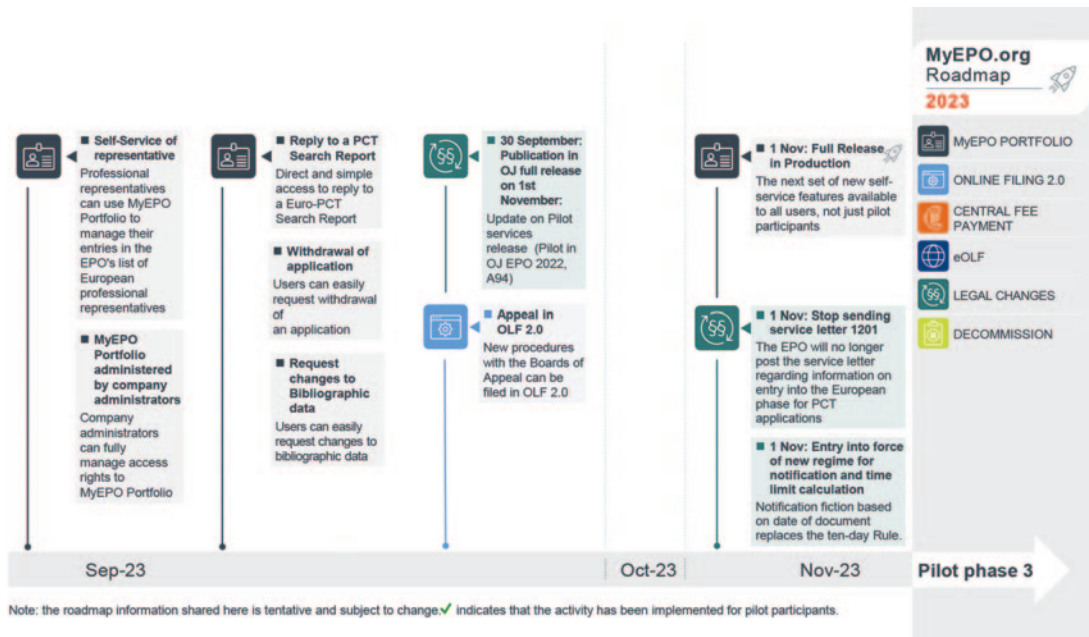
munications are no use for urgent matters, such as oral proceedings. EPO will seek email addresses for such occasions.

Conclusion

Thanks always to the members outside of OCC who report to us the random issues they face with EPO IT systems. The breadth of expertise among our members can be seen in the excellent forum discussions on UPC CMS, for example. You can submit issues and information directly to the OCC Chair at OCC@patentepi.org.







CONTACT

SUPPORT@EPO.ORG

Report of the Harmonisation Committee

J. Brown (GB) Chair

Further to my report published in **epi Information 1/23**, the then **epi** President Mr Francis Leyder, I, six other members of **epi** Harmonisation Committee (“HC”) and an **epi** Legal Advisor (Nicole van der Laan) attended Part I of the EPO Symposium on Substantive Patent Law Harmonisation (“SPLH”) at the EPO on 23rd March 2023. Other members of **epi** attended the Symposium virtually.

On 4th April 2023, the attendees at the Symposium received a Questionnaire from the EPO, one Questionnaire to be completed on behalf of **epi** and submitted to the EPO by 10th May 2023.

epi Harmonisation Committee prepared a “draft answer” to the EPO Questionnaire and this was added to the Accumulated File for the **epi** Council Meeting to be held in May. Mr Filippo Santi, Secretary of HC, gave a presentation to Council, entitled “Substantive Patent Law harmonisation – Possible **epi** Proposal”. I then introduced the “draft Answer” to the **epi** Council and presented a number of Motions to be voted upon, after due discussion in Council. The following statements were inserted into the draft Answer to the EPO Questionnaire:

***epi** feels that all applications should be published at 18 months from the earliest of pre-filing disclosure (“PFD”), priority date and the filing date.*

***epi** has a “red line” – a formal declaration must be mandatory, with a time limit for filing the statement (short enough for the declaration to be published together with the application).*

In any agreed harmonised system, the gracing of a PFD must only remove the graced disclosure from the prior art for the application for which the grace period was claimed – no other rights are to be derivable from the grace period. In other words, the gracing removes the PFD from the prior art BUT GIVES NO RIGHTS.

Harmonisation MUST preserve a “file first, disclose later” paradigm.

epi is strongly of the view that NOTHING IS AGREED UNTIL EVERYTHING IS AGREED.

Traditionally, **epi** has felt that any grace period should have a duration of **6 months** preceding the **priority date**. However, as Council had seen from Mr Filippo Santi’s pre-

sentation “Substantive Patent Law Harmonisation – Possible **epi** Proposal”¹, HC, having reflected on what had been said recently, especially but not exclusively at Part I of the EPO Symposium on SPLH held on 23rd March 2023, now felt that any grace period should have a duration of **12 months** preceding the **filing date**. This is subject to there being mandatory publication at 18 months from the earliest of the pre-filing disclosure (“PFD”), priority date and filing date.

The Motions passed by **epi** Council were:

*Council agrees that **epi** is opposed to any kind of grace period,*

Council could however consider a grace period as a safety net as part of a harmonised system, and

Council agrees that Question 2 (reading “12 months are usually considered as an acceptable duration for a grace period. Do you agree?”) should be answered “Yes if from the filing date” and that Question 3 (reading “[where] should the grace period be calculated from”) should be answered “The filing date only”.

I revised the draft Answer in line with the Motions agreed by the **epi** Council at the meeting on 2nd and 3rd May 2023. I filed the **epi** Answer to the EPO Questionnaire on 5th May, 2023,

On 22nd May, 2023, the EPO held Part II of their Symposium and this was attended on behalf of **epi** by myself as leader of the delegation, six other members of HC, including Mr Francis Leyder, then the **epi** Immediate Past President and **epi** Legal Advisor (Nicole van der Laan). Mr Filippo Santi and I both gave presentations and then, on behalf of **epi**, answered questions.

During the discussion, I, Mr Francis Leyder² and others of the **epi** delegation spoke.

At the conclusion of the Symposium, I gave closing remarks on behalf of **epi**. Included in what I said was:

¹ This presentation was prepared by Mr Filippo Santi, Secretary of HC, with assistance from Fr Gabriele Leissler-Gerstl, the presentation being made by Mr Filippo Santi.

² Mr Leyder said “The prior art effect of PCT applications is not in my opinion an area where best practice can be identified. I believe it is a purely political decision: should the PCT be available as a defensive tool (to create freedom to operate) or should more valid patents be allowed by reducing the amount of prior art?”

epi thanks the EPO for organising this two part Symposium and Ms Sylvie Strobel in particular for her analysis of the replies to the EPO Questionnaire.

epi is willing and able to participate in further discussions relating to SPLH. The positions taken by passed Motions by **epi** Council are binding on **epi** but only until such time as the **epi** Council passes a suitable Motion amending or changing the position previously provided in one or more Motions. Matters generally agreed by **epi** Council are not *binding but rather highly persuasive* and could therefore (at least in theory) be changed on behalf of **epi** in negotiations without the specific consent of **epi** Council (but would I think require the approval of the **epi** President).

The **epi** position on SPLH will continue to be led by the **epi** Harmonisation Committee ("HC"). HC will be very happy to participate in discussions with the EPO, National Organisations, Sector Group Organisations, pan-European Organisations and any other Organisation and, if felt helpful, individual members of any such Organisations.

I will keep Members of **epi** fully informed of the progress (or otherwise!) relating to SPLH via further reports in **epi** Information.

Report of the Committee on Biotechnological Inventions

A. De Clercq (BE), Chair

Below is a summary of discussion points since our last report¹.

1. ST.26 Sequence listings complaint to EPO Ombuds Office

We filed a complaint with the EPO Ombuds Office on January 16, 2023 to highlight our concerns regarding the lack of reactivity from the EPO on sequence listings problems and questions raised by **epi**. We launched our full submission as prepared by the **epi** Biotech Committee to the EPO Ombuds Office on March 1, 2023 and our annexes on March 7, 2023. The procedure is confidential. On March 31, Ann De Clercq (chair) and Simon Wright (secretary) had a short meeting to discuss the further steps of the complaint handling process. A web meeting to discuss the "technical case" aspects of the complaint was held on April 19, 2023 with from **epi** side: Ann De Clercq (BE), Simon Wright (GB), Jan Desomer (BE), Benjamin Quest (DE) and Katerina Hartvichova (CZ). On April 21st, we received a request for the opportunity to test the next version of the WIPO ST.26 software tool. A further follow-up meeting was held with Ann De Clercq on May 8, 2023 to touch base on the further steps of the process. In follow up of this meeting we received an overview of the discussions and an indication that the case would be closed soon.

Regarding ST.26 Sequence listings, we also wish to point attention to a new Decision of the President and Notice of the EPO dated 24 April 2023 which have recently been published in the Official Journal May 2023 (epo.org)² which clarifies that Sequence listings filed as from 1 July 2023 for European patent applications to which WIPO Standard ST.26 applies must comply with version 1.5 or 1.6 of that standard.

2. Committee meeting on April 24, 2023

The main topics of the meeting were to prepare for the points to be discussed with DG1 in the meeting to be held on 25th April, 2023 and to discuss the status of our complaint to the EPO Ombuds Office.

3. DG1 meeting on April 25, 2023

The concept of the meeting was very much appreciated by **epi** this time, the EPO let us present first all our questions and points and they replied to them. So this time, there was time to discuss a few matters in some detail. This format was agreed on for points 1 to 3 as depicted below. Only for the points 4 and 5, the EPO would give their own presentation first, as that seemed easier for them.

¹ <https://patentepi.org/r/info-2302-03>

² <https://patentepi.org/r/info-2302-04>

The following topics were on the agenda for the Breakouts session from Biotech for the DG1 meeting of April 25, 2023

- 1 ST.26 sequence listings:
 - Added matter and/or priority issues for divisional applications and filings having a ST25 SL in the priority applications
 - Necessity to declare on filing that the ST26 SL does not go beyond the scope of the original filing (divisional applications)
 - No official way to handle technical problems
 - Time limits and late furnishing fees
 - Other issues
- 2 Plants and animals and disclaimer practice on plants
- 3 Antibodies
- 4 Process of drafting Guidelines in Biotech
- 5 Colour documents acceptance and handling at the EPO

The meeting took place as a hybrid meeting in the Isar Building. Due to the late notice from the EPO of the format of the meeting, only 5 members, along with one of **epi**'s Legal Advisors, were able to attend in person. For the Biotech/Pharma breakout session, we were represented from the **epi** Biotech Committee live by Ann De Clercq (BE), Vasiliki (Vicky) Kostis (GR) and Hans-Rainer Jaënichen (DE, associate member) and Heike Vogelsang-Wenke (DE as our liaison from Presidium) and also by Martin Wilming (CH) as Chair of the EPPC Pharma sub-committee. Several other **epi** Biotech committee members attended virtually.

A more detailed report on the Biotech/Pharma breakout session of this DG1 meeting will be provided later but the highlights were as follows:

There was a lot of discussion about ST.26 sequence listings and about the above-mentioned subtopics. As promised by **epi** at the meeting, we sent a written-out version of our comments on ST.26 sequence listings to the EPO to forward our examples which were highlighted during the meeting (our comments were sent to the EPO on April 28, 2023).

There was also a lot of discussion on antibodies. Some of the topics of interest we discussed about antibodies were structural requirements application (required CDRs and the framework region) and novel monoclonal antibodies against a known target and the application of G2/21: How the "derivable" test is applied by the EPO? A detailed report of this discussion will be made still.

There was no time to discuss points 4 and 5 of the agenda during the Breakout session on Biotech/Pharma as listed above and the EPO promised to send their presentations. We have requested to also still receive their

presentation on the process of drafting Guidelines in Biotech.

We have requested the EPO when further special meetings on ST.26 sequence listings and antibodies can take place.

It was very useful to meet at least some of the EPO attendees in person again and we hope this will encourage the EPO to allow more face-to-face meetings.

4. Updated comments to the 2023 EPC GLs

The biotech aspects of the 2023 EPC and PCT GLs were discussed during a zoom Biotech committee meeting on March 17, 2023. Our assembled comments were passed to Anette Hegner on March 22, 2023. We were represented by Simon Wright at the **epi** preparatory meeting on March 27, 2023. Our comments were taken up in the submission as filed by **epi** in the framework of the User Consultation.

We further updated the biotech aspects of the 2023 EPC GLs in view of what was discussed at our committee meeting on April 24, 2023 and in view of the discussion with DG1 on April 25, 2023. We forwarded the last updated version to Anette Hegner on April 29, 2023 and posted it on the forum.



Ann De Clercq

The Biotech committee was not represented at the SACEPO WP GLs meeting on May 4, 2023 as already 3 **epi** members have been appointed by the President. Anette Hegner requested a special meeting for GLs on Biotech at the SACEPO meeting. Unfortunately it looks like this has not been allowed by the EPO.

5. Further special biotech committee meetings with the EPO

A formal letter was sent on March 29, 2023 by the Biotech Committee to the EPO to request to organise further meetings regarding **antibodies** and **ST.26 sequence listings**. It was promised that the EPO would review this further after the DG1 meeting. We look forward to the EPO's reply.

We understand matters relating to plants may be political, nevertheless we think **epi** has a right to be heard as well. We mainly have questions about the need for **plant disclaimers** for which we held there is no legal basis according to **epi**. We deem it appropriate to have regular discussions with the EPO regarding its practice in this field.

For **antibodies** we really need discussions so that the quality of what is entered in the GLs is guaranteed and so that the GLs do not contradict the case law. We are also concerned about individual examiners' objections which are not in line even with the Guidelines. We deem it important that the EPO may wish to be continuously updated by practitioners in the field also regarding the commercial importance of antibody inventions. Antibody patenting should receive prime attention.

6. Process of drafting GLs in Biotech

epi biotech committee still has concerns on the **GLs drafting process** and the **impact it has on quality** and on citation of GLs parts in court cases. There seems to be no real dialogue possible in the SACEPO meetings on GLs. The role the Guidelines can play is not assessed when determining quality. We hope the EPO picks this up. We suggest to keep on addressing at any possible level at the EPO about this matter and would like to ask for an improvement of the process of the GLs drafting.

It could be that the EPO does not see the need to discuss the GLs with the users since it is considered an internal document. In addition, our comments are often disregarded. This creates frustration in the user community. An example of the impact of the GLs is the manner in which G 3/19 was embodied in the GLs. Another example is that in a recent French court decision on SPCs, the

French court used the EPC GLs to determine whether there was an independent inventive step and specifically used the part of the GLs on antibodies. This shows that the content of the GLs may have an effect in litigation, which is very dangerous, particularly if the GLs are not in line with the case law.

7. Next committee meeting

A committee meeting by zoom has been scheduled for 19 July 2023 to discuss the following matter:

1. Chairship and Secretaryship of the Committee for the remaining term till next council meeting
2. Outstanding reply from the EPO to our comments of 28 April 2023 and missing reply on special meetings on ST.26 Sequence Listings and antibodies.
3. Draft minutes of the DG1 Biotech/Pharma session meeting
4. Associate Membership requests for the Biotech Committee
5. Complaint before the EPO Ombuds Office
6. Slides from the EPO regarding the process of adapting the GLs in Biotech
7. ST.26 Sequence listings developments
8. AOB

We will also schedule a further (live or hybrid or zoom) committee meeting shortly after the summer and before the autumn council meeting.

Report of the epi-Finances Committee

C. Quintelier (BE) Chair, T. Powell (GB) Secretary

The 90th Meeting of the Finances Committee took place as a video call on 3 April 2023, with continuation of the meeting scheduled on 19 April 2023 owing to the length of the original agenda. The Treasurer, Deputy Treasurer and Internal Auditors attended as invited guests. The Executive Director, Head of Finance and Ms Ullmann acting as Committees Co-ordinator also attended.

The Treasurer presented a summary of the overall financial performance of **epi**, which showed a deficit for 2022 of approximately €204.000. This was acceptably in line with the budgeted deficit of €193.000.

Both revenues and expenses in 2022 were lower than expected. The reduction in revenues derived in part from reduced fees for educational events and lower income for the EPO CSP and EQE. Expenses were lower than planned as a result of committee meetings continuing to be organized as on-line events; lower Secretariat expenses; and reduced EPO CSP and EQE expenses. The lower income from educational events was explained in part by the inability at the time of setting the budget to be certain of the impact of the UP/UPC.

Some investments had been required to be revalued at reduced valuations, owing on the one hand to the financial market situation at the end of 2022 and on the other hand to (strict) HGB accounting rules.

The Committee commented on reported costs in relations to Board and Council meetings that had been held in Malaga. These were higher than in some other cities but apparently were unavoidable because of difficulty in locating suitable venues in the larger cities in Spain. The Committee urges a financially prudent approach to the selection of meeting venues.

Overall the Committee was satisfied with the Treasurer's report.

The Committee reviewed the financial implications of current IT projects in **epi**, and is satisfied with the situation.

The Treasurer presented a revised budget, including a proposal to celebrate the 50th Anniversary of signing of the EPC by holding a dinner intended primarily for the members of the EQE Examining Committees. After extensive debate the Committee approved the revised

budget, but suggested some details of the celebratory dinner that the Treasurer indicated he would consider.

The Committee received a report of the Internal Auditors. The Internal Auditors do not recommend any changes to the manner of handling invoices and other instruments in the Secretariat at this time. However some amendments to the By-Laws were proposed, in particular to remove the Terms of Reference (which either are repetitive of the By-Laws, or which do not make sense). The Committee contributed to the proposed wordings, including making the appointment of External Auditors mandatory and involving the Committee in the selection of the External Auditors; and gave its approval of the proposal.

There was discussion of whether meetings of the Board of **epi** on cost grounds could continue to be held away from the Bayerstrasse office location. The Committee drew attention to the fact that one of the reasons invoked to have more office space at the Bayerstrasse was to have a meeting room for the Board; and urges caution over the costs of such events away from the Bayerstrasse.

The finance function within the Secretariat has become considerably more analytical in recent months. The Committee was able to review some highly detailed, and useful, information that had been prepared by the Finance Department. The Committee urged that such information always be available at its meetings.

A proposal to amend the Guidelines for Reimbursement was presented and debated by the Committee. After extensive review an amended wording was approved.

The Committee received with approbation the news that the underwriters of the **epi** professional liability insurance product are willing to provide an add-on insurance module, at a cost of €500 per year, to cover situations when a European Patent Attorney acts as a recorded representative in litigations before the UPC.



Claude Quintelier

Report of the Litigation Committee

T. Walshe (IE), Secretary

1. Committee - Structure

Overview of LitCom Committee and Subcommittee Structure:

Elected Officers:		
	Chair	Peter Thomsen (CH)
	Vice Chair	Kim Finnilä (FI)
	Secretary	Triona Walshe (IE)
Subcommittees:		
	UPC Rules of Procedure and CMS	Sub-Chair: Kim Finnilä (FI)
	Enforcement and Jurisdiction	Sub-Chair: Konstantinos Vavekis (GR)
	Representation and Privilege	Sub-Chair: Giuseppe Colucci (IT)
	Virtual Proceedings	Sub-Chair: Tilman Pfrang (DE)
	Brexit Implications on Patent Litigation	Sub-Chair: Stoyan Radkov (GB)
Inter-Committee Working Groups		
	Working with PEC and EPPC. (Educational Activities for the UP/UPC System).	Bernd-Günther Harmann (LI) Michael Stadler (AT) Peter Thomsen (CH)
Liaison Members:		
	PEC	Sigurdur Ingvarsson (IS)
	EPPC	Katarzyna Lewicka (PL)
	Harmonisation Committee	Giuseppe Colucci (IT)
	Editorial Committee	Triona Walshe (IE)
	PCC	Thomas Ottmar Körner (CH)
	IPPC	Konstantinos Vavekis (GR)
	OCC:	Open Position
Administrative Committee UPC Advisory Group		
	eipi President	Francis Leyder (BE)
	eipi Vice President	Heike Vogelsang-Wenke (DE)
	eipi Vice President	Bogoljub Ilievski (MK)
	Chair LitCom	Peter Thomsen (CH)
	Vice Chair LitCom and Chair of the Lit Com UPC Rules of Procedure and CMS sub-committee	Kim Finnilä (FI)
	Secretary LitCom	Triona Walshe (IE)
	Chair of the Representation and Privilege sub-committee	Giuseppe Colucci (IT)
	Chair of the Virtual Proceedings sub-committee	Tilman Pfrang (DE)
	Chair of the OCC	John Gray (GB)
	Legal Advisor to the LitCom	Nicole van der Laan

2. Update on the Status of the UPC

Since our last report, Germany has deposited its instrument of ratification of the Agreement on a Unified Patent Court on 17th February 2023. Consequently, the Unified Patent Court will start operation on 1st June 2023. The sunrise period started on 1st March 2023.

The Litigation Committee continues to maintain the overview on ratification of the UPCA, which is publicly available on the **epi** website.

3. Meetings of the Litigation Committee

The most recent meeting of the Litigation Committee was held on 28th March 2023. It was originally planned that this meeting would be an in-person meeting in Munich but unfortunately at the last moment it became necessary to convert the meeting to a virtual meeting due to industrial action within Germany which directly impacted the ability for members to travel to Munich to attend the meeting.

The UPC Registrar, Mr. Alexander Ramsay was welcomed as a guest speaker during the meeting. Members of the Inter-Committee WG on UP/UPC educational activities lead by PEC were invited to join this section of the Litigation Committee meeting. Mr. Ramsay's presentation focused on the current work being done at the Registry in preparation for the commencement of the Court on 1st June 2023. Additionally, Mr. Ramsay acknowledged the difficulties and challenges the Registry and UPC IT team are having in relation to enquiries from the public and separately the sunrise period functionalities. He outlined how the Registry and UPC IT Team are working to address these matters.

4. Representation at the Administrative Committee of the UPC

There have been two meetings of the UPC Administrative Council of the UPC on 19th October 2022 and 8th February 2023 respectively since our last report. Peter Thomsen and Kim Finnilä together with Triona Walshe (substitute for Peter Thomsen), have represented **epi** at these meetings.

5. UPC Rules of Procedure and Case Management System (CMS) Sub-Committee

The main focus of the UPC Rules of Procedure and CMS sub-committee has been cooperating with the Administrative Committee UPC Advisory Group in preparing for the meetings of the Administrative Committee of the UPC. A significant development stemming from these meetings is that the Administrative Committee UPC Advisory Group of **epi** have established direct contact with

the UPC CMS IT team. Through this channel it has been possible to raise the issues and concerns that **epi** members have as users of the CMS system.

A first meeting was held with the UPC CMS IT Team on 16th November 2022. A second meeting was held a month later, on 16th December 2022, during which a first summary of the postings in the "**epi** Forum for sharing UPC CMS experiences and solutions" was shared with the UPC CMS IT Team. Further meetings were held on 26th January and 22nd February 2023. The UPC Registrar Alexander Ramsay was also present during the 2023 meetings. For all these meetings updated summaries from the above-mentioned **epi** Forum were shared. The members of the LitCom wish to acknowledge and thank Tassilo Meindl (IT) from the OCC, who prepared excellent summaries of the **epi** Forum.

It seems fair to say that this cooperation has been extremely beneficial both for the UPC and its IT Team as well as for all **epi** members. Quite a number of issues have been clarified, amendments to the CMS have been made, and some legal issues not totally apparent from the UPC RoP have been clarified.

However, this is work in progress. Our next 5th meeting with the UPC IT Team will be scheduled for 17th April 2023 in advance of the 5th UPC Administrative Committee meeting (virtual) scheduled for 24th & 25th April 2023.

Additionally, Ferenc Török has undertaken an analysis of 'Rule 220: Appealable Decision' of the adopted Rules of Procedure of the UPC. It has been agreed that there is a potential issue e.g. regarding the time limit to file a request for leave of appeal regarding some orders and decisions issued by the Court of First Instance. The sub-committee is currently working on this matter and will bring forward a proposal how to address the UPC Administrative Committee in this matter.



Triona Walshe

6. Representation and Privilege Sub-Committee

The Representation and Privilege sub-committee reported that the interpretative statement regarding the applicability of the Regulation on Discipline and the Code of Conduct (document CA/41/22 'Disciplinary framework for European Patent Attorneys acting before the Unified Patent Court') was tabled and adopted at the 173rd meeting of the Administrative Council of the EPO on the 13th & 14th December 2022.

Additionally, the UPC 'Code of Conduct for Representatives' was adopted by the UPC Administrative Committee on 8th February 2023.

In addition to the work on the Code of Conduct, this sub-committee is working with the Harmonisation Committee on behalf of the Litigation Committee in relation to the Group B+ discussion on the "Draft Agreement on Cross-Border Aspects of Client-Patent Attorney Privilege". There has been little advancement on this topic since the previous report.

7. Enforcement and Jurisdiction Sub-Committee

The enforcement and jurisdiction sub-committee continue to work on the following topics: trade secrets; damages and preliminary injunctions.

8. Virtual Proceedings Sub-Committee

The virtual proceedings sub-committee has the following working topics: Virtual proceedings before the EPO (in collaboration with the EPPC) and UPC (in collaboration with the UPC Rules of Procedure and CMS sub-committee), best practices (e.g., regarding technical equipment, visibility of the persons, separate channels of communication, access for the public, dealing with technical problems and so forth); data protection issues; requirement of a request for judicial assistance for participation in Court proceedings via ViCo from foreign country; and the survey regarding national practices.

Currently, the sub-committee together with the EPPC are preparing a response to the Decision of the President of the EPO dated 22 November 2022 concerning the format of Oral Proceedings before examining and opposition divisions, the Legal Division and the Receiving Section.

9. Brexit Implications on Patent Litigation

This sub-committee continues to monitor the activity of the UK Government with regard to any activity that is relevant to litigation and is as a consequence of Brexit. The sub-committee provided a briefing on the key points of the Windsor Framework and its implications on the movement of goods between Great Britain and Northern Ireland; and Great Britain and the Republic of Ireland.

10. BSH Hausgeräte GmbH v Aktiebolaget Electrolux C-339/22

The above case¹ is a referral from the Swedish Patent and Market Appeal Court to the CJEU in which questions relating to interpretation of Article 24 of Regulation (EU) No. 1215/2012 (Brussels I) have been raised. Torbjörn Presland (SE) presented an excellent synopsis of the background to the case which led to this referral. A copy of the presentation is attached in the Annex for your referral.

11. Educational Topics/Training Activities

The Litigation Committee continues to support and assist the PEC in preparing and delivering the various educational topics.

The Inter-committee Working Group, for planning of **epi**'s educational activities in connection with the new UP/UPC system has been re-activated wherein members of the LitCom are working together with members of the European Patent Practice Committee (EPPC) and members and chair of the Professional Education Committee (PEC) to prepare and deliver the programme of training for **epi** members.

12. Next Meeting

The next meeting of the Litigation Committee is planned for September/October 2023. The actual date is yet to be confirmed.

*This committee report is the report that was submitted for the C94 Council Meeting in Malmö on 2 and 3 May 2023 during which Peter Thomsen was elected President of **epi**. Peter Thomsen subsequently resigned as both the Chair and as a member of the Litigation Committee post the C94 Council Meeting. Kim Finnila is currently the Acting Chair of the Litigation Committee.*

¹ <https://patentepi.org/r/info-2302-15>

Report of the IP Commercialization Committee

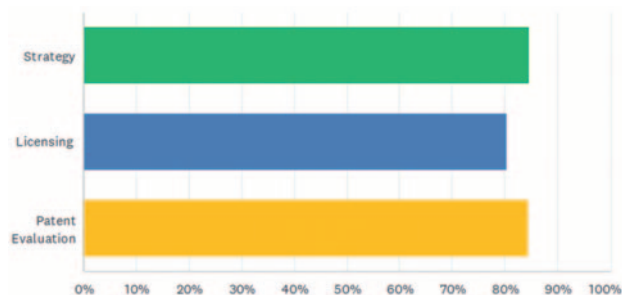
IP Commercialization Training Survey Results

J. Lessard (GB), IPPC

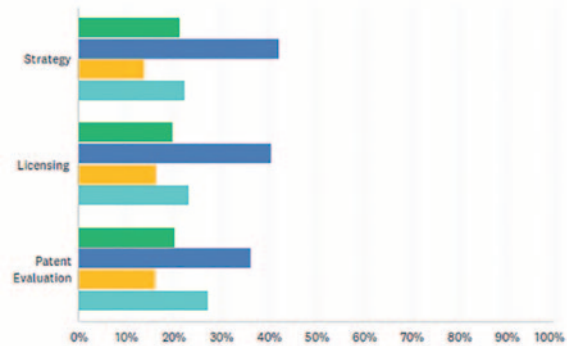
The IP Commercialization Committee (IPCC) is tasked with considering and dealing with all questions pertaining to, or connected with, IP commercialization. One of the working groups of the IPCC is focusing on providing European Patent Attorneys (EPAs) with the knowledge required to help their clients understand and leverage the benefits of the IP rights that we help them secure.

In order to assess the appetite for such training, and the areas of particular interest, the IPCC launched a survey in January that sought the views of EPAs. The level of interest was very encouraging, with over 90% of the 668 respondents confirming that such training is of interest.

The interest in the proposed topics was also fairly evenly split, as illustrated in the graph below.



Most of the respondents preferred 2 hours of training for each topic, although 4 hours was the second most favoured duration. This suggests that there is wide interest for basic training in these topics, and healthy interest for training that is more comprehensive in nature.



Most of the subtopics listed attracted similar levels of interest, but with clear favourites including valuation methods, practical licensing and patent evaluation examples. Enforcement and competition law considerations and assessing patent strength were also popular, whereas open innovation and mock licensing examples were less popular.

The IPCC is now in the process of considering these results, and will seek independent experts for delivering the training sessions. Several of the comments expressed a strong desire for the training to be intensive and delivered by individuals with extensive practical experience.

At this stage, the Committee is investigating the feasibility of a 2 hour webinar for each topic, as part of a first tranche of training. The plan is to evolve the training based on feedback and interest in specific areas covered by the first webinars.

Report of the Diversity and Inclusion Working Group

M. Nevant (FR), Chair

The Diversity and Inclusion Working Group (D & I Working Group) was set up by the Board (B117) in September 2011. At C92 in May 2022 the D & I policy was adopted by the Council.

Since then, the WG has held monthly meetings. The Working Group identified and included useful resources for the D & I website, which has been reorganized accordingly:

At the Council Meeting C93 the decision was approved, that the Diversity and Inclusion Working Group continue its work until at least C94 in order to help providing materials to support **epi** members to best address and adapt the need of their clients and to propose actions to grow **epi**'s commitment to diversity and inclusion.

Since C93 the Working Group attended a meeting with the EQE Secretariat of the EPO with Mr Xavier Seuba and

Mr Christoph Machwirth to discuss D & I matters in the context of the EQE. Tiem Reijns as member of the EQE Examination Board on behalf of **epi** also attended the meeting.

The Working Group prepared questions which were focused on the experience of candidates with permanent or temporary disabilities to be included in the survey sent to candidates after the examination.

The Working Group now aims at identifying solutions/best practice to implement the D&I policy adopted by Council. In this respect, Council approved the decision that the D & I working group continue its work until C95.

Members of D&I WG	Diversity and Inclusion at epi
D&I Policy	A Diversity and Inclusion Working Group was created in September 2021 with the view of looking into D&I matters within epi . The first achievement in the work of the WG was the adoption by epi Council of a D&I policy in May 2022. The WG also published an article in epi Information 1/22 ("Why is everybody talking about diversity and inclusion?") and contributed to the panel session on "Diversity and Inclusion" of the seminar for epi members which took place on the eve of the May 2022 epi Council meeting.
Resources	

Members of D&I WG	Policy on diversity and inclusion
D&I Policy	epi recognises the benefits of diversity & inclusivity (D&I)
Resources	It is recognised that diversity and individual uniqueness in its members bring creativity and vitality to an organisation, enriching its business practices and making it more successful. epi believes that capturing and drawing on diverse points of view can improve the advice and services that its members can offer to clients and prospective clients, who are focused on innovation (which itself requires divergent thinking and novel perspectives). Such diversity can also enable its members to relate more effectively to all stakeholders in the patent world, including epi 's employees and other contractors, inventors, patent applicants, patent office personnel, associates at home and abroad, and the wider community in which they operate.

Members of D&I WG	Resources
D&I Policy	epi resources
Resources	<ul style="list-style-type: none">Article from epi information issue 1/2022Video from epi panel session on "Diversity and Inclusion" in May 2022

Resources by other organisations:

Please note that the Working Group on Diversity & Inclusion has no control over the content of these sites or resources and takes no responsibility for the material published on them or liability in relation thereto.

a) IP-related resources

EPO

- Diversity and inclusion webpage:
https://jobs.epo.org/content/Diversity-and-Inclusion/?locale=en_GB

WIPO

- Gender Equality, Diversity and Intellectual Property pages:
<https://www.wipo.int/women-and-ip/en>

Further developments in the epi IPRISK Professional liability insurance

C. Quintelier (BE), **epi** Working Group on Professional Liability Insurance

On June 1 2023 the Unitary patent system entered into force. This means that those **epi** members who comply with the conditions and have registered themselves as UPC representatives, will be able to represent their clients in procedures before the UPC. This new activity will create new opportunities for those members being a UPC representative. But new activities signifies new professional risks.

In cooperation with our broker RMS and with the Lloyds insurance company, which provides us the IPRISK Professional liability insurance, we developed a new module for the insurance. This new module will cover the work done by our colleagues representing their clients in Court procedures before the UPC. The new module can be added to the existing IPRISK insurance and is available at a yearly cost of 500€.

Please note that the work involved by requesting the registration, or withdrawal, of an opt out is covered by the usual IPRISK insurance and that the additional module is designed for those colleagues who will act in court proceedings before the UPC.

If you would like to subscribe to this new module, please go to the **epi** website and click on "Liability Insurance".



Claude Quintelier



General Information

epi Board

Präsident / President / Président

CH – THOMSEN Peter

Vize-Präsident(in) / Vice-Presidents / Vice-Président(es)

CZ – HARTVICOVA Katerina

NL – REIJNS Tiemen

Generalsekretär / Secretary General / Secrétaire Général

PL – AUGUSTYNIAK Magdalena

Stellvertretender Generalsekretär

Député Secretary General / Secrétaire Général Adjoint

BE – DE CLERCQ Ann

Schatzmeister / Treasurer / Trésorier

HU – SZENTPÉTERI Zsolt

Stellvertretender Schatzmeister / Deputy Treasurer Trésorier Adjoint

DE – WINTER Andreas

Next Board and Council Meetings

Board Meetings

127th Board Meeting by videoconference on 30 June 2023

128th Board Meeting in Prague (Czech Republik) hybrid on 15 September 2023

Council Meetings

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

Disziplinarrat (epi)	Disciplinary Committee (epi)	Commission de Discipline (epi)
AL – NIKA Melina	GB – GRAY John	MK – DAMJANSKI Vanco
AT – POTH Wolfgang ^{oo}	GR – TSIMIKALIS Athanasios	MT – SANSONE Luigi A.
BE – DEBLED Thierry	HR – MARSIC Natasa	NL – VAN LOOIJENGOED Ferry A.T.
BG – TSVETKOV Atanas	HU – KOVÁRI Zoltán	NO – THRANE Dag
CH – REUTELER Raymond	IE – SMYTH Shane	PL – ROGOZINSKA Alicja
CY – ROUSOUNIDOU Vasiliki	IS – FRIDRIKSSON Einar Karl	PT – DIAS MACHADO Antonio J.
CZ – FISCHER Michael	IT – MAURO Marina Eliana	RO – PUSCASU Dan
DE – FRÖHLING Werner ^o	LI – ROSENICH Paul*	RS – BOGDANOVIC Dejan
DK – KUHN Oliver Wolfgang	LT – GERASIMOVIC Jelena	SE – KARLSTRÖM Lennart
EE – KAULER Urmas	LU – KIHN Pierre	SI – JAPELJ Bostjan
ES – STIEBE Lars Magnus	LV – SMIRNOV Alexander	SK – ČECHVALA Radovan
FI – WESTERHOLM Christian	MC – AMIRA Sami	SM – MARTINI Riccardo
FR – NEVANT Marc	ME – LUTOVAC Vuk	TR – YURTSEVEN Tuna**

Disziplinarausschuss (EPA/epi)	Disciplinary Board (EPO/epi)	Conseil de Discipline (OEB/epi)
epi Mitglieder	epi Members	Membres de l'epi
BE – CAMPABADAL Gemma	FR – QUANTIN Bruno	IS – VILHJALMSSON Arni

Beschwerdekammer in Disziplinarangelegenheiten (EPA/epi)	Disciplinary Board of Appeal (EPO/epi)	Chambre de Recours en Matière Disciplinaire (OEB/epi)
epi Mitglieder	epi Members	Membres de l'epi
DE – REBBEREH Cornelia	HR – KORPER ŽEMVA Dina	NL – HOOVELD Arjen
DK – FREDERIKSEN Jakob Pade	IT – COLOMBO Stefano	TR – ARKAN Selda
FR – GENDRAUD Pierre H.		

Ausschuss für Berufliche Bildung	Professional Education Committee	Commission de Formation Professionnelle
Ordentliche Mitglieder	Full Members	Membres titulaires
AT – SCHARDMÜLLER Robert	GB – GWILT Julia Louise*	MT – PECHAROVÁ Petra
BE – VAN DEN HAZEL Hendrik Bart	GR – LIOUMBIS Alexandros	NL – VAN WEZENBEEK Lambertus A.C.M.
BG – KOSSEVA Radislava Andreeva	HR – PEJGINOVIC Tomislav	NO – BERG Per Geir
CH – KAPIC Tarik	HU – TEPFENHÁRT Dóra Andrea	PL – DARGIEWICZ Joanna
CY – THEODOULOU Christos A.	IE – SKRBA Sinéad	PT – CARVALHO FRANCO Isabel
CZ – HARTVICOVA Katerina	IS – GUDMUNDSDÓTTIR Anna Valborg	RO – TEODORESCU Mihaela
DE – POTT Thomas	IT – RAMBELLI Paolo	RS – PLAVSA Uros
DK – STAHR Pia	LT – GERASIMOVIC Liudmila	SE – HERBJØRSEN Rut
EE – STARP Margus	LU – MELLET Valérie Martine	SI – FLAK Antonija
ES – PATO COUR Isabel	LV – KROMANIS Artis	SK – MAJLINGOVÁ Zuzana
FI – KONKONEN Tomi-Matti Juhani	MC – THACH Tum	SM – AGAZZANI Giampaolo
FR – COLLIN Jérôme	MK – PEPEJUGOSKI Valentin	TR – ATALAY Baris
Stellvertreter	Substitutes	Suppléants
AT – GEHRING Andreas	FI – NIELSEN Michael Jon	NL – OP DEN BROUW-SPRAKEL Vera Stefanie Irene
BE – DUYVER Jurgen Martha Herman	FR – FERNANDEZ Francis Lionel	PT – DO NASCIMENTO GOMES Rui
BG – BENATOV Samuil Gabriel	GB – MACKETT Margaret	RO – BONCEA Oana-Laura
CH – RUDER Susanna Louise	GR – KOSTI Vasiliki	SE – MATSSON Malin
CZ – HALAXOVÁ Eva	HR – HADZIJA Tomislav	SI – BORIC VEZJAK Maja
DE – STORK Martina	HU – RAVADITS Imre Miklós	SK – MISKOVCOVÁ Ivica
EE – KOPPEL Mart Enn	IE – GILLESPIE Richard	SM – PRIMICERI Maria Vittoria
ES – SÁNCHEZ Ruth	IT – MORABITO Sara	TR – AGCA KIZIL Tugce
	LI – HOFMANN Markus Günter	

*Chair/ **Secretary ^oVice-Chair / ^{oo}Vice-Secretary

Ausschuss für Europäische Patent Praxis		European Patent Practice Committee		Commission pour la Pratique du Brevet Européen	
AT	– VÖGELE Andreas	FR	– THON Julien	MC	– SCHMALZ Günther
BE	– RACINE Sophie Christiane Carol	GB	– MERCER Christopher Paul*	MK	– FILIPOV Gjorgji
BG	– TSVETKOV Atanas Lyubomirov	GR	– SAMUELIDES Emmanuel	NL	– KETELAARS Maarten F.J.M.
CH	– WILMING Martin	HR	– HADZIJA Tomislav	NO	– REKDAL Kristine
CY	– THEODOULOU Christos A.	HU	– LENGYEL Zsolt	PL	– KAWCZYNSKA Marta Joanna
CZ	– BUCEK Roman	IE	– MCCARTHY Denis Alexis	PT	– PEREIRA DA CRUZ Joao
DE	– FLEUCHAUS Michael A.	IS	– FRIDRIKSSON Einar Karl**	RO	– NICOLAESCU Daniella Olga
DK	– HEGNER Anette	IT	– MODIANO Micaela Nadia	RS	– HERAK Nada
EE	– TOOME Jürgen	LI	– GYAJA Christoph Benjamin	SE	– FRANKS Barry Gerard
ES	– SÁEZ GRANERO Francisco Javier	LT	– PAKENIENE Ausra	SK	– MICHALÍK Andrej
FI	– HONKASALO Terhi Marjut Anneli	LU	– OCVRK Philippe	SM	– TIBURZI Andrea
		LV	– FORTUNA Jevgenijs	TR	– MUTLU Aydin
Technical Field: Information and Communication Technologies					
CH	– KAPIC Tarik	GB	– ASQUITH Julian Peter	MC	– SCHMALZ Günther
DE	– BITTNER Peter	GR	– SAMUELIDES Emmanuel	NL	– VAN WOUDEBERG Roel
DE	– FLEUCHAUS Michael A.*	IT	– PES Matteo	PL	– BURY Marek
FI	– HONKASALO Terhi Marjut Anneli	LT	– PAKENIENE Ausra	SM	– PERRONACE Andrea
Technical Field: Pharmaceuticals					
CH	– WILMING Martin*	FR	– TARAVELLA Brigitte	HU	– SZENTPÉTERI Zsolt
DE	– NESTLE-NGUYEN Denise Kim-Lien Tu-Anh	GB	– SARDHARWALA Fatema Elyasali	IT	– MACCHETTA Francesco
FI	– KARLSSON Krister	GR	– VARVOGLI Anastasia Aikaterini**	PL	– KAWCZYNSKA Marta Joanna
				RS	– HERAK Nada
Technical Field: Chemistry					
BE	– LUYTEN Ingrid Lena Rene	FI	– KOKKO Antti Ohto Kalervo	LU	– MELLET Valérie Martine**
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